

SG/E/2022/15

MEDITERRANEAN RAILWAY CORRIDOR (SPAIN)

INITIAL ASSESSMENT REPORT

27 FEBRUARY 2023



European Investment Bank Group



SG/E/2022/15

MEDITERRANEAN RAILWAY CORRIDOR (Spain)

Initial Assessment Report

Complaint confidential: No

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Inspector General
Relevant EIB project team

Disclaimer

This report is based on the information available to the EIB Group Complaints Mechanism up to 31 January 2022, representing the report's cut-off date.

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism (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 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>.

The Initial Assessment Report

The initial assessment generally aims to¹:

- Clarify the concerns raised by the complainants and gain a better understanding of the complainants' position as well as the views of other stakeholders (e.g. project promoter, national authorities).
- Understand the validity of the concerns raised.
- Assess whether and how the stakeholders (e.g. the complainants, the relevant EIB Group project team and the project promoter) could seek resolution of the issues raised by the complainants.
- Determine if further work by the Complaints Mechanism is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainants.

¹ As outlined in § 2.2.1 of the EIB Group Complaints Mechanism procedures, available at: [EIB Group Complaints Mechanism procedures dated November 2018](#).

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GLOSSARY

ADIF	<i>Administrador de Infraestructuras Ferroviarias</i> (in Spanish) State-owned railway infrastructure manager for the conventional rail network reporting to the Ministry of Transport, Mobility and Urban Agenda.
ADIF Alta Velocidad	State-owned railway infrastructure manager for the High Speed rail network reporting to the Ministry of Transport, Mobility and Urban Agenda (Promoter and Borrower)
EIA	Environmental impact assessment
EIB	European Investment Bank
EIB-CM	European Investment Bank Group Complaints Mechanism
EU	European Union
UNESCO	United Nations Educational, Scientific and Cultural Organization

EXECUTIVE SUMMARY

In September 2022, the EIB Group Complaints Mechanism (the Complaints Mechanism) received a complaint regarding the alleged unmitigated environmental and social impact of a railway section between Tarragona and Sant Vicenç de Calders in Spain. The complaint was submitted by an individual, with Mercaderies per l'Interior and Associació Tarragona Avança (civil society organizations) joining the complaint during the initial assessment phase. The complaint concerns the Mediterranean Railway Corridor, financed by the European Investment Bank (EIB).

Following the admissibility of the complaint, the Complaints Mechanism carried out an initial assessment in line with paragraph 2.2 of the Complaints Mechanism Procedures. The objective of the initial assessment is to clarify the concerns raised by the complainants, and to understand their position and the validity of the concerns raised. The initial assessment also determines if further work by the Complaints Mechanism is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation.

The complainants requested support of the EIB in ensuring that negative environmental effects (noise, vibration and risk of accidents) are mitigated.

After conducting an initial assessment of available information, the Complaints Mechanism proposed carrying out a compliance review of the allegations as outlined in the table below:

