



EUROPA-UNIVERSITÄT
VIADRINA
FRANKFURT (ODER)

Band 52

Viadrina-Schriftenreihe zu Mediation und Konfliktmanagement

Jenny Laube

The Independent Accountability Mechanisms of Multilateral Development Banks as Sources for Continuous Learning



Wolfgang Metzner Verlag

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**The Independent Accountability Mechanisms
of Multilateral Development Banks as
Sources for Continuous Learning**



Wolfgang Metzner Verlag

Master-Studiengang Mediation
und Konfliktmanagement
Masterarbeit
Studiengang 2021/2023



**EUROPA-UNIVERSITÄT
VIADRINA
FRANKFURT (ODER)**

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ISBN 978-3-96117-172-9

ISSN 2365-4155

Bibliografische Information der Deutschen Nationalbibliothek

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.d-nb.de> abrufbar.

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Preface

In a world that is ever-changing and increasingly complex, the need for continuous learning and adaptation is more vital than ever. Multilateral Development Banks (MDBs), as key players in financing and guiding development projects, face immense challenges in ensuring that their operations remain effective, inclusive, and responsive to the needs of those they serve. This thesis, *The Independent Accountability Mechanisms of Multilateral Development Banks as Sources for Continuous Learning*, explores a crucial avenue through which MDBs can not only meet these challenges but thrive in a rapidly evolving environment: through independent accountability mechanisms (IAMs).

The core motivation behind this work lies in the recognition that accountability is not a static concept but a dynamic process. In this process, learning plays a central role. IAMs are not only tools for addressing grievances or ensuring transparency; they are powerful catalysts for reflection, institutional growth, and long-term learning. In this thesis, I argue that these mechanisms provide MDBs with unique opportunities to critically assess their operations, learn from both successes and shortcomings, and continuously evolve in response to new challenges and emerging global trends.

By investigating how IAMs generate valuable insights, this work highlights the importance of institutional learning as a means to improve development outcomes. In an increasingly interconnected and volatile global landscape, MDBs must embrace learning as a continuous and iterative process. It is through this lens of learning and adaptation that IAMs become more than reactive measures; they are proactive instruments for shaping a future in which development is more sustainable, inclusive, and effective.

This publication is based on my master's thesis, completed as part of the 12th cohort of the Master's program in Mediation and Conflict Management (2021–2023) at the European University Viadrina in Frankfurt (Oder). The work has been slightly revised on the basis of the assessments received. The sources reflect the state of research as of June 2024.

I would like to extend my heartfelt thanks to those who have supported me in this endeavor. My academic supervisor, *Prof. Dr. Ulla Gläbßer*, provided invaluable insights and guidance throughout this jour-

ney, and I am deeply grateful to the practitioners and experts who shared their experiences with me. Their contributions have been fundamental to the development of this thesis.

I am grateful to the editors of this series and the publisher, the *Wolfgang Metzner Verlag*, for including my thesis in this publication series – it is a great honor for me. Last, but not least, I want to thank my partner and family, whose unwavering love and support have allowed me to pursue this project.

In closing, I hope that this work sheds light on the critical role that accountability mechanisms can play in fostering a culture of learning within MDBs, and that it will inspire further exploration into how institutions can adapt and grow in an ever-changing world.

Jenny Laube, October 2024

Abstract

This master's thesis investigates the role of Independent Accountability Mechanisms (IAMs) in multilateral development banks (MDBs) as sources for continuous learning within the realm of international development. The research addresses the need for accountability mechanisms in international development and explores the requirements for an accountability mechanism to function as a catalyst for continuous learning. Additionally, the study examines how existing mechanisms are currently structured to promote continuous learning and suggests potential enhancements to increase their capacity to facilitate learning.

The research employs a methodology encompassing document analysis, literature review, and qualitative interviews.

Key findings highlight the vital role of IAMs in providing redress for communities affected by MDB-funded projects, emphasizing their commitment to promote learning and incite change within associated institutions. IAMs contribute to institutional learning by channeling insights from complaints into the design, planning, and implementation of development projects, while informing MDB policies safeguarding communities and the environment. However, their full potential as sources of continuous learning remains untapped.

In conclusion, the study underscores the potential for significant improvements through systematic evaluations of IAM effectiveness. Additionally, the formalization of a transparent and continuous monitoring and reporting system is proposed to enhance the mechanisms' contribution to continuous learning.

The scope of this research is limited to the context of development finance, focusing on selected IAMs. While primarily document-based, the study incorporates qualitative interviews to provide practical insights. Further empirical investigations could complement these findings and enrich the understanding of IAMs as crucial contributors to institutional learning in international development.

1. Introduction

In an era of global interdependence and sustainable development, the role of multilateral development banks (MDBs) in shaping economies, societies, and environments cannot be understated. As catalysts for progress, MDBs channel substantial resources into projects that hold the promise of transformative change. However, with great potential also comes significant responsibility. The imperative to ensure accountability and address adverse impacts has given rise to a crucial facet of MDB operations – Independent Accountability Mechanisms (IAMs). These mechanisms, designed to receive, investigate, and remedy grievances arising from MDB-funded projects, serve not only as avenues for justice but as invaluable sources for continuous learning. The potential benefits these mechanisms hold for the field of international development finance can only be realized if structures, policies, and practices align to facilitate learning, and if people are willing to listen and act accordingly or as the great philosopher Jalāl al-Dīn Rūmī said, »If you are irritated by every rub, how will you become polished?«

This exploration delves into the synergy between IAMs of MDBs and the perpetually evolving quest for knowledge, shedding light on how these mechanisms stand not only as instruments of redress, but also as reservoirs of insights that drive progressive and sustainable development forward.

1.1. Background and context of the research

In the evolving landscape of international development, the imperative to provide remedy for rights violations has gained unprecedented prominence.¹ Within this context, International Financial Institutions (IFIs) have emerged as pivotal actors, positioned at the intersection of states, businesses, and communities. They wield substantial influence and operate on a large scale with development projects that reverberate across societies and landscapes, impacting lives and environments. Yet, the complex nature of development endeavors invariably gives rise to conflicts and grievances. Despite the challenges,

¹ Cf. OHCHR (2022).

local jurisprudence often falls short in delivering adequate redress to aggrieved parties. In response, MDBs, committed to the UN's Sustainable Development Goals and the principle of »do no harm«, have established paths to mitigate rights violations. Central to this effort is the establishment of Independent Accountability Mechanisms, non-judicial grievance mechanisms that empower individuals to address violations and seek remedy for inflicted harms caused by imperfectly designed or executed operation. MDBs recognize the urgency of rendering these IAMs effective in the sense that they help prevent harm, increase adherence to human rights standards, and foster sustainable development through the banks' operations. They shall also assist in identifying risks, optimizing safeguards, and driving improvements and thereby function as sources of continuous learning.

Alarmingly though, the frequency with which IAMs have found the same policy violations in their investigations implies that MDBs are not sufficiently and systematically learning lessons from IAMs' cases to improve the implementation of their policies.² This in turn raises the questions whether and how MDB's have set up their IAMs to incite learning and what needs to change, to promote continuous learning on all relevant levels.

The present thesis seeks to answer the following questions:

- 1) Why is there a need for accountability mechanisms in International Development?
- 2) What is required for an accountability mechanism to be a source for continuous learning?
- 3) How are existing mechanisms currently set up to be sources for continuous learning and what changes could be made, to increase their capacity to (promote) learning?

