Promoting credible alternatives to judicial review: 
the EIB-CM and access to environmental information

Task Force on Access to Justice
Geneva, 27-28 February 2018
The Complaints Mechanism of the EIB Group

The Complaints Mechanism of the EIB Group is a citizen-driven accountability mechanism consisting of:

- An internal tier (the EIB-CM) placed within an independent Directorate General (IG) of the EIB

- An external tier (the European Ombudsman - EO)

- Accountability of International Financial Institutions (IFIs) - Independent Accountability Mechanisms (IAMs)

- The IAM of the EIB Group deals with project-related and non-project related complaints

- The concept of Maladministration + art. 41.2 of the European Charter of Fundamental Rights (Right to Good Administration)
Features of the EIB Complaints Mechanism

The two tiers of the Complaints Mechanism of the EIB Group have common features:

- Free of charge
- Wide accessibility (Actio Popularis + principle “iura novit curia’’)
- Administrative review (prior administrative approach, effectiveness criteria)
- Timeframe (40 WDs from receipt + 100 additional WDs in case of complexity)
- Non-binding nature of the outcome process (consultative decision-making process)
Lessons learned – internal tier

Major cases concerning access to environmental information:

- Bujagali Hydroelectric Project
- South Poland CHP, Bielsko-Biała, Poland
- Eirgrid East-West Interconnector TEN-E

Lessons learned:

Greater awareness of the Aarhus-related obligations

Establishment of ESDS/ESCS Environmental and Social Data/Completion Sheet
Lessons learned – external tier

The European Ombudsman deals with complaints concerning the access to (environmental) information.

Rivne Kyiv High Voltage Transmission Line Project

South Poland CHP project

Lesson learned

Establishment of a Public Register – pro-active dissemination of environmental information

Effectiveness of the two-tier structure
The third layer of the EIB Group Complaints Mechanism

The Aarhus Convention Compliance Committee deals with communications against the European Union concerning the compliance of the latter with the Convention for actions/omissions of the EIB

ACCC/C/2007/21 – Vlora Thermal Power Plant - Albania

Background info

Alleged non-compliance with article 6. The communicant claimed that the project had not been carried out in accordance with public participation requirements of the national legislation and the Aarhus Convention, to which both the EC and Albania are Parties.

Lessons learned

Finance Contracts are in general not environmental information and only some parts of them relate to the environment. Financing agreements, even though not listed explicitly in the definition, may sometimes amount to “measures ... that affect or are likely to affect the elements of the environment”. (Ad hoc assessment)
Conclusions and Challenges

Timeliness of the reply

Involvement of third parties (IOs, private sector counterparts)

Permanent training (new products/processes/environmental information)

Credibility enhanced by multi-layer accountability
Thank you

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