

COMPLAINTS MECHANISM

SG/E/2024/11

**CORRIDOR VC MEDAKOVO -
POPRIKUŠE
(BOSNIA AND HERZEGOVINA)**

INITIAL ASSESSMENT REPORT

6 FEBRUARY 2025



SG/E/2024/11

Corridor Vc Medakovo - Poprikuše (Bosnia and Herzegovina)

Initial Assessment Report

Complaint confidential: No

External distribution

Complainant
Promoter

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 2 December 2024.

In case of discrepancies between language versions, the English version prevails.

EIB Group Complaints Mechanism — Initial Assessment Report

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, that is, 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 (for example, 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 to¹:

- clarify the concerns raised by the complainants and gain a better understanding of the complainants' position as well as the views of other stakeholders, whenever appropriate (e.g. project promoter, national authorities);
- understand the validity of the concerns raised;
- assess whether and how the stakeholders (e.g. the complainants, the relevant EIB Group project team and the project promoter) could seek resolution of the issues raised by the complainants;
- determine if further work by the EIB Group Complaints Mechanism Division is necessary and/or possible (compliance review or collaborative dispute resolution between the parties) to address the allegation(s) or resolve the issue(s) raised by the complainants.

¹ As outlined in §§ 2.2.1, 2.2.2 and § 2.2.7 of the EIB Group Complaints Mechanism procedures, available at: [EIB Group Complaints Mechanism procedures dated November 2018](#).

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GLOSSARY

EIB	European Investment Bank
€	Euro
Project	Corridor Vc Poprikuše – Medakovo
Promoter	Javno Preduzeće Autoceste FBiH d.o.o.
RAP	Resettlement Action Plan

EXECUTIVE SUMMARY

In March 2024, the EIB Group Complaints Mechanism Division (Complaints Mechanism) received a complaint from the Public Forest Management Company of Zenica-Doboj Canton regarding the new motorway section on Corridor Vc between Medakovo and Poprikuše in Bosnia and Herzegovina. The complainant alleges that the project involves the expropriation of its property, and that the amount of compensation offered for the said expropriation is insufficient to compensate for the losses incurred.

After conducting an initial assessment of the complaint, the Complaints Mechanism proposes to conduct a compliance review of the complaint. As per its mandate, the Complaints Mechanism will review the allegation with a view to investigating possible maladministration by the EIB and, in particular, to assess whether the EIB took all the necessary steps to ensure compliance with the applicable EIB Environmental and Social Standards during project appraisal and monitoring.

Allegation	Description of the allegation	Way forward
Approach followed to determine the compensation for the property in question	Breach of Standard 6 on Involuntary Resettlement, and more particularly the requirement to provide adequate compensation	Compliance review

1 PROJECT

- 1.1 In September 2020, the EIB Board of Directors approved financing of up to € 340 million² for the construction of a new motorway section on Corridor Vc between Medakovo and Poprikuše in Bosnia and Herzegovina (the project). The project is being carried out by publicly-owned motorway development company Javno Preduzeće Autoceste d.o.o. of the Federation of Bosnia and Herzegovina (the promoter).
- 1.2 The project is part of the pan-European Motorway Corridor Vc, linking Hungary and eastern Croatia to Bosnia and Herzegovina and the Adriatic Sea. Construction work began at the end of 2023 and, according to the plans, the project is expected to be completed by the end of 2027.

2 COMPLAINT

- 2.1 On 4 March 2024, the EIB Group Complaints Mechanism Division (Complaints Mechanism) received a complaint from the Public Forest Management Company of Zenica-Doboj Canton (the complainant).³ The complainant also sent the complaint to a number of other authorities and institutions.
- 2.2 The complainant alleges that the project involves the expropriation of its property and that the amount of compensation offered for the said expropriation is insufficient to compensate for the losses incurred. It contends further that, in particular, it does not take into account the fact that the property in question hosts a number of important species of trees that are of scientific value, including pedunculate oak trees and a clonal archive of indigenous black poplars.
- 2.3 The complainant disagrees with the amount of compensation offered by the promoter. The complainant requests that this amount be re-assessed, providing examples of other compensation assessments, such as the compensation calculated by the Faculty of Forestry at the University of Sarajevo in 2021.

