

SG/E/2021/24

# PEDEMONTANA LOMBARDA TOLL MOTORWAY PPP (ITALY)

INITIAL ASSESSMENT REPORT

04 March 2022



# SG/E/2021/24 Initial Assessment Report

## **Complaint confidential**

No<sup>1</sup>

## **External distribution**

Complainant

## **Internal distribution**

Management Committee  
Secretary General  
Inspector General  
Relevant EIB services

## **Disclaimer**

This report is based on the information available to the EIB Group Complaints Mechanism up to 15 February 2022.

The report is also published in Italian. In case of discrepancies between language versions, the English version prevails.

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<sup>1</sup> Paragraphs 4.6.2 and 4.6.4 of the Complaints Mechanism Policy (2018) state that, if not indicated by the complainant, all complaints are considered as non-confidential for the sake of transparency.

## 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 applicable law, or with the principles of good administration. Maladministration may relate to the 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>2</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, 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>2</sup> As outlined in article 2.2.1 of the [EIB-CM Procedures](#).

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## GLOSSARY

CSOs	Civil society organisations
EIA	Environmental impact assessment
EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism
ESPS	EIB Statement of Environmental and Social Principles and Standards
EUR	Euro
PPP	Public-Private Partnership
Promoter	Autostrada Pedemontana Lombarda S.p.A.
NTS	Non-Technical Summary
TCDD dioxin	2,3,7,8-tetrachlorodibenzo-p-dioxin
TEN-T	Trans-European transport network

## EXECUTIVE SUMMARY

This report concerns a complaint regarding the “Pedemontana Lombarda Toll Motorway PPP” project in Italy with financing of the European Investment Bank (EIB) approved in July 2021.

In November 2021, the EIB Group Complaints Mechanism (EIB-CM) received a letter from several civil society organisations (CSOs) and registered a complaint concerning the project. The project concerns the design, building, operation and maintenance of the stretches B2 and C of the Autostrada Pedemontana Lombarda toll motorway, including complementary roads, running through the provinces of Milan, Monza-Brianza and Bergamo in the Lombardy Region.

The project promoter is Autostrada Pedemontana Lombarda S.p.A. (“APL”).

The EIB services appraised the project in 2020, with a pre-appraisal mission carried out in 2016. The project was approved by the EIB’s Board of Directors in July 2021, while the finance contract was signed in August 2021.

Following the admissibility of the complaint, the EIB-CM carried out an initial assessment. The EIB-CM identified the following allegations:

Allegation	Description
1. Failure of the project to mitigate significant environmental impacts	<ul style="list-style-type: none"><li>• Failure by the operational remediation plan to properly address the risk of TCDD dioxin releases, e.g. the lack of clarity on the monitoring plan and workers’ protection.</li><li>• Failure to comply with national legislation and landscape, soil and nature protection regimes during the environmental impact assessment procedure likely to cause further habitat fragmentation and damage to ecosystems and biodiversity.</li></ul>
2. Failure of the EIB to comply with its commitments to address the climate emergency	<ul style="list-style-type: none"><li>• Contrary to the EIB’s commitment to direct its financing to address the climate emergency, the project will not reduce CO<sub>2</sub> emissions.</li></ul>

The allegation concerning the failure of the EIB to comply with its commitments to address the climate emergency is ungrounded as the project’s preliminary information note (PIN) was issued before 1 January 2021, before the EIB’s commitment to climate action and environmental sustainability took effect.

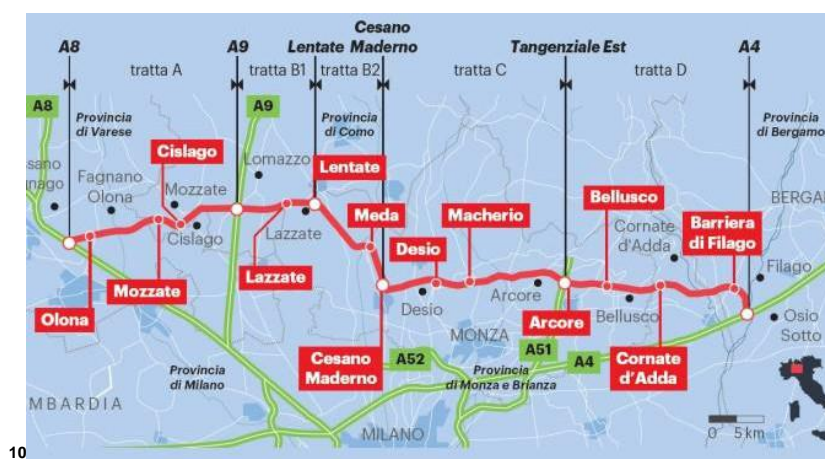
After conducting a review of available information, the EIB-CM will proceed with a compliance review into the first allegation identified above in line with Section 2.4 of the EIB-CM Procedures.

