

European Donor Bank Complaint Response: Issues and Failures to Address Employer Fraudulent Behaviour on a Dual Metro, UP, India

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Abstract

This paper is focused on assessing issues and failures relating to a fraud and toxic leadership complaint to a European donor Bank (ED), relating to a dual-metro infrastructure construction, in UP, India.

A qualitative methodology was employed in order to help understand Project personnel perceptions of ED Complaint Response in UP, India. The study scope for this research were present and past personnel (those that left the project in 2024) and whom had direct experience of the complaint basis, as well as those being forced to resign or be dismissed by the toxic behaviour of the Employer.

The targeted population was made up of sixteen (16) PMC personnel (present and past), from a Project Management JV (PMC), located across a dual-metro construction project, having similar experiences of the project toxic leadership and fraudulent behaviour. These were chosen within an identified “closed cohort” population.

A semi-structured interview design was employed interviewing 16 respondents, with a pilot study conducted with 2 respondents, who were subsequently eliminated from the main interview process.

The research outcomes consist of Seven Main Themes (7) - Governance reporting; Stakeholder Issues; Project fraud risk management; Project Fraud Audits; On-Project Fraud Countermeasures; Fraud Investigations; and Remediation Issues; and Twenty-two sub-themes (22) - with 353 dialogue instances.

The research outcome has raised important issues of systemic failures of the ED management to apply an appropriate range of engagements and subsequent interest in their own policies, procedures and standards, designed to help mitigate fraud on a donor funded project in India.

Further, the lack of capability to assess complaints effectively, where discrimination by the applied complaints process, has exacerbated the negative effects on the whistleblower and also gave rise to the arrogation of the PMC contract, without notice and a situation where €1.1Bln of ED assets have been openly at very high risk of misappropriation by the Employer (borrower).

Keywords: Donor Bank, European; Fraud, Complaint, Metro Project, UP, India

1. Introduction

Fraud in major complex projects has occurred in many infrastructure developments across the world (IACRC-SOF, 2024). The European donor Bank (ED) must follow general operating principles such as, article 325 TFEU to protect against fraudulent behaviour (p6, 5A, para 14, EIB-AFP, 2021). Lack of operational appraisals and due diligence of the project donor Bank (p4, LA conditions, (i), Item 2 - EIB-GoF, 2004) results from inadequate close attention, loss of project data and allows the fraudulent behaviour to continue unabated on projects. This is seen as failing to apply appropriate risk management mechanisms and measures, designed to prevent such fraudulent behaviour (Flyvbjerg, Bruzelius and Rothengatter, 2013).

All major donor Banks today have established protocols and measures to ensure that project fraud is monitored, and if detected, has measures in place to deal with this (for example, EIB-AFP, 2021; WB, 2011; ADB, 1998). However, fraud is not usually detected through routine audit's, that are prevalent in donor Bank governance activity. Research suggests, it is whistleblowing/complaints from someone on the project, that provides the catalyst for such fraudulent behaviour to be detected - estimated to be around 39% of project fraud detections with routine audits - 4%; with monitoring only at about 1.3% (Wells, 2017). Thus, the likelihood of fraud being detected is low, when confronted with a complex project.

Subsequently, routine external audits provide no real basis to detect fraud (Wells, 2017). However, whistleblowing accounted for 39% of fraud detection - and where external audits only 3.8% of fraudulent activities – where whistleblowing is subsequently 10.25 times more successful than external auditing. This means that such fraudulent behaviour could easily continue for years or even throughout a project undertaking, without being detected, if a whistleblower does not make a complaint. Subsequently, the present donor Bank rationale for a complex dual-metro project, is inadequate to meet current fraud protection requirements, and a lack of measures to monitor, detect, and mitigate fraud. All major donor Banks have developed policies to help mitigate fraudulent behaviour and it is assumed that these are implemented and followed both internally and externally for large infrastructure projects as designed and operated and agreed to, by the donor Bank. However, evidence may not substantiate this rational approach. The question to raise is, to what level have the present donor Bank's policies, protocols and procedures been implemented and maintained against? - for example, the FIRST tool, (EIB-2022).

2. Literature Review - Project Fraud

Project Fraud is defined, as the misrepresentation of project data and documentation (Wells, 2014), and/or the misuse of projects resources - personnel/physical or computer/data assets

(Rollins and Lanza, 2005). However, and additionally, fraud as discussed in this paper, refers to fraud conducted during work engagement – which is defined as being the deliberate misuse or misapplication of the employing organisation’s resources/assets (ACFE, 2024) and the lack of duty of care to other stakeholder assets (EIB-ESS, 2018; Bankwatch, 2022). Fraud is thus considered not only a deliberate act, but must also be intended to mislead or deceive (Wells, 2014). This means that fraudulent activities are carried out by individuals – often in authority – where governance and transparency is limited or non-existent (Kenny, 2009).

Fraud appears to increase, when the risk of such has been ignored or its recognition poorly developed and where there is a lack of fraud recognition training (Smith, 2021) directed at mitigating fraudulent behaviour (Flyvbjerg, Bruzelius and Rothengatter, 2013). Importantly, routine auditing is unlikely to detect fraud (Wells, 2017) and that such mechanisms are only likely to confirm process outcomes, but not the quality of such streams (Singh, 2014). Thus, little attention is given to project fraud (Iyer and Samociuk, 2006) or fraud impacts (Gotelaere and Paoli, 2022) and this means fraud monitoring is considered a more important activity, than individualised and focused detection (Gotelaere and Paoli, 2022). Given this, the majority of important fraud events are recognised to have come from whistleblowers (Wells, 2017) and in this regard, donor Banks have in place whistleblower policies to protect the persons who risk their livelihoods and reputations in signalling and correspondingly generating data/evidence associated with such major fraud events. In Europe, this is protected in an EU directive (Directive (EU) 2019/1937 – 2019) and further legislation at national levels.

For the ED, fraud or corruption is labelled “Prohibited Conduct” under the terms of governance and anti-fraud policies, for example, EIB-AFP (2021). These policies, protocols, procedures and standards are all designed to ensure that fraud is detected on a project, and that the borrower conducts itself, as well as other stakeholders, according to these contractual requirements. When the ED signs the loan with the Employer (as borrower), ALL parties to the contract must act in the best interests of the ED – wherever the project is located.