3 REGULATORY FRAMEWORK

- 3.1 For admissible complaints regarding the environmental and social impacts of projects financed by the EIB, the § 4.2.1 of the Complaints Mechanism Policy⁴ 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 main objectives of the initial assessment are 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 complainant⁶. Further work may include a compliance review or a collaborative dispute resolution process. This report contains the results of the initial assessment conducted by the Complaints Mechanism.
- 3.2 In case of a collaborative dispute resolution process, the Complaints Mechanism identifies the relevant stakeholders to be involved the process and gains an understanding of their views and willingness to resolve the issues.⁷

² See: [here](#), accessed on 29 November 2024.

³ JP ŠPD ZE-DO Kantona Ltd. Zavidovići – see [here](#), accessed on 2 December 2024.

⁴ § 4.2.1 of the EIB Group Complaints Mechanism Policy (Policy), available [here](#), accessed on 29 November 2024.

⁵ § 2.1.3 of the EIB Group Complaints Mechanism Procedures (Procedures), available [here](#), accessed on 29 November 2024.

⁶ § 2.2.1 of the Procedures.

⁷ § 2.2.5 of the Procedures.

3.3 The following key questions should be considered during the initial assessment:

- Understand how the relevant EIB services have:
 - verified compliance with the applicable regulatory framework, including the applicable EIB Environmental and Social Standards; and
 - carried out appropriate monitoring of project implementation.
- Assess potential indications that the EIB Environmental and Social Standards have failed to provide an adequate level of protection and safeguards.
- Identify, if any, reasonable indications of non-compliance with the applicable regulatory framework⁸.

3.4 It should be highlighted that complaints against borrowers, promoters, or national, regional or local authorities – such as government departments, state agencies and local councils – are not handled by the Complaints Mechanism.⁹ Furthermore, complaints submitted to the Complaints Mechanism do not have a suspensive effect on the actions/omissions and decisions challenged.¹⁰

3.5 Regulatory frameworks that are applicable to the case at hand includes:

- Relevant national legislation, such as: the Corridor Vc Motorway Act¹¹ and the Federation of Bosnia and Herzegovina Expropriation Act¹²;
- The 2018 EIB Environmental and Social Standards¹³ and in particular its Standard 6 on Involuntary Resettlement, which outlines the requirement that all affected persons will be paid fair compensation in good time for expropriated assets¹⁴ and that monetary compensation shall take into account the full replacement cost based on market value, productive potential, or equivalent residential quality, including any administrative charges, title fees, or other legal transaction costs.¹⁵

3.6 Standard 6 requires the promoter to provide the EIB with a Resettlement Action Plan¹⁶. The project's Resettlement Action Plan (dated November 2020) outlines the following process and specific conditions to be followed to determine compensation for the loss of perennial crops:

- Compensation will include all trees and plants, and a court expert will assess their value depending on the age, type, etc. (Art. 50 of the Federation of Bosnia and Herzegovina Expropriation Act).
- If the perennial crops cannot be harvested, the owner is entitled to cash compensation for the expected crops, in accordance with the Federation of Bosnia and Herzegovina Expropriation Act.
- Perennial crops and trees will be valued at the cost of replacement (determination of full replacement value includes the yield of the crop over one year, the cost of re-establishing the plantation (seedlings, soil preparation, fertilizers, etc.), as well as the lost income during the period needed to re-establish the crop).
- The replacement value for commercial timber tree species should be the market value of the logged timber. If an affected commercial forest cannot be logged before entry of the

⁸ § 2.2.4 of the Procedures.

⁹ § 4.3.2 of the Policy.

¹⁰ § 6.1.4 of the Policy.

¹¹ ("O.G. FBiH" No. 08/2013), available [here](#) (in Croatian), accessed on 29 November 2024.

¹² ("O.G. FBiH" No. 70/2007, 36/2010, 25/2012, 8/2015 — Constitutional Court decision and 34/2016, available [here](#) (in Croatian), accessed on 29 November 2024.

¹³ The 2018 EIB Environmental and Social Standards are available [here](#), accessed on 29 November 2024.

¹⁴ § 39 of Standard 6 of the 2018 Environmental and Social Standards.

¹⁵ § 41 of Standard 6 of the 2018 Environmental and Social Standards.

¹⁶ §§ 62 and 64 of Standard 6 of the 2018 Environmental and Social Standards.

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expropriation beneficiary into the land plot, the compensation principle will be similar to that for annual crops, taking consideration of the market value of the lost timber¹⁷.

