

Marišćina County Waste Management Centre

Complaint SG/E/2013/01

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

Conclusions Report

21 November 2018

Prepared by

EIB Complaints Mechanism

External Distribution

Complainant: Udruga Krizni Eko Stožer Mariščina

Promoter: Environmental Protection and Energy Efficiency Fund

Operator: Ekoplus

Borrower: Republic of Croatia, the Ministry of Finance

Internal Distribution

Management Committee

Secretary General

Inspector General

Relevant EIB services

The EIB Complaints Mechanism

The EIB Complaints Mechanism is designed to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases in which members of the public feel that the EIB Group has done something wrong, i.e. if they consider that the EIB has committed an act of maladministration. When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure, one internal – the Complaints Mechanism Division (EIB-CM) – and one external – the European Ombudsman (EO).

Complainants that are not satisfied with the EIB-CM's reply have the opportunity to submit a confirmatory complaint within 15 days of receipt of that reply. In addition, complainants who are not satisfied with the outcome of the procedure before the EIB-CM and who do not wish to make a confirmatory complaint have the right to lodge a complaint of maladministration against the EIB with the EO.

The EO was "created" by the Maastricht Treaty of 1992 as an EU institution to which a citizen or an entity may appeal to investigate an EU institution or a body on the grounds of maladministration. Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights. Some examples, as set out by the EO, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal to provide information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of the EIB Group's activities and to project cycle-related policies and other applicable policies of the EIB.

The EIB Complaints Mechanism is designed not only to address non-compliance by the EIB with its policies and procedures but also to endeavour to solve the problem(s) raised by complainants such as those regarding the implementation of projects.

For further and more detailed information regarding the EIB Complaints Mechanism please visit our website: <http://www.eib.org/about/accountability/complaints/index.htm>

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EXECUTIVE SUMMARY

This report concerns a complaint regarding the County Waste Management Centre (CWMC) Marišćina in Croatia (hereinafter: the project). The European Investment Bank (EIB), together with the European Commission and the national authorities, is co-financing one of the stages of the project through a Framework Loan.

The complaint consists of the following allegations:

- Allegations pertaining to the implementation of the project
 - A.1 - Temporary landfill
 - A.2 – Access road
- Allegations pertaining to the impact on the environment
 - B.1 – Unpleasant odour
 - B.2 – Impact on the drinking water
- Allegations pertaining to the waste management technology
 - C.1 – Use of mechanical biological treatment (MBT) technology
 - C.2 – Capacity of the MBT plant
 - C.3 – Off-take market for fuel produced by the MBT plant
- Allegations pertaining to the project costs
 - D.1 – Capital expenses
 - D.2 – Operational expenses.

In respect to the **project plans and/or applicable standards**, after conducting the review, the EIB's Complaints Mechanism (EIB-CM) concludes that (i) in respect to five allegations, the project is in line with the project plans and/or applicable standards; (ii) in respect to one allegation, the project encountered challenges but these challenges have since been resolved and the project is in line with the project applicable standards; and (iii) in respect to three allegations, the project is not yet fully in line with the project plans/or applicable standards.

Description	Allegations
The project is in line with project plans and/or applicable standards.	A.2, B.2, C.1, C.2, D.1
At the time of the complaint, the project encountered challenges, but these challenges have since been resolved and the project is in line with the project applicable standards.	B.1
The project is not yet fully in line with the project plans and/or applicable standards.	A.1, C.3, D.2

In respect to the **role of the EIB**, the EIB-CM notes that the EIB responsibilities include both the project review and the project monitoring.

The EIB's project review encompassed all the allegations, apart from the temporary landfill (allegation A.1) since there were no known plans to store and landfill waste in and around the CWMC prior to the commencement of the work of the CWMC. Considering that the content of a project review is not defined, the EIB-CM concludes that this project shows that the project review consisting of a questionnaire to the borrower, a site visit and preparation of a detailed note is appropriate.

In respect to the project monitoring, the EIB-CM notes that the borrower did not report on the following:

- Temporary storage of waste at the Marišćina site, the related court verdict and the early stages of operation of the temporary landfill (allegation A.1; allegation B.1).
- Challenges concerning the off-take of the fuel produced by the CWMC's MBT plant (allegation C.3).
- Higher operational expenses (allegation D.2) caused by higher costs of disposal of the fuel produced by the MBT plant than originally planned.

Considering this, the EIB-CM concludes that in the future the EIB can benefit from providing borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint.

Once notified of the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on specific issues raised in the complaint.

Considering the carried out EIB's project review and monitoring, the EIB-CM concludes that the allegations are ungrounded in respect to the role of the EIB.

The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether:

- The temporary landfill (allegation A.1) is closed in line with the applicable standards.
- The off-take of fuel produced by the MBT plant is ensured (allegation C.3).
- The new off-take of fuel arrangement had a positive impact on the operational expenses of the CWMC (allegation D.2).

The EIB-CM notes that there are ongoing activities at the national level to address the issue of off-take of the fuel produced by CWMCs in Croatia.

The EIB-CM suggests to the EIB to consider to:

- In the future, clarify the content of a project review by providing guidance to EIB staff on how to carry out project review.
- In the future, provide borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint.
- Offer technical assistance to the national authorities in ensuring off-take of the fuel produced by CWMCs in Croatia.

1. COMPLAINT (ALLEGATIONS AND CLAIMS)

- 1.1 In March 2013, the EIB's Complaints Mechanism (EIB-CM) received a complaint from Udruga Krizni eko stožer Marišćina¹, a non-governmental organisation focusing on waste management related issues on the territory of Primorje-Gorski Kotar (PGK) County in Croatia (hereinafter: the complainant). The complaint concerns the County Waste Management Centre (CWMC) Marišćina in Viškovo Municipality in PGK County.
- 1.2 The complaint consists of a number of allegations which were received in three different submissions in March and July 2013. Table 1 below shows a summary of the allegations. All of the allegations presented in Table 1 are analysed in Section 5 of this report.

TABLE 1 – SUMMARY OF ALLEGATIONS

Allegations	Summary of the allegations received from the complainant
A – Allegations pertaining to the implementation of the project	
A.1 Temporary landfill	The overall CWMC Marišćina project was implemented differently from the original implementation plan by including temporary storage of waste at the CWMC Marišćina and its subsequent landfilling at the temporary landfill.
A.2 Access road	The access road to the CWMC Marišćina was not built.
B - Allegations pertaining to the impact on the environment	
B.1 Unpleasant odour	The CWMC Marišćina, including the temporary landfill and storage of waste, generates unpleasant odour impacting the local population.
B.2 Impact on the drinking water	The CWMC Marišćina, including the temporary landfill, may impact the drinking water.
C - Allegations pertaining to the waste management technology	
C.1 Use of MBT technology	The CWMC Marišćina is relying on an outdated mechanical biological treatment (MBT) technology which will prevent Croatia from complying with EU law.
C.2 Capacity of the MBT plant	The MBT plant is oversized.
C.3 Off-take market for fuel produced by the MBT plant	The MBT plant will not produce solid recovered fuel (SRF) but a lower calorific, unmarketable refuse derived fuel (RDF) which will generate either no demand, or at best, fluctuating demand.
D - Allegations pertaining to the project costs	
D.1 Capital expenses	The overall costs of the project have never been properly disclosed.
D.2 Operational expenses	The operational costs of the CWMC Marišćina will be higher than estimated.

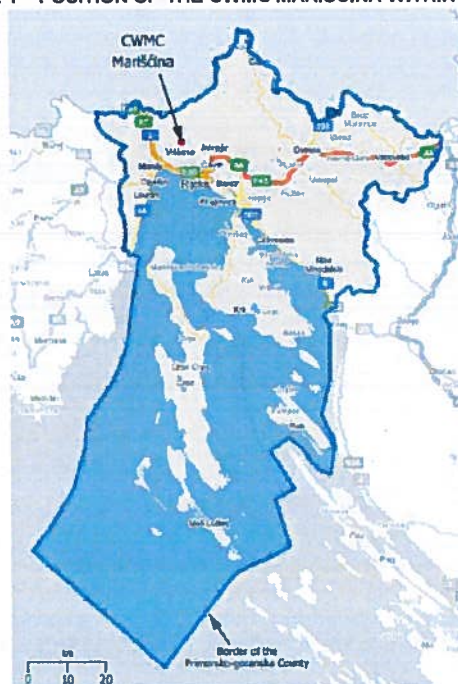
- 1.3 The complainant calls for an appropriate use of funds with regard to the welfare of residents of the Viškovo Municipality and the environment.

¹ <http://www.mariscina.com/>, accessed on 26 October 2018.

2. BACKGROUND INFORMATION

- 2.1 The Croatian Ministry of Finance² is the borrower (hereinafter: the borrower)³. The Croatian Environmental Protection and Energy Efficiency Fund⁴ is implementing the CWMC Marišćina project (hereinafter: the promoter). Ekoplus⁵, a waste management company founded by the County and public utility companies in the County, is the project operator (hereinafter: the operator)⁶. The CWMC Marišćina services citizens of the PGK County⁷.

PICTURE 1 – POSITION OF THE CWMC MARIŠĆINA WITHIN THE PGK COUNTY⁸



- 2.2 The overall CWMC Marišćina project comprises of the following four stages which are clearly defined and are technically and financially independent:
- Stage 0 – relates to preliminary activities⁹.
 - Stage 1 – includes construction of a MBT plant and two landfill cells.
 - Stage 2 – includes construction of five municipal waste transfer stations.
 - Stage 3 – includes enlargement of the landfill and the construction of an energy production plant¹⁰.

² <http://www.mfin.hr/en>, accessed on 26 October 2018.

³ Finance Contract on Co-financing EU IPA ISPA 2007-2011 between the Republic of Croatia and the European Investment Bank, dated 30 September 2010, FI N° 25 749(HR) (O.G. – International Agreements of the Republic of Croatia No. 10/10) – available at https://narodne-novine.nn.hr/clanci/međunarodni/2010_12_10_126.html (hereinafter: Finance Contract).

⁴ <http://www.fzoeu.hr/en/home/>, accessed on 26 October 2018.

⁵ <http://www.ekoplus.hr/>, accessed on 26 October 2018.

⁶ The Finance Contract also uses the term "beneficiary" to describe the "operator" and "promoter".

⁷ PGK County consists of 36 cities and municipalities with around 296.000 inhabitants - 36 cities and municipalities - <http://www.pgk.hr/> accessed on 26 October 2018.

⁸ Figure 1 of the CWMC Marišćina EIA Executive Summary, December 2009.

⁹ E.g. land acquisition, project design, permitting – Section B of the Audit Report on Waste Management in PGK County (Izvešće o obavljenoj reviziji, Gospodarenje otpadom na području Primorsko-goranske županije), Rijeka, October 2014, available at: <http://www.revizija.hr/izvjesca/2014/r-2014/revizije-ucinkovitosti/gospodarenje-otpadom/gospodarenje-otpadom-na-podrucju-primorsko-goranske-zupanije.pdf>, accessed on 26 October 2018.

¹⁰ Section 4.1 of Annex I of the Bilateral Project Agreement Between the Government of the Republic of Croatia and the European Commission Concerning the Co-financing of the Major Project «County Waste Management Centre Marišćina» CCI No: 2007HR16IPR001

The EIB financing is limited only to Stage 1 of the overall project. Stage 1 of the project, consists of the following:

- Construction of an MBT plant with a capacity to treat about 100 000 tonnes per year of mixed municipal waste. The MBT extracts:
 - Recyclable materials (approx. 5%)
 - Fuel (SRF) (approx. 35%)
 - Water (approx. 25%),
 from the input waste stream, whereas the residual fraction (approx. 35%) is disposed in a bio-reactive landfill.
- Construction of two landfill cells:
 - Bio-reactive landfill, i.e. a landfill cell with capacity of 201,700 m³ operated according to a bio-reactor concept in order to facilitate biodegradation and increase the generation and collection of landfill gas.
 - Industrial landfill, i.e. a landfill cell for industrial non-hazardous waste with a capacity of 263,095 m³.
- Construction of a recycling yard¹¹.

2.3 The works on Stage 1 lasted from 2013 to 2015¹². The handover between the promoter and the operator took place in 2016. After the trial run period, the CWMC officially started working in February 2017¹³. As of October 2018, the implementation of Stage 3 of the project has not commenced. The CWMC Marišćina is located on a newly developed site, 750m from the nearest residential settlement.