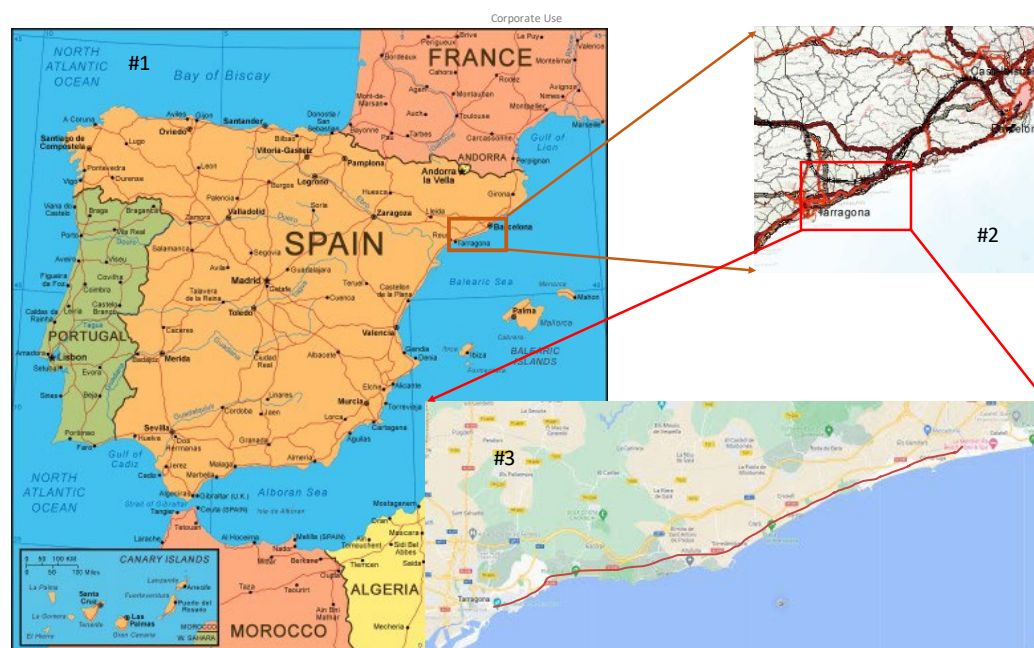
Allegation	Description
#1. The project's unmitigated significant negative noise impact	The allegation concerns: <ul style="list-style-type: none"> - Lack of noise reduction measures to protect residents from noise and vibration (current and future). - Negative impact on the tourism sector due to increased freight transport. - Lack of assessment and mitigation of the potential threats to a World Heritage site.
#2. Risk of contamination from accidents on the line	Risk of contamination from accidents due to possible routing of freight transport from the nearby petrochemical industry during the project's operational phase.

Due to the nature of the allegations and the discussion with the complainants, the Complaints Mechanism will proceed with a compliance review. The compliance review will assess the complainants' allegations in the context of potential Bank maladministration, as well as project documentation and the due diligence during appraisal and monitoring carried out by the Bank in relation to the complainants' concerns as identified in this Initial Assessment Report. The outcome of the compliance review will be communicated to the complainants in the Complaints Mechanism's Conclusions Report.

1 THE PROJECT AND THE OBJECT OF THE COMPLAINT

- 1.1 On 18 November 2014, the EIB approved financing for the Mediterranean Railway Corridor in Spain in the amount of €650 million. It was later increased totalling up to €1.05 billion². The project is being promoted by the Ministry of Public Works and Transport and developed by ADIF Alta Velocidad (the developer).
- 1.2 The project involves the construction of 46 km of new standard double-track infrastructure, the so-called Variante de Vandellòs branch and the transformation of 339 km of the existing Spanish gauge into interoperable European gauge between Castellbisbal (Barcelona) and Almussafes (Valencia) along the Spanish Mediterranean Core Network Corridor³. The aim of the gauge transformation is to enable interoperability between the European and Iberian gauges by adding a third rail to the track. Achieving interoperability between France and Spain is expected to attract additional international freight trains, which in turn is expected to have a positive impact on the economy.
- 1.3 The object of the complaint is the project planned on a section between Tarragona and Sant Vicenç de Calders. The section of the project concerned borders Els Muntanyans⁴ in the municipality of Creixell. The site is of national and EU importance, and is a Natura 2000 site⁵. The location of this section is shown in Figure 1.

Figure 1. The location of the project between Tarragona and Sant Vicenç de Calders⁶



- 1.4 The project was subject to complaints received in 2014 (which were transferred to the Bank's relevant services for information, as the project was still under appraisal). The Complaints Mechanism handled also complaint SG/E/2015/03 concluded in December 2015⁷, which did not establish any failure of the EIB in appraising the project. The Complaints Mechanism issued a few suggestions for the environmental analysis report being prepared at the time and a follow-up on the progress of national court proceedings with a view to assessing the possible impact of a court decision on the project and on the project's compliance with national law.

² Project webpage on the EIB's portal [here](#). The project's environmental and social data sheet is available [here](#).

