



European Investment Bank

**Report on the implementation of the
EIB's Transparency Policy in 2011**

Introduction

Improvement in the transparency of its institutions and bodies is a key European Union objective aimed at bringing them closer to the publics they serve, as well as highlighting their relevance in contributing to Europe's social and economic cohesion and sustainable development.

The European Investment Bank (EIB) considers that as a bank and a public body, openness on how it makes decisions, works and implements EU policies, strengthens its credibility and its accountability to citizens. Transparency also contributes to increasing the effectiveness and sustainability of the Bank's operations, reducing the risks of corruption, and enhancing staff relations with external stakeholders.

The EIB understands transparency to refer to an environment in which the objectives of policies, its legal, institutional, and economic framework, policy decisions and their rationale, and the terms of EIB's accountability, are provided to the public in a comprehensive, accessible, and timely manner. Transparency is therefore an essential condition for a free and open exchange with stakeholders whereby the rules and reasons behind policies and practices are fair and clear to all participants, thus entailing the availability, to the largest possible extent, of information required for collaboration and cooperation with all internal and external stakeholders.

The EIB's Transparency Policy ("the Policy") was approved by the Bank's Board of Directors on 2nd February 2010 after an extensive public consultation process that took place in 2009. The Policy is a core element of the EIB's Corporate Responsibility, aimed at making the Bank a more open and engaged institution. The Policy replaced the Public Disclosure Policy (2007) and the previous Transparency Policy that dated back to 2004. It fully takes into account the Lisbon Treaty on the Functioning of the European Union (TFEU).

This "Report on the implementation of the EIB's Transparency Policy in 2011" provides an overview and assessment of the key elements of the Policy in 2011 – public access to information through disclosure and publication of information on the EIB website. Reporting on the implementation of the Bank's Transparency Policy for the second time, the scope of this report has been broadened compared to last year's version. It provides more detailed information on the information requests received and handled by the EIB, such as e.g. geographical origination of requests, as well as on the application of the exceptions to disclosure stipulated in the Policy.

Publication of Information

The Bank publishes information and documents on its website on a continuous basis. Annex 1 of the Transparency Policy¹ provides a list of information and documents that are routinely disseminated. Among those are statutory documents, codes of conduct, policy and strategy documents.

The Bank also publishes information about the projects it appraises – ahead of their approval by the Bank's Board of Directors – and relevant environmental information such as Environmental Impact Assessments (EIAs) as far as they are required for individual projects.

¹ The Policy is available on the EIB's website: <http://www.eib.org/about/publications/eib-transparency-policy.htm>

Project-pipeline on the EIB Website

The number of projects that was approved by the EIB's Board of Directors in 2011 amounted to 335 as compared to 412 in 2010.

In accordance with the Bank's Transparency Policy, project-related information is published through the project list ("project pipeline") on the Bank's website that serves as the main information tool towards the public. Summary information on all projects appears on the project list before approval by the Board of Directors, unless prevented for legitimate confidentiality reasons (i.e. justified exceptions). The trigger date for posting a project on the list is when the Bank requests the opinion of the Member State and the European Commission as required under Article 19 of the EIB Statute but in any case at the latest 3 weeks before approval by the Bank's Board of Directors.

A comparison of the 2011 results with those from previous years confirms the positive trend that for the vast majority of projects, the publication of project information in the pipeline takes place well before the approval by the EIB's Board of Directors. On average, for all projects that were approved in 2011 project-related information was made available 106 days before approval by the Bank's Board of Directors (as compared to 111 days in 2010 and 90 days in 2009).

In 2011, 99.7% of all projects were published before Board approval (2010: 97,8%), while 98.5% were published more than three weeks before approval (2010: 96,1%), the target deadline set in the Policy.

Table 1 – Projects approved and published in 2011

	Number of projects in 2011	Percentages 2011
Total number of projects approved by EIB's Board	335	100%
Published before Board approval	334	99.7% (2010: 97,8% 2009: 98.8%)
At least three weeks before Board approval	330	98.5% (2010: 96,1% 2009: 93.2%)
After Board approval	0	0.0% (2010: 0,5% 2009: 0.3%)
Not published	1	0.3% (2010: 1,2% 2009: 0.7%)

Table 2 – Projects approved in 2011 and not published

	2011	2010	2009	2008
Public sector	0	0	1	0
Private sector	1	5	3	8
Total	1	5	4	8

In 2011, 1 project out of a total of 335 that were approved was not published in the project pipeline on the EIB website. The project was a private sector project. Publication was withheld following a reasoned request by the promoter in accordance with Part B, Art. 4.3.2 of the Transparency Policy ("justified commercial interests"). The project will be published when the loan between the EIB and the promoter is signed.