2.4 The EIB financing is part of an EIB Framework Loan¹⁴, signed in September 2010. Under the Framework Loan, the EIB is providing co-financing for a number of sub-projects¹⁵ in Croatia, co-financed under the Instrument for Pre-Accession Programme (IPA) and other financing sources¹⁶. IPA financing consists of the European Commission's financial grants which supported Croatia in meeting the requirements of EU membership¹⁷. The EIB financing is part of the national contribution for the co-financed projects¹⁸.

Under the Instrument for Pre-accession Assistance (IPA) IPA Component III – Regional Development (O.G. – International Agreements of the Republic of Croatia No. 8/09, 11/11 and 3/13) (hereinafter: Bilateral Project Agreement).

¹¹ Sections 4 and 6 of Annex I of the Bilateral Project Agreement.

¹² <http://www.novilist.hr/index.php/layout/set/print/Vijesti/Rijeka/Konacno-stigla-pravomocna-privremena-dozvola-Centar-Mariscina-poceo-zaprimati-otpad-na-obrađu>, accessed on 26 October 2018.

¹³ <http://www.novilist.hr/index.php/layout/set/print/Vijesti/Rijeka/Konacno-stigla-pravomocna-privremena-dozvola-Centar-Mariscina-poceo-zaprimati-otpad-na-obrađu>, accessed on 26 October 2018.

¹⁴ <http://www.eib.org/projects/pipelines/pipeline/20100280>, accessed on 26 October 2018. Please note that the term Framework Loan is used throughout this report for the ease of reference. As indicated in the Finance Contract (e.g. Schedule A, section A.1.1), this loan is a Framework Loan/Structural Programme Loan. The Structural Programme Loans are a subset of the Framework Loan category which are aimed at co-financing multi-sub-project investments managed by public authorities and, in this case, co-financed by the European Commission (Section A.3.2, paragraph 21 of the EIB's v. 2010 Environmental and Social Practices Handbook and Schedule A of the Finance Contract).

¹⁵ Please note that the Finance Contract uses the term "scheme" instead of the term "sub-project".

¹⁶ Recitals 1 and 4 of the Finance Contract.

¹⁷ Croatia joined the EU on 1 July 2013. EU Member States are not eligible for new IPA financing unless it concerns cross-border cooperation with countries eligible for IPA financing.

¹⁸ Schedule A, section A.1.1 of the Finance Contract.

3. REGULATORY FRAMEWORK

Work of the EIB-CM

- 3.1 The EIB-CM is established to address complaints concerning alleged maladministration by the EIB¹⁹. Maladministration means poor or failed administration. This occurs when the EIB fails to act in accordance with the applicable legislation and/or established policies, standards and procedures. Maladministration may also relate to the environmental or social impacts of EIB's activities²⁰. Any person or group who alleges that there may be a case of maladministration within the EIB, can lodge a complaint²¹.
- 3.2 The EIB-CM carries out a compliance review of complaints meeting specific criteria. The compliance review enables the EIB-CM to form an independent and reasoned opinion concerning the received allegations²². Depending on the circumstances of each case, the EIB-CM may address specific recommendations or suggestion for improvements to the EIB.

Project's applicable standards

- 3.3 The project must comply with the relevant EU and national law²³, including the environmental law²⁴. For example, the project must comply with the EU Waste Framework²⁵ and Landfill Directives²⁶. The Waste Framework Directive introduces the waste hierarchy which favours waste recycling over waste energy recovery and the latter over waste disposal²⁷. The Landfill Directive requires Croatia to reduce its share of biodegradable municipal waste deposited on landfills to 35% of the amount produced therein in 1997²⁸. The Landfill Directive also requires Croatia to close all of its existing landfills which are non-compliant with the Directive by the end of 2018²⁹. The overall assessment of the project's impact on the environment must be carried out in line with the Environmental Impact Assessment (EIA) Directive³⁰.

These Directives are transposed into Croatian legislation in the national environmental and waste management legislation. They are implemented in the national and county waste management strategy and plans and by numerous authorisations issued by the competent authorities (e.g. EIA Decision).

¹⁹ Section II, § 3 and 4 and Section III, § 1.4 of the European Investment Bank Complaints Mechanism Principles, Terms of Reference and Rules of Procedure (CMPTR).

²⁰ Section II, § 1.2 of the CMPTR.

²¹ Section IV, § 2 of the CMPTR.

²² § 5.6.5 of the European Investment Bank Complaints Mechanism Operating Procedures.

²³ Article 6.05 (f) of the Finance Contract.

²⁴ Article 36 of the EIB Statement of Environmental and Social Principles and Standards, 2009.

²⁵ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives.

²⁶ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

²⁷ Article 4 of the Waste Framework Directive. Please note that according to Article 4(2) of the Directive, the departure from this is permitted where this is justified.

²⁸ Article 5 of the Landfill Directive and Annex V taking into account Section III of the Treaty of Accession of Croatia (2012).

²⁹ Article 14 of the Landfill Directive and Annex V taking into account Section III of the Treaty of Accession of Croatia (2012).

³⁰ Currently: Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

Allocation of the responsibilities

- 3.4 The EIB must ensure that its funds are employed as rationally as possible in the interest of the EU³¹. The EIB fulfils this requirement during its project appraisal and monitoring.
- 3.5 In respect to the appraisal, the EIB follows a two-step process. The first step concerns the EIB's appraisal of the Framework Loan itself. As indicated in § 2.4, the EIB financing for the CWMC Marišćina is secured through an EIB Framework Loan. A Framework Loan corresponds to multi sub-project operations where, due to incomplete information at the appraisal stage, decisions concerning the financing of specific sub-projects have to be taken after EIB Board of Directors approval based on additional information³².

The second step concerns possible EIB's appraisal/review of specific sub-projects. More specifically, the EIB is required to:

- Conduct a full economic, technical, environmental and social **appraisal** of sub-projects with investment costs of EUR 50m or more and submit them for approval to the EIB Board of Directors³³
- Conduct an environmental and social **review** of sub-projects with costs between EUR 10m – 50m³⁴.

While the content of the EIB's appraisal is clearly set out, the content of the review is not. The content of the review is subject to EIB expert judgement based on the scope, type and context of the sub-project.

- 3.6 In addition to the appraisal/review, the EIB is also required to carry out physical monitoring. The physical project monitoring gives the EIB the possibility of identifying emerging or potential problems, and mitigating project-related risks, as early as possible.
- 3.7 The overall responsibility for the implementation of the sub-projects covered by the Framework Loan rests with the borrower³⁵. The borrower is required to ensure that promoters and operators implement specific projects in compliance with the project applicable standards (see § 3.3)³⁶.

4. WORK PERFORMED

- 4.1 Once it received and registered the complaint, the EIB-CM conducted an initial desk review and consulted the relevant EIB's services. The EIB-CM also consulted the borrower, which communicated with the promoter and operator when preparing its responses.

The EIB-CM conducted a site mission in December 2013. During the mission, the EIB-CM met with the representatives of the European Commission, promoter, operator and complainant.

³¹ Article 19 of the EIB Statute.

³² Section A.3.2, paragraph 21 of the EIB's v. 2010 Environmental and Social Practices Handbook.

³³ Schedule A, section A.1.2.2 of the Finance Contract.

³⁴ Schedule A, section A.1.2.2. of the Finance Contract.

³⁵ Recital 2 of the Finance Contract.

³⁶ Article 6.05 (f) of the Finance Contract.

- 4.2 Throughout the compliance review, the EIB-CM continued to collect and analyse information. For example, in 2015, during a meeting in Zagreb, the EIB-CM collected additional information on waste management in Croatia³⁷. The EIB-CM analysed the relevant legislation, policy documents and reports and followed media reporting concerning the CWMC Marišćina.
- 4.3 On the basis of the collected and analysed information, the EIB-CM prepared this conclusions report.

5. SPECIFIC ALLEGATIONS' FINDINGS, CONCLUSIONS AND RECOMMENDATIONS/SUGGESTIONS FOR IMPROVEMENT

Findings, conclusions and recommendations/suggestions for improvement concerning **specific allegations** are presented in sections 5.2 – 5.5 below. To avoid unnecessary repetition, a **general introduction on EIB's appraisal/project review and monitoring** is provided in section 5.1, with more details relevant per specific allegation provided in sections 5.2 – 5.5.

5.1 General overview of the EIB's appraisal/project review and monitoring

- 5.1.1 In 2010, the EIB carried out the appraisal of the Framework Loan. This included a general analysis of the waste management sector in Croatia.
- 5.1.2 In 2012, in line with the Finance Contract, the EIB conducted a review of the CWMC Marišćina sub-project (hereinafter: project review). The Finance Contract requires limited project review of sub-projects with costs between EUR 10m – 50m (see § 3.5) and lists the CWMC Marišćina as a sub-project for which this review is required. The costs for Stages 0, 1 and 2 of the CWMC Marišćina are EUR 43.8m (see § 5.5.1.3).

The EIB considers the costs of Stages 0, 1 and 2 (see § 2.2) as the project implementation costs. The EIB does not consider the costs of Stage 3 (see § 2.2) as project implementation costs because it is uncertain when the latter stage will be implemented. The works on Stage 3 have not commenced as of October 2018.

As indicated in § 3.5, the content of a project review is not defined. In this case, the EIB requested and received information from the authorities in Croatia in a form of a questionnaire, conducted a site visit and prepared a detailed note on the results of the project review.

The review also included the review of the following:

- Project EIA
- Specific aspects of the project such as:
 - off-take of the fuel produced by the CWMC and

³⁷ E.g. a publication titled: Ecologically based system of municipal waste management for the city of Rijeka and the surrounding area (*Ekološki zasnovan sustav gospodarenja komunalnim otpadom grada Rijeke s okolicom, Zagreb ožujka 2013*), Department of Water and Environmental Engineering of the Faculty of Engineering and Shipbuilding of the University of Zagreb, available in Croatian at: <http://www.mariscina.com/wp-content/uploads/2013/04/Studija-EZSGO-20130402.pdf>, accessed on 26 October 2018.

- CWMC gate fee.

5.1.3 The borrower is required to submit to the EIB annual project progress reports encompassing the sub-projects under the Framework Loan³⁸. In these reports, the borrower is required to report, in particular, on:

- Any major issue with impact on the environment
- Any significant issue that has occurred
- Any significant risk that may affect the project's operation
- Any legal action concerning the project³⁹.

What is considered major and significant enough to be reported on is not defined.

In certain cases, the borrower is required to provide the EIB with information outside of the above described annual reports. For example, the borrower is required to promptly inform the EIB of any fact or event known to the borrower which may substantially prejudice or affect the conditions of execution or operation of the project⁴⁰.

The borrower is also required to submit a project completion report for the entire Framework Loan⁴¹. Normally the EIB is expected to carry out physical monitoring of the project by one or more visits. This may include on-site follow up of environmental matters⁴².

5.1.4 In line with its reporting obligation, the borrower reported on the implementation of the CWMC Marišćina sub-project. In June 2014, the borrower included information about the complaint in its annual project progress report⁴³. More specifically, the borrower reported that the complaint concerns temporary landfill, use of MBT technology and the costs of the project. The borrower also reported on the EIB-CM mission (see § 4.1), and activities undertaken by the competent authorities in Croatia to provide the requested justifications concerning the CWMC, temporary storage of waste and the temporary landfill.

5.1.5 The complaint was submitted around the period of commencement on works on Stage 1 of the project (see § 2.3). Immediately after receiving the complaint, the EIB carried out active monitoring. The EIB contacted the borrower with a number of questions concerning the lodged allegations. This letter was followed by more enquiries about the allegations. The EIB undertook two site visits in 2014 and 2015 during which it also collected additional information concerning the raised allegations. As recently as September/October 2018, the EIB followed up on certain issues concerning the project.

The EIB also took note of the view taken by the European Commission concerning a number of allegations (e.g. allegation A.1 – Temporary landfill; allegation A.2 – Access road; allegation C.1 – Use of MBT technology; allegation D.1 – Capital expenses). The European Commission received a similar complaint in early 2014 from the same complainant. After investigating these issues, the Commission concluded that there are no apparent infringements of the EU law and closed the case in October 2014.

