

Public Consultation on the EIB Group's Environmental and Social Framework
Webinar on **Standard 9: Occupational and public health, safety and security**

Wednesday, 7 July 2021

Summary of Discussion

Objective

The European Investment Bank (EIB, the Bank) is hosting a series of 13 webinars in the context of the public consultation on the EIB Group Environmental and Social Sustainability Framework (ESSF), open from 3 June to 6 August 2021. The overall objective of the webinars is to facilitate dialogue with stakeholders on the EIB Group Environmental and Social Policy (hereinafter “the Policy”) and Standards.

On 7 July 2021, the EIB hosted a webinar on Standard 9: Occupational and public health, safety and security. The Standard outlines the responsibilities of the promoter regarding the assessment, management and monitoring of occupational and public health, safety and security risks associated with projects supported by the EIB.

Introduction

The EIB welcomed the 43-webinar attendees (32 external, 11 EIB Group staff) webinar attendees and explained the webinar housekeeping rules and arrangements to ensure an effective discussion, noting that participant statements would not be attributed to individuals or organisations in the summary report and any comments made during the discussion would not be considered as formal contributions. The EIB invited participants to submit their written contributions to the public consultation by 6 August 2021 on the public consultation [website](#).

The EIB delivered a [presentation](#) about the Environmental and Social Standard 9: Occupational and public health, safety and security. It summarized the background to the public consultation, the ESSF currently in force, and the main changes to the Standard under consideration. The floor then opened for discussion.

Discussion

A representative of a non-governmental organisation (NGO) welcomed the inclusion of **third party workers** in the Standard but asked what measures can be taken to ensure they have access to health insurance, advising that third party workers have access to a **health and safety committee** on-site. She asked the panel to clarify how the Standard relates to the exclusion list and if a reference to hazardous materials such as asbestos can be made in the Standard. The EIB clarified the intention to include asbestos in the dangerous substances list. Regarding third party workers, the panel explained that third party workers are considered at the same level as direct workers, and as such, the paragraph regarding insurance applies to them. The revised Standard clarifies the requirements of the promoter to ensure contractors are reputable and includes clauses in the contract to ensure the Standards are applied. The monitoring requirements also require the promoter to actively monitor the workplace to ensure matters related to the workers' health and safety are properly addressed. As the standard applies to EIB operations, and some investments can be of very small size, the Bank considered that it would not be feasible to require health and safety committees across the board. The EIB would consider strengthening the language of paragraph 28 of the Standard and

including in the accompanying guidance notes a reference to the importance of having health and safety committees that workers can participate in and report to.

A representative of a global trade union commented that it could be useful to include similar language to the World Bank Safeguards Policies on the **right of workers to leave situations of imminent danger**, noting that in the current draft Standard, workers only have the right to not enter dangerous sites. Recent evidence suggested the number of labour inspectors have declined considerably within the EU. For EIB projects outside the EU, he suggested the level of inspections is also very low, and noted that this has an impact on the effectiveness of the Standards. Concerning the part of the Standard referring to **dangerous materials**, he had understood that asbestos would be explicitly included in this section. Regarding the lack of adequate labour inspections at national level, the EIB explained it monitors operations and is aware of the project situation on the ground. Its due diligence examines the quality and capacity of national labour inspectorates, as it influences the monitoring requirements the EIB puts on the project promoters. The EIB can require the promoter to undertake labour audits and lender advisors can undertake regular monitoring reports to examine health and safety aspects. The EIB took note of the point on workers' rights to leave situations of imminent danger, while this is largely covered in paragraph 29 of the Standard, the Bank will look at reinforcing the language if these concerns are conveyed in the written feedback it receives and would welcome concrete proposals.

A participant asked which reference is taken when the EIB implements a project in a **country with a higher level of protection** than those guaranteed by the Standard. The EIB confirmed that the Standard specifies that a project must comply with national legislation. When the national context has higher risk standards then these will be applied to the project.

An NGO representative asked why the **security assessment** does not cover communities, and on what basis **security risk assessment** is included in an Environmental and Social Impact Assessment (ESIA). The EIB clarified that the Standard stipulates that security issues cover workers and members of the public and this can be seen in the third bullet point of paragraph 4. The Standard mentions in paragraph 54 that project promoters shall ensure that the security arrangements do not create security risks or impacts for the workers, suppliers or local communities. The Bank has tried to formalise the language of the Standard to include more groups as they have seen the security risks posed to them in the past. The EIB requires promoters to address all project risk and impacts as part of the ESIA process. The EIB recognises that in some cases national legislation does not formally cover certain aspects or topics and security is sometimes one of those. The requirement to comply with the EIB Standards is what makes the ESIA integrate human rights considerations such as those emanating from security. When the EIB knows of security concerns because of the location of the project, attention is paid to ensure there are specific requirements and if appropriate demand a security management plan to address such issues. The Bank added that the security risk assessment would be part of an assessment process and feed into a management plan; this would then become a condition of financing. The EIB invited the representative to submit their formal written feedback so they could consider these points.

