COMPLAINTS MECHANISM

SG/E/2024/21

KANPUR METRO PROJECT AND AGRA METRO RAIL PROJECT (INDIA)

INITIAL ASSESSMENT REPORT

19 DECEMBER 2024

SG/E/2024/211
Kanpur Metro Project and Agra Metro Rail Project (India)
Initial Assessment Report

Complaint confidential: No

External distribution

Complainant

Internal distribution

Inspector General
Relevant EIB services

Disclaimers

This report is based on the information available to the EIB Group Complaints Mechanism Division up to 23 October 2024.

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism (Complaints Mechanism) is a tool enabling the resolution of disputes if any member of the public feels that the European Investment Bank (EIB) might have done something wrong, i.e. if it has committed an act of maladministration. The Complaints Mechanism is not a legal enforcement mechanism and will not substitute the judgment of competent judicial authorities.

Maladministration means poor or failed administration. It occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards, and procedures. The concept of maladministration includes failure by the EIB to comply with human rights, applicable law or the principles of good administration. Maladministration may relate to the EIB Group's decisions, actions or omissions and may include the environmental or social impact of the EIB's projects and operations.

One of the main objectives of the Complaints Mechanism is to ensure the right to be heard and the right to complain. The mandate of the Complaints Mechanism includes the resolution of problems raised by complainants in cooperation with relevant internal and external stakeholders. Where possible, the Complaints Mechanism also actively promotes and supports local resolution efforts (e.g. through project-level grievance mechanisms). For more information on the Complaints Mechanism please visit: https://www.eib.org/en/about/accountability/complaints/index.htm.

The Initial Assessment Report

The initial assessment generally aims to:

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

CONTENTS

1 THE PROJECT

1.1 The complaint concerns two EIB financed operations: the Kanpur Metro project[1] and the Agra Metro Rail project[2]. The projects were approved by the EIB Board of Directors on 31 August 2020 and 22 December 2021 for an amount of up to € 650 million and € 450 million respectively.

1.2 The projects consist of the following works:

i. The Kanpur Metro project involves building and operating an urban metro rail transit system, totalling 32.4 km with 30 stations in Kanpur, India. The project includes the development of two metro rail corridors with elevated sections (altogether, 19.4 km with 18 stations) and underground sections (altogether, 13 km with 12 stations), as well as the acquisition of rolling stock.

ii. The Agra Metro project involves the construction and operation of two interconnected urban metro rail lines, in aggregate 30 km long, with 27 stations and the acquisition of the related rolling stock, in the historic city of Agra, in the state of Uttar Pradesh in Northern India.

1.3 The borrower of both projects is the Republic of India, represented by the Department of Economic Affairs of the Ministry of Finance and both projects are executed by the Uttar Pradesh Metro Rail Corporation Limited (the promoter). The general consultant (GC) selected by the promoter for both projects is a joint venture between Typsa Consulting and Italferr.

2 THE COMPLAINT

2.1 On 26 March 2024, the Complaints Mechanism received a complaint from an individual, alleging misuse of authority by the promoter of the projects, which translated into alleged falsification of documents, psychological violence and retaliation against the staff of the GC. The complainant also referred to a dysfunctional governance and a non-effective grievance mechanism within the structures of both projects.

2.2 On the basis of the written complaint, the discussions held with the complainant and of the supporting documentation shared by him, the Complaints Mechanism understands that the allegations of the complainant can be summarised as follows[3]:

i. Inappropriate conduct by the projects' promoter, including verbal violence and bullying against the GC's employees.

ii. Unfair dismissal of GC staff by the promoter.

iii. Non-effective grievance mechanism to lodge complaints regarding the labour conditions verified on the projects.

2.3 In line with the Complaints Mecanism Policy[4] (the Policy), the compliance review will focus on possible instances of maladministration by the EIB and potential projects' non-compliance with the applicable EIB environmental and social standards. Therefore, the allegations raised by the complainant and mentioned in point ii. above will not be considered by the Complaints Mechanism, since there is no direct link with the implementation of the EIB's environmental and social policies.

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[1] More information on the project on EIB website: KANPUR METRO PROJECT (eib.org)

[2] More information on the project on EIB website: AGRA METRO RAIL PROJECT (eib.org)

[3] The complaint also includes allegations related to contractual matters between the project promoter and the GC, dysfunctional project management and/or fraud / falsification of documents, which fall outside the mandate of the Complaints Mechanism. The Complaints Mechanism will not assess those allegations, including the alleged falsification of documents from a prohibited conduct perspective, i.e. whether the falsification constitutes fraud as per the EIB's anti-fraud policy. Those allegations have been shared with the competent EIB services for consideration. In line with § section 4.3.2 of the Complaints Mechanism Policy, allegations concerning third parties cannot be handled by the Complaints Mechanism.

[4] Available at: EIB Group Complaints Mechanism Policy.