³ Project documents are available on the EIB website [here](#).

⁴ Information available [here](#).

⁵ The site is called Costes del Tarragonès, Ref ES5140007, information available [here](#).

⁶ Figure 1 presents the map of Spain (item #1), the location of Tarragona (item #2) and a proximate location of railway line between Tarragona and Sant Vicenç de Calders (item #3) close to the Mediterranean coast.

⁷ The complainant and the complaint were confidential, but the EIB-CM site [here](#) summarises the results.

- 1.5 As a result of the environmental report prepared in 2017⁸, the project was amended to implement the measures stemming from the noise requirements. These measures are part of the project and are expected to be financed from the project costs.

2 COMPLAINT

- 2.1 A complaint was submitted in two emails received on 16 September 2022 and 30 September 2022. The Complaints Mechanism received the complaint from an individual. During the process of initial assessment, the Plataforma Mercaderies per l'Interior and the Associació Tarragona Avança (civil society organizations) under which this platform operates (see footnotes 20 and 21) also joined the complaint. The complaint concerns the Mediterranean Railway Corridor operation, which is financially supported by the EIB (see § 1.1). The complainants included information about their 2021 and 2022 complaints to the World Heritage Centre (UNESCO, France), a noise report conducted in the area of concern (2016)⁹ and photographs from the UNESCO site.

- 2.2 The complaint specifically concerns the coastline section between the city of Tarragona and the railway junction station of Sant Vicenç de Calders to the north-east of Tarragona. This section is due to receive a third rail on an already double-track railway line, which, based on the complainants' account, would allow freight rail transport to double in the future.

- 2.3 The issues alleged by the complainants are:

(i) The lack of noise reduction measures to protect residents from noise and vibration (current and future). The complainant alleges that noise levels in 2016 already did not comply with Spanish¹⁰ and European legislation concerning maximum levels, particularly at night, when a number of freight trains operate¹¹. The complainants are concerned by the inaction of the authorities, which prepared the noise action plans **but have not yet installed screens** following consultations on the above.

(ii) Negative impact on the tourism sector due to increased freight transport in a tourist destination of national importance on the Costa Dorada. The promoter became concerned with the issues and impact, and ordered a study on the matter. The expected date of completion of the study is within 51 months¹², which is far beyond the timeline of the implementation of the project of concern.

(iii) Lack of assessment and mitigation of the potential impact on a World Heritage site, namely the archaeological ensemble of Tarraco (the Roman amphitheatre). The complainants highlight a difficult situation caused by pre-existing noise and vibration impact on the UNESCO site. Once completed, the project (with the additional third rail) is expected to have further negative consequences for the archaeological site due to its nature and fragility. The complainants claim that specialists would need to be tasked with assessing the current and likely future impact on the site. To their knowledge, this has not been done.

(iv) Risk of contamination from accidents due to possible routing of freight transport from the nearby petrochemical industry during the project's operational phase. The modified tracks could be used for the transportation of hazardous materials in breach of national law, which states

⁸ Environmental report for the section CASTELLBISBAL – ALMUSAFES “Analysis of the environmental integration of the Mediterranean rail corridor in view of its adaptation to the standard track gauge of the European Union” available [here](#).

⁹ Mesuraments del soroll ambiental produït per una infraestructura ferroviària al seu pas per una urbanització del Vendrell, Ref. 063 – 16 / 0627 of 24 October 2014 submitted to the Air Quality Directorate of the Department of Land use and sustainability of the Catalan Administration.

¹⁰ Catalan Law "[Ley 16/2002](#)", de 28 de junio, de Protección contra la Contaminación Acústica", modified by Catalan Decree 176/2009.

¹¹ The complainant referred to the measurements carried out by the company DAC Enviro, commissioned by the Catalan Government in 2016.

¹² Information is provided [here](#).

that crossing urban areas should be avoided if these areas are not the destination of such materials¹³.