³⁸ Section C.12.1, paragraph 233 of the EIB's v. 2010 Environmental and Social Practices Handbook and Article 8.01(a)(i) and Schedule A, Section A.2, Table 3 of the Finance Contract.

³⁹ Article 8.01(a)(i) and Schedule A, Section A.2, Table 3 of the Finance Contract.

⁴⁰ Article 8.01(c)(i) and (ii) of the Finance Contract.

⁴¹ Schedule A, section A.2, table 4 of the Finance Contract.

⁴² Section C.12.1, paragraph 233 of the EIB's v. 2010 Environmental and Social Practices Handbook.

⁴³ According to Schedule A, section A.2, table 3 of the Finance Contract, the annual project progress report is submitted by 30 June each year for the previous year. This means that the report submitted in June 2014, covers the period January – December 2013.

The borrower is expected to submit the project completion report for the entire Framework Loan in 2018.

5.2 A – Allegations pertaining to the implementation of the project

5.2.1 A.1 - Temporary landfill

Allegation

5.2.1.1 *The overall CWMC Mariščina project was implemented differently from the original implementation plan by including temporary storage of waste at the CWMC Mariščina and its subsequent landfilling at the temporary landfill.*

Findings

5.2.1.2 As presented in § 2.2, the overall CWMC Mariščina project consists of several stages. The EIB financing is limited only to Stage 1, which includes construction of an MBT plant and two landfill cells.

The Stage 1 of the CWMC officially started working in February 2017 (see § 2.3). Prior to this, the cities and municipalities in PGK County, i.e. their waste management companies, were disposing the collected waste elsewhere, including local landfills that were non-compliant with the Landfill Directive.

5.2.1.3 In 2012, the Viškovo landfill, used by Čistoća, a waste management company serving nine cities and municipalities in the PGK County, reached its full capacity and closed down. Therefore, Čistoća had to find an alternative place to deposit waste before the commencement of work of the CWMC Mariščina.

At first, in the period May – September 2012, Čistoća temporarily baled and stored the waste on the plateau at the Mariščina site. During this time, the waste emitted unpleasant odour. This resulted in a court verdict in which Čistoća was fined for failing to bale, transport and store the mixed municipal waste on the temporary plateau at the Mariščina site in a way that prevents emission of unpleasant odour into the environment⁴⁴. This also created a negative public opinion of the CWMC Mariščina project.

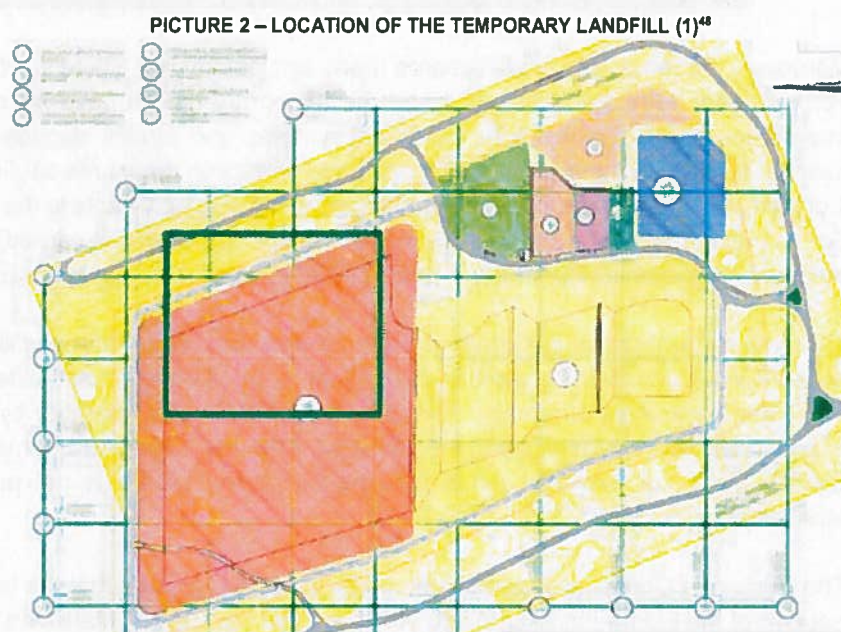
From September 2012 to September 2015⁴⁵, Čistoća deposited the waste on a so-called temporary landfill. The landfill was referred to as temporary because the initial plan was to excavate the waste once the CWMC Mariščina officially starts working, treat it in the MBT plant and dispose of the waste residue. In 2015, consultants carried out an assessment of different options to manage the temporary landfill and concluded that proper closure of the landfill was the most sensible option. Therefore, the temporary landfill became a permanent landfill.

⁴⁴ The process commenced in February 2013. The first instance verdict was rendered in November 2013 by the Court for Offences in Rijeka (No. G-729/13-13). The High Court for Offences confirmed the first instance verdict in March 2015 (<http://www.novilist.hr/Vijesti/Rijeka/Pravomocna-presuda-KD-Cistoca-kriva-za-stetan-utjecaj-smellista-Mariscina-na-zdravlje-mjestana>, accessed on 26 October 2018).

⁴⁵ Please note that between September 2015 and February 2017, Čistoća deposited the waste on other landfills in Croatia.

The competent authorities issued the construction permit for the temporary landfill allowing the disposal of waste in the period September 2012 – September 2015. The temporary landfill was designed and constructed in accordance with Croatian regulation.

5.2.1.4 The EIA does not foresee storage or landfilling of waste prior to the commencement of the work of the CWMC Marišćina. The site on which the temporary landfill was built was encompassed by the EIA for the CWMC Marišćina, in line with the original implementation plan for the overall CWMC Marišćina. The EIB had access to the EIA prior to making the decision to finance this project⁴⁶. Picture 2 shows an excerpt from an EIA with the envisaged area for expansion of the landfill in red (on the left) and Stage 1 of the CWMC Marišćina in other colours (on the right). The green square superimposed on this picture depicts the current location of the temporary landfill which was, therefore, built on the envisaged area for expansion of the landfill. The temporary landfill was built on a site owned by the operator. The temporary landfill potentially reduced the life span of the overall CWMC Marišćina landfill⁴⁷.



5.2.1.5 It is difficult to distinguish between the potential negative environmental impact of the temporary landfill and Stage 1 of the CWMC Marišćina project. Picture 3 below shows the proximity of the temporary landfill (in green square) and Stage 1 of the CWMC Marišćina constructed as of September 2018.

⁴⁶ Articles 1.04B(vi) and 1.08A(i) of the Finance Contract.

⁴⁷ The total capacity of the temporary landfill is 200 000 tonnes. In the period 2012 – 2015, waste destined for treatment in the MBT plant was deposited at the temporary landfill without being treated. Considering that the treatment of waste reduces the landfilled waste by 65% (see § 2.2), 130 000 tonnes of waste was deposited more on the landfill than it should have been the case. This may be off-set by future reductions of deposited waste.

⁴⁸ Appendix 2 of Annex III of the EIA Study (Non-Technical Summary) presenting the overall CWCM Marišćina project.

PICTURE 3 – LOCATION OF THE TEMPORARY LANDFILL (2)⁴⁹



Moreover, the temporary landfill shares many similarities with Stage 1 CWMC landfill cells. For example, both Stage 1 landfill and the temporary landfill have bottom and top liners (membrane seal), the leachate collection systems and landfill degassing systems. The national authorities consider that environmental protection measures applicable to the Stage 1 of the CWMC, set in the CWMC's EIA Decision, are also applicable to the temporary landfill. For example, monitoring of the impact of the temporary landfill is carried out as part of the recommended monitoring for the overall CWMC Marišćina, as set in the EIA Decision.

5.2.1.6 The national authorities in Croatia do not consider the temporary landfill to be part of the overall CWMC Marišćina project as the temporary landfill project has different stakeholders and different sources of funding. The temporary landfill was operated by Čistoća and was financed and built by Čistoća and the promoter. Also, the issued environmental permit for the CWMC Marišćina explicitly states that the temporary landfill is not part of the CWMC Marišćina⁵⁰.

The European Commission shares the same view. It considers that the temporary landfill is not part of the EU co-funded project, i.e. Stage 1 of the CWMC Marišćina project.

EIB's role (project review and monitoring)

5.2.1.7 The EIB's project review did not encompass the temporary landfill since there were no known plans to store and landfill waste in and around the CWMC prior to the commencement of the work of the CWMC.

⁴⁹ Google Earth image accessed on 9 September 2018.

⁵⁰ Decision on the Environmental Permit (*Rješenje o okolišnoj dozvoli*), no UP/I 351-03/14-29, dated 22 August 2014, available at: http://www.mzoip.hr/doc/zupanijski_centar_za_gospodarenje_otpadom_primorsko-goranske_zupanije_mariscina.pdf (in Croatian), accessed on 26 October 2018.

As part of its regular reporting, in 2014 the borrower reported that the complainant lodged a complaint concerning the temporary landfill with the EIB-CM (see § 5.1.4). However, the borrower did not report on:

- Storage of waste at the Marišćina site in 2012
- Early stages of operation of the temporary landfill (e.g. in 2012)
- Legal action concerning the temporary storage of waste at Marišćina site that was initiated in February 2013 and resulted in a verdict in November 2013.

The EIB was not aware of any of this before it received the information from the complainant.

Once notified, the EIB enquired and followed up on the developments concerning the temporary storage and landfilling of waste. The EIB contacted the borrower less than three weeks after the receipt of the complaint, maintained communication and undertook two missions to Croatia during which it conducted a detailed enquiry (including a site visit) concerning the temporary landfill⁵¹.

The EIB enquired about the implementation of the temporary landfill, its compliance with the applicable standards and its impact on the Stage 1 of the CWMC Marišćina project. The EIB concluded that the temporary landfill is commercially and legally fully outside the scope of Stage 1 of the CWMC Marišćina.

In respect to the closure of the temporary landfill, the EIB noted that it had been covered with soil and leachate collection wells had been installed but that the latter had not been connected to a flare and landfill gasses were emitted. The EIB asked to be informed on the closure of the temporary landfill. As of September 2018, the temporary landfill has not yet been formally closed although the landfilling of waste therein ceased in September 2015. The EIB expects that the borrower will provide a detailed feedback on the formal closure of the temporary landfill in the project completion report. This feedback should include information on whether the temporary landfill was closed in line with the applicable standards.

Conclusions and recommendations/suggestions for improvement

5.2.1.8 The overall CWMC Marišćina is implemented differently from the original implementation plan, as reflected in the EIA, by including temporary storage of waste at the Marišćina site and its subsequent landfilling at the temporary landfill (see § 5.1.2 and 5.2.1.4). Although no waste has been deposited at the temporary landfill since September 2015 (see § 5.2.1.3 and 5.2.1.7), the temporary landfill has not yet been formally closed in line with the applicable standards (see § 5.2.1.7). This could potentially have a negative environmental impact which would be difficult to distinguish from the potential negative environmental impact of Stage 1.

5.2.1.9 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded.

The borrower did not report on early stages of operation of the temporary landfill, temporary storage of waste at the Marišćina site and the related court verdict. The borrower only reported about the complaint concerning the temporary landfill as part of its regular reporting.

Considering that it is difficult to distinguish between the potential negative environmental impact of the temporary landfill and Stage 1 of the CWMC Marišćina project, the EIB should,

⁵¹ The monitoring missions took place in July 2014 and in November 2015.

as part of its monitoring, take interest in whether the temporary landfill also complies with the applicable standards. In line with this, once it received the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on this issue (see § 5.1.5 and 5.2.1.7).

5.2.1.10 The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the temporary landfill is closed in line with the applicable standards.

Considering that the EIB first learned about the temporary storage and landfilling of waste through the complaint, the EIB-CM suggests to the EIB to consider providing in the future borrowers/promoters with guidance on the issues that they should report on.

Considering that this allegation is ungrounded in respect to the role of the EIB, the EIB-CM does not make any specific recommendations in this respect.

5.2.2 A.2 – Access road

Allegation

5.2.2.1 *The access road to the CWMC was not built.*

Findings

5.2.2.2 The access road is a by-pass road around Viškovo settlement. Its objective is to reduce the traffic going through the settlement. The road consists of three sections, of which one is under municipal responsibility and two are under state responsibility (hereinafter: the investor(s)).

5.2.2.3 By May 2013, the first section of the road was completed. For the remaining two sections, the competent authorities issued the construction permit and initiated the public procurement procedure.