Further, the contextual borrower project behaviour for the dual-metro case, indicates that the Employer had arrogated the PMC contract and taken over the management of the dual-metro project, without notice to the ED (EIB-PC, 2024; EIB-PM, 2017) – through the routine physical monitoring. This then should have sent an operational “unobserved” red flag to the ED immediately (Ware, 2006) – thus showing that the ED staff have not implemented the ED’s detection measures on the project (EIB-AFP, 2021). This has further implications for the lack of ED asset management (EIB-2022, 2022) and requires greater attention to the project, as this also suggest that the donor Bank staff may not be implementing the designed methods to protect such assets. Therefore, this research is focused on assessing diverse underpinning issues, that create the context for the research question - In what ways do a European Donor Bank address Fraud: the case of a Dual Metro Project, UP, India?

3. Methodology

Studying perceptions of the ED performance relating to primary loans to a dual-metro in India, requires a qualitative inquiry to develop and assess significant project personal

problems and concerns (Walsh, White and Young, 2008). This demands the selection of a qualitative inquiry, over any quantitative requirements in a European performance orientation, demanding and rational, lending climate to India (Cheek 2008). The research scope focuses on singularly authoritative opinions from project staff, who are/were in a position to assess project performance, as an informed ‘knowledge agent’ (Sbaraini, et al., 2011), underpinned by exclusive and recent experience of the project deliveries and outcomes, as well as the behaviour of the various stakeholder management (Sutton and Austin, 2015).

A semi-structured interview design was employed (Noaks and Wincup, 2004; deMarrais, Roulston and Copple, 2023) exploiting a “subjective knowledge” view (Kvale, 1996), based on an “inductive” approach (Glaser and Strauss, 1967), whilst creating new theory development through the systematic process of reflexivity (Malterud, 2001).

Sixteen (16) project PMC respondents (present and past), were carefully selected from a “closed cohort population”, and are representative for “meaning” (Morse, 2007), consistent with an aggregated research frame, involving a single entity (Ritchie and Lewis, 2003; Fink, 2000) and justifying the notion of “empirical” fitness (Spanos, 1990).

Two (2) respondents were selected for a pilot study was carried out, and further excluded from consideration during the main interview process (Maxwell, 2013). The pilot study was focused on advising on the interview question(s) language and logic (Kim, 2011) from which a more effective, structured and rationalised interview engagement was derived (James and James, 2011).

All main interviews (14) were conducted in English (project language) and as per design, where each took about one hour (Sbaraini et al., 2011). The interview was audio-recorded, with written permission provided by the respondent (Duranti, 2007). All respondents were asked the same set of structured open questions (Gray and Wilcox, 1995), verbally adapted during the interview to ask any notable probing questions (Punch, 2014). Each interview was transcribed verbatim (after Bailey, 2008) and returned to the respondent for review and accuracy assessment (Harris and Brown, 2010) and returned for inclusion in the study analysis.

Internal validity was created and attributable to in-process plausibility (Denzin and Lincoln, 1998) by applying methodological “logic” (Altheide and Johnson, 1998) through connecting the major research question to the data descriptions and subsequent analysis (Stenbacka, 2001). This enhanced the concept of study credibility (Hammersley, 1992).

The implemented data analysis process took all 14 interviews and manually interrogated them for evident codes (Dey, 2005) underpinning the thematic analysis outcome (Glaser, 1992; Walsh, White and Young, 2008). This was assisted through the use of NVivo 14 software. No interview dialogue occurrence was left uncoded (Rubin and Rubin, 2005) and the subsequent outcome fully represented the respondent’s views through cyclic-progressive coding-sequences (Seale and Silverman, 1997). These were further analysed to create robust rigour and improved objectivity (James and James, 2011). Themes were developed out of the data interrogation where validity was further increased using triangulation processes

(Onwuegbuzie and Leech, 2007) associated with linked media from the project record, representing independent sources (Harwood & Garry, 2003). Applying ‘credibility’ (Johnson, 1997) and ‘dependability’ (Lincoln & Guba, 1985) in place of ‘reliability’ (Strauss and Corbin, 1990) helped to increase the robustness of the applied method (James and James, 2011) towards appropriate study “authenticity” (Creswell, 2013; Lincoln, Lynham and Guba, 2011).

Research questions:

Following the literature review, the main research question is stated as: In what ways do a European Donor Bank address Fraud: the case of a Dual Metro Project, UP, India?

Using the EIB model associated with fraud, risk, operational and remedial measures (EIB-CFC, 2017), additional support questions were raised to clarify the main research question, as indicated in Table 1, below:

Table 1. Research question, themes and discussion targets

Research Question		
<i>In what ways do a European Donor Bank address Fraud: the case of a Dual Metro Project, UP, India?*</i>		
Main-Themes (4)	Sub-Themes (22)	Dialogue Instances
1. How effective was the European donor Bank governance on the project?		
Governance	<i>Governance reporting</i>	18
	<i>Fraud Reviews</i>	15
	<i>Fraud team Visibility</i>	10
	<i>Whistleblower Issues</i>	22
	<i>Contract</i>	
Total		63
Stakeholder Issues	<i>Trust</i>	23
	<i>Competence</i>	17
	<i>Contract</i>	15
	<i>Ethics</i>	12
Total		67
2. How successful was the European donor Bank risk management and anti-fraud measures applied on the project?		
Project Fraud Risk Management	<i>Knowledge</i>	14
	<i>Training</i>	11
	<i>Compliance</i>	19
Total		44
Project Fraud Audits	<i>Fraud Team Visibility</i>	16
	<i>Training Requirements</i>	23
	<i>Proactive Fraud Reviews</i>	13
Total		52
On-Project Fraud Countermeasures	<i>Fraud Management</i>	20
	<i>Project Evaluation</i>	18
Total		38
3. How effective is the European donor Bank investigation(s) and any remedial measures applied on the project?		
Fraud Investigations	<i>Professional capacity</i>	17
	<i>Training Requirements</i>	15
	<i>Time on site</i>	21

	<i>Time in conducting interviews with management</i>	18
Total		71
Remediation Issues	<i>Exclusion</i>	10
	<i>Agreement negotiation</i>	8
Total		18
Total No. of Sub-Themes		22
Total No. of dialogue Instances		353
Total wordage of Interviews		≈85000

*The above statistics do not provide any scope to conclude that the numbers have any meaning beyond showing a level of response-intensity and reviewed as a separation of personal ideas, rather than a collection of similarities that are theoretically significant (Poth, 2023). In this research study, numbers are considered of less persuasive significance, against actual personal opinion (Sandelowski, 2001; Murray and Moore, 2006).

