

Public Consultation on the EIB Group's Environmental and Social Framework

Webinar on **Standard 8: Labour Rights**

Tuesday, 6 July 2021

Summary of Discussion

Objective

The European Investment Bank (EIB) 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 6 July 2021, the EIB hosted a webinar on Standard 8: Labour Rights. The Standard outlines the responsibilities of the promoter regarding the assessment, management and monitoring of labour-related impacts and risks associated with projects. It recognizes workers as rights-holders.

Introduction

The EIB welcomed the 48 webinar attendees (39 external, 9 EIB Group staff) 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 then delivered a [presentation](#) on Standard 8: Labour Rights. 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

The first question, from a participant from a multilateral development bank (MDB), addressed the EIB's definition of child labour, specifically whether it is considered **child labour** for a child to support their parent's farm in the evening after a day at school. The EIB agreed that child labour remains problematic in many regions of the world and stated that the project promoter needs to comply with the International Labour Organisation (ILO) requirements that specify the number of hours a child can work and the types of non-harmful activities they can undertake. The ILO clarifies that children can undertake small-scale work that is non-hazardous, so long as it does not influence the child's capacity to attend school or their physical, intellectual and moral capacities.

The participant asked how the Standard will ensure project promoters meet **contractual agreements** and ensure the health and safety of workers (including provision of Personal Protective Equipment (PPE)) for projects outside the European Union (EU). The EIB explained that while the current version of the Standard only requires contracts to be provided, the revised Standard requires written employment contracts, in order to discourage “contracting at the gates” and ensure promoters and subcontractors maintain their workforce so they have adequate labour rights. The Standard requires PPE to be provided free of charge to workers.

The panel encouraged the participant to attend the webinar on Standard 9 on Occupational and public health, safety and security.

A representative of a global union federation commented that her organization would like to see more clear references to the ILO core conventions throughout the Standard. Highlighting that the section on supply chain focuses only on forced and child labour, her organisation advocated for the revised Standard to address all aspects covered by the ILO core conventions. The representative's question related to **ensuring compliance by suppliers** and the reasons behind the limitations of the text. The EIB pointed out that the first paragraph of this section addresses the need to conduct an assessment of any aspect relating to the Standard for the first tier supplier. Given the special gravity of child labour, forced labour and sexual exploitation and abuse, the Standard extends this requirement to lower tiers of the supply chain. The EIB does not intend to limit the application of the Standard to child or forced labour and believes the Standard covers all aspects. The panel encouraged participants to provide written feedback and recommendations if they felt it was not sufficiently clear.

A representative of a trade union confederation asked why the EIB had weakened its language on the **living wage** in the revised Standard. The panel pointed out that the EIB is ahead of other international financial institutions (IFIs) in this area but noted it was challenging to implement and calculate living wages. The Bank is open to suggestions on how the proposed wording can be improved in the revised Standard.

The participant asked for clarification of **definitions** in the Standard relating to civil servants, freedom of association and collective bargaining, and suppliers. Regarding civil servants, the Bank had inserted this paragraph, as there have been many questions on whether the Standard applies to civil servants employed in government ministries and other comparable bodies. Regarding freedom of association and collective bargaining, the Bank had redrafted the section to promote compliance with the principles as much as possible in countries that have not ratified the ILO conventions; and to support compliance with these principles in countries that have ratified the ILO conventions but have difficulties in implementation. The Bank recognized this is a sensitive topic and encouraged participants to provide proposals on how to strengthen the Standard in their written feedback.

The next participant enquired as to how this year's conclusions of the **ILO on the violation of Convention 98 on Freedom of Collective Bargaining by the Romanian Government** would affect EIB projects there. The EIB explained that when the Bank does its own due diligence on a project and looks at the risks of particular operations, it takes into account the comments from trade unions and the ILO on the application of its conventions in the host country. In the case of Romania, the Bank will look at its operations there, raise its concerns, remind project promoters to address the issues, and look at how it can monitor this. If the ILO raises an issue then the EIB may require labour audits or assessments of the projects. However, the Bank noted that if there is a problem at the national level with the application of a particular ILO convention, this should not be considered a reason to not finance a project.

A participant asked the EIB to explain the **different application of Standards in the EU and the rest of the world**. They wanted to know if this is based on assumptions of enforcement and risk. The EIB explained that EU laws and requirements do not apply outside the EU. This is because some of the administrative requirements of EU laws only apply within the EU and cannot be translated outside the EU. The EIB does try to apply the principles and Standards contained within EU law outside the EU, and the Standards spell out how they are operationalized. The EIB also addressed the specificity of labour law in general, stating that the moment a country ratifies international conventions such as the ILO, they are translated into national law. However, questions remain over the enforcement of these laws, and problems arise with implementation rather than the law itself. This is why the EIB has spelled out these requirements in the Standards so that they are implemented at project level.

A participant commented that they supported the commitment to inform workers on their right to Freedom of Association and Collective Bargaining Agreements, but added that it is also important that the revised Standard make explicit reference to **ILO Conventions 87 and 98**. The EIB responded that they would

consider how they could make the references to both conventions more explicit. They also confirmed that the intention of the Standard is to promote compliance with the principles of these two conventions.

A representative from a global union confederation pointed out that the existing Standard has several useful aspects in the **procedural requirements** (e.g. consultation of trade unions, project design and protective measures) and enquired if the EIB intended to provide labour management plans or other procedural tools that will explain how these requirements are implemented. The EIB responded that, as will be the case for the other Standards, guidance notes will be developed to accompany this Standard to explain concepts and for the benefit of promoters as well as the Bank. The Bank requested that the written comments to the consultation include such proposals.

A participant from a management consultancy raised concerns regarding **project supply chains** where a promoter has primary contractors but does not have a contractual obligation to ensure secondary and tertiary contractors or suppliers meet the requirements of the Standard. The EIB explained that with the reformulation of the Standard, the Bank wants to make sure that everyone working on the project site has the same level of protection. Based on the EIB's experience, project promoters can claim they have no oversight and it is the responsibility of the contractor instead. In response to this, the Bank has strengthened the language of the Standard to ensure the promoter can influence the contractors and sub-contractors in implementing the requirements of the Standard. The Bank also explained that the EIB Guide to Procurement includes the need for bidders to sign an Environmental and Social Covenant and pass on the requirements to subcontractors and sub-suppliers.

The participant added that the EIB should consider mandating **who pays for the labour audits** as the costs could potentially be pushed by the promoter to the contractors or suppliers if this remains undefined. The EIB explained that there are two ways the audits are paid for. The EIB can request and pay for the audit, but usually the audit is at the cost of the promoter. The Bank also distinguishes between the mandates or roles of the EIB and of promoters of the projects.

Also on labour audits, a participant commented that the **monitoring requirements** suggested the promoter only reported to the Bank, and asked if the Bank has the possibility to request a labour audit when it deems it necessary. She requested clarification as to whether the Bank had the responsibility (not just capacity) to monitor the projects, and whether regular monitoring of the projects will only be conducted in response to complaints. The EIB confirmed that, as reflected in the finance contract, the EIB has the capacity to come on-site and request labour audits. The EIB also confirmed that the Bank has an obligation to monitor and pointed out that the Standard should be read in conjunction with Standard 1 (Environmental and Social Impacts and Risks) and Standard 2 (Stakeholder Engagement). The Bank has also stipulated monitoring and reporting requirements in the legal documentation between the EIB and the promoter.

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.