However, while the works on the remaining two sections commenced, they were never completed. The works were incomplete when the CWMC commenced its operation in February 2017⁵² and remain incomplete in October 2018.

The works are delayed due to problems of the selected contractor, which suffers from financial difficulties⁵³. In December 2017, the investor initiated activities to terminate the contract with the contractor and when the remaining two sections will be completed is unknown⁵⁴.

5.2.2.4 Until the access road is fully completed, an alternative route, agreed by the Viškovo municipality, will be used⁵⁵. The alternative route is in line with the Study titled: "Optimal

⁵² <http://www.novlist.hr/index.php/layout/set/print/Vijesti/Rijeka/Konacno-stigla-pravomocna-privremena-dozvola-Centar-Mariscina-poceo-zaprimati-otpad-na-obradu>, accessed on 26 October 2018.

⁵³ <http://www.novlist.hr/index.php/layout/set/print/Vijesti/Rijeka/Konacno-stigla-pravomocna-privremena-dozvola-Centar-Mariscina-poceo-zaprimati-otpad-na-obradu>, accessed on 26 October 2018.

⁵⁴ Section 2.1 of the Financial Plan and Work Plan of the operator for 2018 (*Financijski plan i plan rada za 2018. godinu*), available at: <https://www.ekoplus.hr/documents/FINANCIJSKI%20PLAN%20I%20PLAN%20RADA%20ZA%202018.pdf>, accessed on 26 October 2018.

⁵⁵ This is the route through Rupa - Section 2.2.2 of the Financial Plan and Work Plan of the operator for 2018.

Access Routes to CWMC Marišćina", which confirmed that operation of CWMC Marišćina is possible even without the road. The Study was submitted to the competent authority in the process of the EIA and it was accepted by the Decision of the competent ministry for environmental protection of 3 February 2010.

EIB's role (project review and monitoring)

5.2.2.5 During the project review, the EIB noted that a 10.5 km new access road to the CWMC Marišćina was under construction. Prior to completing the project review, the EIB liaised with the national authorities which informed it that the access road is not essential for the operation of the CWMC, but it will improve the overall traffic situation between the CWMC and the city of Rijeka.

The EIB-CM takes note that the borrower did not report on the challenges concerning the construction of the access road. The EIB was not aware of this before it received the complaint.

Once notified, the EIB enquired and followed up on the developments concerning the access road. The EIB noted that there are delays in the construction of the two sections of the access road. The EIB also noted that until the road is completed, an alternative route will be used.

Conclusions and recommendations

5.2.2.6 While, two out of three sections of the access road to the CWMC Marišćina remain incomplete, in line with the EIA Decision, an alternative route to access the CWMC Marišćina will be used until the access road is fully completed.

5.2.2.7 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB's project review encompassed the issue of access road. The EIB carried out active monitoring. Once it received the complaint, the EIB followed up on this issue (see § 5.1.5 and 5.2.2.5). The EIB noted that until the road is finalised, an alternative route will be used.

5.2.2.8 Therefore, the EIB-CM does not make any specific recommendations in this respect.

5.3 B – Allegations pertaining to the impact on the environment

In line with § 5.2.1, the EIB-CM addresses jointly the impact from the temporary storage of waste, temporary landfill and Stage 1 of the CWMC Marišćina in this section of the report.

5.3.1 B.1 – Unpleasant odour

Allegation

5.3.1.1 *The CWMC Marišćina, including the temporary landfill and storage of waste, generates unpleasant odour impacting the local population.*

Findings

5.3.1.2 The 2007 feasibility study for the CWMC recognised that the MBT plant, part of Stage 1 of the CWMC, may emit an unpleasant odour. A number of measures were taken to prevent generation of unpleasant odour. The CWMC's EIA study contains specific mitigation measures for reduction of unpleasant odour from the compost unit (the unit should be located in an enclosed area and should use bio-filters). Subsequent documents and permits follow this approach.

For example, the tender specifications foresee odour removal efficiency at $\geq 95\%$ or a maximum level of odour emission less than 300 odour units per m^3 . The environmental permit also contains measures for reduction of unpleasant odour (e.g. maintenance of pressure; use of water curtain; minimisation of opening of entrance to the hall for intake of waste in the MBT plant⁵⁶). Similar measures are also included in the waste management permit⁵⁷.

5.3.1.3 However, the EIA did not contain any measures for the storage of waste at the Marišćina site because this was not envisaged by the original implementation plan for the overall CWMC Marišćina (see § 5.2.1.4). The storage of waste at the Marišćina site resulted in a court verdict against Čistoća which was fined for failing to store the mixed municipal waste in a way which prevents emission of unpleasant odour into the environment in the period May – September 2012 (see § 5.2.1.3).

5.3.1.4 Nevertheless, according to the available information, the applicable standards have not been breached since then. Since 2014, the PGK County Institute of Public Health has been monitoring presence of unpleasant odour on several locations around the CWMC⁵⁸. This also covers part of the working span of the temporary landfill, where Čistoća deposited the waste in the period 2012 – 2015 (Picture 3 depicts the proximity between the temporary landfill and the CWMC).

The monitoring reports of the PGK County Institute of Public Health state that unpleasant odour was identified in the vicinity of the CWMC and in a number of settlements but that emission limit values were not breached⁵⁹. In August 2017, the environmental inspection carried out monitoring of unpleasant odour around the CWMC⁶⁰. The environmental inspection observed three out of six categories of intensity of unpleasant odour in the vicinity of the CWMC. More specifically, the inspection noted very low, low and medium strong levels of intensity of unpleasant odour on several occasions⁶¹.

5.3.1.5 In September 2017, according to the media reports, the local authorities, operator of the CWMC Marišćina and the local population initiated activities with the aim of further reducing

⁵⁶ BREF WT, section 4.2.2 in accordance with BAT 69 from section 5.2.

⁵⁷ Waste Management Permit (*Dozvola za gospodarenjem otpadom*), No. 2170/1-03-08/2-17-10, dated 4 April 2017, available at <http://regdoz.azo.hr/DownloadFile.aspx?id=49828>, accessed on 26 October 2018.

⁵⁸ http://www.novilist.hr/Vijesti/Rijeka/STANOVNICI-MARCELJA-NA-MUKAMA-Inspektorima-neugodni-mirisi-s-Mariscine-nisu-dovoljno-intenzivni?meta_refresh=true, accessed on 26 October 2018.

⁵⁹ <http://www.opcina-viskovo.hr/Pocetna/PRIOPCENJE-ZA-JAVNOST-VEZANO-ZA-OBJAVU-UDRUGE-KRIZ.aspx>, accessed on 9 October 2017.

⁶⁰ Section 2.1 of the Financial Plan and Work Plan of the operator for 2018.

⁶¹ http://www.novilist.hr/Vijesti/Rijeka/STANOVNICI-MARCELJA-NA-MUKAMA-Inspektorima-neugodni-mirisi-s-Mariscine-nisu-dovoljno-intenzivni?meta_refresh=true, accessed on 26 October 2018.

the unpleasant odour⁶². This includes: independent audit of the construction, use and functioning of all CWMC's facilities that affect the quality of air; afforestation of the areas around CWMC; establishment of a working group consisting of representatives of the operator, local authorities, local population and PGK County (e.g. Institute of Public Health). The task of the working group is to monitor the quality of air, presence of unpleasant odour and its sources. The working group was established in January 2018 and meets approximately once a month⁶³. Furthermore, according to the media reports, the operator has already taken other steps to minimise the unpleasant odour, such as change of bio filters, adjustment in the working of the CWMC, etc.

EIB's role (project review and monitoring)

5.3.1.6 The EIB reviewed the relevant project documents such as the EIA and the tender specifications, both of which contained measures for minimisation of unpleasant odour.

The EIB-CM takes note that the borrower did not report on the challenges concerning the unpleasant odour. The EIB was not aware of this before it received the complaint.

Once informed of the issue of unpleasant odour, the EIB the EIB enquired about this issue. For example, in 2013, the EIB contacted the borrower with the questions concerning the unpleasant odour from the temporary landfill.

Conclusions and recommendations/suggestions for improvement

5.3.1.7 Storage of waste by Čistoća at the Marišćina site in 2012 resulted in generation of unpleasant odour that breached the applicable standards. However, according to the available information, applicable standards have not been breached since. Nevertheless, the unpleasant odour remains an issue for the local population⁶⁴. The EIB-CM notes that the operator, in cooperation with the local population, is taking certain measures to further minimise the unpleasant odour.

5.3.1.8 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB's project review encompassed the issue of unpleasant odour. The borrower did not report on the court verdict concerning the unpleasant odour (see § 5.3.1.3). Once it received the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on this issue (see § 5.1.5 and § 5.3.1.6).

5.3.1.9 Considering that the EIB first learned about the temporary storage of waste through the complaint, the EIB-CM suggests to the EIB to consider providing in the future borrowers/promoters with guidance on the issues that they should report on.

Considering that this allegation is ungrounded in respect to the role of the EIB, the EIB-CM does not make any specific recommendations in this respect.

⁶² http://www.novilist.hr/Vijesti/Rijeka/OPCINA-VISKOVO-PISALA-SVIMA-Zbog-smrada-s-Mariscine-slali-dopise-i-u-Bruxelles?meta_refresh=true, accessed on 26 October 2018.

⁶³ Record of the Environmental Inspection dated 3 August 2018, KLASA: 351-02/18-03/600, UR Number: 517-08-1-4-18-2, available at: <http://www.ekoplus.hr/novosti/4-8-2018/Zapisnik%20%C5%BDCGO%203.8.18.pdf>, accessed on 26 October 2018.

⁶⁴ https://opcina-viskovo.hr/sites/default/files/files/zapisnik_sa_2._zbora_mjestana-konacno.pdf, accessed on 26 October 2018.

5.3.2 B.2 – Impact on the drinking water

Allegation

5.3.2.1 *The CWMC Mariščina and the temporary landfill may impact the drinking water for the city of Rijeka due to its location.*

Findings

5.3.2.2 The location of the CWMC Mariščina site was determined by the PGK County Assembly in 1999⁶⁵. The Assembly's decision was subsequently reflected in the County's 2000 Spatial Plan⁶⁶.

A part of the CWMC site was located within the fourth water-protection zone. Discharges of untreated wastewater are prohibited in this zone. In 2000, the competent ministry for environmental protection set up a commission tasked with considering a correction of the borders of the fourth water-protection zone⁶⁷. The engineering and geological investigation were conducted⁶⁸ and a new map of water protection areas of the city of Rijeka was prepared. According to this map, the CWMC Mariščina site is located outside of the fourth water-protection zone. The PGK County assembly downgraded the water protection level in line with the map⁶⁹.

The location of the CWMC was confirmed in the 2007 PGK County Waste Management Plan⁷⁰ and the 2007 – 2015 National Waste Management Plan⁷¹.

5.3.2.3 The carried out studies showed that the CWMC should not impact the drinking water for the city of Rijeka. Based on the hydrogeological investigations, the 2003 EIA⁷² concluded that there is no hydrogeological connection between the CWMC site and the groundwater supply for Rijeka. Moreover, considering that the entire region around Rijeka, including Mariščina, is located on karst, frequent hydrogeological studies have been conducted for over 20 years, and they confirm that the CWMC should not impact the drinking water for the city of Rijeka.

5.3.2.4 Additional measures are taken to ensure that groundwater is not polluted. For example, groundwater is protected by constructing an impermeable liner at the bottom of the landfill cells, including the temporary landfill. The waste management permit concluded that the measures in place are appropriate.

5.3.2.5 There are extensive water quality monitoring measurements in place⁷³. All the results obtained from water quality analyses on the corresponding water wells are submitted to the

⁶⁵ Conclusion of the Assembly of the PGK County of 3 June 1999 (Class 021-04/01-20/99-2; Reg. no. 217/01-20/99-2).

⁶⁶ Spatial Plan of the Primorje-Gorski Kotar County (*Prostorni plan Primorsko-goranske županije*) ("O.G. of the Primorje-Gorski Kotar County", No. 17/00).

⁶⁷ Section 13 of Annex I of the 2009 Bilateral Project Agreement.

⁶⁸ e.g. by the Institute for Geological research in Zagreb.

⁶⁹ 2001 EIA Summary.

⁷⁰ Section 2.2 of the Waste Management Plan of the Primorje-Gorski Kotar County (*Plan gospodarenja otpadom Primorsko-goranske županije*) ("O.G. of the Primorje-Gorski Kotar County", No. 17/XV).

