

**COMPLAINTS MECHANISM**

SG/E/2024/03

# **POKLEČANI WIND FARM (BOSNIA AND HERZEGOVINA)**

**INITIAL ASSESSMENT REPORT**

**11 JUNE 2024**



# SG/E/2024/03

## Poklečani Wind Farm (Bosnia and Herzegovina)

### Initial Assessment Report

**Complaint confidential:** No

#### **External distribution**

Complainants  
Promoter  
KfW complaints office

#### **Internal distribution**

Inspector General  
Relevant EIB services

#### **Disclaimers**

This report is based on the information available to the EIB Group Complaints Mechanism Division up to 22 April 2024.

German and Croatian versions of this report are available. 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 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 to<sup>1</sup>:

- 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 EIB Group Complaints Mechanism is necessary and/or possible (compliance review or collaborative dispute resolution between the parties) to address the allegation or resolve the issues raised by the complainants.

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<sup>1</sup> As outlined in paragraph 2.2.1 of the EIB Group Complaints Mechanism Procedures, available at: [EIB Group Complaints Mechanism Procedures \(November 2018\)](#).

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## GLOSSARY

EIB	European Investment Bank
FBiH	Federation of Bosnia and Herzegovina
KfW	Kreditanstalt für Wiederaufbau
Project	Poklečani Wind Farm
Promoter	JP Elektroprivreda HZ HB d.d. Mostar



**Executive summary**

In January 2024, the European Investment Bank (the “**EIB**”) received a complaint from an individual regarding the Poklečani Wind Farm project in Bosnia and Herzegovina. The project was approved by the Board of Directors in February 2024. The project consists of the construction and operation of an onshore wind farm located in a mountainous area in the Municipality of Posušje in the West Herzegovina Canton.

Following the initial assessment, the EIB Group Complaints Mechanism Division (the “**Complaints Mechanism**”) proposes to conduct a compliance review. The investigation will review whether the EIB properly assessed the environmental and social impacts and risks during its due diligence process, including compliance with EIB standards, in particular with regard to EIB Standards 1, 2, 4 and 6.

# 1 PROJECT

- 1.1 On 6 February 2024, the EIB Board of Directors approved financing of up to €103 million for the Poklečani Wind Farm in Bosnia and Herzegovina<sup>2</sup>. The project is expected to be co-financed with a grant sourced from the Western Balkans Investment Framework and a loan to be provided by the Kreditanstalt für Wiederaufbau (“**KfW**”). It is being developed by JP Elektroprivreda HZ HB d.d. Mostar, a public utility company (the “**promoter**”).
- 1.2 The project consists of the construction and operation of an onshore wind farm with a total installed capacity of 132 MW, located in a mountainous area in the Municipality of Posušje in the West Herzegovina Canton (the “**project**”).
- 1.3 The remaining project permits and land rights are expected to be secured in the course of 2024. Construction is scheduled to start in 2025 and last up to two years, and operations are expected to start in 2027.

# 2 COMPLAINT

- 2.1 On 25 January 2024, the EIB received a complaint from an individual (the “**complainant**”) regarding the impacts of the Poklečani Wind Farm project on the complainant’s property (which is co-owned with other family members<sup>3</sup>), her brother-in-law’s property, and a neighbour’s property<sup>4</sup>. The complaint letter was also sent to the KfW complaints office.
- 2.2 The allegations submitted by the complainant concern the following:
  - trespassing and damage to the complainant’s property
  - insufficient stakeholder engagement, information and participation
  - unlawfulness of the expropriation procedure in accordance with national legislation and lack of compensation offered
  - insufficient environmental approval given that the impacts on flora, fauna and groundwater have not been sufficiently considered and the project area overlaps with a nature park
  - unacceptable future impacts (noise, shade) of wind turbines positioned close to houses and a cemetery
  - insufficient analysis by the EIB of the project’s compliance with the EIB’s applicable rules and procedures
- 2.3 The complainant wishes to receive detailed information from the EIB on the issues put forward in the allegations, and would like the Complaints Mechanism to carry out a compliance review. Furthermore, the complainant requests that more in-depth environmental impact studies be carried out in relation to the project, and — based on the information on distances currently available to the complainant — that the distance between the wind turbines and the houses and cemetery be increased. The complainant’s neighbour requests an amicable solution with the promoter on the possible expropriation of his property in the event that the distance between the wind turbines and his house cannot be increased.

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<sup>2</sup> Further information is available at: [POKLEČANI WIND FARM \(eib.org\)](https://www.eib.org/press/2024/03-06).

<sup>3</sup> For simplicity, the report refers to the property co-owned by the complainant and other family members as the complainant’s property.

