

**Joint CSO Submission**  
**A Gender comment on the newly proposed**  
**EIB E&S Framework**  
**August 2021**

Gender equality and equity is a matter of human rights and, as an EU Body, the EIB Group abides by the Charter of Fundamental Rights. In order to effectively respond to the fact that gender relations, roles and responsibilities heavily influence women's and men's access to and control over decisions, assets and resources, information, and knowledge, the Environmental and Social Policy of the EIB has to recognize this through a proper policy statement and an indication of the existence of the operationalized and adjusted safeguards.

**EIB Environmental and Social Framework, Gender strategy and Gender Action Plan**

In the following section we try to assess whether the newly proposed Environmental and Social policy and standards of the Bank are fit for purpose and lead to a meaningful implementation of the EIB gender action plan.

For the policy to be instrumental in achieving the objectives of the Gender strategy, and in line with the Gender Action Plan the EIB Group :

- the due diligence framework has to be fit for purpose and thereby able to assess, prevent and mitigate potential impacts and risks to girls and women of EIB-Group investments and to protect their rights.
- The effectiveness to date of EIB's (existing) social due diligence framework in identifying and mitigating gender specific risks through its application of the existing EIB standards should be assessed. .
- The EIB Environmental and Social Standards has to be updated to ensure that due attention to gender specific impacts, risks and related mitigation strategies is integrated in each standard.
- The EIB Group would be required to support clients and promoters to identify gender specific risks in the application of the Group's standards and devise tailored remedial measures for women and/or men as needed.

The EIB should not limit itself to a binary system in its definition of gender, and include other identity characteristics to address some of the relevant intersectionalities (e.g. age, rural-urban, literacy, race and ethnicity).

According to the EIB's own Gender action plan (in theory) the EIB's well-established and robust due diligence framework lends itself well to the integration of gender aspects. The action plan states:

“The EIB Environmental and Social Standards ensure that due attention to gender specific impacts, risks and related mitigation strategies is integrated in each standard, so that the EIB Group due diligence framework is fit for purpose and thereby able to assess, prevent and mitigate potential impacts and risks to girls and women of EIB-Group investments and to protect their rights.”

In line with the plan the policy would need to establish/include the following provision:

- the gender action plan acknowledges that for the effectiveness of the strategy, its implementation would need a system in place for ongoing sex disaggregated data collection, results measurement and monitoring, as appropriate. Also the EIB should be able to provide sex disaggregated data on final beneficiaries and on employment created and sustained.

To ensure that attention is indeed paid to gender impact and related strategies are integrated into each standard, we would strongly recommend the EIB to make a gender impact assessment (GIA) of the policy under review. So far a gender impact assessment seems lacking. A gender impact assessment would take into account priorities such as the strengths and weaknesses of the implementation of the current policy, involvement of women and the consideration of gender issues in consultations and decision-making, and impact and risk assessment of the policy on the target group (and we add here transgender women, non-binary, gender non-conforming – in all of their diversity). The central question of all GIA's is "does the policy reduce, maintain or increase gender inequalities between men and women?".

The assessment needs to specifically address the needs and problems of all genders. The Bank so far has not addressed the problems the LGBT, non-binary, gender non-conforming, or queer groups' experience in the countries in which they operate. EIB has no system that would ensure:

1. inclusion of non-binary stakeholders in decision making, especially in countries where there is still problematic implementation and/or problematic execution of anti-discrimination legislation.
2. Inclusiveness requires consultation, needs and specific impact studies from the promoter and later a closer look at those issues during the due diligence processes and
3. The policy should specifically address protection of non-binary and gender non-conforming people's rights during the project's implementation, including assessing the client's ability to do so, and record the performance of the client with regard to the inclusion of non-binary people.

**Section by Section comments**, standard by standard integration of gender dimensions.

It should be stressed that the Gender Action plan (2018) prioritizes the protection pillar, underlining that "Through compliance with its Social and Environmental Standards, the EIB ensures a human rights-responsive due diligence framework is applied to its operations," thereby able to assess, prevent and mitigate potential impacts and risks to girls and women of EIB Group investments and to protect their rights.