It also is a result of the level of saturation designed into the methodology used (Glaser and Strauss, 1967).

Figure 1 below shows the theme relationships positioned against the Research Question:

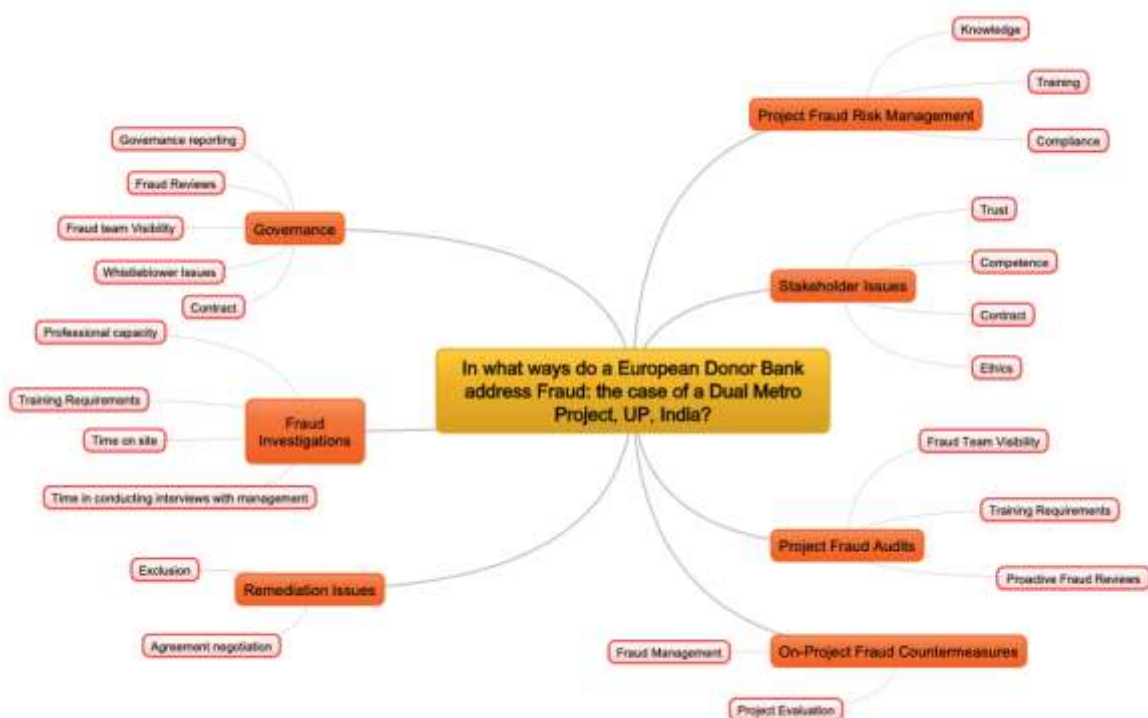


Figure 1. Themes and sub-theme associations

4. Results and Discussion

The research outcomes are shown in Table 1 and Figure 1, above, and are populated with the

main-themes, sub-themes and dialogue instances. The outcomes reflect short, and specific integrated narratives (Cassell & Symon, 2004) underpinning each resultant theme (Ryan & Bernard, 2003) related to the explicit research scope (Polit & Beck, 2010). The stated outcomes consist of Seven Main Themes (7) - Governance reporting; Stakeholder Issues; Project fraud risk management; Project Fraud Audits; On-Project Fraud Countermeasures; Fraud Investigations; and Remediation Issues; and Twenty-two sub-themes (22) - with 353 dialogue instances - where representative verbatim dialogue instances are stated, based on the format disclosed by Gonzalez (2008) and Daniels, et al. (2007). These statements deliver robust “internal coherency” (Coombs, 2017), in addition to ensuring respondent confidentiality (Kaiser, 2009). The results build a more informed understanding of the dialogue impacts (Bradley, Curry & Devers, 2007).

A short review is also made of appropriate ED reports, that further engages with the triangulation requirements of the study.

4.1 Documentary analysis (EIB-2020/ EIB-2022/EIB-2023/EIB-2024)

Empirical document data consisted of publically available annual reports from 2018, onwards. The stated ED data reflected the number of allegations; and new cases/year; and whether from internal/external sources. There is a dearth of data that is presented. For example, fraud, reported in around 39% of allegations to the ED, is assumed that this requires much time, resources, and be a condition of police notices, as well as higher level remediation measures. The levels of monetary involvement were also not disclosed. The ED publications therefore lack transparency in their assessments or published determinations, or internal learning and investigative process changes, due to a clear focus on providing dialogue of little substance.

During 2020-2024 - 18.19% of allegations submitted were substantiated, where 31% came from external sources - and 51% of allegations, came from outside the EU. 17% of allegations were stated as coming from transport. This further suggests that loan management is also unclear and that, irrespective of fraud, little is known of any internal country practices. Given this very unclear reporting, the ED level of transparency is considered low – breaching, p15, item 4 (EIB-SE, 2020).

Further, there are no amounts of losses shown, nor the numbers of persons involved – except named companies, and also there is no real timing associated with dealing with the complaints. However, it is to be noted that over the past 5 years, only 16.13% of cases reported are investigated, and there is no statistic to show the eventual percentage of cases that result in a fraud action or the scope of such or any learning outcomes that could assist in monitoring and mitigating project fraud. This may reflect the lack of applied processes and also the ED management, not showing the real fraud situation and its impact on the loan schemes provided.

4.2 Theme Outcomes

4.2.1 Main Theme – Governance

“No one on the project ever saw anyone from the [ED] or was shown any documentation

related to any visit to us. No, they definitely did things secretly, I think. Or the Employer didn't want us to see them."