Two projects were approved under a global authorisation. The EIB's Board of Directors can approve global authorisations, delegating the approval of individual projects under these authorisations to the Bank's Management Committee. The summaries of the two individual projects subsequent to the global authorisation were published on the EIB website before their approval by the Bank's Management Committee.

Environmental Information – Environmental Impact Assessments (EIAs)

The EIB has also committed itself to publish the Non-Technical Summary (NTS) when an Environmental Impact Assessment (EIA) is required for a project. The detailed breakdown about the publication of EIA information can be found in the table below.

Table 3 – EIA information for projects approved in 2011 (where an EIA is required) and published on the website

	Number of projects in 2011	Number of projects in 2010	Number of projects in 2009	Number of projects in 2008
Total projects requiring EIA	84	93	117	82
EIA published before Board approval	76 (90%)	82 (88%)	98 (84%)	68 (83%)
EIA to be published later:	7	11	18	13
<i>PPP stage 1</i>	3	0	1	2
<i>EIA as disbursement condition</i>	4	11	17	11
Published after approval (administrative oversight)	1	0	1	1

From a total of 84 projects that required an EIA in 2011, the NTS of 76 projects were published before approval by the EIB's Board of Director

In general, for some projects the environmental due diligence would only be finalised after approval by the Board. This applies to two categories of projects: projects where the completion of the EIA is possible after Board approval and therefore its completion is a disbursement condition for the Bank's financing and secondly, for projects which are finalised as PPPs (Public Private Partnership). The latter category of projects will typically be appraised in two stages and the environmental due diligence might only be completed in the second stage (after Board Approval).

In 2011, the NTSs of 7 projects were due for publication at a later stage as for these projects the EIAs were a disbursement condition. In one case, the EIA was only published at a later stage of the project cycle due to administrative oversight.

Disclosure of Information and General Enquiries by the Public

Requests and Enquiries by the General Public

Every member of the public has the right to request and receive information from the EIB. When considering a request for information, the Bank applies equal treatment towards enquiries from the public, be it from individual citizens or special interest groups.

There are established procedures for handling requests for information, imposing respect for deadlines and transparency regarding the grounds for non-disclosure and providing for internal and external appeal mechanisms.

The provision for handling such requests is 15 working days applying the modalities of the Transparency Policy. In cases where replies can not be handled within this time limit, due to their complexity, the Bank endeavours to provide a reply no later than 30 working days following receipt. An acknowledgment of receipt is sent to the applicant within 10 working days if the request has not been answered by then.

When answering such enquiries, the respective Bank services are closely involved, thus enabling the Bank to provide any external stakeholder with well-informed and detailed responses. Stakeholders are also informed in a substantiated and timely manner about outcome and possible follow-up activities to their requests.

Applications for access – written or oral – should be addressed to the EIB's Communication Department, emails can be sent to info@eib.org. The "InfoDesk" within the Communication Department handles requests for information, with input as necessary from staff elsewhere in the Bank.

Requests for access to information and other complex enquiries originating from civil society stakeholders, mostly Non-Governmental Organisations (NGOs), are forwarded to and handled by the Bank's Civil Society Unit (CSU) which is in the same department as the "InfoDesk". The following section provides an overview of the requests that were received from civil society stakeholders and dealt with by the CSU in 2011.

Complex Requests and Enquiries from Civil Society Stakeholders

In 2011, the CSU dealt with a total of 98 complex enquiries from civil society stakeholders. Of these 98 enquiries, 42 qualified as disclosure of information requests, 4 were confirmatory application following initial disclosure requests and 52 were enquiries of general nature.

This confirms the volume of enquiries of the previous years (2010: 129 enquiries; 2009: 81 enquiries; 2008: 88 enquiries and 2007: 77 enquiries). A total of 31 individual projects financed by the EIB were subject to enquiries from stakeholders. This represents 9.2% of the overall number of projects for which finance contracts were signed in 2011 (337).

Almost a quarter of enquiries that were received throughout 2011 came from persons or organisations established in Poland. The second and third highest amounts of requests were received from Belgium and the Czech Republic.

