
Draft consultation report

Introduction

This report outlines how the consultation process on the EIB's Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy review was conducted, which stakeholder submissions were received, and to which extent these were taken into account.

The EIB’s Management Committee decided on 13 May 2009 to hold a public consultation on the review of the EIB's Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy.

As in previous consultation processes, the Bank adopted a flexible approach in terms of timetable and procedures to allow as full a consultation as possible, and to respond to issues raised by stakeholders during the process.

The consultative process focused on a revised version of the Transparency Policy, which is to replace the Transparency Policy of 2004 and a revised version of the Public Disclosure Policy. The Complaints Mechanism Policy together with the Terms of Reference of the Complaints Office was proposed for consultation as approved in 2008 without modifications.

A Review Panel was set up within the EIB group to consider all stakeholder contributions, and to examine the extent to which they could be taken into account. Its members represented the Bank’s Directorates having a particular interest in transparency issues and the complaints mechanism. The Panel and its secretariat was chaired and managed by the Corporate Responsibility Policies Division and Public Information and Relations with Civil Society Organisations Division. The Panel’s evaluations of the stakeholder contributions provided the framework for re-drafting and editing the draft Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy.

The consultation process

The web-based public consultation was launched on 18 May 2009 with a draft of the three policies (Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy) published on the Bank’s website in English, French and German.
The consultation was divided into 2 rounds, the first round taking place between 18 May and 24 July 2009 and the second round between 19 October and 13 November 2009. In addition, the Bank held two Public Consultation Meetings to discuss the policies with interested stakeholders. The meetings were announced on the EIB’s website and invitations were sent to 200 organizations and individuals on the consultation mailing list. The consultation process was completed on 13 November 2009.

First Round: A first round of consultation of 45 working days, including public and stakeholder meetings, started on 18 May 2009 and ended on 24 July 2009. A first public consultation meeting was organised in Brussels on 22 June 2009 and was chaired by Philippe de Fontaine Vive, EIB Vice-President; the meeting was attended by 12 Non-governmental organisations, as well as two staff representatives of the EIB, two representatives of the Council of Europe Development Bank, one representative of VIGEO (extra-financial rating agency), one representative of CLAP-Publishing (SME), one representative of the European Commission (DG Information, Society & Media), one representative of the European Ombudsman, and two independent citizens. The Bank’s Head of the Corporate Responsibility Division and the Head of the Public Information and Relations with Civil Society Organisations Division made presentations on the policies and on the consultation process.

Most of the interventions focused on:

- More routine and systematic disclosure of information concerning EIB’s own social and environmental assessment before Board approval.
- Disclosure of information to the people affected by a project.
- Disclosure of minutes, including decisions, as well as individual statements from the Board of Directors and the Board of Governors.
- More clearly defined criteria for exceptions on disclosure.
- Creation of a Register of documents, including documents that are not disclosable, according to Regulation 1049/2001.
- Setting of an Advisory Committee constituted of external experts, including persons from the relevant Civil Society Organisations.
- The Bank to commit to objectives and transparency standards of the International Aid Transparency Initiative (IATI).
- Require promoters to adhere to transparency standards.
- More specifically mention the violation of human rights in the Complaints Mechanism Principles.
- Inclusion of protection of complainants (with anti-retaliation clauses) and obligation to inform about the Complaints Mechanism in the financial contracts.
- Clarification of definition of maladministration, EIB’s accountability, the scope of the Complaints Mechanism and the mission and reporting of the Complaints Office.

The stakeholder views and proposals voiced during the meeting were submitted in writing to the Review Panel.

The EIB received 8 written contributions from external stakeholders. The Review Panel discussed the documents in its meetings of 3, 4, 7, and 8 September 2009 on the basis of a Table of comments prepared by the Panel’s Secretariat. The Table, attached to this Report, includes the stakeholder contributions, references to relevant sections of the
existing documents, and the Bank’s position or comment with respect to the individual stakeholder contributions. The Panel’s evaluations were introduced in a re-edited version of the draft Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and Transparency Policy (Draft II), which was discussed by the Review Panel in its meeting on 22 September 2009.

