

MAKING HUMAN RIGHTS A TRUE PRIORITY OF THE EIB

INTEGRATING THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE FUTURE EIB ENVIRONMENTAL AND SOCIAL SUSTAINABILITY FRAMEWORK

NGOs and local communities have sounded the alarm for years on the need for the EIB to prioritise the promotion and protection of Human Rights in all its operations. Too often, the EIB has been financing projects that have contributed to human rights abuses and has dismissed the voices and concerns of impacted people, like in recent cases in [Nepal](#), [Georgia](#) and [Kenya](#).

Although we welcome the recent establishment of a more open dialogue between the EIB and civil society organisations on these issues, the draft Environmental and Social Policy and related standards proposed by the EIB fail to take on board the concerns and demands that have been voiced by civil society organisations.

The draft Policy does not include sufficient provisions to prevent EIB projects from having detrimental impacts on human rights. The frequent use of the term “values” across the draft documents already illustrates that failure and should be seen as an alarm bell: respect for human rights should be a legal commitment, not only a value. The EIB’s “human rights-responsive approach” and related language in the drafts do little to ensure that the EIB clients will respect and promote human rights, and that they would be held accountable if they fail to do so. A policy cannot be “human rights-responsive” if it does not commit the EIB to conduct Human Rights Due Diligence (HRDD) and take appropriate steps to prevent harm from being done.

Our recommendations to truly integrate a human rights based approach into the EIB’s operations as part of the review of its Environmental and Social Sustainability Framework (ESSF) are the following:

1 DEVELOP A SOLID THREE PILLAR HUMAN RIGHTS FRAMEWORK BASED ON THE FOLLOWING ELEMENTS:

➤ **A strong Environmental, Social and Human Rights Policy** describing how the EIB will safeguard and promote human rights. The Policy needs to clearly state the EIB's role in identifying, preventing and mitigating human rights risks and impacts through its project appraisal (due diligence) and the promoters' role and responsibilities. The Policy should state that the EIB will undertake robust human rights due diligence (HRDD) at project level and require Human Rights Impact Assessment (HRIA) from the promoters for all projects where Human Rights Risks have been identified by the Bank. Specific clauses on the protection and the participation of human rights defenders need to be included in the Policy. Finally the Policy should commit the EIB to develop a Human Rights Strategy and a related action plan.

➤ **A new Human Rights Strategy.** This overarching strategy should include:

- integrate specific policies on Human Rights Defenders and develop a qualitative zero tolerance policy against reprisals;
- explain how human rights specific risks and impacts are considered, prevented and mitigated at all stages of the project-cycle;
- describe how the Bank will promote a human rights-based approach among its stakeholders, clients and counterparts;
- pay particular attention to access to information, participation and access to remedies including guarantees of non repetition;
- require the implementation and publication of ex-post assessments of the human rights impacts of the Bank's operations and activities;
- foresee extra staff resources and expertise on Human Rights. Local expertise must be taken into consideration, as it is not always possible for foreign expertise to understand the specificities of a particular context, and the Bank should develop secure means for reaching out to such expertise.

➤ **A sound system of Human Rights Due Diligence (HRDD) at project level all throughout the project cycle, based on:**

- **Human rights risk screening and Human Rights Risk Assessment (HRRA)** to be conducted by the EIB at the pre-appraisal stage, informing the public and ensuring the participation of civil society;
- **A participatory and gender-sensitive Human Rights Impact Assessment (HRIA)** required from the promoter when any human rights risks related to the projects are identified and/or when an Environmental and Social Impact Assessment (ESIA) is taking place on a given operation. This risk assessment should be conducted in tandem with the ESIA, and should detail the HRDD strategy and the measures set up in order to cease, prevent or mitigate potential or actual adverse impacts on human rights;
- Monitoring and reporting procedures;
- Effective access to remedy.

The whole due diligence process, including the HRIA and the methodology used, should be systematically made public in advance of the project approval, in line with the common practice of other Multilateral Development Banks (MDBs). The results of such due diligence should be an essential part of the EIB Environmental and Social Data Sheets.

In addition, this system requires continuous monitoring of the situation on the ground in order to ensure that projects respect the core principles and norms that must shape the EU's external action, and do not directly or indirectly contribute to human rights violations.