1.2. Outlook

The present thesis analyses to what extent IAMs are designed and operated to be sources of continuous learning, to what extent there is still room for improvement and how this could potentially be filled.

² Cf. CIEL (2016), Glass Half Full.

Starting with contextualization, a brief introduction is given to the field of International Development, the relevance of remedy and the function of MDBs within this field (B.). Thereafter, the concept of continuous learning is delineated and a structured framework is deduced (C.). This framework is then used to describe and assess in detail a selection of currently operating IAMs based on the institutional statutes governing them (D.). This is followed by a discussion on whether the existing setups effectively enable learning, which lessons have been learnt, which challenges remain, and where there is potential for improvement (E.). The thesis concludes with a summary of findings and impulses for future research (F.).

1.3. Methods

The methods employed in this master's thesis combine multiple approaches to address the research questions. They encompass:

- 1) **Document Analysis:** The study involves an examination of statutes, policies, guidelines, and (annual) reports of operating IAMs. This analysis delves into the formal framework and operational dynamics of these mechanisms, shedding light on their established principles, processes, and outcomes.
- 2) **Literature Review:** A literature review is conducted to synthesize existing scholarly works, theories, and perspectives relevant to the research question. This provides a comprehensive understanding of the broader context, challenges, and debates surrounding IAMs.
- 3) **Qualitative Interviews:** Six qualitative interviews were conducted with high-ranking officials directly involved in the operations of IAMs. The interviews were summarized by the author and released by the interviewees. The interviews are referenced to supplement findings from document review. They also inform some of the recommendations. These interviews offer valuable insights into the practical challenges faced by IAMs in applying guidelines, policies, and principles in real-world scenarios. The perspectives of the interviewees offer valuable and nuanced insights into critical aspects such as decision-making procedures, intricate operational dynamics, and the strategic mea-

asures employed to navigate challenges. Nevertheless, it is important to note that these accounts could potentially carry a subjective bias and have yet to undergo independent validation. Their inclusion in this study serves not to assert definitive truths, but rather to enrich the analysis with supplementary viewpoints that extend beyond the boundaries of official institutional reports.

By integrating these methods, the research seeks to triangulate findings from various sources, ensuring a holistic exploration of the challenges encountered in the practical application of IAM guidelines. This approach enhances the depth and validity of the study's conclusions and recommendations, contributing to a comprehensive understanding of the dynamics surrounding IAMs and their efforts to provide remedy and foster continuous learning.

2. International Development, the Right to Remedy and the Relevance of Multilateral Development Banks

This chapter provides an overview of the realm of (I.) International Development (I.), followed by an introduction on the Right to Remedy (II.) and a broader portrayal of Multilateral Development Banks (III.).

2.1. International Development

International development pertains to the systematic efforts and processes aimed at enhancing the quality of life, socio-economic conditions, and overall well-being of populations in certain regions of the world. These multifaceted initiatives, conducted by governments, international organizations, non-governmental entities, and other stakeholders, address challenges such as poverty, inequality, health-care disparities, educational deficiencies, and inadequate infrastructure.³ The overarching goal of international development is to foster sustainable economic growth, social advancement, and the realization of human rights.⁴

Within the sphere of the international legal order, the Charter of the United Nations (UNC) of 1945 laid the foundation for what is known today as international development. It enshrines principles of international cooperation and encourages member states to collaborate to promote economic and social development worldwide.⁵ The Charter underscores the significance of respecting human rights, achieving social progress, and elevating living standards.⁶ In 2000, the United Nations adopted the Millennium Development Goals (MDGs), which delineate specific international development targets. The MDGs aim to address critical issues such as poverty, gender equality, health, education, and environmental sustainability.⁷ Subsequently, the Sustainable Development Goals (SDGs), agreed upon in 2015, build upon

³ Cf. Sachs (2015), pp. 181–182.

⁴ Cf. Mbengue & de Moerloose (2017), pp. 391 et seq.

⁵ Cf. Articles 55 et seq. UNC.

⁶ Id.

⁷ UNGA, Millennium Declaration (2000).

the MDGs by encompassing a broader spectrum of objectives.⁸ These goals include eradicating poverty, ensuring quality education, attaining gender parity, enabling access to clean water, promoting affordable energy, taking climate action, and more.⁹ Moreover, various international agreements and treaties address specific facets of international development. For instance, the Paris Agreement focuses on global efforts to combat climate change, a pressing concern intertwined with development goals.¹⁰

Human rights treaties like the International Covenant on Economic, Social, and Cultural Rights (ICESCR) acknowledge the right to development as a fundamental human entitlement.¹¹ These treaties establish legal obligations for states to actively pursue adequate living conditions, education, healthcare, and social welfare for their citizenry. Collectively, these legal instruments provide a framework for the international development landscape. The effective implementation of development projects and initiatives involves a dynamic interplay of policies, financial mechanisms, international partnerships, and localized contexts.

In cooperation with state actors, IFIs like MDBs or international investment agencies play a crucial role in enabling development by providing the financial resources and technical expertise needed for initiatives and projects. Their lending practices influence the kind of projects implemented, their planning and the aspects included in the feasibility and impact analyses, and they have been urged to include human rights criteria in their work.¹²

2.2. The Right to Remedy

The right to remedy in international development refers to the entitlement of individuals (or groups of individuals) to seek redress or compensation for violations of their rights within the context of development initiatives. While the concept of access to justice and the right

⁸ Cf. Mbengue & de Moerloose (2017), pp. 391 et seq.

⁹ UN, *Transforming our World* (2015).

¹⁰ UN, *Paris Agreement* (2015).

¹¹ Arts. 1 and 6 ICESCR.

¹² Cf. Secretary-General (1995), para. 248.

to a remedy is not explicitly mentioned in all international human rights instruments, it has gained recognition and prominence in the international human rights and sustainable development agendas.¹³ The 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation play a significant role in codifying and unifying the provisions on the right to a remedy and reparation in various international treaties. These principles provide a framework for ensuring that victims of human rights abuses, including those caused by development projects, have access to effective remedies and reparations.¹⁴ They emphasize the responsibility of states in providing remedies and reparations for violations of human rights.¹⁵ In the context of international development, the right to remedy is particularly relevant in addressing human rights violations caused by development projects, such as forced displacement, environmental degradation, and loss of livelihoods.¹⁶ It is essential to ensure that affected individuals and communities have access to justice and can seek redress for the harm they have suffered.¹⁷ This includes both access to legal mechanisms and substantive redress, such as compensation, restitution, and rehabilitation.¹⁸

However, there are challenges in realizing the right to remedy in international development: Limited access to justice, lack of awareness of rights, and power imbalances can hinder the ability of affected individuals and communities to seek redress.¹⁹ To prevent existing human rights and environmental standards from becoming ineffective due to difficulties of enforcement, the implementation of non-judicial grievance mechanisms has been gaining significance. With non-judicial grievance mechanisms representing one building block in a so-called »remedy ecosystem«, comprised of national courts, state-based non-judicial grievance mechanism and non-state-based grievance mechanism.²⁰ Grievance mechanisms are formal or infor-

¹³ Cf. Bradlow 2017, p. 47.

¹⁴ Cf. Id.

¹⁵ Cf. Crippa (2010), p. 552.

¹⁶ Cf. OHCHR (2022), p. 14.

