

## **A summary of the EIB-CM Conclusions Report<sup>1</sup> on Budapest Airport Concession project**

The project comprises a number of investments at Budapest Airport, located 16 km south-east of the centre of Budapest. The loan for Budapest Airport Zrt was signed in December 2018.

In March 2020, the EIB Group Complaints Mechanism (EIB-CM) received a complaint<sup>2</sup> from two Hungarian non-governmental organisations (NGOs)<sup>3</sup> (hereinafter the “complainant”) concerning the Budapest Airport Concession (CAPEX plan) project in Hungary.

### **A complaint raised the following allegations:**

- While the project assumes a 50% increase in air traffic by 2030, no environmental impact assessment (EIA) had been conducted. As a result, no mitigation and compensation measures were proposed regarding the estimated increase in greenhouse gas (GHG) emissions.
- The Project assumes an increased air pollution and GHG emissions from the airport and due to intensified landside traffic caused by the project. These were not subject to impact assessment and no relevant mitigation and compensation measures were proposed.
- The value of neighbouring real estate has dropped drastically due to the unhealthy and noisy environment. Houses are being physically ruined by noise pollution. Regulations on flight paths and the distances from the ground over inhabited land are often violated and that this produces negative impacts on the project-affected people. Households located 300 m from the runway were offered ineffective noise mitigation measures.
- The concerns raised by local stakeholders remain unaddressed by Budapest City, Budapest Airport, Budapest Cluster and the EIB. There has been no dedicated stakeholder forum on the project and its components to consult on the project and to address the public concerns.
- The EIB’s Environmental and Social Data Sheet (ESDS) together with the project summary sheet lacks core aspects, adequate measurements and methodology, and contains false information.

### **The EIB-CM conclusions and recommendations**

#### ***EU law on the assessment of effects of projects on the environment***

The EIB-CM found that the Court of Justice of European Union established that works to change the infrastructure of an existing airport, without extension of the runway, are likely to be covered by Annex II of the EIA Directive and that it may be necessary to take account of the cumulative effect of projects in order to avoid a circumvention of the objective of EU legislation by splitting projects which, taken together, are likely to have significant effects on the environment.

The EIB-CM also noted that the EIA Directive requires to assess and provide information in the EIA report on the impact of the project on climate and the vulnerability of the project to climate change

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<sup>1</sup> 21 October 2021

<sup>2</sup> Complaint SG/E/2020/03

<sup>3</sup> <sup>1</sup> The complaint was lodged by the National Society of Conservationists – Friends of the Earth Hungary and the Hungarian NGO Association for Civilized Air Transport.

Further, the EIB-CM also took note that the project is subject to the EU legislation on air quality and noted that in February 2021, the CJEU ruled that Hungary had breached the Air Quality Directive. The EIB-CM also took note that the project is subject to the EU legislation concerning noise emissions (Noise Regulation) which put certain requirements for airports on noise mapping, noise related operating restrictions and related public consultation and information disclosure.

During the inquiry, the EIB-CM found that:

- In 2017, the European Commission had issued a reasoned opinion regarding a lack of noise maps and actions plans in Hungary.
- In 2019, the Commission had opened an infringement case against Hungary on the non-conformity of Hungarian legislation with the EIA Directive
- In 2020, the Commission sent a formal notice to Hungary on the non-conformity of Hungarian legislation with the Energy Performance of Buildings Directive and its amending Directive

### ***The EIB's project appraisal***

The EIB-CM found that the EIB initially recognized that a full environmental impact assessment was required and a full EIA study including a non-technical summary was available, consultations with authorities had been carried out and the public had been consulted and informed. No significant environmental or social risks and mitigants were identified as part of the EIB appraisal.

However, then the EIB informed the public in the Environmental and Social Data Sheet that there was no requirement for an environmental impact assessment as “pre-existing consent” was in place. As such, all components except Terminal 3 were exempt from EIA screening as they fell under the environmental operating licence. According to the bank public consultation and stakeholder engagement were ongoing in accordance with EU and Hungarian law.

