

Joint Civil Society Organisations' letter to the EIB Board of Directors on the draft Environmental and Social Sustainability Framework - Call to Action

25 January 2022

Dear EIB Directors,

We would like to share with you our priorities for improving the recently published draft of the EIB's Environmental and Social Sustainability Framework (ESSF), which is expected to be discussed by the Board on 2nd February.

It is of utmost importance for the EIB to adopt a stronger set of policies and standards guiding its future operations, especially at a time when the EIB is creating a development branch and undergoing a transformation into the "EU Climate Bank".

The current draft ESSF fails to uphold sufficient improvements to prevent harm in the following key areas:

- protection and promotion of human rights;
- transparency and environmental due diligence of financial intermediaries' investments; and
- keeping particularly vulnerable ecosystems off-limits for investments and ensuring appropriate assessments of project impacts on protected and internationally recognised areas beyond the EU, EFTA and enlargement countries.

A major overhaul of the draft ESSF is necessary for the Bank to uphold its commitment to support the sustainable development of the countries where it operates, particularly outside of the EU.

If the ESSF is adopted in its current form, it would fail to make the EIB a responsible lender and to strengthen its development impact. Importantly, the ESSF review must not miss the opportunity to keep up with the expected legislation on the EU mandatory human rights and environmental due diligence framework. It is not acceptable to take another 8 years for the EIB to align its ESSF with the currently discussed EU human rights due diligence legislation.

Below are listed key areas for improvement which could lead the EIB to truly deliver on its environmental and social commitments. In your capacity as Directors and representatives of the bank's shareholders, we urge you to integrate these proposals into the draft Policy and relevant Standards, before approving the ESSF.

1. In order to operationalise the EIB's commitment to respect human rights, the EIB Policy should put in place a clear system of human rights due diligence. A concrete proposal is for the EIB to require a stand-alone Human Rights Impact Assessment (HRIA) in cases where high human rights risks are identified or in case a project is likely to have human rights impacts.

The possibility of requiring these HRIAs from project promoters is mentioned nowhere in the ESSF. At pre-appraisal and appraisal stage, the EIB should also carry out a contextual risk analysis (Human Rights Risk Assessment) in order to determine the risk categorisation of a project and the need to trigger the above-mentioned HRIA. Alongside enshrining the concept of HRIA into the Environmental and Social Policy, a requirement for promoters to conduct Human Rights Impact Assessments (HRIAs) should be added to Standard 1. The scope of such assessments should be described in Standard 1. ***[See below the logo further Explanation on HRIAs]***

2. In addition, the EIB needs to commit to develop a specific Human Rights Strategy - The bank suggests in its public consultations feedback that it intends to develop “a human rights position statement”, however it is not clear what status this document will have. It is very likely that a non-binding position paper will not suffice to ensure the necessary strategic objectives are met and best practice is followed to prevent and mitigate human rights risks. We urge the Bank to develop a fully-fledged [Human Rights Strategy](#) to complement its Gender Strategy and Climate Strategy within its ESSF, and reflect the Bank’s recognition that upholding human rights is as important as addressing gender inequalities and climate challenges;

3. Standard 4 on biodiversity and ecosystems needs to be aligned with the EU Birds and Habitats Directive by requiring appropriate assessments for projects outside of the EU, Candidate and Potential Candidate countries which may impact legally protected and internationally recognised areas of biodiversity value. Without such assessments, it is unclear how the Standard’s eligibility criteria can be properly applied. Additionally, in the current draft, there are still no areas which are simply off-limits for harmful investments. The most endangered ecosystems should be no-go areas for financing of extractive, industrial and other environmentally, and/or socially harmful activities - the Amazon, the Arctic, primary and old-growth forests, high mountains, free flowing rivers, wetlands, coral reefs, etc.

4. Standard 11 on intermediated finance needs substantial improvements. We urge the EIB to oblige intermediaries, in every case, to refer high-risk sub-projects to the EIB for review and approval and to oblige intermediaries to disclose environmental information on these projects for public scrutiny and accountability. Likewise, the EIB must be accountable for its intermediated projects, instead of leaving it to final beneficiaries to self-police, as the current draft Standard does.

As Directors of an institution which aims to be a leader in the sustainability field and to be a central player in the EU development finance landscape, it is your responsibility to act. The credibility of the EIB’s sustainability commitment is at stake.

As signatories of this letter we assure you of our support in the transformation of the EIB into an institution guided by a public mission to steer our economies onto a fair, equitable and sustainable path.

We will be looking attentively at how the EIB amends its draft ESSF, and we thank you very much for considering these crucial issues.

Yours sincerely,



RIVERS WITHOUT
BOUNDARIES

Rivers Without Boundaries
International Coalition



WWF European
Policy Office



NomoGaia, US



Accountability Counsel



ACT Alliance EU



Organic Agriculture Association, Albania



Balkani Wildlife
Society, Bulgaria



Centar za
životnu sredinu

Center for Environment, Bosnia
and Herzegovina



CEE Bankwatch Network



Zaļā brīvība

Green Liberty, Latvia



Counter Balance



Global Responsibility (AG Globale Verantwortung), Austria



Euronatur, Germany



FIDH International Federation for Human Rights



Both Ends, The Netherlands



MTVSZ - National Society of Conservationists - Friends of the Earth, Hungary



Recourse, Belgium



Action Aid



Eurodad



Green Alternative, Georgia



Cairo Institute for Human Rights Studies



International Partnership for Human Rights (IPHR)

Explanation on human rights due diligence and HRIAs

In its matrix of replies to the inputs received during the public consultation, the EIB indicates that it will develop several guidance notes for promoters, such as a Gender Impact Assessment Guidance Note. Similarly, the Bank should commit to develop a Human Rights Impact Assessment Guidance Note for project promoters, with the view to provide more details about this procedure and to align with the upcoming EU legislation on human rights and environmental due diligence.

The EIB suggests in its replies to consultation comments that additional assessments or studies, including on human rights, may be required from the promoters and that the promoters are already required to include human rights considerations in Environmental and Social Impact Assessments. However, these provisions have been in place for years in the EIB's

Environmental and Social Statement and Standards and have proved to be ineffective. The bank does not conduct human rights due diligence and for years, it has not requested that any borrower conduct Human Rights Impact Assessments. In the human rights due diligence, the EIB would first screen for risks, for example with the assistance of publicly validated indices comparing rights related conditions and other sources of information such as the European Commission's reports, it would then extend this analysis if necessary in order to establish how to manage and prevent these risks and impacts and finally the bank could request for Human Rights Impact Assessments to detail human rights impacts and established tailored mitigation and monitoring measures.

As it stands, the proposed criteria in Standard 1 for determining the need for ESIA's and the proposed scope for ESIA reports do not sufficiently cover human rights issues. For example the scope for ESIA's does not require that human rights risks and impacts are identified, prevented, mitigated and remedied.

The ESIA framework is not a sufficient tool for identifying, measuring, preventing, mitigating and remedying human rights risks and impacts in cases where HRIAs are required. HRIAs are a separate tool based on international human rights law and it comprehensively addresses human rights issues with a greater level of detail and specificity. HRIAs consider economic, social, cultural, civil and political aspects as interrelated and therefore are a tool helping to advance the protection and promotion of human rights which is the aim of the EU's external action.