A global trade union representative asked the panel to clarify procedurally what is being done with the **exclusion list** and if it is going to be updated as part of the safeguards review. He also welcomed the strengthening of the language on accidents and health insurance. He raised concerns regarding paragraph 23 on **compensation** for cases of accidents, disability or occupational health and safety issues and the paragraph's use of "in accordance with national legislation", as issues can be created when the legislation is weak or non-existent. He asked for more information on **EIB staffing** and the number of occupational health and safety experts at the Bank working on projects, and inquired as to whether there are any plans for the EIB to **aggregate statistics** on occupational health and safety similarly to the European Bank of Reconstruction and Development (EBRD).

The EIB pointed out that the exclusion list relates to activities that the EIB has excluded from financing. Concerning asbestos and the management of dangerous substances, the EU has a directive regarding the protection of workers from the risks related to the exposure to asbestos at work and the EIB's intent is to

implement the Standard in line with the directives of EU legislation. The Bank can make a specific reference to this directive in the Standard to clarify any confusion surrounding its position on asbestos without having to update the exclusion list. The EIB clarified that there is one exclusion list for activities the EIB cannot finance and another for funds and financial intermediaries. These lists will be updated separately as they cover other risks than environmental and social ones. Regarding the question on insurance, the EIB explained that there are two relevant paragraphs: paragraph 23 requiring compensation and paragraph 26 requiring the provision of health and safety insurance (accident insurance). The Bank inserted this new wording because it is aware it is often the case that workers are not provided with adequate insurance. The wording could be improved either in the Standard itself or via the accompanying guidance notes. The EIB refers to “the national legislation” because some project countries do provide insurance as part of their social security systems. The EIB encouraged the representative to submit written suggestions on how the Bank could strengthen the language for countries with poor compensation and social security systems.

Concerning the trade union representative’s question on EIB staffing, the EIB clarified that their social and environmental experts have experience in the field of occupational health and safety and can support the relevant teams depending on the types of risk identified and nature of the project. The EIB’s engineers that work on specific sectors also have a lot of experience (including on-site) in the area of occupational health and safety and some colleagues have master’s degrees in health and safety. The experience and capacity of the Bank on the topic are very strong. Regarding the question on aggregating statistics, there are no plans in place to publish aggregated figures related to the project. The Bank does require promoters to monitor, report on and inform the EIB of all accidents and fatalities that occur during the project.

An NGO representative pointed out that the EU directive mentioned during the discussion on **asbestos** does not apply to third country projects and therefore a specific reference in the Standard would very much be appreciated. Paragraph 51 states that workers in promoter-provided accommodation should not have their **freedom of movement** “unreasonably restricted” - the word “unreasonably” leaves a big gap and is open to interpretation. Based on their experience with COVID, workers may be confined to their worksites and not be allowed to leave. For these reasons, the EIB needed to be cautious with the wording on restricting freedom of movement and workers should be allowed to leave the worksite. The representative suggested differentiating between restrictions to move to and from the premises and restrictions to leave. The EIB explained to the representative that they wanted to have some wording that recognised there are some occasions where there can be a level of restrictions such as on a project in a remote location that is difficult to access. The Bank recognises that in the case of COVID, there been concerns in some locations and it is an extremely complex situation as it also involves restrictions imposed by the authorities. The EIB is happy to discuss further the wording of paragraph 51 and could also include examples in the accompanying guidance notes. The Bank encouraged the representative to submit their feedback via the formal written procedure.

An NGO representative asked if there was **conflict-risk expertise or human rights expertise** at the EIB. The EIB confirmed they currently have two full time staff members working directly on conflict related issues. Depending on the level of risk of the operations, the Bank also has access to a conflict helpdesk that conducts desk-based reviews and site visits.

