

EIB response received on July 25, 2022

Dear Mrs Manukyan,
Dear Mrs Skybenko,

We refer to your message of 13 July 2022 addressed to the European Investment Bank (EIB), inviting the EIB to respond to the findings of your recent report *“Drying up: Tracking the environmental and human rights harms caused by hydropower in the Caucasus and Central Asia”*.

We would first like to thank you for giving the EIB the opportunity to comment on this report. The EIB understands that the only project mentioned in your report in which the EIB is involved is the Nenskra hydropower project in Georgia. Within this context, we would like to point out that, as of today, the EIB loan for this project has not been signed and, therefore, no EIB funds have been disbursed for this project^[1]. We would also like to inform you that, as of today, no formal decision has been taken regarding a possible EIB appraisal of the Rogun HPP project in Tajikistan.

The EIB shares most of the recommendations addressed to investors included in your report and already applies these recommendations as part of its policies and procedures.

Respect for human rights is a fundamental value of the European Union (EU) and of the EIB. The EIB adheres to the values the European Union is founded upon, as enshrined in Article 2 of the Treaty on European Union. The EIB is bound by the European Charter of Fundamental Rights. Our work is also guided by international human rights principles, including the International Labour Organization Declaration on Fundamental Principles and Rights at Work and the UN Declaration on the Rights of Indigenous Peoples. Guided by the United Nations Guiding Principles on Business and Human Rights, the EIB requires promoters to undertake human rights responsive due diligence. To this end, promoters must comply with the EIB Environmental and social standards^[2], which describe the requirements that all EIB-financed projects must meet. Respect for these standards is safeguarded not only at the due-diligence stage, but also through the inclusion of contractual obligations and project monitoring.

The EIB is committed to undertaking human-rights-responsive environmental and social due diligence and monitoring of the operations it finances for the timely identification and mitigation of adverse impacts on human rights. The EIB’s due diligence process takes into account risks deriving from the country, sector and client capacity. Furthermore, the EIB pays heed to the human rights context, the legacy issues and other contextual factors that may affect the environmental and social performance of the projects. Its due diligence is guided by considerations of the likelihood, severity and frequency of human rights impacts anticipated, thereby prioritising mitigation measures accordingly.

In addition, human rights and other environmental and social challenges led us to development of the Environmental, Climate and Social Guidelines on Hydropower Development^[3]. The guidelines clarify our expectations and red flags in respect to the EIB Environmental and Social Standards’ implementation in the hydropower sector. The EIB is the sole international financial institution that has published comprehensive sector guidelines based on its experience. The guidelines have been written for use by hydropower promoters, who should take the requirements and recommendations into account from the early stages of the project development cycle, preferably during the pre-feasibility stage.

Taking the above into consideration, please find below the answers to the specific questions included in your message. These answers are based on the only investment approved by the EIB mentioned in your report, as well on the general EIB approach to financing operations in this sector:

1. Did EIB assess real and/or potential adverse human rights impacts connected to the above investments?

Yes. All projects financed by the EIB are subject to an in-depth due diligence process and need to comply with the Bank's environmental and social standards, including on human rights issues. This was also the case for the Nenskra HPP project. The outcome of the EIB environmental and Social due diligence of the project is reflected in the Bank's Environmental and Social Data Sheet (ESDS) published on the EIB website^[4].

2. How does EIB monitor progress on its efforts to address human rights risks and impacts of these investments?

The EIB monitors projects from the signature of the loan contract through the project implementation and operation phase until the loan is paid back. Monitoring requirements are determined according to the characteristics of each project.

In the case of the Nenskra HPP project, and although no EIB financing has taken place yet, the EIB is closely working with the project promoter, the other financiers and all the other stakeholders concerned, to address the different issues related to the project.

3. Does EIB consult with civil society, affected rights-holders, and other stakeholders in its efforts to help mitigate and address human rights risks and impacts of your investments?

The EIB regularly consults and engages with stakeholders, including civil society organisations, regarding its key policies and procedures^[5].

The primary responsibility for information and engagement with local stakeholders on a project basis rests with the project promoter and/or borrower. The EIB supports their efforts in accordance with the EIB Environmental and Social Standards.

The EIB also regularly engages with stakeholders on individual projects when issues arise. This has also been the case for the Nenskra HPP project.

4. Does EIB have escalation and/or corrective action processes in place when human rights risks and impacts are discovered?

The EIB Environmental and Social Standards, and in particular Standard 2 on Stakeholder Engagement, requires project promoters to establish an effective project-level grievance mechanism to receive and facilitate redress for concerns and grievances of stakeholders throughout the EIB project cycle.

In addition, the EIB Group Complaints Mechanism offers an independent process^[6] for addressing complaints and resolving disputes about adverse social and environmental impacts of a project, including recommendations for corrective action.

5. How did EIB engage investee companies on human rights, including on their human rights policies, due diligence, and/or grievance mechanisms? With the evidence provided by the report, how is EIB going to follow up with the investee companies and what steps does EIB take to remediate human rights and environmental harms caused by the projects?

As indicated above, the EIB is closely working with the project promoter, the other financiers and all the other stakeholders concerned, to address the different issues related to the project. EIB financing is subject to the project complying with the EIB Environmental and Social Standards.

6. How is EIB engaging with governments/policy makers in the region to ensure that rights-holders are respected and, where appropriate, remediated?

Under the specific EU institutional framework in which the EIB operates, issues related to the promotion of democracy and human rights, as well as political freedoms and rights at country and regional level fall under the responsibility of other EU institutions such as the European Commission and the European

External Action Services (EEAS). The EIB closely cooperates with both institutions when lending outside the EU.

Kind regards,
EUROPEAN INVESTMENT BANK
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1 <https://www.eib.org/en/projects/all/20150670>

2 <https://www.eib.org/en/publications/eib-environmental-and-social-standards>

3 <https://www.eib.org/en/publications/environmental-climate-and-social-guidelines-on-hydropower-development>

4 <https://www.eib.org/en/registers/all/79579680>

5 <https://www.eib.org/en/about/partners/cso/consultations/index.htm>

6 <https://www.eib.org/en/about/accountability/complaints/process/index.htm>