4 INITIAL ASSESSMENT

4.1 During the initial assessment the Complaints Mechanism: (i) held a meeting with the EIB project team; (ii) held calls with the complainant; (iii) held calls with the promoter; (iv) held a call with the Ombudsperson of Bosnia and Herzegovina; and (v) reviewed the project information available on both the EIB¹⁸ and the promoter's websites¹⁹.

4.2 In its complaint letter and in subsequent calls, the complainant stated that on the property in question, there is a nursery that:

- produces pedunculate oak seeds that were planted in 2007 and are on the verge of disappearing from Bosnia and Herzegovina with the best yield of seeds expected after 40 years, and the production period spanning over 150 years;
- contains the clonal archive of indigenous black poplars that is used by domestic and international experts for scientific research.

The complainant further emphasised the scientific purpose of the pedunculate oak stand, which is used for provenance tests, and of the central clone archive of black poplars housed in the property, which was founded in cooperation with the Faculty of Forestry at the University of Sarajevo.

4.3 The complainant also clarified that, in September 2021, the Faculty of Forestry at the University of Sarajevo carried out an assessment of the project's impact on the nursery. In October 2021, the complainant submitted the results of this assessment to the promoter and requested compensation covering the damages resulting from the expropriation of the property in line with the above-mentioned assessment. In February 2024, a meeting took place between the complainant and the promoter, which did not result in an agreement concerning the requested compensation amount.

4.4 The promoter informed the Complaints Mechanism that the case was handled under the Federation of Bosnia and Herzegovina's regular expropriation procedure. In July 2024, the competent authority issued the expropriation decision for the property in question²⁰. In August 2024, the promoter made a compensation offer based on the opinion of a court expert, which consists of compensation for the investments made in the property in the last five years. However, the complainant did not accept this compensation offer, despite recognising that the expropriation decision is final. In line with the Federation of Bosnia and Herzegovina's Expropriation Act,²¹ the case will be submitted to the competent court for the sole purpose of determining the amount of compensation. The court will set the compensation amount, taking available information into account.

4.5 The Complaints Mechanism explained the two possible ways in which complaints can be handled to the complainant and to the promoter (the parties): via a collaborative dispute resolution process or a compliance review. The parties did not agree to participate in a collaborative dispute resolution process.

4.6 Taking this into account, the Complaints Mechanism carried out an initial review of the EIB's appraisal and monitoring of the project. The review shows that, following its appraisal and the

¹⁷ Table 7 of the November 2020 RAP, available [here](#), accessed on 29 November 2024.

¹⁸ Available [here](#), accessed on 29 November 2024.

¹⁹ Including: the relevant the Resettlement Action Plan (dated November 2020), the Environmental and Social Management Plan (dated December 2020) and the Environmental and Social Impact Assessment (dated September 2019), all available [here](#)., accessed on 29 November 2024.

²⁰ Decision on Expropriation dated 18 July 2024 No 03-27-2-3032/2021.

²¹ Articles 62-68 of the FBiH Expropriation Act.

approval of the financing of the project by the EIB Board of Directors in September 2020, the EIB signed the respective finance contract with Bosnia and Herzegovina on 28 December 2020. The EIB subsequently began its standard process for monitoring the implementation of the project, including conducting regular monitoring missions.

- 4.7 The project's Environmental and Social Data Sheet²², the document summarising the EIB's environmental and social assessment of the project, identifies involuntary resettlement as the main adverse social impact. It states that "[a Resettlement Action Plan] will be prepared by the promoter and agreed with the Bank [...] allowing a precise assessment of the quantum of land acquisition and resettlement."

5 WAY FORWARD

- 5.1 Following its initial assessment, the Complaints Mechanism proposes to proceed with a compliance review in relation to the alleged instances of non-compliance of the project with the applicable 2018 EIB Environmental and Social Standards. As part of the process, the Complaints Mechanism will review whether the approach followed to determine the compensation (see § 4.4) is in line with the EIB Standard 6 and the project's Resettlement Action Plan (see §§ 3.5 and 3.6)²³.
- 5.2 As per its mandate, the Complaints Mechanism will review the allegations with a view to investigating possible maladministration by the EIB and, in particular, whether the EIB took all the necessary steps to ensure compliance with the applicable EIB Environmental and Social Standards during project appraisal and monitoring.

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

²² Available [here](#), accessed on 29 November 2024.

²³ Please note that the Complaints Mechanism cannot pass judgement on activities under the sole responsibility of third parties, notably those of the authorities at local, regional or national level - § 1.4.5 of the Procedures.