2 ENHANCE STAKEHOLDER ENGAGEMENT & PUBLIC PARTICIPATION

- The EIB Policy and Standards must ensure that **local communities and people affected and/or potentially affected by its operations are fully informed and meaningfully consulted prior to the project's appraisal**. Their contributions should be disclosed on the projects' documents (while ensuring anonymity of their information if required). Standard 2 on Stakeholder Engagement should include provisions requiring the promoter, together with the EIB, to reach out and identify stakeholders and ensure that local civil society is involved in the process.
- The EIB must also ensure that affected people have access to an **open, responsive, effective and independent complaints mechanism**, including the right to effective redress, in alignment with the complaints' concerns. This includes: an independent project grievance mechanism (which should be co-designed by stakeholders in their own accessible language and format, including illiterate people and people with disabilities, and should be inclusive and safe), a reinforced EIB Complaints Mechanism and access to the European Ombudsman.
- The right to free, prior and informed consent (FPIC) should be systematically implemented in a transparent manner and documented publicly. For affected non-indigenous communities in cases of land and natural resource-based investments, the EIB standards should at a minimum refer to the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT).
- The EIB should review and reinforce its criteria for assessing the applicability of its **indigenous people's standard**. The basis for deciding whether to apply the standard should be made publicly available so that self-identifying indigenous communities can understand (and if necessary, dispute) how they are characterized by the EIB's clients. The Bank should bear in mind that according to ILO Convention 169, self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.

3 PROTECT HUMAN RIGHTS DEFENDERS

- The Policy lacks a **clear anti-reprisals statement**. We suggest inserting the following: *"The EIB has zero tolerance for reprisals, intimidation, threats, harassment, violence or any other abuse of the rights of individuals and in particular of human rights defenders and environmental activists"*.
- The EIB should develop **specific policies on HRDs and protocols to prevent and respond to risks of reprisals**. The Bank's project-level human rights due diligence should include (1) contextual risk assessments to identify reprisal risks for defenders and (2) mitigation measures to address and diminish the risks identified. This should involve consultation with HRDs during the Bank's Human Rights Risk Assessment.

- These policies and protocols should outline how the EIB will respond to threats or attacks carried out in reprisals in a timely and effective manner. The EIB should also put in place measures to ensure proper consultation with the defender/s at risk, to prevent future attacks, and ensure the accountability of those at fault. The EIB Exclusion Policy should incorporate provisions for potential sanctions, including the withholding of disbursement or cancellation of contracts, and disqualification of parties identified as responsible for the reprisals from entering into a contractual relationship with the EIB in the future.
- Contrary to what the Explanatory Note's section on human rights indicates, "*developing a grievance mechanism*" is not a sufficient means of fulfilling the right to effective remedy and fair trial. When the entities carrying out a reprisal are police authorities or security bodies with judicial complicity, and when the reprisal involves enforced disappearance, arbitrary detention, unfair trial and more, the EIB needs to commit to take this up with the national authorities.

SUMMARY OF KEY RECOMMENDATIONS

- 1** The Environmental, Social and Human Rights Policy should commit the EIB to develop a Human Rights Strategy and action plan, as it already did for Gender;
- 2** The Policy should describe how the EIB will conduct Human Rights Due Diligence (HRDD), and require a Human Rights Impact Assessment (HRIA) at project level for all projects where human rights risks have been identified by the Bank;
- 3** Enhancing stakeholder engagement and public participation;
- 4** The Policy should include a strong statement against reprisals and commit the EIB to develop specific policies and protocols on Human Rights Defenders (HRDs) to ensure their full information and participation, prevent and respond to risks of reprisals;
- 5** The EIB needs to have more human rights experts on staff and reinforce its presence in its countries of operation. The EIB should also secure the financial means to access external expertise (including local expertise).

SIGNATORIES



Accountability
Counsel



Arab Watch Coalition



Association Talassem-
tane pour l'environne-
ment développement
(ATED)



جمعية التونسية للحكومة الم
Association Tunisienne
de Gouvernance Locale



Balkani Wildlife Society



Both ENDS



Cairo Institute for
Human Rights Studies
(CIHRS)



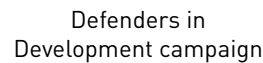
CEE Bankwatch Network



The center for Protection
of the Natural Ecosys-
tems in Albania



Counter Balance

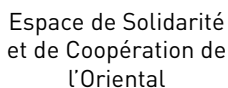


Defenders in
Development campaign



European network on
debt and development

Eurodad



Espace de Solidarité
et de Coopération de
l'Oriental



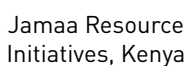
FIDH (International
Federation for Human
rights)



Focus



Gender Action



Jamaa Resource
Initiatives, Kenya



Phenix Center for
Economic Studies-
Jordan



Polish Green Network



Recommon



Recourse



Rivers without
Boundaries International
Coalition (RwB)



Urgewald

Yemeni Observatory for
Human Rights