

SG/E/2021/21

# **Bogota Sustainable Transport FL (Colombia)**

INITIAL ASSESSMENT REPORT

7 October 2022



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## Bogota Sustainable Transport FL (Colombia)

### Initial Assessment Report

#### **Complaint confidential**

No

#### **External distribution**

Complainants  
Promoter

#### **Internal distribution**

Inspector General  
Relevant EIB services

#### **Disclaimer**

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's 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 to<sup>1</sup>:

- 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.

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<sup>1</sup> As outlined in article 2.2.1 of the [EIB-CM Procedures](#).

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## GLOSSARY

EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
FL	Framework Loan
IBRD	International Bank for Reconstruction and Development
IDB	Inter-American Development Bank
MDB	Multilateral Development Bank
PLMB	Primera Linea del Metro de Bogotá
Project	Bogota Sustainable Transport FL
Promoter	Empresa Metro de Bogotá
USD	US Dollar

## EXECUTIVE SUMMARY

This report presents an initial assessment of a complaint concerning the Bogota Sustainable Transport Framework Loan approved for financing by the European Investment Bank (EIB) in 2018. The major scheme under the framework loan will be the construction of Bogotá's first metro line being developed by Empresa Metro de Bogotá SA, a public company fully owned by the municipality of Bogotá (the promoter).

The complaint concerns two themes: (i) land acquisition and compensation and (ii) the project's grievance redress mechanism.

With respect to the first theme, the complainants allege that the valuation methodology applied for the acquisition process provides for inadequate compensation. In particular, they take the view that, for buildings which are not subject to horizontal property regimes, compensation corresponds only to the value of construction costs. The complainants consider that the method of valuation used by the promoter is non-compliant with national legislation. In addition, the complainants allege that the project's adverse impacts to commercial activity and tenancy have resulted in loss of earnings, particularly for those project affected people whose livelihoods are dependent on real estate. More generally, the complainants allege that the project has failed to comply with Colombian legislation and the EIB's environmental and social framework, in particular its standard on involuntary resettlement.

With respect to the second theme, the complainants consider that their petitions have been responded to in an evasive, inconsistent and non-transparent manner.

After conducting a review of the available information, the EIB-CM assessed opportunities for collaborative dispute resolution. While the parties expressed their openness to said process, no consensus was reached. The EIB Group Complaints Mechanism will therefore proceed with a compliance review of the case.

# 1 BACKGROUND

## 1.1 Project

- 1.1.1 On 17 July 2018, the EIB Board of Directors approved financing of Bogota Sustainable Transport FL in Colombia in the amount of up to USD 480m<sup>2</sup>. The project is being developed by Empresa Metro de Bogotá SA, a public company fully owned by the municipality of Bogotá (hereinafter: the promoter).
- 1.1.2 The framework loan will support the improvement of the public transport network in Bogotá which includes, amongst others, the construction of the city's first metro line, the restructuring of some of the existing Bus Rapid Transit lines together with related infrastructure works and preparatory tasks.
- 1.1.3 The major scheme under the framework loan will be the construction of Metro Line One (referred to in Spanish as Primera Linea del Metro de Bogotá - PLMB), comprising a 24 km long elevated metro with 15 stations and a depot. The preparatory tasks include the preparation of the legal and technical framework of the project to multilateral development bank (MDB) standards, including environmental and social studies to accommodate the urban integration works, among others.
- 1.1.4 The schemes under the framework loan are expected to generate long-term benefits by improving public transport in Bogotá. They aim to improve access to services, markets and economic opportunities by generating travel time and travel cost savings; improved safety and reduced emissions of pollutants and greenhouse gases; better managed public spaces; and increase of overall user satisfaction with public transit, among others.
- 1.1.5 The project is also expected to generate temporary and permanent negative social impacts mainly related to the land acquisition required for the civil works construction. This will involve a surface intervention requiring expropriation of approximately 1,500 properties. Any compensation measures and identification of impacts will need to be handled through Resettlement Action Plans under the Resettlement Policy Framework.
- 1.1.6 The project costs a total of USD 4.3bn and will be partly financed by further loans from the Inter-American Development Bank (IDB) and International Bank for Reconstruction and Development (IBRD, part of the World Bank Group).
- 1.1.7 A first tranche of the EIB loan was signed on 6 August 2018 in the amount of USD 56m. To date, no disbursement of funds has taken place.