2.4 The allegations mentioned in points i and iii above raised by the complainant may be related to possible non-compliance of the projects with the EIB environmental and social standards with regard to:

i. implementation of labour standards (standard 8), including human resources policies and procedures in the context of the projects; and

ii. implementation of a workers' effective grievance mechanism in the context of the projects.

3 WORK PERFORMED

3.1 For admissible complaints regarding environmental and social impacts of the projects financed by the EIB, the § 4.2.1 of the Policy and the § 2.1.3 of the Complaints Mechanism Procedures (Procedures)[5] require the Complaints Mechanism to carry out the initial assessment of the complaint. The objective of the initial assessment is mainly to clarify the concerns raised by the complainant and to determine if further work by the Complaints Mechanism is necessary and/or possible in order to address the allegation(s) or resolve the issue(s) raised by the complainant[6]. The said further work may include a compliance review or a collaborative dispute resolutions process. This report contains the results of the Complaints Mechanism's initial assessment.

3.2 During the initial assessment, the Complaints Mechanism organised a meeting[7] with the complainant to understand better the allegations and to obtain further details and clarifications regarding those. The Complaints Mechanism explained its mandate and role in handling complaints regarding maladministration of the EIB, as well as the obligation for the projects and promoter to compliance with the Bank's environmental and social standards. The Complaints Mechanism also held a meeting with the EIB services in charge of the projects to present the complaint, collect relevant information, and discuss the way forward.

3.3 At this stage of the complaint-handling process, the Complaints Mechanism did not yet consider it relevant to seek background information or views from the promoter. This does not preclude the possibility of the Complaints Mechanism to seek those from the promoter in the subsequent stages of the complaint-handling process.

4 REGULATORY FRAMEWORK

4.1 The Policy and Procedures apply to complaints received by the Complaints Mechanism (§1.1 of the Policy).

4.2 As part of its initial assessment, the Complaints Mechanism identified the relevant regulatory framework, which consists of the relevant national law and the applicable EIB's policies, procedures and standards (including the EIB Environmental and Social Handbook, volume 2[8] and the EIB Environmental and Social Standards as updated in 2018[9]). In particular:

i. **Standard 1,** which outlines the promoter's responsibilities in the process of assessing, managing, and monitoring environmental and social impacts and risks associated with a project[10].

ii. **Standard 8,** which aims at ensuring that the promoter respects the core labour standards of the International Labour Organisation (ILO)[11]. Where there are gaps in implementing the standards to the relevant project, the promoter shall develop and implement programmes

[5] Available at: EIB Group Complaints Mechanism Procedures.
[6] § 2.2.1 of the Procedures.
[7] Meeting took place via conference-call on 23 July 2024.
[8] See eib-environmental-and-social-handbook.pdf, version of 2/12/2013.
[9] Environmental and Social Standards (2018) (eib.org)
[10] Environmental and Social Standards version 10.0 of 08/10/2018, Standard 1, paragraph 5
[11] ILO 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up

and procedures to ensure that the ILO's core labour principles and standards are adhered to or are reached during project implementation. The objective is to prevent unacceptable forms of labour and employment practices, and to promote the development of a sound management of worker relations.

iii. **Standard 8** also states that the promoter shall comply with the relevant national labour laws and develop or update a human resources policy, and a management system that covers the enforcement of, and compliance with, labour standards and the monitoring of the promoter's contractors[12]. Such a policy should outline the promoter's approach to managing employees and, at a minimum, contain information on the employee's rights under national labour and employment law, as well as demonstrate consistency with the objectives of this Standard 8.

iv. **Standard 8** (§ 15) clarifies that the EIB labour standards apply not only to the workers of the promoter, but also to the workers engaged through third parties who carry out essential work related to the project (such as the workers of the contractors). Standard 8 is therefore applicable, regardless of the form of contractual relationship between the complainant and the contractor.

v. **Standard 8** (§ 39) also states that the promoter should set up an independent grievance mechanism where workers can raise workplace concerns. The promoter should additionally grant workers free and easy access to such grievance mechanism.

5 WAY FORWARD

5.1 Based on its initial assessment, the Complaints Mechanism has decided to proceed with a compliance review in relation to the alleged instances of non-compliance of the projects with the applicable EIB environmental and social policy and standards, as raised by the complainant and presented in section 2 above.

5.2 The compliance assessment undertaken by the Complaints Mechanism will verify whether potential maladministration of the Bank in the implementation of its environmental and social policies and standards regarding labour conditions has occurred.

5.3 As per its mandate, the Complaints Mechanism will review the above allegations with a view of investigating possible maladministration by the EIB. In particular, the Complaints Mechanism will assess the way in which the EIB project team has reviewed and monitored the implementation by the promoter of the labour requirements arising from the EIB standards referred to in section 4.2 above, and specifically those that refer to the contractors' working conditions and the grievance mechanism implementation.

5.4 The outcome of the compliance review will be communicated to the complainant through a conclusions report in line with §1.6 and 2.4.6 of the Procedures.

[12] Environmental and Social Standards version 10.0 of 08/10/2018, Standard 8, paragraph 18