# 1 BACKGROUND

## 1.1 The Project

- 1.1.1 In July 2021, the EIB's Board of Directors approved financing of the "Pedemontana Lombarda Toll Motorway PPP<sup>3</sup>" project in Italy in the amount of up to €550 million<sup>4</sup> (hereinafter the project). The project has been developed and is being implemented by Autostrada Pedemontana Lombarda S.p.A. ("APL"), a joint-stock company (*società per azioni*) incorporated in 1986 under Italian law<sup>5</sup> (hereinafter the promoter).
- 1.1.2 The project aims to contribute to the completion of the comprehensive Trans-European transport network (TEN-T). It was classified by the Italian Inter-Ministerial Committee for Economic Planning (*Comitato Interministeriale per la Programmazione Economica, CIPE*)<sup>6</sup> as strategic infrastructure of major national interest since 2001. It is expected to shift traffic out of the Greater Milan area, thereby reducing congestion and increasing road safety.
- 1.1.3 The A36 forms part of the Lombardy Regional Programme for Mobility and Transport, approved by the Regional Council in 2016. As part of the approval process, the Regional Programme for Mobility and Transport was subject to a strategic environmental assessment<sup>7</sup>.
- 1.1.4 The project, implemented as a PPP, involves the design, building, operation and maintenance of the stretches B2 and C of the Autostrada Pedemontana Lombarda toll motorway, including complementary roads, running through the provinces of Milan, Monza-Brianza and Bergamo in the Lombardy Region.
- 1.1.5 The project forms part of the A36 northern bypass of Milan, which is being implemented in two phases (see Figure 1): Phase 1 was opened to traffic in 2015 (sections A and B1)<sup>8</sup>. Phase 2 starts with this project (sections B2 and C) and will be completed by the last section D<sup>9</sup>. The project (total length of 26.2 km toll motorway) includes the upgrade of the existing SS35-motorway over a distance 9.6 km (section B2) and the construction of 16.6 km of new motorway (section C). The project encompasses eight interchanges and some 9.5 km of connecting roads. About 40% of the alignment will consist of artificial tunnels and is partially a greenfield development.

**Figure 1: Pedemontana motorway in sections**



<sup>3</sup> PPP (Public Private Partnership).

<sup>4</sup> The project's description on the EIB's website is available [here](#).

<sup>5</sup> More information can be found here: [Home - Autostrada Pedemontana Lombarda](#).

<sup>6</sup> Current name is *Comitato interministeriale per la programmazione economica e lo sviluppo sostenibile - CIPESS* or Inter-Ministerial Committee for Economic Planning and Sustainable Development.

<sup>7</sup> Assessment carried out under the decree 152/2006 enacting Directive 2001/42/EC (SEA Directive).

<sup>8</sup> This included the bypasses of Como (A59) and Varese (A60) as well as 21 km of the A36 Milan bypass.

<sup>9</sup> Section D covers 16.6 km of the A36 and some national roads (14 km) and is expected to be implemented between 2025 and 2030.

<sup>10</sup> Figure is [from](#) [www.ilgiorno.it](http://www.ilgiorno.it)

- 1.1.6 The project starts at the end of the existing A36 near Lentate and connects to the A51 eastern bypass north of Vimercate. Section B2 is a 2x2 section between Lentate and Meda and a 2x3-section from Meda to Cesano Maderno. Section C is a 2x3 new motorway from Cesano Maderno to Vimercate. The project is mainly located in the province of Monza-Brianza.
- 1.1.7 Project implementation is expected to take place between 2021 and 2025. The EIB signed the finance contract with the borrower in August 2021.