⁷¹ Table 19 of the Waste Management Plan of the Republic of Croatia for the period 2007-2015 (*Plan gospodarenja otpadom u Republici Hrvatskoj za razdoblje 2007.-2015.*) ("O.G.", No. 85/07, 126/10 and 31/11).

⁷² Please note that the competent authority issued the updated EIA Decision in 2010 following the 2009 study on the updates to the EIA decision.

⁷³ Water well Riečina: basic physical and chemical, chemical and microbiological indicators (air and water temperature, colour, turbidity, pH value, electrical conductivity, consumption of KMnO₄, ammonia, nitrites, phosphates, chlorides, sulphates, bromides, nitrates,

competent institutions in the required report format and frequency pursuant to the water permit from May 2013. Over six years since the commencement of the work of the temporary landfill and over one year since the commencement of the work of the CWMC, there is no evidence of an impact on the water supply of the city of Rijeka.

EIB's role (project review and monitoring)

5.3.2.6 The EIB reviewed the relevant project documents, such as the EIA, which concluded that there is no hydrogeological connection between the CWMC site and the groundwater supply for the city of Rijeka.

Once it received the allegation, the EIB enquired about the impact on the drinking water, more specifically, realignment of water-protection zones, results of past hydrological studies, as well as protection and monitoring measures put in place.

Conclusions and recommendations

5.3.2.7 The location of the CWMC Marišćina is a result of a comprehensive process. The carried out studies showed that the CWMC, including the temporary landfill, should not impact the drinking water for the city of Rijeka and there is no evidence that it has impacted the water so far.

5.3.2.8 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB reviewed the relevant project documents. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue (see § 5.1.5 and 5.3.2.6).

5.3.2.9 Therefore, the EIB-CM does not make any specific recommendations in this respect.

5.4 C – Allegations pertaining to the waste management technology

The allegations presented in this section stem from findings of the project technology audit requested by the PGK County authorities in January 2013. This audit was not a requirement under the Construction Act. In June 2013, the auditors submitted their conclusions to the PGK County, which assessed the findings and forward them to the competent authorities in Croatia⁷⁴.

5.4.1 C.1 – Use of MBT technology

Allegation

5.4.1.1 *The CWMC Marišćina is relying on an outdated MBT technology, which will prevent Croatia from complying with EU law. The complainant calls for primary selection of waste at source*

fluorides, sodium, potassium, calcium, magnesium, dissolved oxygen, BOD₅, Kjeldahl nitrogen, organic phosphorus, TOC, the number of aerobic bacteria, faecal coliform bacteria, faecal streptococci), and the specific and hazardous substances (phenols, mineral oils, PAH, BTEX, LHHU, anionic detergent, chlorinated pesticides and PCB, THF + THTF, metals). *Water wells Pod Jelšun and Cerovica*: parameters listed in Table 1 of the Ordinance on emission limit values for wastewater discharges (OG 87/2010), pH value, colour, smell, total suspended matter, COD, BOD₅, ammonia, phenols, total organic carbon, critical heavy metals and fluorides, specific and hazardous substances (phenols, mineral oils, PAH, BTEX, LHHU, anionic detergents, chlorinated pesticides and PCB, THF + THTF, metals) and microbiological indicators (coliform bacteria, faecal coliform bacteria, faecal streptococci, the number of aerobic bacteria).

⁷⁴ http://www.novilist.hr/Vijesti/Rijeka/Komadina-Ni-negativan-odgovor-vise-ne-moze-zaustaviti-gradnju-deponija?meta_refresh=true, accessed on 26 October 2018.

and use of modern waste technology processing which would avoid the need for big investments into MBT plants.

Findings

5.4.1.2 As presented in § 2.2, the waste delivered to the CWMC Marišćina is treated in the MBT plant. The residual fraction (approx. 35% of the waste input) is disposed in the bioreactor landfill.

5.4.1.3 Not all of the generated waste is delivered to the CWMC Marišćina for treatment in the MBT plant. Part of the waste is separately collected and recycled. Municipalities and cities are required to introduce separate collection systems on their territory⁷⁵.

The relevant policy documents in Croatia support the combined use of separate collection of waste and the MBT technology. The 2005 Waste Management Strategy of Croatia⁷⁶ lists both separate collection of waste at source⁷⁷ and construction of MBT plants⁷⁸ as strategic waste management goals. To fulfil these goals, the Strategy advocates the construction of a network of separate waste collection points and CWMCs, the latter of which should have MBT plants⁷⁹. The 2007-2015 Waste Management Plan of Croatia⁸⁰ presents the MBT as an example of modern waste treatment technology⁸¹. The subsequent 2017 – 2022 Waste Management Plan of Croatia does not deviate from this approach⁸². The PGK County Waste Management Plan confirmed the intention to build an MBT plant in the CWMC Marišćina⁸³.

The delivered mixed municipal waste is treated in the MBT plant by extracting waste for recycling (metal – approx. 5% of the waste input) and extracting waste for energy recovery (fuel (SRF) – approx. 35% of the waste input). The remainder is disposed at a bioreactor landfill. This approach is in line with the Waste Framework Directive (see § 3.3) and the national legislation⁸⁴ which favour waste recycling over waste energy recovery and the latter over waste disposal⁸⁵.

5.4.1.4 The technological aspects of the CWMC Marišćina are a result of a careful planning process. For example, in 2010 modifications to the CWMC Marišćina feasibility study analysed different variants for MBT technology and the associated type of landfill. After applying the set criteria (e.g. costs, revenues, compliance with the Landfill Directive and Waste Management Plan of Croatia), the MBT with bio drying and extraction of materials and fuel and the associated bio-reactive landfill were selected as the best options. In the EU, the MBT

⁷⁵ Articles 28 and 35 of the Sustainable Waste Management Act (*Zakon o održivom gospodarenju otpadom*) ("O.G.", No. 94/13 and 73/17).

⁷⁶ The Waste Management Strategy of the Republic of Croatia (*Strategija gospodarenja otpadom Republike Hrvatske*) ("O.G.", No. 130/05). The Strategy establishes and provides a long term guidance concerning waste management in Croatia - Article 8 of the Waste Act (*Zakon o otpadu*) ("O.G.", No. 178/04, 111/06, 60/08 and 87/09).

⁷⁷ Section 3.1.1.b of the Waste Management Strategy.

⁷⁸ Section 3.1.2.b of the Waste Management Strategy.

⁷⁹ Section 4.2.1 of the Waste Management Strategy.

⁸⁰ Waste Management Plan of the Republic of Croatia for the period 2007-2015 (*Plan gospodarenja otpadom u Republici Hrvatskoj za razdoblje 2007.-2015.*) ("O.G.", No. 85/07, 126/10 and 31/11). The Plan implements the Strategy - Article 9 of the Waste Act.

⁸¹ Section 5.2.8 of the 2007-2015 Waste Management Plan.

⁸² Section 1.2.1.5 of the Waste Management Plan of the Republic of Croatia for the period 2017 – 2022 (*Plan gospodarenja otpadom u Republici Hrvatskoj za razdoblje 2017.-2022. godine*) ("O.G.", No. 3/17).

⁸³ Section V of the Waste Management Plan of the Primorje-Gorski Kotar County (*Plan gospodarenja otpadom Primorsko-goranske županije*) ("O.G. of the Primorje-Gorski Kotar County", No. 17/XV). The PGK County Plan further develops the national Strategy and Plan - Articles 7 and 10 of the Waste Act.

⁸⁴ Article 7 of the Sustainable Waste Management Act.

⁸⁵ Article 7 of the Sustainable Waste Management Act.

technology was a commonly and widely applied treatment for mixed municipal waste in 2014. Also, around that time, EU law envisaged bioreactor landfills as a landfilling option.

5.4.1.5 Compliance of the CWMC Marišćina with the applicable standards is ensured through permitting and inspection. For example, in 2014, the national authorities issued the environmental permit for CWMC Marišćina⁸⁶. The permit confirms that the CWMC was built in line with national legislation, Waste Management Strategy and Waste Management Plan. The associated environmental inspection ensures that the CWMC is operated in line with the permit.

5.4.1.6 In respect to the compliance of this approach with the targets for reduction of biodegradable waste being landfilled (see § 3.3), the national authorities⁸⁷ and policy documents⁸⁸ confirm that bio-drying MBT with a bio-reactive landfill will meet these targets set in the Landfill Directive. The reduction is to be attained by pre-treatment of mixed municipal waste in the MBT plant (bio-drying and separation of parts of biodegradable material), in combination with separate collection of waste.

EIB's role (project review and monitoring)

5.4.1.7 In 2010, the EIB was informed that the project is in line with the relevant policy documents⁸⁹. The EIB enquired about the reasons for application of MBT technology and bioreactor landfill and the Croatian authorities provided it with the appropriate answers. The EIB enquired whether the MBT with a bio-reactive landfill complies with the requirements of the Landfill Directive and was assured by the authorities in Croatia that it does. The EIB also carried out its own assessment to ensure that the proposed technologies were appropriate and compliant.

Once it received the allegation, the EIB raised this issue with the authorities which provided it with the requested explanations. In 2014, the EIB concluded that the MBT plant relies on proven technology in line with required specifications.

Conclusions and recommendations

5.4.1.8 The MBT technology, together with the separate collection of waste, is in line with the applicable standards (e.g. Waste Framework Directive, Landfill Directive, national policy documents). The choice of the technology is a result of a comprehensive process and its compliance with the applicable standards is confirmed by the issued permits and carried out inspection.

5.4.1.9 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB reviewed the relevant project documents. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue (see § 5.1.5 and § 5.4.1.7).

⁸⁶ Decision on the Environmental Permit

⁸⁷ The MBT Plant produces two biodegradable waste streams (fuel and fines) and heavy rejects.

The first stage of biodegradable reduction is approximately 70%, this includes biodegradable municipal waste reduction for about 30% due to the process of bio drying (mainly because of water reduction, but as well because of organic matter decomposition) and biodegradable municipal waste reduction for about 40% because of the fuel extraction. The second stage of biodegradable municipal waste reduction for approximately 91% will happen after further biological treatment of fines (methanogenic fraction of municipal solid waste) at the controlled bio-reactive landfill cell.

⁸⁸ Section 1.2.1.5 of the 2017 – 2022 Waste Management Plan.

⁸⁹ 2007 – 2015 PGK County and 2007-2015 national Waste Management Plan and 2000 PGK County spatial plan.

5.4.1.10 Therefore, the EIB-CM does not make any specific recommendations in this respect.

5.4.2 C.2 – Capacity of the MBT plant

Allegation

5.4.2.1 *The MBT plant is oversized.*

Findings

5.4.2.2 The capacity of the MBT plant is directly co-related to the amount of waste that needs to be treated in the plant. As presented in § 2.2, the overall annual capacity of the MBT plant in the CWMC Marišćina is 100 000 tonnes.

5.4.2.3 The CWMC Marišćina is receiving waste from the PGK County. In 2011, the PGK County concluded agreements with all cities and municipalities in the County for delivery of mixed municipal waste to the CWMC.

In 2015, PGK County generated 169 447 t of mixed municipal waste⁹⁰. Almost all of the waste generated in the PGK County is part of the organised waste collection system⁹¹. 125 839 t was disposed on landfills⁹², well above the annual capacity of the MBT. This includes 65 759 t of biodegradable municipal waste⁹³. 43 608 t was separately collected or was not collected at all⁹⁴.

In comparison to the quantities from 2015, the goal for 2022 is to:

- Reduce the total amount of generated mixed municipal waste by 5%
- Separately collect 60% of the generated mixed municipal waste
- Separately collect 40% of weight of generated biodegradable municipal waste⁹⁵.

Therefore, in case the set plan is met, around 65 000 t of mixed municipal waste will be destined for treatment in PGK County in 2022, 35 000 t less than the capacity of the MBT plant.

5.4.2.4 In 2013, the competent minister for environmental protection in Croatia stated that the MBT plant in Marišćina has a higher capacity than needed, but justified that this is essential due to higher waste generation during the touristic season⁹⁶. As such, the MBT is designed to have the average daily capacity of 350 t but is flexible enough to treat 400 t per day of municipal solid waste during the summer months. For example, in August 2018, the average daily waste input at the CWMC Marišćina was 400 t per day⁹⁷. Also, the CWMC Marišćina could expect to receive additional mixed municipal waste from, as the 2007 – 2015 National Waste Management Plan suggests, the northern part of Lika-Senj County.