**Second Round:** The second round of 20 working days started on 19 October 2009 and ended on 13 November 2009. The second round focused on a merged version of the Transparency and Disclosure policies renamed as Transparency Policy and a modified/revised version of the Complaints Mechanism Principles, Terms of Reference and Rules of Procedure (Draft II) that took into account public contributions from the first round. A second public consultation meeting was held in Brussels on 9 November 2009, chaired by EIB Vice-President Philippe de Fontaine Vive. The Bank’s Head of the Corporate Responsibility Policies Division and the Head of the Public Information and Relations with Civil Society Organisations Division gave a presentation on the documents highlighting the changes introduced to them after the first round of public consultation. The meeting was attended by 7 Non-governmental organizations as well as 2 consultancies, one representative of the European Commission (DG ECFIN), one representative of the European Ombudsman, and one independent citizen.

There were a number of comments on the revised documents and suggestions for further amendment, with specific points of interest being:

- To consider acceptance of complaints in non-EU languages for financed projects outside of the EU and to clarify that complaints can be submitted by fax, mail or delivered to the Bank’s local offices.
- To clarify the Complaints Office remit, in terms of compliance review, problem solving and mediation, and to allow complaint to specifically ask for problem solving and/or mediation.
- Clarify the mandatory nature of Complaints Office recommendations accepted by the Bank’s Management Committee, and the responsibility for the follow-up of their implementation.
- To comply with EC Regulation 1049 in terms of time delays to process confirmatory requests for access to information and to extend the time limit to lodge complaints regarding access to information from 20 working days to at least 3 months.
- Integration of Human Rights in the Bank’s policies, such as in the paragraph referring to EITI in the Transparency Policy and to also include specifically the violation of human rights in the definition of Maladministration in the Complaints Mechanism.
- Promoters should comply with EIB’s transparency principles. EIB to ensure practical implementation on disclosure of information to the people affected by the project and to increase stakeholder engagement in order to identify local interest groups.
- More systematic disclosure of information. To automatically disclose more documents on the Bank’s website and to ensure that the information is useful and of good quality.
- Project summary to be improved: all projects (private and public sector) should be publishing with “meaningful information”, timing for Board approval (how much time is left until the decision), and disclosure of EIA before board approval, EIB’s

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own environmental and social assessment and information on disbursement, and environmental and social information from the Finance contracts.

- Make clear in the Finance Contract and through the website that intermediaries do not need EIB’s approval before disclosing information on the projects they finance using EIB loans. Information on sector allocations should be disclosed as well as information on the effectiveness of such loans.
- Publication of international agreements, in particular Framework Agreements

The 8 written stakeholder contributions from the second round were considered by the Review Panel in its meetings of 20 and 23 November 2009. The Panel’s evaluations were introduced in a new re-edited draft (Draft III).

The final draft of the Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and Transparency Policy and Consultation Report were submitted to the Management Committee for decision on 09 December 2009.

**Internal consultation**

As part of the consultation process, internal stakeholders were also encouraged to comment. The draft Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy and details about the consultation process were widely distributed within the Bank. EIB Directorates had an opportunity to submit contributions to each new draft of the policies including Draft I prior to the launch of the public consultation process. EIB staff including the College of EIB Staff Representatives was also consulted and participated in the public consultation meeting on 24 July 2009.

The Board of Directors was informed of the consultation process on 5 June 2009.

**Approval and publication of the new Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and Transparency Policy and Consultation Report**

The Management Committee approved the final draft documents and Consultation Report on [16 December 2009]. On [13 January 2010], 15 working days prior to consideration by the Board of Directors, the draft documents were posted, for information, on the EIB-website. The Board of Directors approved the new Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and Transparency Policy and the Consultation Report on [2 February 2010]. The full texts of stakeholder contributions and comments to the documents were available electronically for consultation by the Board Members.