"No. No. No one would report fraud here, despite this going on for at least 3 years. If I know, they should know. What were the [ED] doing?"

"No one could make a complaint because we are all fearful of losing our jobs, and in India, this means no money for a very long time. So, nobody complains."

"They [Employer] are so bad. They took our contract and now they are the PMC - not us. This can't be right. Where is the [ED]? They should realise what they are doing. Their money is here."

ED governance on the project is in disarray and unreliable. Loaning to India, does not appear to provide the same level of whistleblower protection expected for a European citizen on the project - as in Europe (p5, Article 1 - p6, para 1.8; p7, 1.12; p9, Article 4 - p9, 4.1.2; p9, Article 5 - p10, 5.4.1; p11, Article 7 - p13, 7.4.1.2; 7.4.2; 7.4.4 - EIB-WBP, 2021) and is seen as discriminatory and unfair. This is a major failure, as the ED has signed off on the PMC contract (EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring), where the lead JV is T****A from Spain. Subsequently, the PMC PD, following the ED loan requirements to report fraud on the project (p7, 5B(b), para 20(iv); p12, 6A(b), para 55/56 - EIB-AFP, 2021)(fraud activity as stated by the borrower MD/DWI in an open meeting - 8th Mar 2024), did so and was not protected by the ED anti-fraud protocols (p7, 5B(c), para 26 - EIB-AFP, 2021). This is also a major failure of due process, of the ED. This risk and outcome, must have repercussions for the ED, for the lack of protection given to the complainant - as a duty of the complainant to report fraud cannot be ignored by the ED. This has further implications for the length of time taken to get to an initial decision to investigate.

The ED has a mandate to ensure due diligence associated with the Covenant of integrity (p6, 5B(a), para 16-19; p12, 6A(b), para 56 - EIB-AFP, 2021) and the data suggests that the ED has ignored this undertaking. No such measures were visible or recorded as adopted on the project, and incorrect assumptions made by the ED, that monies loaned were being managed effectively as required by p7, 5B(c), para 26-28 (EIB-AFP, 2021). The data clearly indicates that this is not only an inadequate ED stance, it is viewed as unprofessional, and requires reporting to a higher independent European authority – outside of the ED.

No European country would want to fund a foreign project without having proper balances and checks in place and implemented to prevent fraud. So why hasn't the ED? In this respect, the ED policy has failed to be implemented, and no Indian/ED internal review has reported any issue with its operational stance for the dual metro project over the past 4 years. Given the reality of the project, this also indicates a complete failure of the ED systems of operations, to deal with any risk/fraud issue – as mandated by p9, 5E, para 36 (EIB-AFP, 2021). This begs the question, as to how such a large loan (€1.1Bln - EIB-AP, 2024) could be given to an Asian country, without ensuring that the monies will be managed appropriately according to the protocols, procedures and standards expected (p6, 5B(a), para 16-18; p7, 5B(b), para 19-20 - EIB-AFP, 2021). This was overtly expressed in writing within the loan

contract/agreement with the Employer/borrower of the metro construction. This is therefore a complete failure, of the ED system, and has also increased risks to the ED (p6, 5B(a), para 17-18; p9, 5E, para 36; p10, 5F, para 39; p14, 6B, para 63 - EIB-AFP, 2021). The lack of communication from the Employer of the Project to the ED, breaks the “Covenant of Integrity” (p8, 5B(c), para 28 - EIB-AFP, 2021). The evidence also indicates that this was a deliberate ploy by the Employer MD/DWI, and that their stance was solely based on their defensive toxic leadership and the fraudulent behaviour being conducted on the project (James, 2024). It also indicates that the Employer wanted to intentionally hide the fraudulent behaviour being conducted by its own staff, as well as the PMC Core management group and the Contractor personnel on “K/A Projects” (James, 2025). The data shows this fraudulent behaviour was widespread on the project, and raises the question as to why the ED protocols, processes and standards did not work as planned – if they were implemented?

4.2.2 Main Theme – Stakeholder Issues

“No, just like everyone else, we don’t trust the Employer. They lie. So, it is difficult to understand [ED] as they should have done something much earlier to speak to us.”

“If the [ED] was so careful and competent, shouldn’t they have ensured we were involved, so that fraud was managed on the project. They couldn’t do it without some help from the PMC managers. Could they?”

“How is it possible that the [ED] does not know that the contract that they agreed to, has been set aside by the Employer, and where they run the project, as if we are their employees?”

“We cannot report fraud to the Employer, as they are involved too. So who do we go to? This is very disappointing. We have no power to do it. No wonder no one reports it [fraud].”

From the data analysis, the project European donor Bank (ED) has failed to ensure that:

- the Employer (borrower) and the PMC utilise transparent project analytical reviews (Wells, 2017); and
- adequate fraud reporting outcomes (IACRC-SOF, 2024) and standards as required by p7, s5, B(c), para 26-28, (EIB-AFP, 2021); and
- fraud discussions/training with ALL major stakeholders (Smith, 2021);
- and/or apply risk guidelines regarding penalties for fraudulent conduct (EIB-AFP, 2021).

In this respect, the Employer (borrower) and the ED are responsible for a lack of accountability (Petrucelli, 2012) for such failures – the Employer for fraud/misconduct (Pelletier, 2010), and the ED for inattention to apply good anti-fraud measures (EIB-AFP, 2021). This has direct implications for reported ED in-country mission leadership failures (Harris, Kacmar and Zivnuska, 2007).

The outcome and the behaviour of the Employer management and staff do not appear to belong to, or support, the principles of project ethics (Griffis, Plummer and DarConte, 2022),

nor does it correspond with the ED principles and guidelines for loans (EIB-AFP, 2021). The Employer must meet accountability requirements (p54, Annex 10, EIB-SE, 2020), as their toxic behaviour has cost the project monies and negatively affected the UP-government's reputation for metro construction outcomes and safety/quality failures (McDonnell and Nurmohamed, 2021). Further, the Employer need to consult stakeholders, is an accountability requirement (p36, Item 9, EIB-SE, 2020). This has not been done, as informing arbitrarily is different from consulting and there is no documentation available about these outcomes on the project. This does not assist in the advancement of value and capacity building for infrastructure construction (Dangol, 2024), as a coordinated professional effort across India.