¹⁷ Cf. Id.

¹⁸ Cf. Id.

¹⁹ Wewerinke-Singh (2019), p. 226.

²⁰ Cf. OHCHR (2022), p. 11.

mal processes established by organizations to address complaints, disputes, or concerns raised by individuals, employees, or stakeholders. They provide a structured way to resolve conflicts and improve accountability.

Two main aspects can be addressed through non-judicial grievance mechanisms: first, the appropriate handling of incurred damages can be negotiated; second, inadequacies in statutes, guidelines, or their implementation by relevant actors can be identified, possibly leading to necessary alterations aimed at reducing risks and hazardous situations.

In addition to enhancing individual access to justice for the affected parties, effective non-judicial grievance mechanisms can serve as prevention-oriented »early warning systems,«²¹ complementing and refining the human rights and environmentally-related risk analysis conducted by IFIs. By highlighting particularly risk-prone sectors, regions, project designs, or borrowers, these mechanisms allow development financiers to detect and mitigate risks, breaches of obligations, and damage potential in a timely manner, or even prevent them proactively.

2.3. Multilateral Development Banks

2.3.1. Overview

Multilateral development banks are international financial institutions typically established by more than two States for the purpose of encouraging economic development.²² The banks provide low-interest loans, grants or guarantees to member nations – or in some cases private actors to facilitate social or economic development. Many of the projects funded by MDBs pertain to infrastructure, energy, education, and environmental sustainability.²³ In contrast to private sector or commercial banks, the goal of MDBs is not to generate profits for shareholders but to improve the economic conditions of nations and people through the provision of funding. Currently, numerous

²¹ Cf. Gläßer et al. (2021), p. 7.

²² Bissel & Nanwani (2009), pp. 4–5.

²³ Erdem Türkelli, (2020), p. 253.

MDBs operate around the world and control trillions of US-dollars in assets making them powerful actors in the global economy and international development.²⁴ Because the projects funded by MDBs have regularly had unintended side effects on people and the environment, most banks have adopted a variety of safeguarding policies to reduce and prevent harm through their operations and lending. As part of their efforts to enforce these policies and to provide remedy to affected people, most MDBs have established accountability mechanisms, hosting a variety of departments and functions pertaining to complaints of individuals, communities, or civil society organizations (CSOs).²⁵ While their mandates and capacities vary, most mechanisms currently provide a dispute resolution function designed to provide a revenue for claims of affected people as well as a compliance review function aimed at identifying grievances and potentially preventing negative impacts and conflicts in future activities.

2.3.2. History and Missions

MDBs originated as International Organizations (IOs) in the aftermath of World War II as a means to stabilize the global financial system and to rebuild the European nations after the devastations of the war. The International Bank for Reconstruction and Development (IBRD), part of the World Bank Group (WBG), was established through the Bretton Woods Agreement in 1944 as the first MDB by the United States of America (USA) and its allies as one element of a new international monetary system, allowing for international cooperation.²⁶ The forty-four signatory states of the Bretton Woods Agreement (not all of whom later ratified the agreement) established the Bank as an international financial institution providing loans globally. It became operational in 1945. However, from its early days and especially during the period of decolonization – between the mid-1950s to the mid-1970s – the World Bank was perceived by critics as being dominated by the USA which in consequence led to the establishment of several other regional MDBs.²⁷ Among these were the Inter-American Devel-

²⁴ Marodon (2020), p. 7.

²⁵ Crippa (2010), p. 533.

²⁶ Cf. Pratt, (2021), p. 95.

²⁷ Cf. Id.

opment Bank (IADB) in 1959, the African Development Bank (AfDB) in 1964, the Asian Development Bank (ADB) in 1966, the Caribbean Development Bank (CDB) in 1969, the Development Bank of Latin America/Corporación Andina de Fomento (CAF) in 1970²⁸, and the Islamic Development Bank (IsDB) in 1975.²⁹

Following the collapse of the Berlin Wall and the end of the Cold War, forty European nations and two European organizations established the European Bank of Reconstruction and Development (EBRD) in 1991 to assist post-communist countries in their transformation to more market-oriented economies.³⁰ They also extended the lending activities of the European Investment Bank (EIB), to countries outside the European Union (EU) – especially candidates for EU-accession³¹ in order to promote European integration.³²

The most recent MDBs are the New Development Bank (NDB), established in 2014, and the Asian Infrastructure Investment Bank (AIIB), established in 2015. The NDB was created by the BRICS nations (Brazil, Russia, India, China, and South Africa) to support developing countries with infrastructure and sustainable development projects. The AIIB was initiated by the People's Republic of China and jointly founded by 57 member states (MS) to mobilize resources to invest in infrastructure in Asia.

The list of MDBs mentioned here is not exhaustive. There are multiple other MDBs, however the ones listed here are the most relevant in terms of either number of member states or funding represented.

2.3.3. Legal Status

Multilateral Development Banks are international organizations (IOs) and as such subjects of international law with their own international legal personality. They are established through treaties between at least three subjects of international law, such as states or other sub-

²⁸ The Bank changed its name to Development Bank of Latin America and the Caribbean in 2023.

²⁹ Cf. Suzuki & Nanwani (2005), pp. 184 et seq.

³⁰ Cf. Weber (1994), pp. 1 et seq.

³¹ The bank's activities were previously restricted to lending to EU-member states.

³² Cf. Pratt (2021), p. 96.

jects of international law.³³ A broad definition describes international organizations as »intergovernmental organizations, created by states, usually by means of a treaty, in order to exercise a task or function that states themselves are unable or unwilling to perform.«³⁴ As subjects of international law, they are subjected to the regulations stipulated by their member states, by international treaties they have entered, and by *jus cogens*^{35, 36}

Because IOs are subjects of international law, their activities do not typically fall under national jurisdiction, and they enjoy certain immunities.³⁷ Consequentially, the legal accountability within IOs is designed to be upheld through internal legal mechanisms and the availability of administrative tribunals.³⁸ Over time, it has become evident, through various court cases where private parties attempted to bring claims against IOs before local courts,³⁹ that alternative dispute resolution methods were necessary because a failure to enforce accountability could potentially lead to challenges to the organizations' immunities in both national and international courts.⁴⁰

2.3.4. Independent Accountability Mechanisms

After several decades of activities, it became apparent, that the lending practice of MDBs and development project implementation on the ground did not always comply with the banks' policies and (environmental) guidelines.⁴¹ Infrastructure projects in particular had a multitude of negative impacts on people and communities, e. g. air, water or soil pollution, (forced) resettlement, or destruction of livelihoods. In consequence, questions of accountability, transparency, and demo-

³³ Cf. Klabbers (2017), p. 90.

³⁴ Klabbers (2017), p. 90.

³⁵ *Jus cogens* refers to those fundamental principles of international law which are accepted by the international community of states as norms from which no derogation is permitted.

³⁶ Cf. ICJ Advisory Opinion on Difference relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, 1999 ICJ 61, 88-89; Suzuki & Nanwani (2005), p. 190 et seq.

³⁷ Cf. Erdem Türkelli (2020), p. 254; Suzuki & Nanwani (2005), pp. 182, 206.

³⁸ Cf. Amerasinghe (1996), pp. 329 et seq.

³⁹ Cf. Erdem Türkelli (2020), pp. 258 et seq.

