EIB Complaints Mechanism

Promotion of principles of the Aarhus Convention in International Forums

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Presentation Outline

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The Bank of the European Union

The European Union’s financing institution created by the Treaty of Rome in 1958 to provide long-term finance for projects promoting European integration

- **A dual nature** - an Institution of the Union and a Bank
- **A policy driven Bank** - the EIB is an EU body, bound by EU law and committed to promoting EU policy objectives.
- **Enjoying own legal personality and financial autonomy** - within the Community system
The Bank of the European Union

Working within an institutional setup:
- Council, Parliament, Commission
- Court of Justice, Court of Auditors,
- Ombudsman, OLAF

Working on the basis of EU environmental and social legal framework:
- e.g. European Principles for Environment

Subject to principles and practices laid down by Treaties and Conventions to which the EU subscribed:
- e.g. Aarhus Convention
The EIB – key figures

- EIB shareholders: 27 Member States of the EU
- Subscribed capital: EUR 232.4 bn
- Lending in 2011: EUR 60.9 bn
  of which outside the EU: EUR 7,1 bn
- Active in more than 130 countries around the World
- Borrowing in 2011: EUR 76.0 bn
  through 262 bond issues in 22 currencies
EIB and the Aarhus Convention

- The European Commission signed the Aarhus Convention in 1998

- In this context, and as an EU Body the EIB is required to comply with the Regulation (EC) N° 1367/2006 on the application of the provisions of the Aarhus Convention on access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies

- The EIB is the only IFI with a direct obligation to apply the Aarhus Convention
EIB and the Aarhus Convention

I - Access to information

Governed by the EIB Transparency Policy

➤ Commitment to give stakeholders access to the information that will enable them to understand its governance, strategy, policies, activities, practices, performance, impacts and outcomes with a view to allow stakeholders to take their actions and decisions on an informed basis

➤ Presumption of disclosure with very limited and specific exceptions, which take fully into account the Aarhus Convention/Regulation
EIB and the Aarhus Convention

II - Public Participation in Decision-making

➢ Formal public consultation on own (major) policies
➢ According with the EIB Environment and Social Principles and Standards:
  o For all projects for which the EIB requires a formal EIA, the promoter should conduct a meaningful, transparent, and culturally appropriate public consultation of affected communities and provide for a timely disclosure of appropriate information in a suitable form; there should be evidence that the views expressed have been considered.
  o For all other projects, the Bank requires promoters to engage stakeholders in meaningful dialogue, as a citizens’ right and to build support for efficient and timely project implementation.
EIB and the Aarhus Convention

III - Access to Justice

- **EIB Complaints Mechanism** - Any natural or legal person affected, or perceived to be affected, by a decision, action or omission by the EIB may lodge a complaint; this may include refusal of access to information, inadequate public consultation, negative environmental or social impacts of financed projects, ...

- **European Ombudsman** - If the affected party is not satisfied with how the complaint is dealt with by the internal EIB process, s/he may lodge a complaint concerning maladministration against the EIB

- **European Court of Justice** - under the conditions laid down in the Treaty on the Functioning of the European Union
The EIB Complaints Mechanism

- The “right to appeal” is a fundamental right of all EIB stakeholders
- Based on a Memorandum of Understanding signed between the EIB and the European Ombudsman
- **Two tiers mechanism:**
  - Internal – Complaints Mechanism Division (operationally independent)
  - External – European Ombudsman (fully independent)
- Complainants are obliged to use the first tier and then **may escalate if not happy with the outcome.**
- **Founding principles** - Recognition of EU institutional framework, Independence, Effectiveness, Accessibility, Transparency, Timeliness, Consultative
**Experiences and Challenges**

- **Complaints on EIB compliance with Aarhus Convention on Access to Information**
  - Israel Environmental Programme Loan
  - Bujagali Hydropower Project, Uganda
  - Bielsko Biala Municipal Project,
  - EIB’s Transparency Policy

- **Complaints on EIB compliance with Aarhus Convention on Public Participation**
  - Transport Lending Policy

- **Complaint with the Aarhus Convention Compliance Committee**
  - Vlorë Thermal Power Plant, Albania
Experiences and Challenges

- Definition of environmental information and of overriding public interest
- Multi-level governance (EU level, country specific and international bodies)
- Obligations of financiers, in terms of public consultation
- Co-financed operations (other IFIs and Bi-laterals)
- Financed operations in countries which are not signatories of the Convention