<sup>4</sup> The Complaints Mechanism had a phone call with the neighbour to inquire about his concerns and noted that the allegations are similar and thus can be grouped under the same complaint.

### 3 REGULATORY FRAMEWORK

3.1 The Complaints Mechanism is required to carry out an initial assessment of the complaint<sup>5,6,7</sup>. For more information about the objective of the initial assessment, see page iii above. This report contains the results of the Complaints Mechanism's initial assessment.

3.2 The following key questions should be addressed during the initial assessment, namely:

- understand how the relevant EIB services have verified compliance with the applicable regulatory framework, including the EIB standards;
- assess potential indications that the 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<sup>8</sup>.

The regulatory framework includes:

- EIB policies, procedures and standards:
  - The EIB Group Environmental and Social Policy (February 2022)<sup>9</sup>
  - The EIB Environmental and Social Standards (February 2022) (as far as applicable to projects located in candidate and potential candidate countries)<sup>10</sup>, in particular:
    - Standard 1 on Environmental and Social Impacts and Risks
    - Standard 2 on Stakeholder Engagement
    - Standard 4 on Biodiversity and Ecosystems
    - Standard 6 on Involuntary Resettlement
- National legislation — the EIB does not finance projects that, to the best of its knowledge, do not comply with relevant national environmental and social requirements<sup>11</sup>, including the ones stipulated in:
  - Federation of Bosnia and Herzegovina Noise Protection Act<sup>12</sup>
  - Federation of Bosnia and Herzegovina Environmental Protection Act<sup>13</sup>
  - Federation of Bosnia and Herzegovina Expropriation Act<sup>14</sup>

### 4 INITIAL ASSESSMENT

4.1 Following the receipt of the complaint, the Complaints Mechanism conducted phone calls with the complainant to obtain further information and clarifications. The Complaints Mechanism also conducted an initial meeting with the relevant EIB services. The Complaints Mechanism

<sup>5</sup> Paragraph 4.2.1 of the EIB Group Complaints Mechanism Policy, available at: [EIB Group Complaints Mechanism Policy](#), accessed on 22 April 2024.

<sup>6</sup> Paragraph 2.1.3 of the EIB Group Complaints Mechanism Procedures, available at: [EIB Group Complaints Mechanism Procedures](#), accessed on 10 April 2024.

<sup>7</sup> Please note that this complaint concerns the environmental and social impacts of an EIB-financed project. As noted in paragraph 2.1.2 of the EIB Group Complaints Mechanism Procedures, complaints related to the 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 paragraph 2.1.3 of the procedures, for these types of complaints, the normal process is formally structured in two phases: an initial assessment phase and a compliance review or collaborative resolution process phase.

<sup>8</sup> Paragraph 2.2.4 of the EIB Group Complaints Mechanism Procedures.

<sup>9</sup> Available at: [EIB Group Environmental and Social Policy](#), accessed on 10 April 2024.

<sup>10</sup> Available at: [EIB Environmental and Social Standards](#), accessed on 10 April 2024.

<sup>11</sup> Paragraph 4.4 of the EIB Group Environmental and Social Policy (February 2022).

<sup>12</sup> O.G. FBiH 110/2012, available [here](#) (in Croatian), accessed on 10 April 2024.

<sup>13</sup> O.G. FBiH 15/2021, available [here](#) (in Croatian), accessed on 10 April 2024.

<sup>14</sup> O.G. FBiH 70/2007, 36/2010, 25/2012, 8/2015 — Constitutional Court decision and 34/2016, available [here](#) (in Croatian), accessed on 16 April 2024.

reviewed the documents received from the complainant and the EIB services, as well as documents available in the public domain<sup>15</sup>.

- 4.2 To supplement and substantiate the allegations, the complainant provided the following explanations and clarifications:
- The complainant claims that her property was **trespassed on and damaged**.
  - **Stakeholder engagement and information:** The complainant alleges insufficient stakeholder engagement for not having been informed about the project and the expropriation procedure in a sufficient and timely manner. For example, the complainant provided the promoter with her contact details on 6 October 2013 (indicating that she lives outside the country) and requested to receive information concerning the project directly. The promoter informed the complainant by email on 13 October 2023 that a public hearing would take place three days later (on 16 October 2023), as published on its website<sup>16</sup>. The notice period was too short for the complainant to arrange to be present.
  - **Expropriation procedure:** The complainant alleges that the expropriation procedure was not carried out in line with national legislation. According to information provided by the complainant, the expropriation proposal can only be submitted to the municipality after an offer has been made to the owner of the affected land and if no amicable agreement is reached. According to the complainant, the proposal for expropriation was presented to the municipality prior to any offer having been made to the complainant and her brother-in-law.
  - Decision No. 01-31-144/23 of 27 July 2023 of the Municipal Council of the Municipality of Posušje established that the construction of the Poklečani Wind Farm was of public interest and identified the promoter as the beneficiary of an expropriation procedure.
- 4.3 On 25 September 2023, the complainant received a letter from the municipality informing her that the investor had proposed the expropriation of all properties on land intended for the project and that the municipality had accepted the proposal.
- 4.4 On 4 October 2023, the complainant received an invitation from the municipality for a joint site visit to be held on 10 October. Due to the short notice, the complainant was not able to participate in the site visit. According to the complainant, the municipality allegedly did not react to her request to postpone the site visit.
- 4.5 On 12 October and 27 December 2023, two hearings were held between the complainant, representatives of the municipality, and the promoter to discuss the expropriation of the complainant's property. The minutes of the hearings established what land would need to be (partially) expropriated, who the owners are, the complainant's opposition to the expropriation and the reason for this opposition.
- 4.6 **Environmental approval:** The competent authority's screening decision<sup>17</sup> (on whether a full environmental impact assessment was needed) was based on a consultant's 2023 report (request for a preliminary environmental impact assessment<sup>18</sup>). The complainant alleges that