⁴⁰ Cf. Suzuki & Nanwani (2005), p. 20; Gaillard & Pingel-Lenuzza (2002), pp. 1 et seq.

⁴¹ Cf. Bissel & Nanwani (2009), p. 5; IAM Network (2012), p. 4.

cratic governance arose alongside growing social movements of civil society groups, raising issues about human and indigenous rights, and environmental protection during the late 1980s.⁴²

These issues were discussed on an international level during the 1992 United Nations Conference on Environment and Development (UNCED), also known as the Rio Conference or the Earth Summit. Acknowledging that many issues regarding sustainability and development were too extensive to be dealt with by individual states, the Earth Summit was held as a forum to define future development collaboration among the nations of the world after the end of the Cold War era.⁴³ The Earth Summit was an international meeting of unprecedented scope and scale in that a forum for Non-Governmental Organizations (NGOs), with approximately 17,000 attendants from CSOs, was held simultaneously in Rio de Janeiro, Brazil. The NGO forum strongly influenced the official summit proceedings, resulting in the summit's non-binding action plan named »Agenda 21«, which introduced a new focus on the inter-relation between social, environmental, and economic issues in support of sustainable development.⁴⁴

In Principle 10 of the Earth Summit Declaration, the summit participants recognized the right of people to hold their governments accountable for environmental policies and the impacts of those policies. Principle 10 also promoted the right of citizens to participate in the development process and to access information, as well as to be provided with »effective access to judicial and administrative proceedings, including redress and remedy«⁴⁵ for harm experienced through development projects.

It was in the wake of the Earth Summit, that the World Bank's Inspection Panel (IP) was established as the first accountability mechanism of an IFI in 1993.⁴⁶ The decision of the Bank's Executive Directors was a response to evidence of multiple instances of non-compliance with the Bank's social and environmental safeguards⁴⁷ as well

⁴² Cf. Suzuki & Nanwani (2005), pp. 205 et seq.; IAM Network (2012), p. 4.

⁴³ Cf. Bissel & Nanwani (2009), pp. 5 et seq.

⁴⁴ Cf. UN Division for Sustainable Development (1992).

⁴⁵ UNGA (1992), pp. 2-3.

⁴⁶ Cf. Bissel & Nanwani (2009), p. 6.

⁴⁷ Cf. Morse & Berger (1992); Clark, D. (2003), p. 7.

as public debate over high-profile projects funded by the Bank which were deemed problematic⁴⁸. The IP was established after a 1992 internal report, reviewing the Bank's investment portfolio, referred to as the *Wapenhans Report*⁴⁹, had found that violations of loan agreements and internal policies were endemic.⁵⁰ The report identified structural issues within the Bank and classified one third of its projects as »unsatisfactory«, attesting a »culture of approval«. ⁵¹ The report inferred that staff was compelled to focus on »moving money out the door,« resulting in inadequate assessments of risks, of potential impacts, of the lenders' capacities to comply with safeguarding policies, as well as the financial or environmental sustainability of projects funded.⁵²

The IP was installed in 1993 with the mandate to investigate complaints from people about social and environmental harm linked to IBRD-financed operations.⁵³ Other MDBs followed and established similar mechanisms in the following years.⁵⁴ Because their (relative) independence from the governing structure of the respective bank was considered an integral part of its functionality and effectiveness, the mechanisms are generally referred to as Independent Accountability Mechanisms, or IAMs.

The *Asian Development Bank* (ADB) set up its Accountability Mechanism (AM) in 1996.⁵⁵ It is comprised of two organizational entities: (1) the Office of the Special Project Facilitator (OSPF), providing assistance to affected communities and individuals by facilitating communication with ADB management and other relevant parties; and (2) the Compliance Review Panel (CRP) which investigates complaints from people who have been affected by ADB-funded projects.⁵⁶

⁴⁸ A prominent example is the Sardar Sarovar Dam project on the Narmada River in India, which was deemed a development disaster due to its irreparable harms to people, cultural heritage, and the natural environment, and which was the object of numerous civil society protests. Cf. van Putten (2008), p. 66.

⁴⁹ Cf. (Suzuki & Nanwani, 2005), pp. 185 et seq.; Clark, D. (2003), p. 5.

⁵⁰ World Bank (1992), *Wapenhans Report*.

⁵¹ Citations from World Bank (1992), *Wapenhans Report*, annex B., pp. 1-3.

⁵² *Id.*

⁵³ Cf. Suzuki & Nanwani (2005), p. 187.

⁵⁴ Cf. Bissel & Nanwani (2009), pp. 10 et seq.

⁵⁵ Cf. Pratt (2021), p. 95.

⁵⁶ Cf. Pratt (2021), p. 95.

The *European Bank for Reconstruction and Development* (EBRD) established the Independent Recourse Mechanism (IRM) in 2004 which was replaced in 2010 by the Project Complaint Mechanism (PCM) and by the Project Accountability Mechanism (IPAM) in 2018. The mechanism is tasked to investigate complaints related to projects funded by the bank.⁵⁷

The *African Development Bank* (AfDB) established the Independent Review Mechanism in 2004. It was renamed the Independent Recourse Mechanism (IRM) in 2022. The mechanism became operational in 2006 and shall provide people adversely affected by projects financed by the AfDB an independent mechanism through which they can request the Bank Group to comply with its own policies and procedures.⁵⁸

The *Inter-American Development Bank* (IADB) established the Independent Consultation and Investigation Mechanism (ICIM) in 2010 with the mandate to address the environmental and social grievances of communities potentially affected by the Bank's operations.⁵⁹

The *EIB Group*, comprised of the European Investment Bank (EIB) and the European Investment Fund (EIF), has established the EIB-Complaints Mechanism (EIB-CM) in 2008. It can be addressed by citizens with concerns about an EIB Group project, policy, or other activity. The EIB-CM investigates complaints to ensure, that the EIB Group complies with its internal policies and procedures and to propose corrective actions when this does not take place.⁶⁰

The *Caribbean Development Bank* (CDB) established the Projects Complaints Mechanism (PCM) in 2015 with a mandate to handle complaints alleging environmental and social harm arising or likely to arise from projects financed by the Bank.⁶¹

The *Asian Infrastructure Investment Bank* (AIIB) as the youngest MDB, established its Project-affected People's Mechanism (PPM) in 2019 with a mandate to provide independent and impartial reviews of submissions from people who believe they have been adversely affected

⁵⁷ Cf. EBRD, PAP 2019, p. 5.

⁵⁸ Cf. AfDB, Procedures 2021, p. 5.

⁵⁹ Cf. IADB, Policy 2021, para. 7.

⁶⁰ Cf. EIB, Policy 2018, p. 5.

⁶¹ Cf. Caribbean Development Bank (2015), p. 1.

by AIIB's failure to implement its Environmental and Social Policy (ESP).⁶²

The *Development Bank of Latin America* (CAF) established the Environmental and Social Grievance Redress Mechanism (ESGRM) in 2022. The ESGRM will address and manage the complaints or concerns of individuals or communities regarding potential negative impacts of CAF's operations on people or the environment.⁶³

The *Islamic Development Bank* (IsDB) has established the Group Integrity Office (GIO) in 2010 as an entity receiving and investigating allegations of fraudulent or corrupt practices of IsDB staff. Because of this very limited mandate, the GIO is not considered an independent accountability mechanism in line with the other mechanisms mentioned in this thesis.