(v) Possible negative impact on a natural and recreational area on both sides of the railway track known as Els Muntanyans in the municipality of Creixell¹⁴.

- 2.4 The complainants welcomed the fact that the Mediterranean Railway Corridor section south-west of the city of Tarragona has a new track known as the Vandellòs diversion, which may prevent conflicts between tourism and other interests. In addition, on the section between Sant Vicenç de Calders and Barcelona, the corridor will move away from the coastline, avoiding tourist areas. The complainants consider it unacceptable that the stretch between Tarragona and Sant Vicenç de Calders will be forced to carry the burden of freight infrastructure with increased pressure.
- 2.5 The complainants highlighted the failure to perform an environment impact assessment (EIA) procedure for the section in question. This issue has been addressed in the Conclusion Report for the case for the Complaint SG/E/2015/03. The authorities followed the procedure called notification. This was confirmed by the promoter, which corroborated the application of the notification procedure under national law.
- 2.6 The complainants request action from authorities and the support of the EIB in ensuring that noise and vibration effects are mitigated¹⁵.

3 WORK PERFORMED

- 3.1 Paragraph 4.2.1 of the EIB Group Complaints Mechanism Policy (the policy)¹⁶ and paragraph 2.1.3 of the EIB Group Complaints Mechanism Procedures (the procedures)¹⁷ require the Complaints Mechanism to carry out the initial assessment of the complaint¹⁸. The objective of the initial assessment is to clarify the concerns raised by the complainants, understand the complainants' position and the validity of the concerns raised and to determine if further work by the Complaints Mechanism is necessary and/or possible in order to address the allegations or resolve the issues raised by the complainants¹⁹. The further work may include a compliance review or collaborative resolutions process (such as mediation). This report contains the results of the Complaints Mechanism's initial assessment.
- 3.2 As outlined in the procedures²⁰, during the initial assessment the Complaints Mechanism: (i) had an initial meeting with the EIB departments concerned²¹; (ii) contacted the complainant²²; and (iii) reviewed EIB documents pertaining to the project such as form A with justification of

¹³ Real Decreto 412/2001, de 20 de abril, por el que se regulan diversos aspectos relacionados con el transporte de mercancías peligrosas por ferrocarril. This regulates the transport of hazardous materials by train. [BOE](#): Boletín Oficial del Estado, the official gazette of the Kingdom of Spain.

¹⁴ More information is available [here](#) and [here](#).

¹⁵ During a call with complainants in November 2022, the Complaints Mechanism explained that the EIB-CM can not initiate actions against public bodies (see also Paragraph 3.4).

¹⁶ Available at: [EIB Group Complaints Mechanism Policy](#).

¹⁷ Available at: [EIB Group Complaints Mechanism Procedures](#).

¹⁸ Please note that this complaint concerns the environmental and social impacts of an EIB-financed project. As noted in § 2.1.2 of the procedures, complaints related to environmental and 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.

¹⁹ Paragraph 2.2.1 of the EIB Group Complaints Mechanism Procedures.

²⁰ Paragraph 2.2.2 of the EIB Group Complaints Mechanism Procedures.

²¹ The meeting took place on 28 October 2022. Before the call, the initial complainant requested the participation of a representative of the Mercaderies per l'Interior.

²² In an email dated 17 November 2022, the complainant confirmed the request of the Mercaderies per l'Interior and the Associació Tarragona Avançada, the association under which this platform operates, to participate in the complaint.

the lack of likelihood of significant negative impacts on Natura 2000, relevant court case decisions and studies carried out relevant to the section in question.

