

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

**Belgrade By-Pass – Highway Interchange Petlovo Brdo
Serbia**

Complaint SG/E/2013/02

MEDIATION REPORT

11 April 2016

EIB Complaints Mechanism

Prepared by

Complaints Mechanism

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External Distribution

Complainant: Vladimir Markovic, President Green settlement – Rooster Hill
Promoter : Public Enterprise Roads of Serbia

Internal Distribution

Management Committee

The EIB Complaints Mechanism

The EIB Complaints Mechanism intends to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases whereby the public feels that the EIB Group did something wrong, i.e. if they consider that the EIB 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 the 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 European Ombudsman.

The EO was "created" by the Maastricht Treaty of 1992 as an EU institution to which any EU citizen or entity may appeal to investigate any EU institution or 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 by the European Ombudsman, 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 activities and to project cycle related policies and other applicable policies of the EIB.

The EIB Complaints Mechanism intends to not only address non-compliance by the EIB to its policies and procedures but endeavours 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/cr/governance/complaints/index.htm>

Acknowledgements

The EIB-CM would like to thank all people and organisations with whom they have interacted during the initial assessment of this complaint and during the mediation process, and expresses its appreciation to the EIB staff that has provided the required information.

Without the support and valuable contributions of everybody concerned, the preparation of this report would not have been possible.

MEDIATION REPORT

Complainant: Vladimir Markovic, President Green settlement – Rooster Hill

Date received: 21 March 2013

Subject of complaint: The complainant alleged that the construction of interchange Petlovo Brdo as planned at the time of the complaint would result in the destruction of the forest; furthermore the complainant alleged that Roads of Serbia had not produced an environmental impact assessment for the specific component of the project.

1. THE COMPLAINT

1.1 On 21 March 2013 Mr Vladimir Markovic on behalf of the association “Green settlement – Rooster Hill” (hereinafter the Complainant) lodged a complaint by email with the EIB Complaints Mechanism (hereinafter EIB-CM). The complaint concerns the allegedly negative impact of the construction of the Petlovo Brdo interchange on the Park Borici forest as well as on the lives and well-being of the residents. The complainant further alleged that Roads of Serbia (hereinafter the Promoter) had not produced an environmental impact assessment for the specific component of the project.

1.2 On 26 March 2013 the EIB-CM acknowledged receipt of the complaint by informing the Complainant of the launch of an inquiry into the case as well as of the date by which he might expect a formal reply from the bank. On 12 June 2013 the EIB-CM informed the complainant that due to the complexity of the enquiry the time frame for handling the case would be extended and of the latest date by which he could expect a reply from the EIB-CM.

2. THE PROJECT

2.1 Belgrade By-Pass concerns the construction of 47 km of 2 lane bypass roads or 2x2 lane motorways located in the West and in the South of the city of Belgrade. It comprises two sections: A (10 km) and B (37 km). The Project aims at improving traffic safety and reducing congestion on the existing urban road network, in particular the E70/E75 highway crossing Belgrade. The loan from the EIB is for up to EUR 185 million for 25 years with the Republic of Serbia contributing EUR 119 million for a total Project cost of EUR 361 million.

2.2 The construction of the new Petlovo Brdo interchange is part of section B of the Project and is meant to improve the traffic flow in the area. The existing interchange is considered a “black spot” with recurrent traffic accidents.

3. THE INITIAL ASSESSMENT

3.1 The EIB-CM carried out an initial assessment of the allegations made by the complainant and, following a fact-finding mission to Belgrade in October 2013, issued its Initial Assessment Report (IAR) on 23 December 2013.

3.2 The IAR concluded that further enquiries were required, as the case raised concerns, notably regarding (i) the establishment of an EIA, (ii) the environmental impacts of the future construction, (iii) the social impacts of the construction on the dwellers of the settlement, (iv) the conduct of a public consultation and (v) the implementation of specific mitigation measures.

3.3 Taking into account all the involved parties' concerns as well as the need to find solutions acceptable to them and the need to facilitate the dialogue between the parties, the EIB-CM proposed to engage in a mediation process with a view to achieving a solution that would ensure the continuation of the Project, the protection of the environment and the well-being of the community.

4. THE MEDIATION PROCESS

4.1 The Promoter and the Complainant accepted the EIB-CM proposal for engaging in a mediation process and the first mediation meeting took place on 4 March 2014 in Belgrade. This was followed by several bi-lateral meetings, which took place between March and April in the presence of the project designers, during which the project was discussed with the Complainant with a view to assessing whether and which modifications to the project design could be made to address the complainant's concerns¹.

4.2 The main concerns raised by the complainants during the discussions related to the destruction of the forest, the accesses for local businesses, the impact of the project on the livelihoods of the residents of the settlement, the environmental impacts, the security of the new accesses to the settlement, the compensation/mitigation measures to be implemented.

