



## Transparency and accountability challenges of EIB

Ljubljana, Hotel Lev (hall Grad), 16 October 2017

### Notes from the round table

**Leo Hoffmann Anxthelm, Transparency International EU**

Slides: <http://focus.si/wp-content/uploads/2017/09/EIB-Leo-Hoffmann.pdf>

**Robert Godina, Political Adviser for Budget Control Committee, Greens/EFA in the European Parliament**

Slides: <http://focus.si/wp-content/uploads/2017/09/EIB-Robert-Godina.pdf>

**Andrej Kavčič, Ministry of Finance RS**

Disclaimer: Representative of MF of RS and alternate director for Slovenia at the EIB Board of Directors; as alternate director for Slovenia independent of the government, accountable to the bank

Governance structure of the EIB

- EIB is a particular IFI: financial organisation; being an EU institution is the only IFI to be subject to the court of justice (the European Court of Justice)
- Bank generally governed by two sets of legal documentation: Treaties of the EU and EIB statutes + Rules of procedure
- Main statutory bodies: Board of governors, Board of directors, Management Committee
- BoG: makes broad guidance for policies, regional focus, increase of capital, approves the annual accounts ..., they also appoint Board of Directors
- BoD: makes sure that the Bank is properly run and managed in accordance with the provisions of the Treaties and Statute, that the directions of governors are materialized in policies, operations, etc.
- MC is accountable for day-to-day operations, report to BoD, prepare projects and policies, ...

Accountability and integrity mechanisms

- Audit committee: takes care that day to day business is run in appropriate manner in line with all the legal documents of the bank
- Ethics and compliance committee: oversees the behaviour of BoD members and MC and rules on any potential conflict of interest, there is a set of rules - code of conduct, they monitor if BoD and MC members act in line with the code of conduct; they react if there is misbehaviour of BoD and MC
- Compliance directorate: responsible to identify the risks of the EIB business, checks compliance with the laws, scrutinises all projects in terms of corruption and regulatory sanctions, conflict of interests and good practice. Every project checked and flagged to BoD what risks the project bears (grades: low, medium, high); can recommend to withdraw from the project if risks too high. Working on presumption that nobody is guilty until legally proved;
- Inspectorate general: headed by the Inspector General who is independent and has direct access to the president of the bank and BoD; roles: a) evaluation (usually ex-post) of projects – learning from experience to improve policies and business; b) fraud investigation – close cooperation with OLAF and c) complaints mechanism – parties who feel hurt by a project of EIB can file a

complaint that is investigated, if possible helps in mitigation; corrective measures are taken if needed

- In conducting its projects the bank has to respect all EU policies, be it in the tax field, energy, environment, etc.

Slovenia's cooperation with the EIB:

Direct participation:

- a) high level – governors for the country at the bank (usually ministers of finance): annual meetings are the main fora for participation; can state opinions, expectations, positions, make guidance...; voting;
- b) working level – for every project that takes place in Slovenia, the government on behalf of Slovenia as a shareholder issues an opinion whether it agrees that EIB finances such a project (a No-objection process) before a project can be presented to the Board of Directors; positions of Slovenia regarding various issues requested by the bank (mandates, participation in donor trust funds, certain policies,...).

Indirect participation:

- Through the EU institutions, such as the European Commission – participation through expertise, departments... participation through the co-decision or consensus with other MSs;
- Examples of indirect participation: Extension of Juncker plan, ELM, European resilience initiative (addressing development of EU neighbourhood countries and support to source countries for migration);
- In BoD Slovenia also acts indirectly: even though alternate director is independent of the government and does not follow directions from the government, as a person nominated by the government usually shares several (though not necessarily entirely or all) views with its government and thereby indirectly also supports his country's cooperation with the bank.

**Xavier Sol, Counter Balance**

Slides: <http://focus.si/wp-content/uploads/2017/09/EIB-Xavier-Sol.pdf>

**Recommendations from the debate:**

- Complaints mechanism accepts only project related complaints, but complaints related to policies or administration are not considered – this should be changed so that the mechanism would also deal with policy or administration complaints
- in lending outside of Europe not enough impact assessment is done on project level; at project level EIB is bound to HR rules, so each project should be in line with this; also when lending outside of Europe, impact assessment must be strengthened on project level
- Non-resident function of BoD: if the directors would show strong control on the management committee, the non-residence would not be an issue
- It is needed to increase EU level accountability – EIB should start to address recommendations of the EP to make the first step to EU level accountability; EIB should also explain why they implemented or not implemented some of the recommendations
- Internal checks and balances control functions should be stronger, independent and efficient
- External monitoring should be strengthened – for most of operations the EP cannot say anything, so this scrutiny should be increased
- General public is not aware of EIB, but also national governments and public officials have low level of knowledge of EIB – both public and decision-makers need better awareness of EIB; electorate should demand more transparency and more efficient spending of sources – not only financial sources, but also social and environmental ones
- Balance of EU operations and ELM: EIB does not have a major say in the External Lending Mandate and here the MSs must ensure efficient spending of funds
- Paying attention to human rights and environmental aspects could lead to more just economic models; this is why the capacity of the EIB needs to be increased in the interdisciplinary assessment, also with view of more just economic effects
- Political culture and awareness of the public should be improved: if this does not support stronger transparency or accountability, it is hard to get through; citizens need to demand from their governments what standards they want to see

- The bank should have all the tools to ensure that domestic resource mobilisation is done to full extent. We don't need to change policies, it is more of a cultural obstacle – that is why we need to democratize the institutions.
- The size of projects financed by EIB is an issue: usually the tendency was to finance large projects, but we might have more positive impacts from smaller projects, so we need to push for more small projects, not only through intermediaries, but also directly – the bank needs more resources to manage such small projects.
- Cooperative banks could be a way to support small projects
- The EC has discretion in the field and did block investments in case of tax flight; however, the proposal to move from unanimity to quantitative majority on tax issues could be a solution to the tax justice issues; EIB does have discretion on tax justice, but they are hesitant to be at the front of this debate because much of the process of tax avoidance is protected by the treaties (free capital flows,...) and designing more ambitious tax justice policies could collide with the treaties
- More power could be given to compliance officer at EIB to strengthen its role
- The bank has a good practice of inviting NGOs for a meeting with Directors during the annual meeting. This form of dialogue could be extended or different form could be used, for example a more open discussion...
- For projects, there needs to be public consultation on the ground, but as these consultations are organised by the project developer, they tend to be a 'tick the box' sort of meaningless meetings; EIB has leverage to demand better ground consultations, so this should be done.
- In principle the decision-making at EIB demands a consensus and if one country has serious doubts, the process will not go on until everyone is agreeing. Hence members have good leverage and more involvement could happen. There is also a cost related to that and having the resources for more involvement is complicated. More officials dealing with the banks could make Slovenia more vocal.