⁹⁰ Table 2 of the 2017 – 2022 Waste Management Plan.

⁹¹ Report on Waste Management in PGK County for 2010 ("O.G. of PGK County", No. 20/2011).

⁹² Table 3 of the 2017 – 2022 Waste Management Plan.

⁹³ Table 3 of the 2017 – 2022 Waste Management Plan.

⁹⁴ Please note that 95% of generated mixed municipal waste is collected according to the Annex of the Bilateral Project Agreement.

⁹⁵ Table 11, Goals 1.1, 1.2 and 1.3 of the 2017 – 2022 Waste Management Plan.

⁹⁶ <http://www.novolist.hr/Vijesti/Rijeka/Zmajlovic-Mariscina-je-primjer-koleg-ce-ostatak-Hrvatske-morati-slijediti>, accessed on 26 October 2018.

⁹⁷ Record of the Environmental Inspection dated 3 August 2018, KLASA: 351-02/18-03/600, UR Number: 517-08-1-4-18-2.

EIB's role (project review and monitoring)

5.4.2.5 In 2010, the EIB was informed that over 100 000 t of mixed municipal waste will be delivered to the CWMC for treatment in the period 2012-2041. To ensure that the capacity is not overestimated, the EIB required that all cities and municipalities in PGK have concluded agreements for delivery of waste to CWMC Marišćina, prior to the CWMC's construction. Also, the EIB encouraged the promoter to establish co-operation with Lika-Senj County to treat some of its waste. Finally, the EIB enquired and received information about separate waste collection in PGK County.

Once it received the allegation, the EIB raised this issue with the authorities in Croatia. For example, the EIB reviewed the waste flows and separate collection targets in 2013 and concluded that they should not have a major impact on the operation of the MBT plant.

Conclusions and recommendations

5.4.2.6 The capacity of the MBT plant was appropriate in 2015. If the set goals concerning the reduction of the total amount of generated and separately collected mixed municipal waste, including the biodegradable municipal waste, is attained, the plant will be oversized by 2022. However, larger capacity is justified due to fluctuations in waste generation through the year caused by the touristic season. Also, the larger capacity allows for treatment of waste from neighbouring counties.

5.4.2.7 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB reviewed the relevant project documents, such as waste flows and separate collection targets which all indicated that the capacity is not oversized. The EIB requested from the PGK County to conclude agreements with the cities and municipalities in the County for delivery of waste to CWMC Marišćina to ensure sufficient waste flow. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue (see § 5.1.5 and 5.4.2.5).

5.4.2.8 Therefore, the EIB-CM does not make any specific recommendations in this respect.

5.4.3 C.3 – Off-take market for fuel produced by the MBT plant**Allegation**

5.4.3.1 *The MBT plant will not produce high quality fuel (SRF) but a lower calorific, unmarketable fuel (RDF), which will generate either no demand, or at best, fluctuating demand. Therefore, storage of this fuel or identification of new off-take options will become an issue.*

Findings

5.4.3.2 SRF is a fuel produced from non-hazardous waste in compliance with the European standard EN 15359. The standard calls for producers to detail SRF's net calorific value, and its chlorine and mercury content, but the purchaser sets the final quality of the fuel⁹⁸.

⁹⁸ <http://resource.co/article/difference-between-rdf-and-srf-10156>, accessed on 26 October 2018.

The environmental permit for the CWMC Marišćina requires classification and control of chlorine, mercury and calorific value of the fuel once a month, and as such complies with standard EN 15359. Apart from this, it is silent on the quality of the fuel.

In principle, the higher the quality of the fuel, the lower the percentage of extracted fuel from the waste input in the MBT plant. For example, high quality fuel (SRF) amounts to 30% of MBT input; mid/low quality fuel amounts to minimum 45% of the MBT input. The project documents indicatively set the fuel at 35% of MBT input⁹⁹.

5.4.3.3 The final quality of the fuel is set in the off-take agreement. In 2011 the European Commission, aware of the market's limitations, required the operator of CWMC Marišćina to sign such an agreement before the MBT plant trial run¹⁰⁰.

In 2012, a cement plant signed the letter of intent for off-take of the fuel. This was finally confirmed in November 2016 in an agreement between the operator and the cement plant¹⁰¹. The quality of fuel produced by the CWMC Marišćina is set in this agreement.

5.4.3.4 However, the cement plant is not utilising all of the fuel produced by the MBT plant. Out of 15 863 tonnes of the fuel produced in 2017, up to December 2017, just over 2 800 tonnes was utilised by the cement plant¹⁰². For the first six months of 2018, out of 12 000 tonnes of produced fuel, only 40 tonnes were utilised by the cement plant. The cement plant was not utilising the fuel because its quality did not meet the one set in the agreement¹⁰³. In April 2017, the environmental inspection fined the operator and its director with approx. EUR 27 000¹⁰⁴ in total for breaching the environmental permit for CWMC Marišćina by storing the fuel within the CWMC instead of handing it over to the cement plant¹⁰⁵.

5.4.3.5 The agreement with the cement plant expires in 2018¹⁰⁶ and the operator is preparing tender documentation for the new public procurement for disposal of the fuel. In addition, the operator is analysing the demand on the regional market for the fuel¹⁰⁷ and has initiated contact with the competent authorities in Croatia concerning construction of plants that may utilise the fuel produced in CWMC in Croatia and produce heat and/or electricity¹⁰⁸.

This is not a first time that the operator approached the authorities on alternative markets for the fuel. In January 2014, the operator prepared a memo to the PGK County with the information on the challenges of disposal of the fuel¹⁰⁹. The operator informed about the

⁹⁹ Annex I, section 6 of the Bilateral Project Agreement.

¹⁰⁰ Article 10 of the Bilateral Project Agreement.

¹⁰¹ The Financial Plan and Work Plan of the operator for 2017 - available at: <https://www2.pgz.hr/doc/dokumenti/2017/01-ekoplus-plan.pdf>, accessed on 26 October 2018.

¹⁰² Section 2.1 of the Financial Plan and Work Plan of the operator for 2018.

¹⁰³ http://www.novolist.hr/Vijesti/Rijeka/OPET-U-PREKRSAJU-Ekoplus-gorivo-iz-otpada-ne-vozi-u-Koromacno-nego-opet-odlaze-na-Mariscini?meta_refresh=true, accessed on 26 October 2018.

¹⁰⁴ HRK 200,000.00 is approx. EUR 27 000 according to the exchange rate on 26 October 2018.

¹⁰⁵ Misdemeanour note KLASA: 351-02/17- 70/13, URBROJ: 517-08-17-1 - <http://radio.hrt.hr/data/files/9b888d7629514b47599b504e0cc809884e2b5651.pdf> and http://www.novolist.hr/Vijesti/Rijeka/OPET-U-PREKRSAJU-Ekoplus-gorivo-iz-otpada-ne-vozi-u-Koromacno-nego-opet-odlaze-na-Mariscini?meta_refresh=true, accessed on 26 October 2018.

¹⁰⁶ Section 4.4 of the Financial Plan and Work Plan of the operator for 2018.

¹⁰⁷ Section 4.4 of the Financial Plan and Work Plan of the operator for 2018.

¹⁰⁸ http://www.novolist.hr/Vijesti/Rijeka/OPET-U-PREKRSAJU-Ekoplus-gorivo-iz-otpada-ne-vozi-u-Koromacno-nego-opet-odlaze-na-Mariscini?meta_refresh=true, accessed on 26 October 2018.

¹⁰⁹ Information by the operator provided to its founders (PGK County, the City of Rijeka and Čistoća), dated 28 January 2014, No. 1401-034/DŠ.

associated costs and asked for a meeting with the competent national authorities for environment, economy and energy. A month later, the PGK County send a note to the ministry competent for environment proposing a meeting to discuss different off-take options for the fuel¹¹⁰. The Croatian authorities competent for environment, agriculture, economy, water and energy established a working group. The Group's main task is to prepare a Position Paper for planning of energy exploitation of fuel derived after waste treatment.

EIB's role (project review and monitoring)

- 5.4.3.6 From the onset the EIB has indicated the lack of the off-take market for SRF in Croatia and asked the borrower whether these considerations have been taken into account. The borrower reassured the EIB that there is a market demand. In terms of the quality of the fuel, the EIB advocated for the production of lower quality fuel, which contributes to the fulfillment of Landfill Directive's targets for diversion of biodegradable waste. The EIB recommended mid/low quality fuel (minimum 45% of the MBT input) which, in addition to paper and plastic, should contain biomass.

The EIB-CM takes note that the borrower did not report on the challenges concerning the off-take of the fuel produced by the CWMC's MBT plant.

Once it received the allegation, the EIB raised this issue with the authorities in Croatia. For example, in 2014/2015, the EIB concluded that the cement plant, which is technically prepared to accept and use the fuel, has already signed the letter of intent with the operator for off-take of the fuel. During this period, i.e. before the operator concluded the agreement with the cement plant, the EIB advised the competent authorities in Croatia to identify alternative off-take options. For example, the EIB asked the operator to continue the dialogue with the authorities in Croatia with the aim of identifying alternative off take options. As recent as September and October 2018, once informed by the EIB-CM of the related challenges, the EIB enquired and received an updated from the borrower about the quality and the off-take of the produced fuel.

Conclusions and recommendations/suggestions for improvement

- 5.4.3.7 The MBT plant is producing fuel of lower quality than agreed with the cement plant. The plant is not utilising all of the produced fuel. In addition, storage of the fuel is an issue (see § 5.1.2 and § 5.4.3.4). Currently, the operator is preparing the public tender for the new public procurement for disposal of the fuel and working on identifying alternative options. Related to this, there are ongoing activities at the national level to address the issue of off-take of the fuel produced by CWMCs in Croatia (see § 5.4.3.5).

- 5.4.3.8 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB's project review encompassed the off-take market for the fuel produced by the MBT plant. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired and followed up on the developments concerning the off-take of the fuel produced by the MBT plant (see § 5.1.5 and § 5.4.3.6). The EIB noted that an agreement for off-take of the

¹¹⁰ Document Class: 351-01/12—01/169 and No. 2170/1-09/10-14-97 dated 3 February 2014; Section B of the Audit Report on Waste Management in PGK County (*Izješće o obavljenoj reviziji, Gospodarenje otpadom na području Primorsko-goranske županije*), Rijeka, October 2014.

fuel was signed with the cement plant which is technically prepared to accept and use the fuel; received information on the quality of the fuel and off-take of the fuel.

5.4.3.9 The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the off-take of fuel produced by the MBT plant is ensured.

Considering that the EIB first learned of the challenges concerning the off-take of the fuel produced by the CWMC's MBT plant from the EIB-CM, the EIB-CM suggests to the EIB to consider providing in the future borrowers/promoters with guidance on the issues that they should report on. This should include reporting on pending issues encompassed by an EIB-CM registered complaint.

Considering the ongoing activities at the national level, the EIB-CM suggests to the EIB to consider offering technical assistance to the national authorities in ensuring off-take of the fuel produced by CWMCs in Croatia.

Considering that this allegation is ungrounded in respect to the role of the EIB, the EIB-CM does not make any specific recommendations in this respect.

5.5 D – Allegations pertaining to the project costs

5.5.1 D.1 – Capital expenses

Allegation

5.5.1.1 *The capital expenses of the project have never been properly disclosed.*

Findings

5.5.1.2 In 2011, the European Commission and the borrower estimated the total project costs covering all four stages (see § 2.2) at EUR 101.6m. The overall estimated costs for Stages 0, 1 and 2, as the project implementation costs (see § 5.1.2), at this point were not publicly available. The Commission's grant amounted to EUR 22.3m and the EIB's loan to EUR 10m¹¹¹.

In 2012, according to the information available on EIB's website, the total project costs for Stages 0, 1 and 2 stood at EUR 59m. These estimates were provided to the EIB by the Croatian authorities.

In 2013, the Commission and the borrower revised the estimated project costs. At this time, the costs stood at EUR 87.8m¹¹². Estimated costs of Stages 0, 1 and 2 stood at EUR 49.7m. Of this amount, the Commission grant amounted to EUR 25.9m; the EIB's loan amounted to EUR 4.2m¹¹³. This information was available to the public¹¹⁴.