4.3 In April 2014 the Promoter produced a new Environmental and Social Action Plan with a modified project design significantly reducing the impact of the project on the forest (shifting from 2.5 ha of forest to be destroyed to 0.8 ha), including the construction of new and safer accesses to the settlement and the construction of an access road for the local businesses. The revised project design also included a generous compensatory plantation plan (the trees cut will be replaced by a larger number of trees) and the construction of a new recreational area in the forest. The Action Plan was made public in the Promoter's website and in the websites managed by the complainants. In parallel, the Promoter analysed all the alternative design options presented by the Complainants and provided further details explaining why they were not feasible.

4.4 Once the Action Plan had been made public, the Promoter organised a public consultation meeting for the population of the settlement. This meeting was advertised in the press but also on the project site and through leaflets distributed in the letterboxes of the residents, on the Promoter's website as well as on those managed by the complainants. The public consultation meeting took place on 17 May 2014 in the presence of staff from the EIB (including EIB-CM), from the Department of Forestries - Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia and from the Public Utility Company "Greenery Belgrade". Around 90 dwellers of the settlement attended the meeting. The meeting was recorded.

4.6 At the end of the public consultation meeting, the Promoter, the complainants and the EIB-CM agreed to extend the consultation period by another 3 weeks to enable citizens to get acquainted with the revised project design and ask further questions. This extended consultation was organised on site with the presence of two representatives of the Promoter on a daily basis. All the documents of the revised project design could be consulted by the citizens and explained by the Promoter's staff. The new boundaries of the project, based on the revised project design, were marked in the forest so that every citizen could visualise the reduced impact of the project. Furthermore paper forms were made available so that the public could ask further written questions and/or send comments to the Promoter.

4.7 A Consultation report explaining the full consultation process and compiling all the questions that had been asked as well as the Promoter's replies was issued at the end of the consultation period. The consultation report was published in the Promoter's website as well as on the website managed by the association Green Settlement – Rooster Hill.

4.8 A meeting of the mediation parties (the Promoter and association Green Settlement – Rooster Hill) was organised at the end of the consultation process on 1 December 2015. During the meeting, a draft Settlement Agreement was prepared by the parties. The representatives of the Promoter as well as those of the association asked for some time in order to consult, respectively, their management and constituencies and thus decide whether the draft Agreement met the expectations of the parties.

¹ While the EIB-CM was in Belgrade for the first mediation meeting, a second complaint concerning the same project was submitted to the EIB-CM by Mr Dean Jovanovic on behalf of Petlovo Brdo association. The EIB-CM met with Mr Jovanovic in Belgrade and proposed that he joined the bi-lateral discussions with the Promoter so that his concerns could also be taken into account. Mr. Jovanovic accepted the proposal.

4.9 The draft Settlement Agreement was also published by the mediation parties in their websites together with an explanatory scheme of the EIB-CM process so that every citizen could assess the content of the draft Agreement while being sufficiently informed of the possible developments in case of signature of the Settlement Agreement and in case of failure of the mediation process.

4.10 On 2 February 2016 the mediation parties notified the EIB-CM of the decision to sign the Settlement Agreement. The latter's signature took place in Belgrade on 9 February 2016.

5. THE CONTENT OF THE SETTLEMENT AGREEMENT

5.1 Since the parties agreed that there is an overriding public interest that the content of the settlement agreement is made publicly available, the full text of the agreement is annexed to this report.

5.2 According to the terms of the Settlement Agreement, the Promoter undertakes to :

- A) Save 87% of the park forest by avoiding construction of direct and indirect ramps within the park forest;
- B) Ensure service roads and safe traffic connections on Ibarska road, approaches to all private and commercial buildings along the Ibarska road;
- C) Fully compensate the trees cut;
- D) Build new playground area within the forest area;
- E) If and when a need to build the ramps in phase II of the project arises, re-assess the situation and seek an agreement with all Project Affected Persons (PAP) regarding possible construction of the remaining part of the Project (one direct and one indirect ramp in the zone of Park-Forest "Borici") or another arrangement that may be feasible at the time. In case of no agreement with PAP regarding Project Phase II, Project will end as Phase I. (Page 4 and 5 of Public Consultation Report);
- F) Prepare a Stakeholders' engagement Plan and maintain close cooperation with the community during the next stages of the project.

5.3 Similarly, association Green Settlement – Rooster Hill undertakes to :

- Build an ongoing partnership with the Promoter and actively and constructively engage in the implementation of the project;
- Facilitate the information flow and the communication between all stakeholders engaged in the Project;
- Participate in the monitoring of the project implementation in accordance with the agreement.

6. CONCLUSIONS

6.1 Following the positive outcome of the mediation process, the EIB-CM considers the case closed.

6.2 The EIB-CM, in collaboration with the relevant EIB services, will keep following up the satisfactory implementations of the options agreed by the mediation parties, until full implementation of the Settlement Agreement. For this purpose, the EIB-CM will liaise with both mediation parties (the Promoter and the affected communities and their representatives) as well as with the relevant EIB services.



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