### ***The EIB-CM conclusions***

#### ***Alleged failure to assess and mitigate the climate impact of the project through an EIA and alleged non-compliance with the EIB's climate-related standards***

The EIB has no evidence that an EIA or any screening determination was conducted for the project in question. While the promoter provided the EIB with construction permits (development consent), no environmental permits were provided to the EIB. The EIB-CM did not find any evidence that the climate impacts of the project or its elements have been assessed in accordance with the EIA Directive. Although the EIB states that the promoter was implementing Near Zero Energy Building standards the promoter did not provide certificate that it complies with the applicable NZEB standards.

The promoter informed the EIB-CM that the construction permits already issued do not need individual exemptions due to a “block exemption” or “pre-existing consent.”

**The EIB-CM concluded that the promoter did not provide the EIB with evidence of compliance of the project components requiring a screening determination under the EIA Directive. As such, it is not clear on which basis the EIB services considered the project components as compliant with EIB standards. Consequently, it appears that the allegation is grounded insofar as the climate impact of the relevant project components was not assessed in line with EIB Standard 1.**

#### ***Alleged failure to assess the impact of the 50% increase in air traffic and land transport on air pollution***

The EIB-CM's inquiry established that the EIB services do not have sufficient evidence that the project impacts on air pollution have been assessed in line with the applicable regulatory framework and that the project complies with EIB standards. Therefore, the EIB-CM finds that this allegation is grounded.

***Alleged failure to assess and mitigate noise pollution and negative social impacts on project-affected people***

The EIB-CM reviewed the existing Environmental and Social Management Plan (ESMP) and found no mention of social aspects for local communities; only the occupational health and safety of the airport's own employees was considered. The ESMP does not identify any mitigation or monitoring measures pertaining to project-related noise pollution on inhabitants in the vicinity of the airport and falls short of the description of monitoring or mitigation measures and it does not fulfil the quality required by EIB Standard 1. Based on the above, the EIB-CM found the allegation grounded.

***Alleged lack of public consultation on the project and failure to involve local stakeholders from civil society***

During its inquiry, the EIB-CM found evidence that no public participation and stakeholder engagement were adequately implemented in the project. The EIB-CM noted that only two semi-public consultations have taken place up to 29 July 2021. These were conducted long after plans and decisions had been approved. Only a few local residents were present, two district mayors, a government representative and an airport official. This defeats the purpose of consultations and the spirit of the Public Participation Directive and EIB Standard 10.

Moreover, there is no adequate project-level grievance mechanism. In 2005, Budapest Airport established a Regional Noise Protection Committee (hereinafter the "noise committee"). However, noise committee meetings are confidential. This implies that keeping the affected public informed and engaged, as required by EIB Standard 10 which calls for inclusive and continuous stakeholder engagement, is not allowed. As a result, the EIB-CM finds the allegation to be grounded.

***Allegedly inadequate information on the social and environmental impacts of the project and its approval procedures in the ESDS and related information on the EIB's website***

The ESDS states that the project will not carry any significant adverse impacts. However, the EIB-CM's inquiry shows that the EIB does not have evidence of an adequate assessment of the project's impacts through an EIA screening process and the ESMP.

Also information on NZEB was not supported by sufficient documentary evidence. Furthermore, information on energy efficiency published on the EIB website (e.g. the promoter's Environment and Carbon Management Policy) was outdated.

**EIB-CM recommendations**

- prior to further disbursements, the EIB services should request the promoter to provide screening determination for the project components enabling capacity expansion with a view to ensure an adequate assessment of the cumulative impacts of the project including the "Cargo City," also in the light of the case-law of the CJEU
- EIB services should require that:
  - The promoter (re)maps project affected stakeholders and adequately engages with them, including through the establishment of a comprehensive grievance mechanism in accordance with the EIB's E&S standards 1 and 10.

- The current ESMP should include efficient and long-term mitigation measures for incurred negative social aspects, in particular noise pollution.
- the EIB services should:
  - Update information contained in the ESDS in light of the EIB-CM's findings and conclusions and reissue an updated version of the document.
  - Remove the current documents labelled as "Environmental and Social Impact Assessment" from the EIB's project website.
- The EIB-CM also suggests that adequate technical (environmental and/or social) and linguistic expertise should be available to the appraisal and monitoring teams in order to grasp the complexities as well as to apply the requirements of EIB standards and EU law concerning project's environmental and social impacts their mitigation and monitoring, as well as understanding and critically assessing project documentation.