The new Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and Transparency Policy were published on the EIB’s website on [04 February 2010], in English, French, and German, and will be published in the Official Journal of the European Union. The Consultation Report, available in English, will be kept on the website for six months and after that period will be available on request. In addition, notifications were sent directly to stakeholders who had shown an active interest in the review.
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<tr>
<th>Date</th>
<th>Event Description</th>
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<tr>
<td>16 April 2009</td>
<td>First announcement on the EIB website of the EIB's Complaints Mechanism Policy, Public Disclosure Policy and Transparency Policy review and public consultation process. Targeted mailing to interested organisations and individuals.</td>
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<td>18 May 2009</td>
<td>Launch of a 45 working days public consultation process on the three documents (Draft I).</td>
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<td>22 June 2009</td>
<td>Public Consultation Meeting, Brussels, Belgium.</td>
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<td>24 July 2009</td>
<td>Completion of the 45 working days consultation process.</td>
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<td>4 September 2009</td>
<td>Public comments from the first consultation round published, for information, on the EIB website.</td>
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<td>19 October 2009</td>
<td>Launch of second round of the consultation process on the on the revised drafts of EIB's Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and of its Transparency Policy (Draft II) taking into consideration stakeholder comments from the first round of public consultation.</td>
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<tr>
<td>9 November 2009</td>
<td>Public Consultation Meeting, Brussels, Belgium.</td>
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<td>13 November 2009</td>
<td>Completion of the 20 working days public consultation process</td>
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<td>11 December 2009</td>
<td>Public comments from the second round of consultation published, for information, on the EIB website</td>
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<td>16 December 2009</td>
<td>Approval by the Management Committee of the (Draft III) final documents as well as the Consultation Report.</td>
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<tr>
<td>[13 January 2010]</td>
<td>Publication of the draft documents, for information, on the EIB website, 15 working days prior to Board consideration.</td>
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<tr>
<td>[04 February 2010]</td>
<td>Completion of the Review by publishing the documents and Consultation Report on the EIB website</td>
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Stakeholder contributions

First round of consultation

The EIB received eight written contributions from external stakeholders:

- Comments on the Bank’s Public Disclosure Policy and Complaints Mechanism Policy, submitted on 22 July 2009 by CLIENTEARTH;
- Contribution à la Consultation publique sur les politiques de traitement des plaintes, de divulgation et de transparence de la BEI, submitted on 22 July 2009 by Les Amis de la Terre, France;
- Submission on the EIB Disclosure and Transparency Policies, submitted on 23 July 2009 by Transparency International;
- Commentaries dans le cadre de la consultation publique sur les politiques de traitement des plaintes, de divulgation et de transparence de la Banque européenne d'investissement, submitted on 24 July 2009 by Association Survie;
- Comments on the Public Disclosure Policy, submitted on 24 July 2009 by Bank Information Center (BIC);
- Comments on EIB Public consultation documents, submitted on 24 July 2009 by Mr Roderick Dunnett.

Second round of consultation

During the second round of consultation, the Bank received eight written contributions from stakeholders:

- General remarks about complaints and transparency concerning the EIB, submitted on 9 November 2009 by Isabelle Kamphuis, EVD, Agency for International Business and Cooperation of the Ministry of Economic Affairs in the Netherlands;
- Comments on EIB's October 2009 draft complaints policy, submitted on 10 November 2009 by Richard E. Bissell and Suresh Nanwani;
- Comment on the revised drafts of EIB's Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and of its Transparency Policy, submitted on 10 November 2009 by Ms van Putten;
- Comments to the EIB Complaints Mechanism, submitted on 13 November 2009 by Crude Accountability, Kazakhstan;
- Comments on the Transparency Paper, submitted on 13 November 2009 by Mr Roderick Dunnett;
- Contribution to the public consultation on the revised drafts (Draft II) of the European Investment Bank’s (EIB) Complaints Mechanism Principles, Terms of Reference and Rules of Procedure and of its Transparency Policy, submitted on 13 November 2009 by Amnesty International EU Office;
• Submission towards the second round of consultations on the EIB's Transparency Policy, submitted on 13 November 2009 by the Global Transparency Initiative, CEE Bankwatch Network and Counter Balance;
• Comments on the review of the Public Disclosure Policy and the Complaints Mechanism Policy, submitted on 13 November 2009 by ClientEarth.

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Attachments : Table of Comments from First and Second Round of Public Consultation and the EIB’s reasoned comments