Table 4 – Geographical origination of enquiries

Country where person or organisation is established	Number of enquiries	Percentage (%)
Poland	24	24,49%
Belgium	12	12,24%
Czech Republic	7	7,14%
France	6	6,12%
United Kingdom	6	6,12%
Ukraine	5	5,10%
Slovenia	5	5,10%
Bulgaria	5	5,10%
United States	4	4,08%
Sweden	4	4,08%
Italy	4	4,08%
Slovakia	3	3,06%
Netherlands	3	3,08%
Denmark	2	2,04%
Romania	1	1,02%
Turkey	1	1,02%
Germany	1	1,02%
Portugal	1	1,02%
Russia	1	1,02%
Norway	1	1,02%
Croatia	1	1,02%
Hungary	1	1,02%
TOTAL	98	100%

Disclosure of Information Requests

Out of the 98 cases processed by the CSU, 42 qualified as disclosure of information requests. These requests sought disclosure of clearly defined documents or piece(s) of information contained in Bank's documents or otherwise recorded and held by the Bank and that are not retrievable through already published material and documentation.

Disclosure requests are dealt with on the basis of the provisions that are stipulated under Part A, Art. 5 of the Transparency Policy (Disclosure of information).

Analysis of disclosure of information requests

Requests related to EIB projects outside the EU were equal in number to those related to projects within the EU27. This confirms the observation of previous years, that civil society organisations attribute relatively more attention to Bank projects outside the European Union, given the smaller share of these projects within the overall portfolio of the Bank.

With regard to the different sectors in which the Bank is active as a lender, the requests mainly focussed on projects in the area of energy followed by activities supporting Small and Medium Sized Enterprises (SMEs) and private sector development.

Of the 42 disclosure requests that were processed in 2011, 21 were handled within 15 working days, while for 10 the extended timeline of 30 working days had to be applied. In 11 cases, due to the complexity of the request and the involvement of different services within the Bank and external parties (e.g. promoters), more than 30 working days were needed to respond.

In 50% of all cases, full disclosure was granted to the party requesting access. For the other half of the cases, partial access was granted or disclosure had to be refused based on the exceptions stipulated in the Policy. This partial or non-disclosure was in two thirds of the cases based on the exception on the protection of commercial interests in accordance with Part A, Article 5.2.3, 1st indent of the Transparency Policy. Several exceptions can be evoked for within the process of handling one disclosure request, depending on the type of information or documents requested.

Table 4 – Geographical breakdown of disclosure requests

Region to which request was related	Number of requests 2011	2010
EU 27	14	30
Enlargement countries	3	10
Mediterranean Neighbourhood	1	3
Russia and Eastern Neighbourhood	3	5
African, Caribbean and Pacific countries	7	15
Asia and Latin America	4	2
Multi-region	2	7
Not related to region	8	4
Total	42	76

Table 5 – Sector breakdown of disclosure requests

Sector to which request was related	Number of requests 2011	2010
SMEs and private sector development	7	18
Environment	5	4
Transport	4	19
Energy	18	24
Other or multi-sector	8	11
Total	42	76

Table 6 – Time required to respond to disclosure requests

Response time	Number of requests	Percentage (%)
Within 15 working days	21 (2010: 46)	50% (2010: 61%)
Within 30 working days	10 (2010: 22)	24% (2010: 29%)
More than 30 working days	11 (2010: 8)	26% (2010: 11%)
Total	42 (2010: 76)	100%

Table 7 – Level of disclosure

	Number of requests	Percentage (%)
Full disclosure	21	50%
Partial disclosure	13	31%
No disclosure	8	19%
Total	42	100%

Table 8 – Breakdown of non- and partial disclosure by exception applied (application of numerous exceptions possible)

	Number	Percentage (%)
Commercial interest (Part A, Article 5.2.3, 1st indent)	14	67%
Internal decision-making (Part A, Article 5.2.5)	8	38%
Data protection (Part A, Article 5.2.2, 2 nd indent)	2	10%
Inspections, investigation, audit (Part A, Article 5.2.3, 4th indent)	1	5%

Confirmatory applications

In 2011, the EIB received 4 confirmatory applications following initial replies to disclosure requests in accordance with Part B, Article 4.5.16 of the Transparency Policy. By filing such a confirmatory application, the person requesting information asks the EIB to confirm its decision and justification in case it initially refused disclosure of information.

Of the four confirmatory requests that were dealt with in 2011, two were handled within 15 working days, while for one the extended timeline of 30 working days was applied. In one case, due to the complexity of the request and the involvement of different services within the Bank and external parties (e.g. promoters), more than 30 working days were needed to respond.

All four confirmation applications were related to projects within the European Union, while three referred to projects in the energy sector and one concerned a project under the convergence objective.

In three cases, the Bank confirmed its initial reply and the non- (or partial) disclosure. In one case, it re-considered the initial response and granted partial disclosure to the information requested.

