



Amnesty International comments on the European Investment Bank (EIB)
Statement of Environmental and Social Principles and Standards

June 2008

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Introduction

Amnesty International welcomes the EIB's public consultation on its Statement of Environmental and Social Principles and Standards. This review offers an important opportunity to ensure that EIB principles and standards explicitly recognise the founding principle of the European Union (EU) to respect human rights.¹ The review of the EIB Statement of Environmental and Social Principles and Standards also presents an opportunity for the EIB to demonstrate leadership in promoting a culture of respect for human rights throughout its investment and lending chain. Moreover, as the EIB plays an increasingly important role in the implementation of EU aid, its principles and operations should reflect and be fully consistent with the EU's commitment to place human rights at the core of sustainable development.²

In order to achieve this, the EIB should recognise its human rights responsibilities and take appropriate action to ensure that the projects it funds or invests in do not have a negative impact on human rights.

1. Ensure that respect for human rights is explicitly recognized in the EIB Statement of Environmental and Social Principles and Standards

Amnesty International is concerned that within the Statement of Environmental and Social Principles and Standards there is no consistent inclusion of respect for human rights as an essential criteria for EIB funding. There is only a mention of the rights protected within the EU by national or European community legislation as well as the commitment to the social principles incorporated in the Charter of Fundamental Rights of the EU (§ 21).

Amnesty International is also concerned that, for projects outside of the EU, the responsibility for complying with the EIB's environmental and social standards (which should include explicit reference to human rights) lies *solely* with the project promoter (§ 5) and the host country. While the host country has clear obligations under international human rights law, and the project promoter has responsibilities in respect of a project's impacts, the responsibilities of the

¹ « The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States» Article 6, Consolidated Treaty of the European Union.

² The « European Consensus » (document 2006/C 46/01) that defines the framework of common principles within which the EU and its Member States will each implement their development policies in a spirit of complementarity, places human rights at the core of the strategies for sustainable development. It also affirms that « The EIB is playing an increasingly important role in the implementation of Community aid, through investments in private and public enterprises in developing countries» (point 119).

EIB as funder - in terms of the impact on human rights of projects that it funds - should also be made clear within the Statement. The EIB is responsible for ensuring that it does not fund projects that would be likely to undermine human rights. Discharging this responsibility requires proactive measures by the EIB, and this should be clearly recognised within the Statement of Environmental and Social Principles and Standards.

Recommendation 1: The EIB should recognise explicitly and consistently that international and European human rights law and standards are the basis for the principles and standards of EIB policies

2. Put in place an effective due diligence system

In the context of human rights, the concept of due diligence describes the steps that must be taken to become aware of, prevent and address adverse human rights impacts.³ While the EIB has made a commitment not to fund projects that harm human beings, it does not currently have in place effective processes or systems to ensure the Bank consistently upholds this commitment in reality. The framework currently used by the Bank to assess social and environmental impacts does not include adequate human rights indicators and is not applied in a consistent manner to all projects supported by the Bank.

Amnesty International urges the EIB to put in place an effective due diligence system to ensure its funding, investment and operations do not result in human rights violations. At minimum an effective due diligence system should include robust preventive, mitigation and remedial measures, including:

- Screening of projects in respect of their likely impact on human rights, such as through human rights impact assessments;
- The application of appropriate safeguards⁴ to ensure that the human rights of individuals and communities affected by the project are respected;
- Appropriate monitoring and accountability mechanisms to ensure that projects comply with EIB policies and standards on human rights; and
- A system to deal with complaints and allegations of human rights violations and abuses that is effective, accessible to all parties that are likely to be affected by projects or investments funded by the EIB (both within and outside the EU) and which operates on the basis of international human rights principles.

Recommendation 2: Adopt and implement an effective due diligence system that includes effective preventive, mitigation and remedial measures and is consistently applied to all EIB-funded projects, regardless of location.

³ Report of the SRSG on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, April 2008.

⁴ «A due diligence exercise should ensure that adequate arrangements are in place to mitigate adverse/negative impacts, and to guarantee minimum human rights standards» (“Taking social issues into account in projects outside the EU”- EIB, July 2006).

3. Ensure transparency and meaningful consultation and participation within all EIB projects and initiatives

Amnesty International welcomes the EIB's references to transparency, consultation and participation.⁵ However, Amnesty International is concerned that the EIB leaves the responsibility for these issues with the project promoter (§ 35-39). The EIB should take proactive steps to ensure that all EIB-supported projects include meaningful, transparent and effective consultation and participation processes and that all individuals and communities that are likely to be affected have adequate and timely access to all appropriate information. This commitment should be reflected in the Statement of Environmental and Social Principles and Standards and other relevant documents and guidance of the EIB.

Recommendation 3: Ensure effective systems for transparency and meaningful and effective consultation are in place.

Conclusion

Amnesty International calls on the EIB to use the opportunity presented by the review of the Statement of Environmental and Social Principles and Standards to ensure respect for human rights is placed at the centre of EIB policies and practices. Specifically AI urges the EIB to reflect the following three critical issues in the revised Statement:

1. Explicitly and consistently recognise that International and European human rights law and standards are the basis for the principles and standards of EIB's policies.
2. Adopt and implement an effective due diligence system, which should, at minimum, include the following:
 - a) Effective processes and mechanisms, including human rights impact assessments, to ensure that the EIB does not fund or invest in projects that would have a negative impact on human rights.
 - b) The establishment of appropriate accountability mechanisms to ensure compliance with the EIB's own policies.
 - c) The establishment of an effective complaints mechanism that is accessible to all individuals and communities (both within and outside the EU) that may be affected by EIB projects or investment.
3. Ensure effective systems for transparency and meaningful and effective consultation are in place

⁵ The Statement says that the EIB promotes projects that encourage transparency, consultation, social inclusion and more equitable access to goods and services in the EU. Outside the EU, the EIB fosters the protection of the environment contributing to the achievement of the Millennium Development Goals (§ 12).