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<sup>15</sup> Paragraph 2.2.2 of the EIB Group Complaints Mechanism Procedures.

<sup>16</sup> [Notice and invitation to a public hearing for the realisation of the Poklečani wind farm project – Elektroprivreda HZHB Mostar \(ephzhd.ba\)](https://www.ephzhd.ba) published on 9 October 2023, accessed on 18 March 2024.

<sup>17</sup> According to information provided by the EIB services: Decision No. UPI 05/1-02-19-4-81/23 of the Federal Ministry of Environment and Tourism of Bosnia and Herzegovina.

<sup>18</sup> The request and report were published by the Federal Ministry of Environment and Tourism in June 2023 and accessed on 22 May 2024 at: <https://www.fmoit.gov.ba/bs/okolisne-dozvole/javne-rasprave-i-javni-uvidi/javni-uvid-u-zahjev-za-prethodnu-procjenu-utjecaja-na-okolis-investitora-jp-elektroprivreda-hzhd-d-d-mostar-za-projekt-izgradnje-ve-pokleceni-instalirane-snage-132-mw-u-opcini-posusje>.

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this report was incomplete and, therefore, the authority's decision did not consider important negative project impacts. The complainant provided the following examples:

- Incorrect/insufficient information on bats and eagles, which the complainant claims to have spotted in the area.
- No study was carried out to assess the impact on groundwater, despite the project area allegedly being in a water protection area (Rakitno).
- Inconsistencies between the studies and the environmental approval/screening-out decision: the complainant alleges that the project will partly be built in the Blidinje Nature Park, whereas the studies stated that the project would be located between the village of Poklečani and the Blidinje Nature Park.
- Concerning the area needed for tree felling, the screening-out decision from 2023 states that approximately 225 000 square metres of forest will need to be felled for the project, whereas according to the decision of the Ministry of Economy from January 2023, the permitted area for deforestation is 355 147 square metres.

4.7 **Future impacts due to noise and shade created by the wind turbines:** According to information provided by the complainant, the distances of the closest wind turbines are as follows: 260 metres to the complainant's house<sup>19</sup>, approximately 100 metres to the cemetery, 280 metres to the neighbour's house, and 100 metres to the brother-in-law's house. The complainant and the neighbour fear that the project will affect future possibilities to use the land for sheep pasture, bee keeping and planned animal husbandry, all activities that would supplement the income of both families.

4.8 The complainant also contacted the Ministry of Environment and Tourism of the Federation of Bosnia and Herzegovina. On 31 August 2023, the Ministry provided a document with the following answers to the questions posed by the complainant concerning the issues described in paragraph 4.7:

- The noise level of the wind turbines has been assessed and is within the limits defined by the Noise Protection Act.
- EU standards (which are broader than national legislation) were followed in the surveys carried out to evaluate the impact on flora, fauna and Natura 2000 habitats.
- The required assessment concerning the impact on drinking water was carried out and livestock grazing in the vicinity of the wind turbines will still be possible. Experience with other projects has actually shown that access for farmers and cattle was improved by the project access roads.

4.9 The EIB services provided the Complaints Mechanism with the following information:

- No finance contract has yet been signed by the EIB. The project is supposedly located in an area with only a few buildings that are used as holiday homes, stables or hunting lodges. Approximately 85% of the land intended for the project is state-owned, the remainder being owned by private individuals.
- Concerning the environmental approval process, the EIB services informed the Complaints Mechanism that the public had an opportunity to provide comments and/or lodge legal action during the preliminary environmental impact assessment process, namely:
  - The Ministry of Environment and Tourism of the Federation of Bosnia and Herzegovina published the environmental and social impact assessment report

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<sup>19</sup> The house is seasonally used.