4.2.3 Main Theme – Project Fraud Risk Management

“They don’t do any fraud risk thing on this project. No one has been trained or knows anything about fraud risk. Do we need it here?”

“I don’t think there is any compliance conducted on the project, because I was wondering why they did not do it, because every week we would hear about what was happening at Kanpur. Every week we would hear gossip about how much money they were earning - and before you say anything, no we did not dare say anything.”

“No one understands risk or the need for it. Maybe that is because there is no risk training done on the project, or they don’t want to show anyone what they are doin’ here. So, what is [ED] doing then?”

The lack of adherence to stated ED requirements, further shows that the ED protocols, procedures and standards are being ignored on the project and amount to an “improbable application” of such fraud monitoring and guidelines (p8, 5B(d), para 29-31 - EIB-AFP, 2021). This non-compliance (EIB-Compliance, 2024) is due to negligence and/or inexperience or even lack of managerial intent of the ED country staff (Failure to adhere to - p6, 5A, para 15 - EIB-AFP, 2021). However, with a €1.1Bln loan, it would appear to be difficult for the ED to defend against not applying the fraud guidelines (EIB-GoF, 2004). This means that the ED has failed to protect “...its financial interests and those of third parties by putting procedures in place to detect and take disciplinary and/or judicial action against corruption and fraud.” (p2, EIB Commitment - EIB-GoF, *ibid*). This is a major issue for the ED management in the EU. Subsequently, just having a report from the Employer, that “no fraud is being conducted on this project” is woefully inadequate and extremely risky. This means that the ED has not been conducting its monitoring appropriately, due to the lack of transparent ED reviews on the project cycle (EIB-PC, 2024; failure of - p7, 5B(c), para 21 – EIB-AFP, 2021), and where due diligence has not been applied, conducted or adhered to (5B(a), para 16 – EIB-AFP, *ibid*). During the physical monitoring, the Employer “...is obliged to inform the Bank in the event of a significant departure from what was agreed originally.” (EIB-PC, (2024; EIB-PM, (2017) – physical monitoring). This is also a requirement, under p15, Information Disclosure (EIB-SE, 2020). Thus, changes in operational management of the project, where the Employer arrogates the PMC contract, without informing the ED (contrary to EIB-PM, 2017), is such, a significant departure to what was agreed on signing for the loans. Any reports that this was done on the project lacks

the essential requirement of transparency, with other major stakeholders – including the PMC. Subsequently, the ED has been negligent in its actions to protect its assets and the PMC personnel who have been trying to conduct proper project management on the project.

The present case indicates a continuing and very real risk of project failure, that should have been seen by the ED much earlier in the project life-cycle review process (EIB-PC, 2024) and yearly report. It is obvious that the ED personnel have not been conducting their responsibilities appropriately for the project. This failure appears to have resulted in the Employer's personnel conducting and reinforcing the project fraudulent behaviour with impunity, as there was no discernible yearly monitoring on the project (p33, 8, Objectives, EIB-SE, 2020; p7, 5B(c), para 26-28 - EIB-AFP, 2021). The ED does not appear to be aware that material changes in the management of the project have occurred, because the Employer has not reported this to the ED. Subsequently, the complainant should not have to pay the price for reporting the consistent fraudulent behaviour of the Employer and the PMC Core Group, by following the ED imposed duty, to report fraudulent behaviour on the project (p7, 5B(b), para 20(iv); p12, 6A(b), para 55/56 - EIB-AFP, *ibid*).

Further, the project management activities has been found to have been compromised by the Employer and the PMC Core Group - who together conducted collusion (James, 2025) that effectively helped conceal fraud events internally, through misinformation and misstatements of the facts – as had occurred before, during and after the CMRS certification process in February 2024 in Agra.

4.2.4 Main Theme – Project Fraud Audits

“I have not heard anything about fraud auditing. So, the [ED] must be happy that no fraud is happening here. Sadly, they are wrong. Very wrong.”

“The [ED] have not been here or been visible throughout the 4 years of the project, nor has anyone ever been questioned... ..about any fraud activities. This is a serious mistake. They have not been diligent, nor have they been doing their jobs. Otherwise, the fraud in Kanpur would have been detected already. It took the PMC PD to do that, and look what happened to him.”

“We were told that T....A and I....r, objected to any discussion with the [ED], as a favour to the Employer. I think this was an excuse. This is kinda suspicious, isn't it?”

The commitment of the ED to a zero-tolerance of fraud is not stated in the:

- ED Anti-fraud Policy (EIB-AFP, 2021);
- Whistleblowing policy (EIB-WBP, 2021); Complaints Mechanism Procedures (EIB-CMP, 2018);
- Investigation procedures (EIB-IP, 2013); or
- Risk management charter (EIB-RMC, 2019);

but is stated in an earlier document of less importance (EIB-GoF, 2004) and online on the

preamble on the publication website (EIB-Pub, 2024).

Subsequently, the ED notion of zero-tolerance for fraud is limited, by the lack of visibility in ALL major ED documents - after 2004 and therefore it is a clear indication that it was not all that important. This also seems anomalous, that the ED does not follow-up on any allegations of fraud in this case, either. This begs the question of the ED objectiveness in India, then the project outcomes can be considered false and non-compliant. Further, there is little evidence from the research data, that any audit process ensures that fraud is mitigated on the project (Wells, 2014). Thus, the ED has been misled, not only by the project fraud actors – Employer and supported by the PMC Core Group (James, 2025) - but also by the subsequent inadequate fraud measures implemented (p12, 6A(b), para 55-56 - EIB-AFP, 2021). This is a specific weakness of the present ED strategy and administrative processes – time delays and the lack of specific real-time monitoring – visibly and unnecessarily affecting, even allegations of fraud.

4.2.5 Main Theme – On-Project Fraud Countermeasures

“Because there is no reported fraud by anyone, there are no measures, I know of, used here. Despite there being so.”