## 1.2 Overview of Complaint

- 1.2.1 On 15 November 2021, the EIB Group Complaints Mechanism (hereinafter: EIB-CM) received a complaint regarding the project. The complaint was submitted by sixteen (16) non-profit civil society organisations (*organizzazioni non lucrative di utilità sociale*) and voluntary organisations (*organizzazioni di volontariato*)<sup>11</sup> from the Italian province of Monza and Brianza (*Provincia di Monza e della Brianza*).
- 1.2.2 The complaint alleges that:
- Similarly to the already existing section A of the motorway, the planned sections B2 and C would be located in the province with the highest land cover ratio in Italy, resulting in a further increase in soil “consumption”.
  - Insufficient attention has been paid to the risk coming from TCDD dioxin<sup>12</sup> occurring in the soil to be crossed by the project due to the Seveso disaster which occurred in 1976 (the accident of *Industrie Chimiche Meda Società Azionaria*)<sup>13</sup>. The operational remediation plan (*piano operativo di bonifica*) issued by the promoter and approved by the Lombardy Region in 2019 lacks “solid guarantees of safety” in addressing this issue.
  - The environmental assessment performed on the project is incomplete.
  - As the Environmental and Social Data Sheet considered Sites of Community Interest (SIC) only, several green and wooded areas having protection status within parks have been overlooked. The complainants mapped in details the project’s expected negative impacts on the landscape and nature, demonstrating, e.g. how the project will impact areas subject to municipal legislative protections, recently approved plans to expand the protection regimes of affected areas or continuity of the regional ecological network, which enables eco-links between various protected areas and Natura 2000 areas. For example, the project will negatively affect the Valle Lambro Regional Park by crossing the Lambro River and by works connected to the local road system. The destruction of these areas crossed or near the project would represent a danger to the preservation of the surrounding environment, ecosystems, biodiversity and Natura 2000 areas.
  - Contrary to the stated justifications for the project by the EIB, the motorway would increase vehicular traffic and air pollution. As traffic in the concerned areas is currently characterised by mainly short-distance and local transit trips, the complainants fear that tolling of the motorway would result in the car traffic being transferred to the local roads, thus overburdening inter-municipal connecting roads.
  - The complaint states that the motorway cannot be defined as “partially green”, let alone fall within the field of “green finance” reserved for ecologically and environmentally sustainable projects, as allegedly claimed by the promoter.
- 1.2.3 During a meeting with the complainants<sup>14</sup>, they stressed that the project goes against the EIB’s commitment to direct its financing towards projects addressing the climate emergency and that the estimated reduction of CO<sub>2</sub> emissions is not considered realistic. The new toll motorway on

<sup>11</sup> The complaint was submitted by the following organizations: Associazione Colli Briantei, Alternativa Verde Desio, Legambiente circolo Gaia Usmate e Velate, Legambiente circolo Laura Conti -Seveso, Legambiente Seregno aps -Seregno, Seveso Futura -Seveso, Coordinamento No Pedemontana, Comitato Ambiente Bovisio Masciago, Casa della Sinistra Seregno, Sinistra e Ambiente Meda, Impulsi Sostenibilità e Solidarietà Meda, ImmaginArcore, Gruppo Acquisti Solidali GAS Vitale Arcore, Passione Civica per Cesano Cesano Maderno, Lista Civica Altra Bovisio Masciago and Un Parco per Bernareggio.

<sup>12</sup> 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD dioxin) was the key element released during the Seveso disaster, which cause negative health and environment impacts after an accident in the surroundings an industrial plant.

<sup>13</sup> [https://en.wikipedia.org/wiki/Seveso\\_disaster](https://en.wikipedia.org/wiki/Seveso_disaster).

<sup>14</sup> See paragraph 2.1.7.



the Milano-Meda section (currently free) would not capture the short distance traffic, but will rather shift traffic to local and inter-municipal roads, adding to the traffic problem.

- 1.2.4 The complainants alleged that the project is non-compliant with the EIB's policies and standards and therefore request the EIB to "review its decision to finance the project".

## 2 WORK PERFORMED

- 2.1.1 The EIB Group Complaints Mechanism Policy (EIB-CM Policy)<sup>15</sup> and the EIB Group Complaints Mechanism Procedures (EIB-CM Procedures)<sup>16</sup> require the EIB-CM to carry out the initial assessment of the complaint<sup>17</sup>. 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 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>18</sup>. Further work may include a compliance review or a collaborative resolutions process (e.g. mediation). This report contains the results of the EIB-CM's initial assessment.
- 2.1.2 As per EIB-CM Procedures<sup>19</sup>, during the initial assessment the EIB-CM had an initial meeting with the EIB services on 15 December 2021. The services shared information and further documentation following the meeting. The EIB-CM also reviewed project documentation, including the Environmental and Social Data Sheet<sup>20</sup> summarising the EIB's environmental and social appraisal, and project information made available to the public on the EIB website<sup>21</sup>.
- 2.1.3 The EIB-CM Procedures<sup>22</sup> set out key questions to be addressed during the initial assessment, namely to:
- Understand how the relevant EIB services have (i) verified compliance with the applicable regulatory framework, including EIB standards and (ii) carried out appropriate monitoring of project implementation.
  - Assess potential indications that EIB standards have failed to provide an adequate level of protection and safeguards.
  - Identify, if any, reasonable indications of non-compliance with the applicable regulatory framework.
- 2.1.4 The project must comply with the EIB's applicable standards. The project applicable standards include, but are not limited to:
- Relevant national and EU environmental law, such as the EIA Directive<sup>23</sup> and the Habitats Directive<sup>24</sup>;

<sup>15</sup> Available at: [EIB GROUP COMPLAINTS MECHANISM POLICY](#). § 4.2.1.

<sup>16</sup> Available at: [EIB GROUP COMPLAINTS MECHANISM PROCEDURES](#). § 2.1.3.