The grounds for no- (or partial) disclosure were exceptions on the protection of commercial interests (Part A, Article 5.2.3, 1st indent) and on the protection of the Bank's internal decision-making process (Part A, Article 5.2.5).

General Enquiries from Civil Society Organisations (CSOs)

In addition to specific disclosure of information requests, the Bank has in 2011 dealt with 52 complex enquiries from CSOs. These enquiries had in common that they needed the involvement of multiple services across the Bank, thus requiring a coordinated response.

Such general enquiries from CSOs can take different forms. Common examples include letters in which concerns about EIB financed projects are expressed as well as general questions regarding the Bank's activities and involvement in projects. The Bank's aim is to provide substantive answers to all requests and concerns received from all stakeholders.

As displayed in the tables below, enquiries related to EIB projects outside the EU were equal in number to those related to projects within the EU27. Another substantive number of enquiries concerned issues related to policies and procedures of the Bank. With regard to the different sectors in which the Bank is active as a lender, the enquiries focussed on projects in the area of energy and broader policy and cross-sector issues.

Table 7 – Geographical breakdown of enquiries

Region to which enquiry was related	Number of enquiries 2011	2010
EU 27	17	18
Enlargement countries	2	12
Mediterranean Neighbourhood	5	-
Russia and Eastern Neighbourhood	6	7

African, Caribbean and Pacific countries	4	8
Asia and Latin America	-	2
Multi-region	7	2
Not related to region	11	4
Total	52	53

Table 8 – Sector breakdown of enquiries

Sector to which enquiry was related	Number of enquiries 2011	2010
SMEs and private sector development	7	3
Environment	2	1
Transport	6	16
Innovation	4	-
Energy	18	28
Other or multi-sector	15	5
Total	52	53

Of the 52 complex enquiries that were dealt with in 2011, 39 were handled within 15 working days, while for 10 the extended timeline of 30 working days were applied. In 3 cases, due to the complexity of the enquiry and the involvement of different services within the Bank and external parties (e.g. promoters), more than 30 working days were needed to respond.

Table 9 – Time required to respond to enquiries

Response time	Number of requests	Percentage (%)
Within 15 working days	39 (2010: 36)	75% (2010: 68%)
Within 30 working days	10 (2010: 12)	19% (2010: 23%)
More than 30 working days	3 (2010: 5)	6% (2010: 9%)
Total	52 (2010: 53)	100%

Complaints concerning access to information

In 2011, the EIB Complaints Mechanism Division closed three complaints regarding access to information; two of them were received in 2010 and one in 2011.

In a complaint received in 2010 and related to a project in Ireland, the complainant alleged unfair refusal to grant access to the conditions of the loan agreement between the Bank and a project promoter. The Complaints Mechanism Division concluded the case by recommending partial disclosure of the conditions of contractual agreement, notably that information that was of environmental nature.

In the second complaint, received in 2010, alleging unfair refusal of access to documents concerning a project in the Federal Democratic Republic of Ethiopia, the EIB Complaints Mechanism recommended the partial disclosure of the requested documents after a new assessment on the basis of the provisions of the Bank's Transparency Policy.

The third complaint was received in 2011 and related to unfair refusal of access to documents concerning a project in Poland. The Complaints Mechanism Division concluded that, although EIB services were late in replying, no maladministration was committed in respect of the allegation made by the complainant and the totality of information requested was eventually disclosed.

No cases regarding access to information were pending with the EIB Complaints Mechanism Division as of 1 January 2012.

In 2011, the European Ombudsman (EO) neither received nor closed any complaints regarding the Bank's handling of access to information requests.

Conclusions

2011 was the second year in which the new Transparency Policy applied to the EIB. In comparison to previous years, it can be observed that, on the background of a stable amount of enquiries received, requests for disclosure and information have increased in complexity. Individual disclosure requests often relate to a multiple number of documents and include the involvement of various parties in the assessment and provision of the information requested.

Despite the continued high level of activity in 2011, the Bank has achieved to respect the timing of publication for project and environmental information on the Bank's website. This reflects the high degree to which transparency and publication requirements have been integrated into the working procedures of the Bank's services. The EIB continues to systematically work on maintaining and even further improving the timing of publication in line with the Transparency Policy.

The number of requests for disclosure and enquiries received by CSOs in 2011 show that the Bank's activities continue to attract high levels of attention from civil society stakeholders. In 2011, a major share of enquiries concerned energy projects carried out by the Bank. The EIB will continue to be responsive and transparent about the projects it finances, taking into account its distinctive character as a bank and public EU body.