“No one from [ED] has interviewed or conducted any such training [fraud]. Were they supposed to do that? It would have been very good here, if they had done the training, then they would have certainly learnt that it is happening inside the Employer staff, with the help of a group of T....A managers.”

They [Employer] wouldn't let us do any countermeasures, because it would have cost them money and it [fraud] would have been recorded.”

The data suggests that the ED responses were such that, they appeared unaware of any fraud during the 4 years of the construction/operation - which shows that its system of monitoring and dealing with fraud on the project has not been implemented effectively (EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring). With no fraud surveillance directly on the project, the ED has not conducted proactive fraud reporting requirements (p12, 6A(b), para 55-56 - EIB-AFP, 2021), nor followed the ED fraud measures (EIB-AFP, *ibid*) for training or on-project assessment. However, ED ignorance of project behaviour, is not a defence associated with ED monitoring. As the PMC contract was arrogated in June 2024, then this is not what the ED agreed to when agreeing the conditions for the loans (EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring) and the subsequent Employer behaviour is therefore against the loan agreement conditions. ED has ignored this hostile and exploitative behaviour. Fraud countermeasures don't exist, and there appears to be no ED recognition of non-recording of fraud – in attempts to prevent the ED being informed.

4.2.6 Main Theme – Fraud Investigations

“If I think about, I do not recall any such investigations. No not here. There is fraud here, but no one is interested to do anything about it. They must have taken millions by now. But no one thinks they need to investigate. No one...”

“Since there has been no training, then the [ED] has not really done their job, have they? However, if someone complained then we would know about it. Wouldn't we? They [ED] would be here. Unless it was a secret.”

“We are not protected if we complain. So no one does. Look at the PD, he's is a victim of the Employer. They [ED] should have come here much earlier. We know about the fraud, all they needed to do was ask and protect us. But they didn't.”

The ED investigation team management have not applied the European Union's Whistleblower Protection Directive (Directive (EU) 2019/1937 - 2019) to the complaint process, which mandates that member states establish legal frameworks to protect whistleblowers (AI, 2024). Further, even if the fraud allegations concerns a project funded by the ED in India, the directive – “...requires that the main mechanisms of the Directives be followed, with the necessary procedural adaptations.” - due to, p7, s5, B(c), para 25 (EIB-AFP, 2021). If this has been done for India, then they were never applied in this complaint, as “...equivalent standards of protection and measures to prevent and deter Prohibited Conduct...”. (p7, 5B(c), para 26 - EIB-AFP, *ibid*). It would appear that the ED has ignored the allegation of fraud on this project, after a complaint from the most senior engineer in the PMC – without notice to the complainant. This creates a major concern regarding how the ED processes such allegations, against the ED mandates and requirements. Subsequently, the evidence heavily suggests that the ED investigation has not showed clarity on how it had made important decisions related to the investigation process, and why the investigation process has taken so long. This clearly indicates that the ED is dodging its way through the investigative process. The following may show why:

Allegations of “Prohibited Conduct” (p12, 6A(b) para 55-56 - EIB-AFP, *ibid*) are designed to be responded to within days; and where the allegation is shared with the country group and even the project for response (WB, 2011). However, in the latest, and only case made public for the project, from the allegation notice (March 2024), it had taken:

1. 4 Months to discussion interviews – July 2024 - to review questions associated with allegations. This fails the requirements of p5, E(i), para 12/14 (EIB-IP, 2013). Subsequently, the desk review has taken much too long - reflecting an inadequate process, along the lines of insufficient personnel tasked to conducted such reviews. This indicates a clear risk failure to the ED, especially since this has allowed the Employer freedom to manipulate the project documentation (p5, E(i), para 13 - EIB-IP, *ibid*) having already arrogated the contract (EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring) and dismiss the PD PMC for making the complaint. This also suggests a lack of fraud risk cognisance and assessment on the project (Ross, 2016) and compromises the ED risk management charter, in its mission performance associated with the project operation (EIB-RMC, 2019)
2. 4 months to be allocated an IG/IN case number - p3, C, Item (f), para 7 (EIB-IP, 2013).
3. 7 months to move to site investigation of 1 day on each project (Internal Employer Note: - 20th Oct 2024) – Not issued by the representative of the Employer, but by someone with no authority to issue it to the PMC

4. 9 months to issue the initial assessment (Dec 2024) (repeating the 4 month notice – as in (2), above)
5. No explanation of process timelines has been released by the ED, with a statement that the final report would be issued within 15 months after the initial complaint
6. The investigation is seen by the Employer as only “...administrative in nature.”
7. There is a demonstrable lack of ED response, of the retaliation – dismissal of PD PMC - that had occurred as a consequence of the reporting of the fraudulent behaviour of the Employer (p5, E(i), Item g, para 11 - EIB-IP, ibid)
8. It has taken much too long to satisfy p5, E(i), para 13(a/b) - (EIB-IP, ibid) – and this affects the level of risks to the ED – as in 1., above
9. The ED did not interview any PMC member at the PMC central office (where the PMC Core Group are stationed)
10. A major effect on the late decision to investigate, is that the project documentation may not be as it was, prior to the complaint and because the complainant is known, the Employer manipulation of project data is a major risk issue (Ojiako, 2023) – which has been ignored by the ED
11. There are vacancies in the ED country mission in India, including the Mission lead, before and after the investigation decision, which shows a major leadership ED mission challenge

These issues above, jeopardises the spuriously “engaged” outcome of the ED investigation, due primarily, to the application of a flawed investigation process (EIB-AFP, 2021).

4.2.7 Main Theme – Remediation Issues

“I know that when someone get caught for fraud, it can be very difficult for the company. It happened on another project, I know. However, what happens when it is them [Employer]? I am concerned for my job because of the Employer. Sad, that we have to pay for this with our livelihoods.”

“No remediation [remediation] measures here. None, because it [fraud] was ignored.”

