

The EIB threatens lurch towards secrecy

Policy Note on the EIB Transparency Policy - Counter Balance, July 2014

This short *policy note* is meant to brief Members of the European Parliament, representatives of European Institutions and national decision-makers about EIB proposals which would reverse the progress it has made in recent years towards transparency and turn it in to one of the world's most secretive financial institutions.

Background: Why transparency is key for the EIB

Information has been described as the 'oxygen of democracy' and is an important tool in combating corruption and central to democratic accountability. A free, two-way flow of information provides the foundation for healthy policy development, decision-making and project delivery. The right to information held by public bodies is a fundamental human right, set out in Article 19 of the United Nations Universal Declaration of Human Rights. It guarantees the right to "seek, receive and impart information and ideas" from institutions at EU as well as national level and thus applies to the EU house bank – the EIB. This is reinforced by the [Aarhus Convention](#) which has been ratified by the EU and imposes on EU institutions not just obligations of disclosure and access to environmental information, but also of "early and effective" involvement of the public in plans and programmes relating to the environment.

Yet, for decades the EIB has remained a closed and non-transparent institution, responding mainly to its clients (that is, the companies borrowing from it) and disregarding its duty of transparent and participatory decision-making and the value of information coming from stakeholders affected by or interested in its actions.

In recent years, this situation has slowly improved. In 2006 the EIB organised its first-ever public consultation on its Public Disclosure Policy, which should be considered an important step. And in February 2010, the EIB revised the policy, which became the EIB [Transparency Policy](#). As a result, the EIB now publishes information on new projects before their approval, including environmental and social assessments, with further information potentially available upon request after project approval.

In addition, the EIB created in 2013 an online register of environmental documents for all its newly adopted projects. Finally, the EIB has improved its engagement with external stakeholders including civil society organisations, for instance through consulting on its policies and signing up to voluntary initiatives such as the International Aid Transparency Initiative.

Nevertheless, there are still problems with its transparency policy and indeed our impression is that the Bank has become slower at disclosing information. We see a need to ensure better access to information by people affected by Bank-funded projects, as well as a more pro-active disclosure of documents, a narrower definition of exceptions to disclosure and a stronger, faster appeals mechanism, which is less cumbersome and time-consuming than the current complaints mechanism. However, the Bank is now proposing to move in more or less the opposite direction to these proposals.

Why engaging in this process? A damaging downgrading of EIB transparency is at stake

The EIB is reviewing its [transparency policy](#) and running a public consultation on the matter. **However, the Bank's current [draft of its new transparency policy](#) would mean a major step backwards and a dilution of the actual policy in terms of access to information and the public disclosure of information.** Instead of embracing transparency and accountability, the EIB is proposing to step back towards its old habits of secrecy.

The most worrying elements of the draft are:

- The EIB offers a restrictive vision of the implementation of the EU regulation 1049/2001, which would introduce a distinction between EIB administrative and non-administrative tasks – which is not the case within the existing policy.
- The Bank proposes to expand its existing exemptions to information disclosure and go beyond what is requested by EU legislation. As a result, EU citizens would be unable to access most of EIB internal documents, even if they are of public interest.
- There is a new presumption that all documents related to internal investigations, reports and audits are confidential and not to be disclosed, even if they concern matters of public interest.
- Apart from simplification of the text, the Bank has proposed no improvements to its existing transparency policy.
- If the draft policy enters into force as it stands, then it would send a highly worrying signal to all other International Financial Institutions (among which the EIB stands as a standard-setter along with the World Bank Group), as well as to all other EU institutions. Indeed, the EIB would become one of the least transparent financial institutions in the world.

For the time being, the EIB is unknown to most citizens of the European Union, despite the fact that its investments impact many people's lives, as well as nature and the natural resources they depend on, both inside the EU and well beyond its borders.

EU decision makers only started paying more attention to the Bank at the beginning of the financial crisis in Europe – it was seen as the financial arm of the European Union. As a consequence, in 2013 the EIB received a capital increase of 10 billion Euros from the EU member states to step up its operations within and outside the EU. Its lending in 2013 amounted to 75.1 billion Euros.

When the capital increase was adopted, the deal was that the EIB would deliver on its economic objectives and that this increased lending would also come with greater transparency and accountability to the EU citizens for which it operates.

Furthermore, the European Parliament has repeatedly called on the EIB to increase the transparency of its operations and to make more information available. The Parliament's resolution of 11 March 2014 on the EIB's Annual Report 2012 ([2013/2131\(INI\)](#)) *"calls on the EIB to increase further the transparency and accessibility of its activities, evaluations and outcomes through better access to information, both internally to EIB staff, by incorporating participation at relevant internal EIB meetings, and externally, for example on its website"*.

What can decision-makers do?

Through its official consultation process, the EIB will receive written comments on its draft policy by the 26th September 2014. The Bank will also hold a public consultation meeting in Brussels on 10th September 2014.

Active engagement by the European Parliament, European Commission and the 28 member states (as shareholders of the bank with representatives in the board of directors of the EIB) is necessary to ensure that the “EU bank” lives up to its commitment of enhanced transparency and accountability.

Above all, it is crucial to ensure that the Bank’s proposed dilutions of its transparency policy are removed and replaced with targeted improvements to the current policy. We suggest the following:

- Tightening the wording of the policy to sound legal requirements and stronger requirements for pro-active disclosure of documents and stakeholders’ engagement. Genuine public participation in decision making around policy processes should be of utmost importance for the Bank.
- As a public institution committed to transparency, the EIB may not use financial intermediaries domiciled in tax havens, “offshore” locations or “secrecy jurisdictions” and where data on the beneficial owners of the intermediaries or their investors are not made public. The EIB must implement the European Parliament resolution of 11 March 2014, which *“reiterates and accentuates the Bank’s responsibility in enhancing the level of transparency in the selection of financial intermediaries and partners for co-financed projects and as regards the final beneficiaries”*.
- Obtaining accessible, relevant and timely information from the Bank is vital. A symbolic case here is the EIB’s \$50 million loan to the [Mopani](#) copper mine in Zambia. Following allegations of tax evasion against the mine in 2011, more than 50 MEPs, in an [open letter](#) to the EIB, called for a moratorium on public financing for mining projects. The Bank announced an investigation of the tax evasion allegations against Mopani Copper Mines plc, a Zambian company which is largely owned by Glencore. Despite complaints by CSOs to the EIB complaints mechanism and the European Ombudsman, and open letters sent to the EIB President, the related report has still not been made public.
- The new External Lending Mandate of the EIB for the period 2014-2020 states that, *“where possible, project completion reports related to EIB financing operations shall be published excluding confidential information”*. The new policy should build on that requirement.
- Public disclosure requirements should be made part of binding language in all contracts, partnership agreements and legally binding documents between the EIB and its clients and partners.

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