- 3.3 The procedures²³ set out key questions to be addressed during the initial assessment, namely:
- Understand how the relevant EIB services have verified compliance with the applicable regulatory framework, including EIB standards and carried out appropriate monitoring.
 - 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 of the project with the applicable regulatory framework.
- 3.4 Compliance of a project with international, EU, national or local standards is the responsibility of the project Promoter and local authorities. However, the EIB Group has a duty to verify compliance with the regulatory framework, which includes the EIB's policies, procedures and standards, such as the 2009 EIB Environmental and Social Statement, the EIB Environmental and Social Handbook (2013) and other relevant procedures applicable national and EU environmental law (for example in relation to noise). Nonetheless, a Complaints Mechanism's review will not pass judgement on activities under the sole responsibility of third parties, notably those of the Promoter or Borrower, or of authorities at local, regional or national level, of European institutions or international organisations.
- 3.5 During its assessment, the Complaints Mechanism established that the relevant environmental authorities deemed the project unlikely to have a significant negative impact on the relevant Natura 2000 site (see §§ 1.3 and 2.3, point v), and did not ask for an appropriate assessment in accordance with the Habitats' Directive (Article 6.3). In line with the Bank's environmental and social standards, the promoter was requested to provide form A for the sections with no full environmental impact assessments. The Complaints Mechanism considers that the EIB's role was fulfilled.
- 3.6 The EIB had already analysed the allegation of a failure to conduct an environmental impact assessment for the project in case SG/E/2015/03 (see § 1.4). It noted that the EIB requested the environmental analysis report covering the project's expected impact (vibrations, biodiversity, impact on fauna, Natura 2000), a detailed study of noise pollution effects, hazardous goods traffic, negative and positive cumulative impact in line with the EIA Directive and preventive and corrective measures. This report was produced in 2017 and is available on the EIB's website (see § 1.5).
- 3.7 The allegation of non-compliance of the project with environmental impact assessment law (classification of the project and absence of an environmental impact assessment) is dismissed. The project, as a modification of an existing railway line, could fall under the "any change of projects"²⁴ category. The dismissal of the allegation by the Complaints Mechanism is based on the fact that the EIA Directive was transposed into national law and in the absence of an established infringement of EU law (see § 2.5). The national authorities justified the lack of the environmental impact assessment screening determination, which was also addressed in national court proceedings.

4 WAY FORWARD

- 4.1 On the basis of information gathered, the Complaints Mechanism will carry out a review of the project's compliance with the EIB's applicable environmental and social standards in relation to the allegations, as presented below. Dispute resolution was not applied as it was deemed inapplicable to the case in question.
- 4.2 The Complaints Mechanism took note of the concerns raised by the complainants, as summarised in section 2. The alleged issue of the classification of the project (see § 3.7) is

²³ Paragraph 2.2.4 of the procedures.

²⁴ Annex II, point 13(a) of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, available [here \(as amended\)](#).

dismissed at the stage of the IAR. Also, as stated above, the request for actions by the authorities (see § 2.6) can not be handled by the Complaints Mechanism as it is outside of the EIB-CM Policy and Procedure (see § 3.4).

4.3 It is important to highlight that in line with 4.3.2 of the EIB-CM Policy, complaints against national, regional or local authorities fall outside the scope of the EIB-CM Policy.

4.4 On the basis of the initial assessment, the compliance review will focus on the following allegations:

Allegations	Description
#1. The project's unmitigated significant negative noise and vibration impact	The allegation concerns: <ul style="list-style-type: none"> - Lack of noise reduction measures to protect the residents from noise and vibration (current and future) (§ 2.3, point i). - Negative impact on the tourism sector due to increased freight transport (§ 2.3, point ii). - Lack of assessment and mitigation of the potential threats to a World Heritage site (§ 2.3, point iii).
#2. Risk of contamination from accidents on the line	Risk of contamination from accidents due to possible routing of freight transport from the nearby petrochemical industry during the project's operational phase (§ 2.3, point iv). The Complaints Mechanism review will look into the relevant safety measures.

4.5 The compliance review will assess the complainants' allegations in the context of potential Bank maladministration, as well as project documentation and the due diligence carried out by the Bank during appraisal and monitoring in relation to the complainants' concerns as identified in this Initial Assessment Report. The outcome of the compliance review will be communicated to the complainants in the Complaints Mechanism's Conclusions Report.

Complaints Mechanism