*“I****r (PMC JV member) has had real problems getting money from T***A (PMC JV Lead). They’ve got none and complained a lot to T***A. Now though, they have been real quiet because they got a large amount from the Employer through us - when the MD heard that the [ED] was investigating. That’s the remedial [measures] you should be looking into...”*

It was reported that no fraud remedial measures/actions have been put in place on the project (p10, 5G(a/b), para 41-42/45 – EIB-AFP, 2021) due primarily to a lack of detection (contrary to – p6, 5A, para 15 – EIB-AFP, ibid). Thus, no data from the project, does not mean that fraudulent activities are not occurring. It is likely that the ED have some form of project performance assessment, but given the above figures and outcomes, it would appear that the

ED is inattentive against its own requirements. This may sum up why the interviews with the ED investigation team resulted in so long to make the decision to investigate, but not the fraud, and only spend 2 days on the project, but none with more important issues - such as the toxic leadership of the MD/DWI and Employer staff. It is difficult to comprehend, that the data indicates that the PD PMC was never allowed to discuss with the ED any concerns or matters relating to the project, except that this appears to be a way for the Employer to prevent knowledge of fraud to be raised, directly and openly, with the ED.

The ED investigation process does not appear to recognise the issue of a "conflict of interest" by the Employer hidden interest (fraud activities) (Cascarino, 2013) and thus the process adopted fails to ensure that the investigation is fair, transparent, and logical – especially given the amount and focus of the allegations in writing and using the affirmed project document system. The lack of transparency means that p5, E(ii), para 15(a-d) - EIB-IP, 2013) cannot be assessed externally. The ED has not stated whether any external "consultants" are assisting them in the investigation (p5, E(ii), para 18 - EIB-IP, *ibid*). Under the ED's data protection requirement, there is a requirement to protect sources of data "...whilst protecting the identity of sources and persons concerned." (p5, E(iv), para 21 - EIB-IP, *ibid*). This is at odds with the total lack of protection afforded to the complainant, as the most senior engineer on the PMC, and appears to have been targeted as a scapegoat, by the Employer, for raising the issue with the ED through unjustified dismissal (breaching p33, Item 8 - EIB-SE, 2020).

5. Discussion

The significant outcome of this study is that the ED has loaned (€1.1Bln) to a dual-metro project (78.6%), and do not appear to have conducted appropriate governance on the project as demanded by ED protocols and requirements. This is despite the complaint of fraud against the Employer (Gottschalk, 2023). This signifies a critical risk to the ED (Ross, 2016) and should worry the ED management in Europe, as the Indian government borrower, appears to have deliberately hidden significant project change activities, without informing the ED (contrary to EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring).

The PD PMC cannot be held liable for the lack of ED governance and the fraud brought to their notice in Mar 2024 submission, nor the lack of Employer engagement in ED contract obligations (breaching p33, Item 8 – EIB-SE, 2020). The subsequent investigation has taken the focus of the ED on environmental and social issues related to toxic leadership, rather than fraud. This is a major issue, as this appears to be dealing with the symptom of the misbehaviour, rather than the actual behaviour of the project Employer.

Given the situation on the project and the lack of appropriate responses by the ED, there is questionably no responsibility, accountability or transparency (Kenny, 2009) taken by the ED, resulting from poor project governance and a lack of due diligence (5B(a), para 16 – EIB-AFP, 2021); and lack of attention to detail surrounding ineffective whistleblowing protections (Nicaise and Worth, 2010). Further, the lack of Employer engagement in ED contract obligations (breaching p33, Item 8 - EIB-SE, 2020), also increases the risk to the ED (Giles, 2012; p3, Item 1.4 - EIB-SE, 2020). The level of non-action by the ED is considerable, indicating a clear prejudicial motive and actions akin to a "Groupthink" threat-rigidity (Staw,

Saunders and Dutton, 1981) that does not challenge the status quo. This should be a huge worry for the international donor Bank financing. Both the investigation process and the lack of data associated with the annual reporting outcomes utilised, shows huge process failures. This heavily suggests that the ED does understand or does not want to provide the appropriate internal governance on loans, given to projects in India. This has implications for continuing ED finance relationships in India. It is also a concern for the ineffectiveness of in-country ED management and processes and the continuing lack of appropriate leadership and security rationale.

Subsequently, the ED had taken far too long to assess the complaint, brought on by the lack of governance and installed ED lead for India. For a project with over €1.1Bln in loans from the ED (EIB-AP, 2024), this conflation of considerable risk issues does not appear to have been recognised or acted upon by the ED management in Europe.

6. Conclusion

Due to a lack of ED risk management on the project (Giles, 2012), there is a continuing pernicious risk of severe safety/quality failure (Lin, et al., 2024) occurring on the project - due primarily to the MD/DWI toxic behaviour with hostile intent (Rasool, et al., 2020). This was done after Employer instrumental failures resulting in 2-year project delays (without payment to the contractors), and without Employer reference to the agreed plans, design, quality or safety requirements.

However, with 9 months delay to the ED initial decision and where allegations of fraud “...have been shared with the competent ED services for consideration.” This shows that the ED is firstly, very slow in protecting its assets and resources created, through systemic process failures, and secondly, do not make decisions or engage with its own codes, protocols, procedures, and standards relating to fraud detection, or conduct effective project communications. The ED therefore operates in an investigative mindset of disinterest and detachment and has failed to act effectively to considerable allegations of fraud, that affects the risks to the assets of the ED on the project. More importantly, it has failed ethically to demonstrate “*integrity, common sense and sound judgement*” (PC, 2023) in operationalizing the complaint process in this case.

The duty placed on anyone to report fraud on any project funded by the ED (p7, 5B(b), para 20(iv); p12, 6A(b), para 55/56 - EIB-AFP, 2021) cannot be ignored by the ED investigation team, as this decision to make the complaint is a personal one, fraught with great risk to which, in this case, has shown a job loss, loss of credibility, loss of future earnings and has already demonstrated as being blacklisted by the T***A. The ED attitude to ignore the fraud allegation is impossible to understand. The ED is duty bound to conduct their investigations on the project and “...shall be investigated thoroughly and fairly.” (p3, 2, Basic Principles, Item (i), para 10 – EIB-AFP, 2021) and ensure that the project is safe and secure - not only for the ED assets, but also for the stakeholders involved. The present ED approach fails this requirement and is posited as reprehensible.

