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Ombudsman: EIB's public tender failure weakens EU efforts to strengthen rule of law

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The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible and free means of solving problems with the EU administration.

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The European Ombudsman, Emily O'Reilly, has criticised the European Investment Bank (EIB) for endorsing the exclusion of an Italian company from a public tender for the construction of a bridge in Bosnia and Herzegovina. The EIB, which is financing the project, based its decision on a legal error and ignored the findings of its own complaints mechanism that the exclusion of the company was unlawful.

Emily O'Reilly stated: "Getting procurement procedures right is key to ensuring the rule of law and fighting corruption in the public sector. The EIB, as a major provider of EU funding, needs to maintain a reputation for excellence. As the Commission has made clear in a recent report, corruption and weak rule of law are major problems in Bosnia and Herzegovina. In this context, the EIB's approach in this case is totally unacceptable."

Italian company unlawfully excluded from tender

In 2012, the Italian company participated in the tender for the bridge construction over the Sava river which is being financed by the EIB. It is part of a larger motorway project, connecting Croatia with Bosnia and Herzegovina.

Despite submitting the lowest bid, the company was excluded by the local promoter of the project on the grounds that its bid did not match the tender specifications.

The company challenged this decision. The EIB's complaints mechanism agreed with the arguments submitted by the company and recommended that the EIB withdraw its support to the project. The EIB's management, however, rejected the findings of its own complaints mechanism and maintained

the decision to finance the project despite the wrong exclusion of the Italian company from the tender.

During her investigation, the Ombudsman found that the EIB's management decision was based on an incorrect interpretation of the tender documents. She criticised the Bank for this maladministration and expressed her concern that this case risks putting into question the EU's commitment to strengthening the rule of law in Bosnia and Herzegovina. She will look into the possibility of opening an own-initiative inquiry into the systemic issues underlying the EIB's handling of the case.

The full decision is available at:
<http://www.ombudsman.europa.eu/en/cases/decision.faces/en/58171/html.bookmark>