The *New Development Bank's* Environmental and Social Framework does require borrowing states to establish national grievance mechanisms,⁶⁴ however the Bank has not yet established a central accountability mechanism to receive complaints about NDB-financed projects.

While the IAMs differ in nature, size, and structure, collectively they share a common mission to independently assess people's complaints and seek a response to their concerns caused by MDB-funded projects.⁶⁵ In giving citizens a right to recourse, the establishment of IAMs was an innovation in both global governance and international law, broadening the concept of accountability and creating a first-ever formal avenue for people themselves to challenge the decisions of international organizations and seek redress for harm done.⁶⁶

⁶² Cf. AIIB, Policy 2019, p. 1.

⁶³ Cf. Development Bank of Latin America, p. 3.

⁶⁴ Cf. New Development Bank (2016), para. 27.

⁶⁵ Cf. IAM Network (2012), p. 1.

⁶⁶ Cf. Id., p. 6.

Table 1: Overview of primary MDBs and their respective IAMs

Year⁶⁷	MDB	IAM	MS⁶⁸	Headquarter⁶⁹
1944	International Bank for Reconstruction and Development (IBRD)	Inspection Panel (IP)	189	Washington, D. C., USA
1958	European Investment Bank (EIB)	Complaints Mechanism (EIB-CM)	27	Kirchberg, Luxembourg
1959	Inter-American Development Bank (IADB)	Independent Consultation and Investigation Mechanism (ICIM)	48	Washington, D. C., USA
1964	African Development Bank (AfDB)	Independent Recourse Mechanism (IRM)	81	Abidjan, Ivory Coast
1966	Asian Development Bank (ADB)	Accountability Mechanism (AM)	69	Mandaluyong, Philippines
1969	Caribbean Development Bank (CDB)	Project Complaints Mechanism (PCM)	28	St. Michael, Barbados
1970	Development Bank of Latin America (CAF)	Environmental and Social Grievance Redress Mechanism (ESGRM)	17	Caracas, Venezuela
1975	Islamic Development Bank (IsDB)	–	57	Jeddah, Saudi Arabia
1991	European Bank of Reconstruction and Development (EBRD)	Independent Project Accountability Mechanism (IPAM)	71	London, UK
2014	New Development Bank (NBD)	–	9	Shanghai, China
2015	Asian Infrastructure Development Bank (AIIB)	Project-affected People's Mechanism (PPM)	57	Beijing, China

⁶⁷ Year in which the MDB was formally established.

⁶⁸ Number of member states as of 31.12.2022.

⁶⁹ Location of the MDB's headquarter as of 31.12.2022.

3. The Relevance of Continuous Learning

The following chapter delineates the relevance of continuous learning in the context of International Development (I.) before taking a closer look at how grievance mechanisms can function as sources of continuous learning (II.). Combining these considerations, a framework is deduced for assessing the suitability of IAMs to function as sources of continuous learning (III).

3.1. Continuous Learning in International Development

In this thesis, learning refers to a structured and organized approach that facilitates the acquisition, absorption, retention, and application of knowledge or skills over time. It can encompass various methods, tools, technologies, and strategies that enable individuals, organizations, or machines to continuously learn and improve their understanding or performance in a particular domain. The learning of organizations is often referred to as »institutional learning«. ⁷⁰ It pertains to the process through which organizations acquire, assimilate, and apply knowledge and insights to improve their overall functioning, effectiveness, and decision-making. Institutional learning involves systematic approaches to gathering information, analyzing experiences, and adapting procedures for better outcomes. The activities are ideally conducted in a culture which fosters continuous improvement acknowledging that more adaptable and responsive organizations become more effective in achieving their objectives. It emphasizes the importance of learning from successes and failures to make informed decisions that lead to improved outcomes over time. ⁷¹

In the context of International Development, the 2030 Agenda for Sustainable Development emphasizes the importance of learning and knowledge sharing as essential components of sustainable development. ⁷² It recognizes that addressing complex global challenges requires ongoing learning, adaptation, and innovation by rel-

⁷⁰ Cf. Watts, et al. (2007), pp. 7 et seq.

⁷¹ Cf. Id.

⁷² Cf. UNGA (2015), para. 73.

evant actors.⁷³ The agenda acknowledges that development efforts should be evidence-based, drawing on the best available knowledge and expertise. Furthermore, the 2030 Agenda highlights the need for capacity building and strengthening of institutions to support continuous learning and knowledge sharing.⁷⁴ It emphasizes the importance of inclusive and participatory processes that involve all stakeholders, including governments, civil society, academia, and the private sector, in generating and disseminating knowledge.⁷⁵

For actors in the field of international development, institutional learning is geared towards becoming more efficient and more effective in implementing development projects which enhance the quality of life, socio-economic conditions, and overall well-being of populations⁷⁶ while simultaneously reducing any negative effects these projects might have, and avoiding activities which are detrimental to the institution's trustworthiness (e.g. non-compliance, nepotism, fraud, corruptibility, wasteful spending).⁷⁷

3.2. Continuous Learning through Non-Judicial Grievance Mechanisms

The consideration that non-judicial grievance mechanisms can be sources of continuous learning can be found explicitly in the United Nations Guiding Principles on Business and Human Rights (UNGPR).⁷⁸ The effectiveness criteria for non-judicial, non-state based grievance mechanisms of UNGPR 31 stipulate that the mechanisms should be (a) legitimate, (b) accessible, (c) predictable, (d) equitable, (e) transparent, (f) rights-compatible, and (g) a source of continuous learning, as well as (h) built upon exchange and dialogue. The effectiveness criteria are specified through its official commentary and in the report of

⁷³ Cf. Id., para. 15.

⁷⁴ Cf. Id., paras. 32, 41, 57.

⁷⁵ Cf. Id., Goals 11.3 and 16.7.

⁷⁶ Cf. Watts, et al. (2007), pp. 7 et seq.

⁷⁷ Cf. Interviews 1–6, Q1.

⁷⁸ OHCHR (2011).

the Accountability and Remedy Project III (ARP III)⁷⁹ by the Office of the United Nations High Commissioner for Human Rights (OHCHR).

UNGP 31(g) represents the understanding that complaints mechanisms are unlikely to be designed and implemented in a way that provides the highest possible level of effectiveness. It is rather assumed that any structures, policies, and procedures need to be tested over time for their practical functionality and effectiveness. They must also be adapted to the specific circumstances, in which they operate, acknowledging, that these circumstances can be constantly changing. Therefore, ongoing adaptation and optimization measures are necessary to achieve and maintain a high level of effectiveness.⁸⁰

To this end, criterion UNGP 31(g) calls for non-judicial grievance mechanisms to be »a source of continuous learning« by »drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms.«⁸¹ The official commentary also adds that a »regular analysis of the frequency, patterns, and causes of grievances can enable the institution administering the mechanism to identify and influence policies, procedures or practices that should be altered to prevent future harm.«⁸²

Learning within the context of grievance mechanisms hence involves the process of continuously acquiring insights, improving practices, and refining procedures based on the feedback and experiences gained from addressing complaints, disputes, and concerns raised by individuals, employees, or stakeholders. This learning approach ensures that grievance mechanisms evolve to become more effective, transparent, and responsive over time.⁸³

In an extensive study⁸⁴ on the potential of and on existing practices of non-judicial grievance mechanism in international supply chains, incorporating the recommendations of the ARP III Report, it was deduced, that grievance mechanisms should ideally be designed to be

⁷⁹ UNGA (2020).