¹¹¹ Annex I, sections 14 and 15 of the 2011 amendments of the Bilateral Project Agreement.

¹¹² Annex I, section 14 of the 2013 amendments of the Bilateral Project Agreement.

¹¹³ Annex I, sections 14 and 15 of the Bilateral Project Agreement.

¹¹⁴ The Bilateral agreement was published in the Official Gazettes of the Republic of Croatia (<https://narodne-novine.nn.hr/>), more specifically in the following issues: 8/09, 11/11 and 3/13.

More detailed breakdown of the cost estimate from 2013 is presented in the table below.

TABLE 2 – FINANCING PLAN AS PRESENTED IN IPA PROJECT APPLICATION FOR CWMC MARIŠĆINA

TABLE 2 – FINANCING PLAN AS PRESENTED IN IPA PROJECT APPLICATION FOR CWMC MARISKA													
Parts of the Project		Activities	Source of financing		Max. Rate (%)	Financing (%)	EUR						
Stage 0	Preliminary activities establishment of CWMC	Documentation preparation	National	EPEEF	60	60	556 211						
				County	40	40	370 807						
		Preparation of technical documentation	National	County /LSU	100	100	3 048 088						
		Land purchase	National	EPEEF	60	60	2 440 139						
County	40			40	1 626 759								
Stage 1	CWMC	Constructions, services and supply contracts	EU funds	IPA	80	71	15 618 995						
				EPEEF		9	1 992 760						
			County	20	20	4 402 939							
	MBT Plant	Communal contribution and permits	National	County	100	100	500 000						
								Construction of MBT Plant	EU funds	IPA		71	10 270 618
									National	IFI loan		29	4 205 635
Stage 2	Transfer stations	Preparation of technical	National	EPEEF	60	60	150 130						
				County	40	40	100 087						
		Construction	National	EPEEF	80	80	3 511 012						
				LSU	20	20	877 753						
Stage 3	Enlargement of CWMC	Enlargement of disposal area and construction of facility for electricity production	National	Operator	100	100	38 135 729						
TOTAL							87 807 661						

5.5.1.3 The final costs for Stages 0, 1 and 2 stood at EUR 43.8m. The EIB provided a loan in the amount of EUR 12.2m. Once Stage 3 is implemented, the final project costs will be EUR 81.9m¹¹⁵.

Part of the EIB's loan for CWMC Marišćina will be repaid by the operator. To finance Stages 0, 1 and 2, the operator concluded an agreement with the borrower for co-funding of the CWMC Marišćina project in the amount of EUR 4.6m¹¹⁶. The operator started paying off the EIB loan in April 2017¹¹⁷. The information about the repayment schedule and amounts is available to the public¹¹⁸. The remainder of the EIB loan (EUR 7.6m) will be repaid from other sources.

EIB's role (project review and monitoring)

5.5.1.4 The EIB took note of the bilateral agreement between the European Commission and the borrower from 2011. In 2012, based on the outcome of the tenders, the EIB estimated the costs for Stages 0, 1 and 2 of the CWMC Marišćina at EUR 43.2m. This is almost identical to the final costs for these three stages (EUR 43.8m). Considering that the investment costs

¹¹⁵ Costs of implemented Stages 0, 1 and 2 and expected costs of Stage 3 which will be implemented in the future.

¹¹⁶ Section 5.4 of the Financial Plan and Work Plan of the operator for 2018.

¹¹⁷ Section 5.4 of the Financial Plan and Work Plan of the operator for 2018.

¹¹⁸ This information is available in the operator's financial plans, available on its website (www.ekoplus.hr).

were between EUR 50m and EUR 10m, the EIB reviewed the project as presented in § 3.4 and 3.5.

The borrower reported on the costs. Once it received the allegation, the EIB raised this issue with the authorities in Croatia.

Conclusions and recommendations

5.5.1.5 The estimates of capital expenses were adequately disclosed.

5.5.1.6 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded. The EIB reviewed the capital expenses of Stages 0, 1 and 2. The EIB carried out active monitoring. Once it received the complaint, the EIB followed up on this issue (see § 5.1.5 and § 5.5.1.4).

5.5.1.7 Therefore, the EIB-CM does not make any specific recommendations in this respect.

5.5.2 D.2 – Operational expenses

Allegation

5.5.2.1 *The operational expenses of the CWMC Marišćina will be higher than estimated due to use of outdated MBT technology and costs of disposal of the fuel produced by the MBT plant.*

Findings

5.5.2.2 Replacement of the old approach to waste disposal, based on a limited regard for the environmental protection, with a new one, based on waste treatment and disposal in compliance with the applicable standards, increases the costs of waste management. The operator is required to set an appropriate gate fee in order to ensure the sustainability and financial viability of the project¹¹⁹.

5.5.2.3 In 2012, a feasibility study, approved by the European Commission, set the gate fee between EUR 37.16 – 45.39 per tonne of delivered mixed municipal waste. The gate fee was calculated based on technical information on average waste production per capita in the PGK County, in accordance with the Croatian National Waste Management Strategy. The gate fee takes into account various costs and revenues, such as the costs and possible revenues associated with the fuel produced by the MBT plant. The operator assumed that handling of the fuel will not entail any costs or revenues.

5.5.2.4 This assumption proved to be incorrect. In reality, the CWMC is paying the cement plant approx. 30 EUR/t for off-take of the produced fuel¹²⁰. This price is identical to similar cases

¹¹⁹ Bilateral Project Agreement.

¹²⁰ This conclusion is, inter alia, based on the following:

- Operator's statement concerning the fuel originating from CWMC Marišćina, dated January 2014 (http://www.marišcina.com/wp-content/uploads/2014/02/PrijepisDokumenta_Ekoplus.pdf, accessed on 26 October 2018)
- published study titled 'Analysis of Experience in Production and Use of RDF in South Eastern Europe' (*Analiza iskustava u proizvodnji i korištenju RDF u jugoistočnoj Evropi*), Sarajevo, September 2016, ENOVA, financed by German Cooperation, GIZ,
- media articles (e.g. <http://www.novilist.hr/Vijesti/Hrvatska/Melju-milijune-a-ne-smece-Hoce-li-Centar-za-gospodarenje-otpadom-Mariscina-postati-novi-Obrovac> and http://www.novilist.hr/Vijesti/Rijeka/OPET-U-PREKRSAJU-Ekoplus-gorivo-iz-otpada-ne-vozi-u-Koromacno-nego-opet-odlaze-na-Mariscini?meta_refresh=true, accessed on 26 October 2018).

in other countries¹²¹. In 2018, the agreement with the cement plant will expire. The operator is of the opinion that the price of disposal may even increase in the future¹²².

It is likely that the costs associated with handling of the fuel impacted the gate fee. As of 2017, the CWMC Mariščina's gate fee for mixed municipal waste was approx. 63 EUR/t + VAT¹²³.

5.5.2.5 Finally, the rising costs of waste management in the PGK County are passed on to the residents of the County. For example, as of September 2017, the municipal waste collection and disposal fee in the city of Rijeka increased from EUR 4.50 to EUR 9.40 per household¹²⁴. The authorities claim that this increase occurred because the prices have not increased since 1995 and that disposal of waste at the CWMC Mariščina costs more than disposal of waste in landfills non-compliant with the Landfill Directive, which was the practice before the start of the work of the CWMC¹²⁵. Also, the authorities state that the increase is applicable only to mixed municipal waste and not to the waste separated for recycling¹²⁶.

EIB's role (project review and monitoring)

5.5.2.6 During its project review in 2012, the EIB estimated the gate fee at EUR 48 per tonne of municipal waste. The EIB noted that the cement plant already signed the letter of intent with the operator for off-take of the fuel and described the assumption that handling of the fuel will be done at zero costs as optimistic.

The borrower reported that the operator set the gate fee in 2016 but it did not report on the specific price.

Once it received the complaint, the EIB raised this issue with the authorities in Croatia. The EIB recommended optimisation of the operation of the MBT plant with a view to produce outputs that can be off-taken at maximum revenue/minimum cost, in a manner compliant with relevant regulations, and minimise the amount of outputs that are disposed in the landfill and bioreactor. The EIB reaffirmed its opinion that operator's zero price scenario is conservative. In July 2014 and November 2015, the EIB encouraged the authorities in Croatia to identify alternative off-take options that can create some competition and reduce prices for off-take of the fuel in the future. The EIB noted that in any case, the gate fee will require revision of the current waste tariffs which should be prepared by the local authorities. Once informed by the EIB-CM about the amount of the new gate fee, the EIB enquired about this issue as well.

¹²¹ E.g. MBO Villafalletto plant in Italy.

¹²² Section 4.4 of the Financial Plan and Work Plan of the operator for 2018 and http://www.novilist.hr/Vijesti/Rijeka/OPET-U-PREKRSAJU-Ekoplus-gorivo-iz-otpada-ne-vozi-u-Koromacno-nego-opet-odlaze-na-Mariscini?meta_refresh=true, accessed on 26 October 2018.

¹²³ <http://www.ekoplus.hr/documents/2017/Cjenik-usluga.pdf>, accessed on 26 October 2018. HRK 470 is approx. EUR 63 according to the exchange rate on 26 October 2018.

¹²⁴ <http://novilist.hr/index.php/Vijesti/Rijeka/OSJETNO-POSKUPLJENJE-Racuni-s-visim-cijenama-odvoza-smeca-u-Rijeci-stizu-u-listopadu>, accessed on 26 October 2018 – HRK 33.63 is approx. EUR 4.5 and HRK 70.16 is approx. EUR 9.5 according to the exchange rate on 26 October 2018. Also see the pricelist: <https://www.cistoca-ri.hr/sites/default/files/datoteke/a5/a56b945c-841d-44fb-8659-bf3d52b6bb94.pdf>, accessed on 26 October 2018.

¹²⁵ <http://www.jutamji.hr/vijesti/hrvatska/odvoz-smeca-u-rijeci-od-ruina-bit-ce-duplo-skuplji-znamo-da-nije-popularno-donositi-takve-odluke-ali-cijena-nije-rasla-22-godine/6402644/>, accessed on 26 October 2018.

¹²⁶ <http://www.fiuman.hr/cistoca-najavila-promienu-nacina-obicuna-odvoza-otpada/>, accessed on 26 October 2018.

Conclusions and recommendations/suggestions for improvement

5.5.2.7 The higher costs related to disposal of the fuel produced by the MBT plant contributed to higher operational expenses of the CWMC Marišćina, as reflected in the gate fee for mixed municipal waste. These costs are then passed on to the local residents and, as a result, the project has a bigger social impact than originally planned (see § 5.1.2, § 5.5.2.4 – 5.5.2.6). As concluded above (see § 5.4.1.8), the MBT technology is in line with the applicable standards.

5.5.2.8 In respect to the role of the EIB, the EIB-CM concludes that the allegation is ungrounded.

The EIB's project review encompassed the operational costs, such as the gate fee, and described the assumption that handling of the fuel will be done at zero costs as optimistic.

The borrower did not report that the introduced gate fee is approx. 31% higher than the estimated gate fee or the reasons for this (see § 5.5.2.6). The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue (see § 5.1.5 and § 5.5.2.6). The EIB continuously noted that zero price scenario for disposal of the fuel produced by the MBT plant is optimistic; encouraged the authorities in Croatia to identify alternative off-take options that can reduce prices.

5.5.2.9 The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the new off-take of fuel arrangement (see § 5.5.2.4) had a positive impact on the operational expenses of the CWMC.

Considering that the EIB first learned that the gate fee is approx. 31% higher than estimated from the EIB-CM, the EIB-CM suggests to the EIB to consider providing in the future borrowers/promoters with guidance on the issues that they should report on. This should include reporting on pending issues encompassed by an EIB-CM registered complaint.

Considering that this allegation is ungrounded in respect to the role of the EIB, the EIB-CM does not make any specific recommendations in this respect.