- from the consultant on its website and there was a 30-day period for potential comments<sup>20</sup>.
- After the screening-out decision was issued in August 2023, the public also had eight days to provide comments on the decision and the planned mitigation measures<sup>21</sup>.
  - Legal remedies could be taken against the decision by the Ministry of Environment and Tourism of the Federation of Bosnia and Herzegovina.
- The existing environmental and social studies and plans are subject to updates. They are currently in the process of being finalised (expected in summer 2024). The Environmental and Social Data Sheet<sup>22</sup> that was part of the EIB approval documents describes various measures required to ensure that the project complies with the EIB's environmental and social standards. These measures include:
    - finalisation of an environmental and social action plan as a condition for EIB financing
    - updates on the noise and shadow flicker studies, additional surveys on biodiversity assessment/critical habitat determination, and a biodiversity management plan
    - updated stakeholder engagement plan, including a project-level grievance mechanism
    - further development of a resettlement action plan/land acquisition plan
  - With respect to the distances between the wind turbines and dwellings, the EIB services informed the Complaints Mechanism that the closest cottages are located 276 metres from wind turbine number five and one cottage around 134 metres from wind turbine number three.
  - The services provided the following information concerning the expropriation procedure:
    - According to information provided by the promoter, the expropriation procedure begins with a proposal for expropriation, which the expropriation beneficiary submits to the relevant municipality (expropriation authority). The proposal contains information about the property, its owners and the purpose for which expropriation is proposed. In addition, the proposal contains proof that the beneficiary of the expropriation has previously tried to acquire ownership rights by agreement with the owner of the property (written offer, public advertisement, etc.).
    - On 28 August 2023, the promoter published a notice on its website and in a daily newspaper inviting all the owners of the properties to be expropriated to call within 15 days if they were interested in coming to an agreement with the promoter on the acquisition of ownership rights and/or the establishment of easement rights over such properties. Otherwise, the promoter would proceed to propose full and partial expropriation<sup>23</sup>.
    - On 12 September 2023, the expropriation beneficiary submitted a request to initiate expropriation proceedings to the Municipality of Posušje through the service for property and legal relations, geodetic and cadastral affairs, spatial planning and

<sup>20</sup> Information to be assessed: [Javni uvid u Zahtjev za prethodnu procjenu utjecaja na okoliš investitora JP ELEKTROPRIVREDA HZHB d.d. Mostar za Projekat izgradnje VE Poklečani, instalirane snage 132 MW, u općini Posušje | Federalno ministarstvo okoliša i turizma - Bosna i Hercegovina \(fmoit.gov.ba\)](#).

<sup>21</sup> Information to be assessed: [Javni uvid u nacrt rješenja kojim se utvrđuje da za Projekat izgradnje Vjetroelektrane „Poklečani“ instalirane snage 132 MW, općina Posušje, nije potrebno dalje provođenje procjene uticaja na okoliš putem izrade Studije uticaja na okoliš | Federalno mini](#), accessed on 21 April 2024.

<sup>22</sup> [Environmental and Social Data Sheet \(eib.org\)](#), accessed on 22 April 2024.

<sup>23</sup> [Public invitation to all interested owners for the purpose of an amicable resolution of property-legal relations with the aim of building the Poklečani VE - Elektroprivreda HZHB Mostar \(www-ephzhh-ba.translate.goog\)](#), accessed on 21 March 2024.

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environmental protection, claiming that the deadline to respond to the invitation had elapsed without response.

- 4.10 The Complaints Mechanism notes that, while the expropriation procedure has been started and land acquisition activities are ongoing, neither the stakeholder engagement plan, nor the resettlement action plan/land acquisition plan (with detailed information on the expropriation procedure) are publicly available to project-affected people.

## 5 WAY FORWARD

Following the initial assessment, the Complaints Mechanism proposes to conduct a compliance review. The investigation will review whether the EIB properly assessed the environmental and social impacts and risks during its due diligence process, including compliance with EIB standards, in particular with regard to EIB Standards 1, 2, 4, and 6.

The outcome of the compliance review will be communicated to the complainant through the Complaints Mechanism's conclusions report.

Taking note of paragraph 4.3.2 of the EIB Group Complaints Mechanism Policy<sup>24</sup>, the Complaints Mechanism would like to clarify that the compliance review will focus on the complainant's allegations through the angle of possible maladministration by the EIB as presented on page iii above.

EIB Group Complaints Mechanism

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<sup>24</sup> Complaints against international organisations, EIB Group counterparts such as borrowers/promoters, EU institutions and bodies, national, regional or local authorities (e.g. government departments, state agencies and local councils) are not handled by the EIB Group Complaints Mechanism.