⁸⁰ Cf. Gläßer et al (2021), pp. 258 et seq.

⁸¹ OHCHR (2011), p. 34.

⁸² Id., p. 35.

⁸³ Cf. UNGA (2020), Annex, para. 13.1.

⁸⁴ While the study was focused on non-judicial grievance mechanisms within international supply chains of corporations, most findings are not exclusive to this field, but appear to be transferable to other areas, where grievance mechanisms are operated.

a source of continuous learning on multiple levels: Primarily, learning should take place on an institutional level concerning the avoidance or reduction of risks and the minimization of harm by incorporating insights from grievance mechanisms into risk management and other practices of the governing institution (i. e. the corporations managing international supply chains). Furthermore, learning should also occur regarding the effectiveness of the grievance mechanism itself, focusing on functional improvement and increased accessibility for (potential) user groups. Lastly, learning at the regulatory level should also be considered, analyzing which instruments and incentives actually contribute to sustainably enhancing human rights and environmental protection within supply chains.⁸⁵

Drawing on the analysis of multiple operating mechanisms, the study delineates that learning of the governing institution can be achieved through differentiated reports to all stakeholder groups, openly accessible databases⁸⁶, deep analysis of statistical information, including sector specific structural issues and prevention necessities. It furthermore recommends periodic reflections and reports about changes announced in the previous reporting timeframe as well as outreach activities and capacity building.⁸⁷

Learning within the grievance mechanism itself is closely connected to quality control, quality assurance, and quality development to enable a continuous improvement of the mechanism and a perceived increase of the mechanism's effectiveness for the (potential) users.⁸⁸ This can be achieved by a continuous collection and analysis of relevant data about the mechanism's usage and functionality, surveying users and personnel, documentation of complaints filed and handled as well as their outcomes.⁸⁹ It is suggested to structurally and systematically survey users immediately after a grievance process was completed and again at a later stage, to identify whether the agreed upon result has been implemented accordingly.⁹⁰ Inde-

⁸⁵ Cf. Gläßer et al.(2021), p. 433.

⁸⁶ Cf. Id., p. 438.

⁸⁷ Cf. Gläßer et al.(2021), p. 438.

⁸⁸ Cf. Id., p. 434.

⁸⁹ Cf. Id., p. 434.

⁹⁰ Cf. Id., pp. 434-435.

pendently of a specific complaint, it is suggested that potential users should be surveyed regarding the mechanism's visibility, accessibility and functionality, e.g. through stakeholder or sounding board workshops.⁹¹ Regular reports on the mechanisms activities should include feedback results and respective deductions. The study also recommends regular interviews of personnel responsible for the handling of complaints,⁹² and corresponding training of staff. Finally, the study encourages open exchange with comparable institutions both for impulses of professionalization⁹³ as well as the development of functional interoperability and an effective referral practice.

On the societal level, leaving the immediate sphere of influence of the organization, findings of grievance mechanisms should be employed to trigger a sensitization of the broader public, inform political decisions, and encourage a gradual cultural change.⁹⁴

3.3. Continuous Learning at Multilateral Development Banks

While the UNGP have originated in the field of Business and Human Rights (BHR) which is distinct from International Development, the considerations and standards for grievance mechanisms stipulated in the UNGP have influenced many of the policies, procedures, and practices of MDBs and the IAMs they have established.⁹⁵ Even though the grievance mechanisms addressed in the UNGP exist to provide effective remedy to people negatively affected by business operations while the IAMs of MDBs shall provide remedy to people negatively affected by development operations funded by the respective banks, the criteria fostering their effectiveness can be considered transferable.

Hence, the UNGP, the recommendations contained in the ARP III Report and the specifications in the study on non-judicial grievance mechanisms combined provide a suitable framework to structure the analysis of the theory and practice of IAMs pertaining to their suit-

⁹¹ Cf. Id., p. 435.

⁹² Cf. Id.

⁹³ Cf. Id., p. 436

⁹⁴ Cf. Id., p. 438.

⁹⁵ Cf. OHCHR (2022), p. 5.

ability to function as a source of continuous learning. Drawing on them, the IAMs described in detail in Chapter D. will be examined based on the following aspects:

- 1) **Mandate to promote institutional learning:** Does the mechanism have an explicit mandate to promote learning within their governing institution? If so, is this designed as a policy objective, a dedicated operational responsibility, or a competence to actively implement change?
- 2) **Periodic reviews of existing policies and procedures:** Are there periodic reviews of the policies and procedures governing the activities and responsibilities of the mechanism? If so, are these reviews formalized or standardized and do they entail (external) evaluations, public consultations, and/or drafting phases in which stakeholders can submit comments?
- 3) **External stakeholder consultations beyond individual complaints:** Are there regular and structured consultations with stakeholders like (potential) users, CSOs, academia, (potential) clients or civil contractors in areas of activity? Are claimants surveyed systematically about their experience with the mechanism and how is this feedback integrated into the operations?
- 4) **Active exchange and engagement with peer institutions:** Does the institution actively engage and cooperate with peer institutions, namely accountability mechanisms or ombudsperson's offices of other MDBs, and is there a functional referral practice stipulated?
- 5) **Transparent documentation and analysis of claims raised to identify trends and systemic issues:** Are all claims documented in a publicly accessible database, including relevant and current information on their status, subject and corresponding development project? Are all cases categorized and analyzed systematically to identify patterns and systemic issues?
- 6) **Regular activity and complaints reports to track performance and effectiveness:** Does the mechanism publish regular reports in which its activities are disclosed, and the decisions made during complaints processes are substantiated? If so, do the reports contain information about (structural) issues or reoccurring problems, and management-oriented recommendations for institu-

tional improvements? If so, are the responses of the management monitored or reported on transparently?

- 7) **Knowledge management and training of staff:** Does the mechanism have the necessary resources for an effective intra-mechanism knowledge management and is there regular training for personnel handling cases? Are learnings from cases handled and complaints filed documented and disseminated to relevant actors (e.g. bank management, clients, and project operation teams)? Are there trainings for relevant bank or project staff to address reoccurring issues with funding activities?

4. The Theory and Practice of Continuous Learning through Selected IAMs

The following chapter contains a detailed analysis of the theory and practice of continuous learning at selected IAMs of MDBs in alphabetical order of the MDBs. Of the mechanisms listed in Table 1, the mechanisms of CDB, AIIB and CAF were excluded from the analysis, as they either do not provide relevant documentation or have not yet handled a significant casework to have learnt from.⁹⁶ The subchapters each consist of an overview section, in which aspects of the IAM's establishment, development over time, mandate, relevant provisions, and organizational design are presented (1.). Then, a brief outline of the mechanism's complaint handling process is given (2.).⁹⁷ This is followed by a detailed description of the elements of the mechanisms that are intended to enable learning⁹⁸ as they are laid out in the relevant statutes or have become established practice (3.).