This said, a lot of improvements can clearly be made in the integration of gender aspects in policy and standards, in order to prevent violation of the rights of women and girls during project implementation, and tools (widely used by other organisations) and or commitments for their development should be included (inclusive consultations, Gender assessments and analyses, gender impact assessment, Legal Assessment Tool (LAT) for gender-equitable land tenure, gender responsive tools for prevention of violence and etc.)>

## **The Policy**

*Preamble, vision, group contribution (key areas)*

- it is recommended to refer explicitly to the principle of gender equality and the policies to support it in the Lisbon Treaty, as well in international Treaties, a.o. the United Nations Convention Against all forms of Discrimination Against Women (CEDAW) and other

existing Conventions against the violence against women (e.g. the Istanbul convention). The Lisbon treaty emphasises the importance of eliminating all types of discrimination, including those based on the role of sex, **sexual orientation and gender identity** (*our emphasis*).

- It is recommended to mention gender equity in the preamble to the policy. Our suggestion is to add gender equity in par. 1.2 of the Vision as an EIB principle. A reason to do so is that this contributes to the fair visualisation of gender throughout the document.
- The Policy lacks a section that determines the objectives of the policy. The EIB might include gender equality explicitly as one of the objectives of the policy. This to set a starting point and encourage the commitment of all stakeholders involved.
- Fostering gender equality and women's economic development is one of the ten key areas for action to build sustainable and inclusive development around (in section 2 the group's contribution, par 2.10 and 2.11). The Group recognizes the stark reality of inequality between men and women and it is the Group's aspiration to enable access to benefits and opportunities to support the economic empowerment of women. This gender-related aspirational statement also could elaborate on the impact of the bank's own operations on gender equity. The EIB Group Gender Strategy from 2017 states three strategic objectives: to protect, to impact and to invest. Our suggestion is to add a sentence as follows: "Gender-inequalities are taken in consideration to avoid unintended impacts of EIB operations and ensure that the outcomes support gender equality.
- The paragraphs 2.10, 2.11 should be changed as follows: *"The Group recognises that inequality between women and men remains a stark reality. Whilst gender inequality can affect all people, the Group acknowledges that women and girls are disproportionately more exposed to economic and/or social inequality, including gender-based discrimination, risks and violence, whilst acknowledging the relevance of other socio-economic characteristics that may accentuate such risks. The Group therefore prevents gender-based violence and harassment, **has** zero tolerance of any form of abuse and provides for safe and trusted environments in its activities. The Group also promotes gender equality and ~~seeks to enable~~ equal access, regardless of gender, to the benefits, services and employment opportunities generated by its operations and supports the economic empowerment of women. **The Group' decisions on the allocation of funds, operations and overall impact enhance gender equality and minimize gender gaps. Finally, the Group exercises gender equality within its governing structure and day-to-day work."***
- Gender differentiated impacts should be further differentiated according to different economic sectors. E.g. the extent to which women (and non-binary and gender non-conforming) are either benefiting/ active or negatively affected in agriculture, with women being the main protagonists in local food production and particularly negatively affected by large scale land investments and commercial agriculture, etc..

### *Policy implementing frameworks*

The proposed draft of the Policy does not declare protection but only strives for it. It also does not ensure positive effects/impacts, as it declares aiming for women empowerment on the occasion of its operations, which is not accompanied by an explicit allocation of funds to operations that will enhance gender equality and minimize gender gaps.

According to the GAP, under the Protect pillar, the EIB Group should ensure that its due diligence framework is fit for purpose and thereby able to assess, prevent and mitigate potential impacts and risks to girls and women of EIB Group investments and to protect their rights; the EIB Group

staff are equipped with the necessary capacity, guidance and tools for delivering gender responsive due diligence of EIB Group investments; and the EIB's clients and promoters are able to identify gender specific risks in the application of the Group's standards and devise tailored remedial measures for women and/or men/non-binary as needed.