A global trade union representative next asked if beyond asbestos, steps are being taken to address highly **hazardous chemicals in agriculture**, such as paraquat and glyphosate. The EIB referred to its Standard 3 on Resource efficiency and pollution prevention that refers to pesticide management and this introduces the requirement to meet EU legislation in this regard. The Bank pointed out that asbestos is a more common occupational health and safety issue and there are some 47 banned chemicals in the agricultural sector. The Bank would not look to introduce specific references to already banned chemicals as there are several and Standard 3 covers this. The EIB would look to strengthen the language on the storage and handling of chemicals by including more on the use of chemicals. The Bank welcomed the comment and invited further feedback to be submitted via the written procedure.

A participant asked what **methodology** is followed by the EIB to establish the level of danger of substances and whether EU legislation on carcinogens and mutagens is considered. The Bank responded that at this stage it would not specify the methodological approach but would seek to align with EU legislation in terms of any exclusions of materials that could be considered dangerous and carcinogenic in the workplace. As part of the impact assessment, the Bank would expect the activities to identify risk from any potential carcinogenic measures and mitigation measures to ensure that these are sufficiently managed in relation to any Standard. Specific projects that identify materials that can be carcinogenic would be part of the appraisal and the Bank would assess the methodology used to make their assessment.

A participant from a management consultancy pointed out that it could be helpful to include a reference to the **seniority** of the persons in charge of the health and safety in the projects the Bank finances in order to reduce the risk of such positions being filled by someone on a temporary contract. It could also be helpful to include some text on **remuneration**, as it would be better to avoid contractor's remuneration being contingent on health and safety performance. The guidance notes could include more detail on **time scales** and urgency for fixing identified defects. The EIB agreed with the comment made on staff seniority and will look into clarifying this point in the Standard or the guidelines. Regarding remuneration, the Bank explained that while remuneration is traditionally based on health and safety performance, there are several reasons for contractors not reporting health and safety-related incidents that are unrelated to remuneration. Thus, what is important is to have a robust, public and transparent management system in place to ensure proper reporting of accidents and incidents on-site. For example, the collection of statistics and incident reporting measures should provide an overview to the EIB of what is happening on-site. The Bank felt having a health and safety management system is an effective tool to ensuring the proper reporting of accidents or incidents on-site. Within the Standard, the Bank has reinforced that if the workers do not feel safe on-site then they do not have to return to it until the risk has been addressed and will not be retaliated against. If there were instances where there are disagreements between workers and promoters about the existence of such risks, the health and safety management system of the project should address and inform the EIB of these issues. The role of workers' representation would be important in such cases, and could inform the Bank about the situation. The EIB values the role trade unions play in this respect. The EIB will consider the time scales point and how explanations can be provided in the guidance notes.

A participant asked how the EIB manages **projects in relation to blasting**. The EIB responded that it does not manage the on-site operations. Since blasting would be considered a high-risk activity, if blasting were included in the project description then the EIB would ask the promoter for all relevant documents providing evidence that project safeguards and permits are in place. The Bank would review the documents and verify that the competent authorities are involved, that a relevant risk assessment has been conducted and that a competent contractor with prior blasting experience is employed. These checks would be part of a wider due diligence exercise.

An NGO representative asked whether the Standards ensure that **substances** banned in EU legislation are also banned for investments in countries outside of the EU. The EIB referred to Standard 3 and pointed out that it refers to the EU regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). The Bank applies the EU REACH regulation but will take full consideration of the comments it expects to receive in the written feedback. The Bank will consider alignment for relevant aspects of regulations related to chemicals for projects outside the EU.

A representation of a global trade union welcomed the section on supply chain workers and asked if paragraphs 66-67 could in addition require promoters to **conduct due diligence** on employers of supply chain workers. The EIB responded that Standard 8 and 9 require an assessment of risks, not an assessment of the supplier. An assessment of the employer of third party workers (contractors) is required when the Bank requires promoters to assess the capacity of the contractors to implement Standard 8 and 9. This is fundamental to ensuring the rights of the third party workers are preserved and the Standards can be implemented. The EIB would consider including language similar to that of paragraph 64 and assessing the capacity of the suppliers to implement the requirements of the Standard.

Finally, a participant asked why **natural medicine** does not receive more EIB support. The EIB answered that this question relates more to the EIB eligibilities of activities it finances. The point would be more relevant to a public consultation on specific lending policies covering the health sector.

Concluding remarks

The EIB thanked participants for their constructive participation, which allows the review of the ESSF to benefit from the expertise of a wide range of individuals and organisations. The EIB reiterated the invitation to submit written contributions by 6 August 2021 on the public consultation website. After this date, the EIB will start publishing the written contributions received. 15 working days ahead of the Board of Directors meeting during which the revised ESSF will be discussed, a draft revised EIB-ESSF, reasoned responses to the contributions and a draft consultation report will also be published.