With ED investment loans, routine reports such as - showing changes in scope, delays, changes in cost, environmental and procurement aspects, or other relevant issues (EIB-PC, 2024; EIB-PM, 2017) – physical monitoring) are required. However, the ED response shows little understanding of project activities such as the contract arrogation, and the use of Employer misrepresentation to gain CMRS certification to operate trains in an unsafe underground

tunnel/station system. The ED complaint response has also ignored the arrogation of the PMC contract by the Employer without notice (contrary to - EIB-PC, (2024) and EIB-PM, (2017) – physical monitoring), to run the project and to dismiss all the Employer specifications and replace these with dubious undocumented verbal specifications, that have affected the quality and safety of the underground structures (tunnels and stations). This further raises the basis for suspicions of internal protections of fraudulent behaviour, by the Employer (James, 2024b).

This research outcome is therefore a call, to question, why the ED should link any controls to loans in foreign countries, if the assets and finances (p4, EIB-CFC, 2017) aren't going to be managed/implemented appropriately. The ED has failed in its fiscal project risk requirements to protect its own assets (p6, A, para 14-15, EIB-AFP, 2021; Pykhova, 2024). It is obvious that the ED does not conduct itself according to these ED requirements in India – at a cost to its assets and European nationals working on the project – who expect better. There is no trust on the project, just recriminations and danger, caused by the toxic behaviour of the Employer, defending any visibility of fraudulent activities.

Given the above, the disappointment to the project of a lack of serious intent by the ED investigation team, the loss of the complainant's job, blacklisting for no reason, and discrimination from potential employers is difficult to comprehend. These indicate clearly, that the ineffectiveness of the applied ED protocols, processes and standards - then a major outcome of the research, is for a whistleblower, not to do it on any ED funded projects in India. This is because it will be largely ignored, and there will be no justice, fairness or satisfaction with the outcome. This brings into question the credibility of the ED policies and procedures, not only to conduct fraud investigations effectively, but also to take seriously senior management indications of such fraud behaviour and the defensive positioning of the Employer to use toxic leadership practices to quieten anyone who stands against them.

The data also suggests that the ED investigative process is not “fit for purpose” for India and that the ED actors in this, are ineffective in understanding the risks of their incapability to see beyond their own system flaws. The red-flags are there for the ED investigative team to review and react to properly (p5, EIB-CFC, 2017).

An independent review should be conducted on both projects, to assess the level of managerial negligence and lack of safety/quality introduced into the project by the toxic culture of the Employer, and underpinned by the sycophantic PMC management group (James, 2024). A further review should be employed by the ED to assess the impact of the inadequate compliant process adopted in this case.

This research outcome could be considered a “black swan” event for the ED (Taleb, 2017) not because fraud is unusual in India infrastructure projects, but because someone has raised the issue of fraud, and that the ED is unprepared to deal with the complaint - according to the ED protocols, procedures and standards.

The ED leadership in India and in Europe is brought into question by the outcomes of this research and need to review its own mandate to account for the lapses in internal investigations and reviews. There also should be changes to the policies developed and implemented by the ED for India, as the quality and safety of the infrastructure build on the project is seriously flawed and will negatively affect such infrastructure risk for the next 50 years. The risk of project infrastructure failure is high, and therefore the heightened risk of additional legal, moral, procedural and reputational risk to the ED cannot be ignored (Oke, et al. 2023).

The ED have not utilised their authority to require the Employer to provide actual project data, thereby concealing the effects of fraud on construction quality and safety. This issue is exacerbated by a detrimental working culture of secrecy and harassment. The ED should be using investigative pressures to ensure that the project data it requires under the loan contract is made available. Any process with the Employer should be made available to stakeholders and should include the complainant. Additionally, the project should be put on special measures and closely monitored to ensure visibility of Employer decisions affecting any ED asset and governance capability (Singh, 2021).

Good project management has been eviscerated by Employer greed, financial grooming of the PMC core group, fraud, and contempt for workers on the project. This appears to align with the “absent” leadership of the ED (against the written protocols, procedures and standards) and the lack of protection of persons willing to risk everything to bring substantial project safety and quality flaws to light, as well as fraud. The ED responsibility and accountability must also be brought to bear on the issues of many PMC employees who were dismissed or forced to resign due to the contemptible toxic behaviour of the Employer, with no protection from the ED – including the PD PMC, who was dismissed because of the notice to the ED. Additionally, for PMC personnel, not being able to express in writing and verbally, concerns of major safety/quality (contrary to p33, Item 8 - EIB-SE, 2020) issues on the project – without retaliation from the Employer, such as dismissal is also reprehensible. The lack of ethics of the Employer, who should have stepped-aside due to misconduct claims, and not been reinforced by the ED and contempt shown for the PMC workers, should also of great concern for the ED top management in Europe, for major ED funded infrastructure projects in India.

The ED continue to ignore their responsibilities associated with the arrogation of the PMC contract, which has now been raised as a vehicle to hide the Employer fraud, which the ED has not acknowledged. The ED also appear bereft of capability to understand project management requirements outside of the EU, and specifically regarding aid to India, appears to be treated as a means to borrow huge amounts of finance, without proper governance or redress. The ED let this happen to this project, show no respect to the PD PMC situation who was defending the project against Employer fraud, hidden by their toxic leadership, where the community and project workers deserve more effective governance and trust to ensure the quality/safety of the project construction and the metro safe operation. The ED responses therefore undermine public trust, and also PMC staff, as major stakeholders, appear to have lost any trust in the ED processes to detect and mitigate fraud on the project, and to protect those who are strong enough to raise the fraud issue through the ED complaint system. The ED complaint managers are either incompetent or appear to just not care. The lack of focus in managing ED assets of US\$1.1Bln indicates an overconfidence associated with political overtones. EU financial system managers may also wonder why the ED does not take appropriate professional interest in the proper management of EU assets, despite being in India. The time for action, has long passed and illustrates the reluctance, at great cost, for the backward looking and sterile culture espoused by the ED. The ED appears to be hemorrhaging money on this project through fraud, and still it does not act – after a year in consideration of a complaint. European nationals on the project demand better treatment.

There is no honour for the ED management in the provision of loans to 3rd World countries like India - if it does not fully support the huge risks taken and the dedication of whistleblowers to raise such fraudulent encounters – and those who suffer when the ED goes deaf.

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