6. SUMMARY OF THE CONCLUSIONS AND RECOMMENDATIONS/SUGGESTIONS FOR IMPROVEMENT

6.1 In respect to **project plans and/or applicable standards**, the EIB-CM concludes that out of nine received allegations:

- a. The project is in line with the project plans and/or applicable standards in respect to five allegations.
- b. At the time of the complaint, the project encountered challenges in respect to one allegation, but these challenges have since been resolved and the project is in line with the project applicable standards:
 - Applicable standards concerning the unpleasant odour (allegation B.1) were breached in the past but the standards are no longer breached and additional measures are currently undertaken to further reduce the unpleasant odour.
- c. The project is not yet fully in line with the project plans and/or applicable standards in respect to three allegations:

- The overall CWMC Marišćina is implemented differently from the original implementation plan, as reflected in the EIA, by including temporary storage of waste at the Marišćina site and its subsequent landfilling at the temporary landfill (allegation A.1). The temporary landfill is not yet formally closed in line with the applicable standards.
- The MBT plant is producing fuel of lower quality (allegation C.3) than agreed with the cement plant, which results in low off-take/utilisation of the produced fuel and challenges concerning its storage.
- The higher costs related to disposal of the fuel produced by the MBT plant contributed to higher operational costs (allegation D.2) of the CWMC Marišćina than originally planned.

6.2 In respect to the **role of the EIB**, the EIB-CM notes that the EIB responsibilities include both the project review and the project monitoring.

The EIB's project review encompassed all the allegations, apart from the temporary landfill (allegation A.1) since there were no known plans to store and landfill waste in and around the CWMC prior to the commencement of the work of the CWMC.

- a. Considering that the content of a project review is not defined (see § 3.5), **the EIB-CM concludes that this project shows that the project review consisting of a questionnaire to the borrower, a site visit and preparation of a detailed note, as conducted in this case (see § 5.1.2), is appropriate.**

In respect to the project monitoring, the EIB-CM notes that the borrower did not report on the following:

- Temporary storage of waste at the Marišćina site, the related court verdict and the early stages of operation of the temporary landfill (allegation A.1; allegation B.1).
 - Challenges concerning the off-take of the fuel produced by the CWMC's MBT plant (allegation C.3).
 - Higher operational expenses than envisaged (allegation D.2) caused by higher costs of disposal of the fuel produced by the MBT plant.
- b. Considering this, the EIB-CM concludes that in the future the **EIB can benefit from providing borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint.**

Once notified of the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on specific issues raised in the complaint. For example, the EIB followed up on the issue of the temporary landfill (allegation A.1) to ensure that it is designed, constructed and closed in line with the applicable standards with the aim of minimising its potential negative environmental impact. The EIB also followed up on the issue of unpleasant odour (allegation B.1) with the aim of improving lives of the local population.

Considering the carried out EIB's project review and monitoring, the EIB-CM concludes that the allegations are ungrounded in respect to the role of the EIB.

- 6.3. The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether:
- The temporary landfill (allegation A.1) is closed in line with the applicable standards.
 - The off-take of fuel produced by the MBT plant is ensured (allegation C.3).
 - The new off-take of fuel arrangement had a positive impact on the operational expenses of the CWMC (allegation D.2).

The EIB-CM notes that there are ongoing activities at the national level to address the issue of off-take of the fuel produced by CWMCs in Croatia.

The EIB-CM suggests to the EIB to consider to:

- a. In the future, clarify the content of the project review by providing guidance to EIB staff on how to carry out project review.**
- b. In the future, provide borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint.**
- c. Offer technical assistance to the national authorities in ensuring off-take of the fuel produced by CWMCs in Croatia.**

- 6.4 For each specific allegation, Table 3 below presents a summary of conclusions pertaining to: (i) project's plans and/or applicable standards and (ii) responsibilities of the EIB, as well as specific associated suggestions for improvements, if applicable.

TABLE 3 – SUMMARY OF CONCLUSIONS AND SUGGESTIONS FOR IMPROVEMENT

Allegation	Conclusions (project plans and/or applicable standards)	Project in line with the plans and/or standards?	Conclusions (responsibility of the EIB)	Suggestions for improvement
A.1 Temporary landfill	The overall CWMC Marišćina is implemented differently from the original implementation plan by including temporary storage of waste at the Marišćina site and its subsequent landfilling at the temporary landfill. Although no waste has been deposited at the temporary landfill since September 2015, the temporary landfill has not yet been formally closed in line with the applicable standards.	No	The borrower did not report on early stages of operation of the temporary landfill. Moreover, the borrower did not report on temporary storage of waste at the Marišćina site and the related court verdict. Once in received the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on this issue. The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the temporary landfill is closed in line with the applicable standards.	The EIB could consider providing in the future borrowers/promoters with guidance on the issues that they should report on None
A.2 Access road	While two out of three sections of the access road to the CWMC Marišćina remain incomplete, in line with the EIA Decision, an alternative route to access the CWMC Marišćina will be used until the access road is fully completed.	Yes	The EIB's project review encompassed the issue of access road. The EIB carried out active monitoring. Once it received the complaint, the EIB followed up on this issue and noted that until the road is finalised, an alternative route will be used.	None
B.1 Unpleasant odour	Storage of waste by Čistoća at the Marišćina site in 2012 resulted in generation of unpleasant odour that breached the applicable standards. However, according to the available information, applicable standards have not been breached since 2014. The operator, in cooperation with the local population, is taking certain measures to further minimise the unpleasant odour.	Challenges resolved	The borrower did not report on the court verdict concerning the unpleasant odour. The EIB's project review encompassed the issue of unpleasant odour. Once it received the complaint, the EIB carried out active monitoring. The EIB conducted site visits and followed up on this issue.	The EIB could consider providing in the future borrowers/promoters with guidance on the issues that they should report on None
B.2 Impact on the drinking water	The location of the CWMC Marišćina is a result of a comprehensive process. The carried out studies showed that the CWMC, including the temporary landfill, should not impact the drinking water for the city of Rijeka and there is no evidence that it impacted the water so far.	Yes	The EIB reviewed the relevant project documents. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue.	None

Allegation	Conclusions (project plans and/or applicable standards)	Project in line with the plans and/or standards?	Conclusions (responsibility of the EIB)	Suggestions for improvement
C.1 Use of MBT technology	The MBT technology, together with the separate collection of waste, is in line with the applicable standards (e.g. Waste Framework Directive, Landfill Directive, national policy documents). The choice of the technology is a result of a comprehensive process and its compliance with the applicable standards is confirmed by the issued permits and carried out inspection.	Yes	The EIB reviewed the relevant project documents. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue.	None
C.2 Capacity of the MBT plant	The capacity of the MBT plant was appropriate in 2015. If the set goals concerning the reduction of the total amount of generated and separately collected mixed municipal waste, including the biodegradable municipal waste, is attained, the plant will be oversized by 2022. However, larger capacity is justified due to fluctuations in waste generation through the year caused by the touristic season. Also, the larger capacity allows for treatment of waste from neighbouring counties.	Yes	The EIB reviewed the relevant project documents, such as waste flows and separate collection targets which all indicated that the capacity is not oversized. The EIB requested from the PGK County to conclude agreements with the cities and municipalities in the County for delivery of waste to CWMC Mariščina to ensure sufficient waste flow. The EIB carried out active monitoring. Once it received the complaint, the EIB enquired about this issue.	None
C.3 Off-take market for fuel produced by the MBT plant	The MBT plant is producing fuel of lower quality than agreed with the cement plant. The plant is not utilising all of the produced fuel. In addition, storage of the fuel is an issue. Currently, the operator is preparing the public tender for the new public procurement for disposal of the fuel and working on identifying alternative options.	No	The borrower did not report on the challenges concerning the off-take of the fuel produced by the CWMC's MBT plant.	The EIB could consider providing in the future borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint

Allegation	Conclusions (project plans and/or applicable standards)	Project in line with the plans and/or standards?	Conclusions (responsibility of the EIB)	Suggestions for improvement
			<p>The EIB's project review encompassed the off-take market for the fuel produced by the MBT plant. Once it received the complaint, the EIB followed up on this issue. In 2014/2015, the EIB noted that an agreement for off-take of the fuel produced by the MBT plant was signed with the cement plant which is technically prepared to accept and use the fuel. In 2018, the EIB received information on the quality of the fuel and off-take of the fuel.</p> <p>The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the off-take of fuel produced by the MBT plant is ensured. The EIB-CM notes that there are ongoing activities at the national level to address the issue of off-take of the fuel produced by CWMCs in Croatia.</p>	<p>The EIB could consider offering technical assistance to the national authorities in ensuring off-take of the fuel produced by CWMCs in Croatia</p>
D.1 Capital expenses	Although the estimate of capital expenses changed over time, they were properly disclosed.	Yes	The EIB reviewed the relevant project documents. The EIB carried out active monitoring. Once it received the complaint, the EIB followed up on this issue.	None
D.2 Operational expenses	The higher costs related to disposal of the fuel produced by the MBT plant contributed to higher operational expenses of the CWMC Marišćina than originally planned, as reflected in the gate fee for mixed municipal waste.	No	The borrower did not report on the higher operational expenses caused by higher costs of disposal of the fuel produced by the MBT plant.	The EIB could consider providing in the future borrowers/promoters with guidance on the issues that they should report on. This should include regular reporting on pending issues encompassed by an EIB-CM registered complaint

EIB Complaints Mechanism

Allegation	Conclusions (project plans and/or applicable standards)	Project in line with the plans and/or standards?	Conclusions (responsibility of the EIB)	Suggestions for improvement
			<p>The EIB's project review encompassed the operational costs, such as the gate fee.</p> <p>Once it received the complaint, the EIB conducted active monitoring. The EIB continuously noted that zero price scenario for disposal of the fuel produced by the MBT plant is optimistic and encouraged the authorities in Croatia to identify alternative off-take options that can reduce prices.</p> <p>The EIB has confirmed that, as part of its monitoring, it will continue to follow up whether the new off-take of fuel arrangement had a positive impact on the operational expenses of the CWMC.</p>	None

S. Derkum
Head of Division
Complaints Mechanism

D. Petrović
Complaints Officer

LIST OF ABBREVIATIONS

CMPTR	European Investment Bank Complaints Mechanism Principles, Terms of Reference and Rules of Procedure
CWMC	County Waste Management Centre
EIA	Environmental Impact Assessment
EIB-CM	EIB's Complaints Mechanism
IPA	Instrument for Pre-Accession Programme
MBT	Mechanical biological treatment
PGK County	Primorje-Gorski Kotar County
RDF	Refuse derived fuel
SRF	Solid recovered fuel



Udruženje Krizni Eko Stožer Marišćina

Европска инвестициона банка
Evropská investiční banka
Den Europæiske Investeringsbank
Europäische Investitionsbank
Euroopa Investeeringuspank
Ευρωπαϊκή Τράπεζα Επενδύσεων
European Investment Bank
Banco Europeo de Inversiones
Banque européenne d'investissement
An Banc Eorpach Infheistíochta
Europska Investicijska banka
Banca europea per gli investimenti
Eiropas Investīciju banka
Europos investicijų bankas
Európai Beruházási Bank
Bank Ewropew tal-Investment
Europese Investeringsbank
Europejski Bank Inwestycyjny
Banco Europeu de Investimento
Banca Europeană de Investiții
Európska investičná banka
Euroopa Investitsiooni pankk
Euroopala Investointipankki
Europelska Investeringsbanken

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Luxembourg, 28 March 2019

IG/CM/SD/DP/nh
EIB – Corporate Use

Ref: SG/E/2013/01

To Whom It May Concern,

The Management of the EIB acknowledges the receipt of the Conclusions Report of the Complaints Mechanism ("CM") in reference to the above-mentioned complaint. EIB Management takes the concerns raised in the report seriously and acknowledges CM's value as an independent forum to address concerns from external parties on EIB financed projects.

Nonetheless, EIB Management would like to make the following observations:

- The CM concludes that there has been no maladministration on the part of the EIB Group.
- The EIB notes that the interim landfill, located next to the EC/EIB financed project and the underlying subject of allegations A.1 and B.1, is not financed by the EC/EIB. Whilst comprehensively assessing the sector and the context of the project, the EIB is not accountable for concerns and issues relating to investments it has not financed. Appropriate enquiries following receipt of the complaint to safeguard the EC/EIB financed project were made but the EIB is not in a position to receive information or try to influence the outcome of investments not financed by EIB.
- The relevant counterparts have complied with all of their obligations in what concerns the project financed by the EIB.
- The EIB will consider the suggestions made by CM as appropriate.

Yours sincerely,

EUROPEAN INVESTMENT BANK

M. Santoni
Secretary General

P. Albouze
Deputy Secretary General