Therefore:

- implementation would need a system in place for ongoing sex disaggregated data collection, results measurement and monitoring, as appropriate. Also the EIB should be able to provide sex disaggregated data on final beneficiaries and on employment created and sustained.
- The EIB should introduce gender budgeting and gender impact assessment as a required method for mainstreaming gender in its policy and operations. The European Council Conclusions on the 'review of the implementation by the Member States and the EU institutions of the Beijing Platform for Action: Indicators in respect of Institutional Mechanisms' already in 2006 urged to improve and strengthen the development and regular use of mainstreaming methods, particularly gender budgeting and gender impact assessment (GIA), when drafting policies, programmes and projects.
- Progress is required in developing rigorous ex-ante estimations to guide project design and measurement approaches in relation to gender equality outcomes and impacts of the EIB supported infrastructure projects. On the one hand, such analysis should try to comprehend the present situation for the groups concerned and understand how this situation could evolve without public intervention. On the other hand, the analysis should measure, as much as possible, how the planned intervention is expected to change the existing situation.

#### *Roles and responsibilities*

- According to us, one of the minimum due diligence requirements related to gender issues would be the tracing of a client's track record of implementing human rights obligations and of its implementation of social and environmental standards in previous projects. The draft policy, currently available for consultation, states that EIB shall not, *to the best of its knowledge*, finance projects that do not comply with national legal requirements and obligations under relevant international treaties (par 4.4). 'To the best of its knowledge' for us implies a pro-active role to be taken by the bank. The Bank would have to carry out a systematic routine check of a client's track record of implementing human rights obligations prior to beginning appraisal. The CEDAW reporting process and Reports of the UN Special rapporteur on violence against women, and of other rapporteurs, as well reporting of women -and human rights organizations can be used as sources to inform the due diligence process.
- An ex-ante contextual risk assessment can minimize the risk that implementation of the standards is not adversely affected by discriminatory national laws (anti-lgbti or anti-women rights, racist laws).
- Involve independent experts on gender and religious fundamentalism for gender and social analysis as appropriate.
- Promoters and finance partners should be required to provide gender documentation prior to appraisal. The EIB is recommended by us to follow the example of good practice given by the climate finance mechanism of the Green Climate Fund in this respect. GCF demands accredited entities to provide an initial gender and social assessment: "Accredited Entities are requested to submit a gender and social inclusion action plan at

the project preparation stage—the plan should indicate the gender-responsive activities the project will undertake; provide relevant gender-performance indicators; sex-disaggregated targets; timelines; responsibility lines; and a budget against each proposed activity”.

*EIB’s environmental and social standards, due diligence, monitoring.*

- “Gender and human rights are addressed across multiple standards, and the EIB pursues an integrated human rights responsive due-diligence process whereby impacts and risks are screened and assessed against its E&S standards, which in turn are grounded in human rights principles” (par 4.11). The question is whether ‘E&S standards, grounded in human rights principles’, secure the inclusion of all civil-political rights in the policy. It is strongly recommended to include reference to international human rights treaties (CEDAW, CDESCR, ILO core labor standards), which argue for universality of rights, considering civil-political rights and socio-economic rights equally important.

*Appraisal*

- Women should be directly engaged in the appraisal, and therefore the EIB needs to adopt gender sensitive participatory approaches. Also think of having women consultants, gender experts etc on board, and ensuring any consultation (and appraisal) process takes into account the needs and realities of women, including their time availability (considering unpaid care work and other roles), language, access to information and other key conditions for them to be able to meaningfully participate.
- Par 4.12 states that the EIB shall undertake an environmental, climate and social appraisal of projects to support the decision of financing and the way in which impacts should be managed and **(ii) the positive effects are emphasized**. As long as displacement and environmental damage is accepted as collateral damage of projects, the positive effects of projects are debatable. It remains an enormous challenge to conceive resettlement and livelihood improvement as positive effects, and turning resettlement impact into an opportunity for development. This challenge will certainly fail as long as the process of appraisal lacks a set of methods for scrutinizing the economic and financial feasibility to achieve the objective of livelihood improvement of project affected persons, as well as mechanisms of benefit-sharing as a source of financing.
- Par 4.13 stipulates that sub-projects/underlying investments are not always known at the time of the EIB’s decision to invest. “Therefore the EIB assesses impacts and risks inherent to a particular sector and the context of the business activity.” However, an informed project approval of the Board requires inputs from the communities involved. After disbursements, most leverage to assure that projects meet requirements is lost.
- What we do know in advance is that particular sectors pose a high health risk for women (e.g. exposure to toxic chemicals, mining of metals and minerals, etc).
- The indicators that can be tracked and reported against will have to be legal conditions for approving high risk cases .
- Socio-economic discrimination based on gender limits women’s capacity to exercise their rights and abilities to utilize resources in their own right. Against this backdrop, an important appraisal question to address prior to decision making is: what are the resources allocated in budgets for gender-responsive activities and improving affected women’s livelihoods, above their pre-project level?