An attentive reader will notice that the terms used hereafter to describe the policies, procedures, and practices of the mechanisms and their governing institutions vary. These divergencies are intentional, as they reflect the term usage in the respective institution, even when they are arguably used to describe a comparable aspect.⁹⁹ It should also be noted that most mechanisms have evolved over time and in some instances, their names were changed alongside their policies. The following descriptions hence refer to the current statutes, procedural guidelines and processes, and the most recent annual reports – unless indicated otherwise. Furthermore, when organizational units (e.g. board, director, bank, mechanism) or documents (e.g. policy, procedure, report) are capitalized, it shall indicate that

⁹⁶ The PCM of the CDB was established in 2015 however the only document publicly available is the 2015 Policy establishing the mechanism. The PPM of the AIIB was established in 2019 and has only registered a total of two cases equaling the two cases registered by the CAF's ESGRM, established in 2022.

⁹⁷ For better clarity, the complexity of the respective case handling processes is significantly reduced both in the textual descriptions and in the visualizations. Only the essential sequential or alternative process steps of a complete processes are shown. Detailed information on the individual steps and sub steps can be found in the respective Procedural Guidelines.

⁹⁸ See above, Section 3.3.

⁹⁹ E.g. some mechanisms refer to »claims« as »allegations«, »cases«, or »requests«. Likewise, the activities of the mechanisms are alternating between »functions«, »paths« or »phases«.

the statements refer to the unit or document pertaining to the respective mechanism or governing institution.

4.1. African Development Bank

The African Development Bank (AfDB) operates the Independent Recourse Mechanism (IRM) which provides people adversely affected by projects financed by the Bank with a path to request the Bank to comply with its own policies and procedures.

4.1.1. Overview

The Independent Review Mechanism was established in June 2004¹⁰⁰ by the Board of Directors (BoD) and has been operating since 2006. After periodical reviews, new IRM Resolution and Operating Rules and Procedures were adopted by the BoD in 2010¹⁰¹, and again in 2015¹⁰². The Mechanism was renamed the Independent Recourse Mechanism after the third periodic review was adopted in 2021.¹⁰³

The IRM handles requests either through the *Compliance Review* or through the *Problem-Solving Function*. While the former triggers an investigation of claims raised, the latter is focused on individual dispute resolution through inter alia mediation. Additionally, the IRM performs an *Advisory Function* on policies and project compliance.¹⁰⁴ The Advisory Function provides »independent opinions on systemic issues, technical advice on any operations and policies of the Bank Group«.¹⁰⁵

The IRM is administered by the Compliance Review and Mediation Unit (CRMU). The CRMU is an organizational entity of the AfDB, headed by a Director who is assisted by professional and support staff. The IRM is overseen and held accountable by the BoD.¹⁰⁶ While the Director is free to make staffing decisions without the involvement

¹⁰⁰ Cf. (Bissel & Nanwani, 2009), p. 17.

¹⁰¹ AfDB, Resolution 2010.

¹⁰² AfDB, Resolution 2015.

¹⁰³ AfDB, Review 2021.

¹⁰⁴ Cf. AfDB, Procedures 2021, p. 5.

¹⁰⁵ Id., p. 6.

¹⁰⁶ Cf. Id., para. 82.

of the Board or the Bank's Management, the IRM team are formally classified as staff of the Bank Group to which both the Bank Group's Code of Conduct as well as human resource policies and procedures apply.¹⁰⁷

The IRM has seen far-reaching alterations as recently as 2021, following an extensive 18-month-long evaluation, consultation, and redrafting process, resulting in the adoption of a renewed Policy Framework,¹⁰⁸ aimed at making »the process more accessible, efficient, predictable and transparent«¹⁰⁹. The third review of the IRM, in contrast to previous reviews by individuals, was conducted by a consultancy based in Portugal and contains an extensive analysis of the IRM's effectiveness, making reference to the UNGP, drawing comparisons to other IAMs, and providing suggestions for alterations of IRM Procedures and Policies.¹¹⁰ The third review was also the first to contain two rounds of public consultations in which a total of 65 CSOs provided comments on the policy drafts.¹¹¹ As a result, the mechanism's Expert Panel model was replaced by a fully integrated organizational unit, leading all Compliance Review and Problem-Solving processes. Claimant participation shall be increased through a new right to comment on draft Compliance Review Reports, before they are sent to the BoD. The revised Policy also allows the IRM to consider complaints which are simultaneously part of legal proceedings, and it enables the IRM to initiate Compliance Reviews without a formal consent by affected communities.¹¹²

4.1.2. Complaints Handling Process

The IRM will review complaints from an individual or groups of individuals regarding operations financed by the Bank Group. Claimants must allege that an actual or potential harm has arisen or may arise from a failure of the Bank to comply with its own policies and proce-

¹⁰⁷ Cf. Id., para. 92.

¹⁰⁸ Cf. AfDB, Annual Report 2021, p. 11.

¹⁰⁹ Id., p. 11.

¹¹⁰ AfDB, Review 2021.

¹¹¹ Cf. AfDB, Annual Report 2020, pp. 17–18.

¹¹² Cf. AfDB, Annual Report 2021, p. 11.

dures.¹¹³ Upon receiving a complaint, the IRM assesses it against the complaints criteria. If it satisfies the criteria, the complaint is officially registered. Afterwards, Bank Management is given the opportunity to respond to the complaint and after receiving the Management's response and conducting its own due diligence, the IRM initiates an *eligibility assessment* process to determine if there is prima facie evidence of harm and if it can be reasonably linked to the Bank's non-compliance with its policies. If the complaint meets the eligibility threshold, the IRM proceeds along one or both of the following paths: 1) *Compliance Review*, which investigates claims of policy non-compliance or harm related to an AfDB-funded project, and 2) *Problem-Solving*, which seeks to resolve complaints through mediated dialogue between complainants and relevant project stakeholders. The specific path chosen for each complaint is determined through consultation between the IRM and the complainant. Both paths can be executed simultaneously, or a Problem-Solving case can be transferred to Compliance Review when a problem-solving agreement is found to not having been implemented.¹¹⁴

¹¹³ Cf. AfDB, Procedures 2021, p. 6.

¹¹⁴ Cf. AfDB, Annual Report 2021, pp. 20 et seq.