<sup>17</sup> Please note that this complaint concerns environmental impacts of an EIB-financed project. As noted in § 2.1.2 of the Procedures, complaints related to environmental 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>18</sup> § 2.2.1 of the EIB-CM Procedures.

<sup>19</sup> § 2.2.2 of the EIB-CM Procedures.

<sup>20</sup> The Environmental and Social Data Sheet is available [here](#).

<sup>21</sup> EIB project summary sheet (online), which can be accessed [here](#).

<sup>22</sup> § 2.2.4 of the EIB-CM Procedures.

<sup>23</sup> Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (as amended by Directive 2014/52/EU) (EIA Directive).

<sup>24</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended.

- The EIB Statement of Environmental and Social Principles and Standards (ESPS, 2009<sup>25</sup>), the Environmental and Social Handbook (volume II, 2013)<sup>26</sup> and the Environmental and Social Standards (2018<sup>27</sup>), including:
    - Standard 1: Assessment and management of environmental and social impacts and risks.
    - Standard 2: Pollution prevention and abatement.
    - Standard 3: EIB standards on biodiversity and ecosystems.
    - Standard 10: Stakeholder engagement.
  - The EIB's own policies, such as its transport lending policy (2011<sup>28</sup>).
- 2.1.5 The EIB-CM carried out an initial review of the EIB's appraisal. The project was appraised by the EIB's services in 2020, with a pre-appraisal mission carried out in 2016. Appraisal documentation highlighted the EIA procedure completed in 2009 with public consultations. The EIA is evidenced by three non-technical summaries (NTS): one from March 2003 refers to the original EIA documentation and the two NTSs dated September 2004 cover two sections: Sections B1 and B2, after Section B was split. The operational remediation plan (2019) and its subsequent amendments are part of the project documentation.
- 2.1.6 The EIB's commitments referred to by the complaint (see paragraph 1.2.3) were understood as the EIB Group's decision to align its financing activities to the goals and principles of the Paris Agreement by the end of 2020<sup>29</sup>, as presented in the Climate Bank Roadmap in November 2020<sup>30</sup>. According to the Roadmap, the project shall meet "Paris alignment" requirements, if its preliminary information note (PIN) is approved after 1 January 2021. The EIB-CM established that the PIN of the project in question was approved before the above date (i.e. November 2020).
- 2.1.7 During the initial assessment stage, a meeting took place with the complainants to clarify the allegations<sup>31</sup>. An additional email received from the complainants in February 2022 was also taken into account in this report.
- 2.1.8 As a result of its initial assessment, the EIB-CM identified the following allegations:

**Table 1 – Identified allegations of the complaint**

Allegation	Description
1. Failure of the project to mitigate significant environmental impacts	<ul style="list-style-type: none"> <li>• Failure by the operational remediation plan to properly address the risk of TCDD dioxin releases, e.g. the lack of clarity on the monitoring plan and workers' protection.</li> <li>• Failure to comply with national legislation and landscape, soil and nature protection regimes during the environmental impact assessment procedure likely to cause further habitat fragmentation and damage to ecosystems and biodiversity.</li> </ul>
2. Failure of the EIB to comply with its environmental commitments	<ul style="list-style-type: none"> <li>• Contrary to the EIB's commitment to direct its financing to address the climate emergency, the project will not reduce CO<sub>2</sub> emissions.</li> </ul>

<sup>25</sup> The EIB ESPS (2009) is available [here](#) (in English):

<sup>26</sup> The EIB Environmental and Social Handbook (Volume II) (2013) is available [here](#) (in English).

<sup>27</sup> The EIB Environmental and Social Practices Standards (2018) document is available [here](#) (in English).

<sup>28</sup> The EIB's transport lending policy (2011) is available here:

[https://www.eib.org/attachments/strategies/transport\\_lending\\_policy\\_en.pdf](https://www.eib.org/attachments/strategies/transport_lending_policy_en.pdf) (in English)

<sup>29</sup> The EIB Group committed that all new operations will be aligned with the principles and goals of the Paris Agreement by the start of 2021. This includes new, direct and intermediated financing operations from 1 January 2021 onwards.

<sup>30</sup> See more in the EIB Group Climate Bank Roadmap 2021-2025 (2020) [here](#).

<sup>31</sup> The meeting took place on 2 February 2022.

### 3 WAY FORWARD

- 3.1.1 With regard to allegation 2 (see Table 1), as presented in paragraph 2.1.6, the project became part of the Bank's portfolio before the EIB's commitment to climate action came into effect. Therefore, this allegation is not grounded.
- 3.1.2 The compliance review will assess allegation 1 in the context of potential Bank's maladministration, including whether the project complied with the applicable regulatory framework and the EIB Group's own applicable policies, procedures and standards (see section 2).
- 3.1.3 The outcome of the compliance review will be reported to the complainants through the EIB-CM's conclusions report.