## **Standard 1 Environmental Social Impact and Risk**

Gender equality/equity and mainstreaming should be fundamental for each EIB project. A gender analysis should be conducted for each project. For ESIA of category A projects (and also B projects with significant social impacts) the gender impact assessment should be mandatory ; The gender inequality/equity risks and impacts should be assessed. Gender Assessment should address both economic gender risks in relation to livelihood, land rights, economic discrimination and/or empowerment, education, as well as gender based violence and harassment. The assessment should give a description of the gender equality situation in the region, country or project area; as well as assess the gender issues and impacts that are specific for the proposed project; and assess the potential risks and opportunities for women and men. Gender equality and mainstreaming should be responded to through gender responsive activities plans.

- High risk projects require independent experts with site specific expertise, not affiliated with the project, to carry out impact assessments, and require independent third party monitoring. Third party monitoring is consistent with the IFC's requirement that the client obtains qualified external experts to validate its monitoring information with "diverse, irreversible or unprecedented impacts" (IFC Performance standards 1, p6).
- Gender-specific risks are mentioned as a factor to be used when determining the need for an ESIA, but there is no explanation on how they are measured (methodology of the gender risk assessment). The ESIA and specifically gender data should be collected through extensive consultation with relevant gender groups, as well as local women.
- Gender differentiated impacts should be further differentiated according to different economic sectors. E.g. the extent to which women (and non-binary) are either benefiting/ active or negatively affected in agriculture, with women being the main protagonists in local food production and particularly negatively affected by large scale land investments and commercial agriculture, etc.
- It is imperative that the impact assessment process includes an assessment of the climate impact on the most vulnerable in a society, including women, and disaggregate data by gender, ethnicity, generation, wealth, food and water security, accessibility to finance, age and other identity markers that might affect people's equal opportunities.

## **Standard 2 Stakeholder engagement**

- inclusive stakeholder engagement should be the major criteria for the project stakeholder participation. The stakeholder engagement plan should clearly describe the rationale of stakeholder groups' involvement, as well as how the project proponent engages the involvement of marginalized and vulnerable groups, including women. The Bank should assess the project proponent's efforts to reach marginalized groups, including women, especially in countries with high gender inequality and violence practices.
- "The mechanism shall also be gender- and age-inclusive and responsive, and address potential access barriers to men and women, young persons and the elderly, illiterate persons, or otherwise vulnerable, marginalised and discriminated-against groups, as appropriate. It should guarantee the privacy of individuals and include the anonymity option."
- There are no tailored tools or procedures indicated, which would ensure gender-sensitive meaningful consultation, especially in the projects outside the EU. The ESIA and specifically gender data should be collected through extensive consultation with relevant gender groups, as well as local women.

#### **Standard 4 Biodiversity and Ecosystems**

A major, overarching issue with Standard 4 is that it seems not to really take on board the interrelationships between biodiversity and vulnerable social groups, particularly women and indigenous peoples. One of the most effective ways to safeguard biodiversity is to empower its traditional stewards to oversee its protections and manage its impacts. Poor rural households and vulnerable and indigenous communities who depend on ecosystem services for their livelihoods and well-being are mentioned at the beginning of this standard and women are mentioned under ecosystem services assessments, but all in a rather general way. This suggests that the EIB has not internalized the fact that bypassing indigenous rights jeopardizes biodiversity goals. Likewise, worldwide, the population group that interacts most with biodiversity -- gathering water and medicinal plants, rotating crops, conducting foraging -- is women. That there is hardly any exploration of the gender dimensions of biodiversity conservation is a major gap in the standard as written.