## 1.2 Complaint

- 1.2.1 On 25 October 2021, the EIB Group Complaints Mechanism Division (hereinafter: EIB-CM) received a complaint from three individuals regarding the Bogota Sustainable Transport FL.
- 1.2.2 The complainants allege that the land acquisition process related to the project has failed to comply with Colombian legislation and the EIB's environmental and social framework, in particular its standard on involuntary resettlement.
- 1.2.3 The principal issues raised in the complaint concern two themes:
- Land acquisition and compensation
  - Grievance Redress Mechanism

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<sup>2</sup> [BOGOTA SUSTAINABLE TRANSPORT FL \(eib.org\)](https://www.eib.org/en/projects/colombia/bogota-sustainable-transport-fl)

## EIB Group Complaints Mechanism – Initial Assessment Report

- 1.2.4 With respect to land acquisition and compensation, the complainants allege that the valuation methodology applied for the acquisition process provides for inadequate compensation. In particular, they take the view that, for buildings which are not subject to horizontal property regimes, compensation corresponds only to the value of construction costs. The complainants consider that the method of valuation used by the promoter is non-compliant with national legislation. In addition, the complainants allege that the project's adverse impacts to commercial activity and tenancy have resulted in loss of earnings, particularly for those project affected people whose livelihoods are dependent on real estate.
- 1.2.5 With respect to the project's grievance redress mechanism, the complainants consider that their petitions have been responded to in an evasive, inconsistent and non-transparent manner.
- 1.2.6 The Grievance Redress Service of the IBRD and the Independent Consultation and Investigation Mechanism of the IDB have also received similar complaints as that specified above.

## 2 WORK PERFORMED

- 2.1.1 The EIB Group Complaints Mechanism Policy<sup>3</sup> and the EIB Group Complaints Mechanism Procedures (hereinafter: the Procedures)<sup>4</sup> require the EIB-CM to carry out an initial assessment of the complaint<sup>5</sup>. The objective of the initial assessment is to clarify the concerns raised by the complainant to better understand the complainant's position and the validity of the concerns raised; and 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 complainant<sup>6</sup>. The further work may include compliance review or a collaborative resolution process (e.g. mediation). This report contains the results of the EIB-CM's initial assessment.
- 2.1.2 As per § 2.2.2 of the Procedures, during the initial assessment, the EIB-CM conducted virtual meetings with relevant parties, including the (i) EIB services; (ii) complainants; (iii) promoter; and (iv) MDB accountability mechanisms in receipt of similar complaints. The EIB-CM also reviewed relevant documentation, including preliminary information related to the acquisition process and valuation methodology specifically applied to the complainant's property; and engagement carried out between the promoter and the complainants. As part of its initial assessment, the EIB-CM has additionally processed information provided from MDBs and their accountability mechanisms.
- 2.1.3 In accordance with § 2.2.5 of the Procedures, the EIB-CM assessed opportunities for collaborative dispute resolution. While the parties expressed their openness to said process, no consensus was ultimately reached. This is primarily attributed to extensive stakeholder discussions already undertaken between the parties as part of the acquisition process.

The Procedures set out key questions to be addressed during the initial assessment, namely to:

- Understand how the relevant EIB services have verified compliance with the applicable regulatory framework, including its policies, procedures and standards;
- Assess compliance with the EIB policies, procedures and standards; and

<sup>3</sup> Available at: [EIB GROUP COMPLAINTS MECHANISM POLICY](#), § 4.2.1

<sup>4</sup> Available at: [EIB GROUP COMPLAINTS MECHANISM PROCEDURES](#), § 2.1.3

<sup>5</sup> Please note that this complaint concerns social impacts of an EIB-financed project. As noted in § 2.1.2 of the Procedures, complaints related to social impacts of financed projects usually raise complex issues. For this reason, and because of the sensitivity of the relations involving the project promoter, national authorities, civil society organisations and project affected people, particular attention needs to be paid to the specific processes regarding these types of complaints. In line with § 2.1.2 of the Procedures, for these types of complaint, the normal process is formally structured in two phases: an initial assessment phase and a compliance review or collaborative resolution process phase.

<sup>6</sup> § 2.2.1 of the Procedures.



- Identify, if any, reasonable indications of non-compliance with the applicable regulatory framework.
- 2.1.4 The project must comply with the EIB's environmental and social framework. This includes, but is not limited to:
- The EIB Statement of Environmental and Social Principles and Standards (2009) and Environmental and Social Handbook (2013), including:
    - Standard 1: Assessment and Management of Environmental and Social Impacts and Risks
    - Standard 6: Involuntary Resettlement
    - Standard 10: Stakeholder Engagement
  - Relevant national legislation and international conventions

### 3 WAY FORWARD

- 3.1.1 The EIB-CM will proceed with a compliance review.
- 3.1.2 The objective of the review is to allow the EIB-CM to form an independent and reasoned opinion regarding the allegations of maladministration by the EIB raised in the complaint.
- 3.1.3 The outcome of the compliance review will be communicated to the complainants through the EIB-CM's conclusions report.

#### Complaints Mechanism