#### **Standard 5 Climate Change**

- Women, particularly those depending on natural resources, experience climate crisis related problems as directly undermining the basis of their daily lives. Severe climate change has consequences for human rights, including the right to life. As such, under the European convention on human rights, the EIB has a duty to phase out carbon emissions related investments.
- The assessment of any social aspect would have to be fully embedded in any climate impact assessment and should include consideration of potential human rights risks.
- The definition of vulnerability is too narrow. Developing countries in the Global South often face climate shocks and impacts that further exacerbate their vulnerabilities to climate impacts, and so can derail project implementation and sustainability, or affect the future economic status/ rating of a country due to climate impacts. As such, risk is too narrow a metric to use for determining vulnerability.
- IFC Performance standard 4 (Community health, safety and security) points out that “communities that are already subjected to impacts from climate change may also experience an acceleration and or intensification of impacts due to project activities”, and draws attention to the need to “identify those risks and potential impacts on priority ecosystem services that may be exacerbated by climate change”.
- The Green Climate Fund provides guidance to Accredited Entities submitting funding proposals on the type of gender documentation required during the project planning, preparation and development stage.

“This entails an initial gender and social assessment that must be included with the funding proposal. .. Accredited Entities are also requested to submit a gender and social inclusion action plan at the project preparation stage—the plan should indicate the gender-responsive activities the project will undertake; provide relevant gender-performance indicators; sex-disaggregated targets; timelines; responsibility lines; and a budget against each proposed activity.”

#### **Standard 6 Involuntary Resettlement & Standard 7 Vulnerable groups and Indigenous peoples**

See this recommendation from “Resource Equity” on Gender (especially in relation to land):

- A project that changes access to natural resources in fragile ecosystems has unanticipated impacts on local women who use those resources for income or domestic purposes, if the appropriate social and environmental safeguards are not in place.
- As women are impacted differently by resettlement, censuses should disaggregate data by gender to inform the planning process so that women's interests and voices can be heard.
- Throughout the EIB Standards, rather than using the single term "household" or the single term "community," "including both women and men" should be added. Although men and women work together in households and communities, their needs, skills, social norms, and legal restrictions can be very different in relation to land, and due diligence mandates that they be assessed separately. A requirement to give attention to gender differences from start to finish of the due diligence process should be required. The use of the definition of "project-affected persons" (PAP) should be expanded to apply to all Standards that mention or include land. Women's productive as well as reproductive roles should be considered when assessing the impact of a project. Monitoring of differences in outcomes by sex should be included through contractual arrangements with the promoter.
- Best practices on community engagement, land governance and upholding the right to Free Prior and Informed Consent (FPIC) are particularly relevant from a gender and women's rights perspective. In that regard, the Bank should align with guidelines such as the Voluntary Guidelines on Land Tenure (VGGT) and best practices recommended in [the Food and Agriculture Organisation of the UN's \(FAO\) FPIC Manual for Project Practitioners](#) and by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). This also implies specifically recognising rural women's right to FPIC before projects are carried out on their land. The gap analysis and recommendations from Resource Equity (2019) on systematically considering land, related gender issues and the VGGT in due diligence processes (see the report for development finance institutions that do better in this regard) need to be taken on board.

#### **Standard 9** Occupational and public health, safety and security

- All contracts should include compulsory clauses to suspend support in case of gender based violence.
- Any preventative use of force by security personnel in EIB-supported projects cannot be tolerated.
- The World Bank has tools and processes to prevent and mitigate the risks of sexual exploitation and abuse (SEA), as well as other forms of gender-based violence (GBV), in World Bank-supported infrastructure. This is captured in the 'Good Practice Note, Addressing Gender Based Violence in Investment Project Financing involving Major Civil Works'.
- Establish a culturally appropriate and gender inclusive grievance mechanism.
- Take into consideration provisions explicitly dealing with the health status of migrant workforces, health problems among migrant workers, including infectious diseases and unwanted pregnancies.
- Take into consideration provisions explicitly dealing with the relation between growing mobility and sexually transmitted diseases.
- Take into consideration correlations between exposure to pollution and women's health risks.



List of signatories:

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