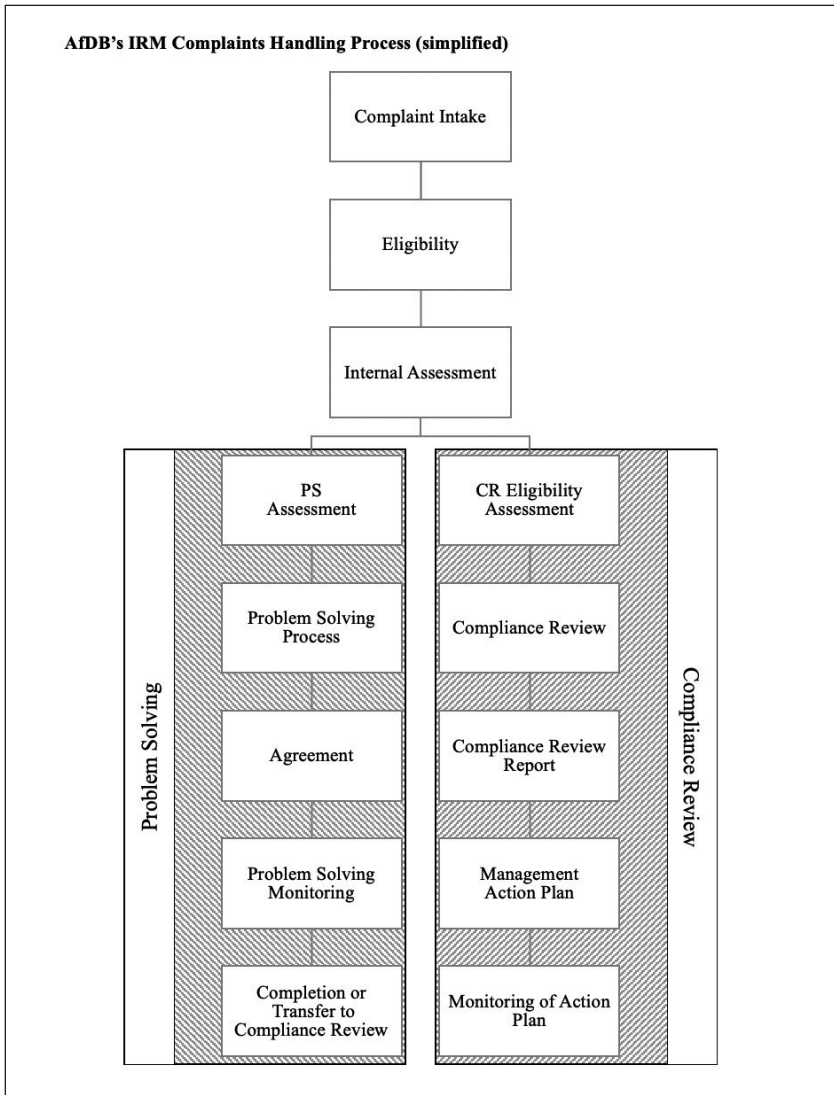


Figure 1: AfDB's IRM Complaints Handling Process¹¹⁵

¹¹⁵ Cf. AfDB, Procedures 2021, p. 6 et seq.

4.1.3. Elements of Learning

4.1.3.1. Learning mandate

One of the strategic objectives of the IRM, set out in its plan for 2021–2025 is »[t]o use knowledge and insight obtained from complaints to influence internal reforms at the Bank, address systemic issues and improve the manner in which the Bank identifies, prepares, appraises, implements, monitors and exits projects.«¹¹⁶ The IRM has a dedicated Advisory Function whose objective is to improve »on the social, environmental and governance impacts of Operations financed by the Bank-Group by advising Management on emerging, strategic, or systemic issues or processes based on lessons learned and trends identified by the IRM during the handling of Complaints whether through Problem-Solving exercises, Compliance Reviews or outreach activities«.¹¹⁷ The Procedural Rules further stipulate that the primary purpose of the Advisory Service of the IRM shall be for institutional learning¹¹⁸ and the advisory function can inter alia be triggered when the Director of the IRM decides that lessons can be learnt from the IRM casework.¹¹⁹ Internal outreach activities, like training and onboarding of bank staff, shall include lessons learnt from the IRM.¹²⁰ Furthermore, the Compliance Review Reports shall include information from the respective review process, which can promote »institutional learning and relevant capacity building«¹²¹. As part of the Compliance Review Process, Bank Management is required to develop a Management Action Plan to address issues found and this Action Plan is monitored and reported on.¹²²

¹¹⁶ AfDB, Annual Report 2021, p. 13.

¹¹⁷ AfDB, Procedures 2021, p. 20; see also Interview 1, Q1.

¹¹⁸ Cf. AfDB, Procedures 2021, para. 80 (b).

¹¹⁹ Cf. Id., para. 79 (b).

¹²⁰ Cf. Id., para. 103.

¹²¹ Id., para. 67 (iii) d.

¹²² Cf. Id., p. 6.

4.1.3.2. Periodic reviews

The BoD resolution establishing the mechanism in 2004 stipulated that the IRM should be evaluated three years after its inception. The current, 2021 Operating Rules and Procedures stipulate that the activities of the IRM should be reviewed regularly, every four years or whenever the BoD mandates an ad hoc review.¹²³ The periodic reviews include public consultations and encourage input from various stakeholders.¹²⁴

4.1.3.3. Stakeholder consultations

The IRM regularly consults with an external stakeholder advisory group, comprised of CSOs, private sector, academia and international organizations who provide feedback, advice, and strategic guidance on the effectiveness of the IRM.¹²⁵ In 2021, the IRM defined their key stakeholders as Bank Management, Clients, CSOs, Complainants, and IRM staff and surveyed a cross-section of these stakeholders to understand their perception of and satisfaction with the IRM.¹²⁶ Issues raised by relevant stakeholders and the respective engagement activities of the IRM are made transparent in the IRM's Annual Reports.¹²⁷

While the complaints handling process is interactive and includes consultations with claimants and their representatives, there is no indication that claimants are systematically surveyed about their experience and satisfaction with the IRM.¹²⁸

4.1.3.4. Active exchange with peer institutions

The 2021 Procedural Rules prescribe that the »IRM is a member of the Independent Accountability Mechanism Network (IAMNet).«¹²⁹ As

¹²³ Cf. Id., para. 111.

¹²⁴ See Interview 1, Q2.

¹²⁵ Cf. AfDB, Procedures 2021, para. 105, see also Interview 1, Q2, Q4.

¹²⁶ Cf. AfDB, Annual Report 2021, p. 15.

¹²⁷ Cf. Id., pp. 16 et seq.

¹²⁸ See Interview 1, Q2.

¹²⁹ AfDB, Procedures 2021, para. 107. The Independent Accountability Mechanism Network is a network organization comprised of the primary IAMs of MDBs and other Development Finance Agencies.

such it participates in the network's annual meetings and collaborates on sharing knowledge about issues relevant to the peer network.¹³⁰ Furthermore the accountability mechanisms collaborate when issues arise from projects which are co-financed by MDBs.¹³¹

4.1.3.5. Documentation and analysis of claims

In the Annual Reports (and annexes), the IRM provides several detailed case studies from both the Compliance Review and Problem-Solving function. For complaints which are not registered, a reason is provided for non-registration. The case data reported includes the status of cases handled within a year as well as the country and project/program, a complaint originated from.¹³² There is no further categorization of complaints.

A notable particularity of the IRM is the discrepancy between the number of complaints received and cases then registered. While the IRM has received 114 complaints since its inception in 2006, the number of cases registered since then is only 22.¹³³ To address this, the 2021 policy revision explicitly aims to make the process more accessible. In 2021, the IRM handled a record total of 12 active cases.¹³⁴

The IRM maintains an online *Register*¹³⁵ of cases, containing their status and linking all relevant documentation, including the redacted requests, (intermittent) reports, and problem-solving agreements.¹³⁶

4.1.3.6. Regular reports

The Director is responsible for compiling an Annual Report that provides an overview of the IRM's activities during the previous year. This report includes relevant data, performance measures, and discussions about identifiable trends related to the Bank Group's activities, derived from the IRM's Problem-Solving activities and Compli-

¹³⁰ E.g. the challenges of conducting the work during the Covid Pandemic.

¹³¹ Cf. AfDB, Annual Report 2020, p. 22.

¹³² Cf. AfDB, Annual Report 2021, pp. 51 et seq.

¹³³ Cf. Id., p. 9.

¹³⁴ Cf. Id., p. 6.

¹³⁵ Accessible through: <https://www.afdb.org/en/independent-review-mechanism/management-of-complaints/registered-requests>.

¹³⁶ Cf. AfDB, Procedures 2021, para. 106.

ance Reviews. Moreover, the report highlights the lessons learned by the IRM regarding the impacts and challenges in implementing the Bank Group's Operating Policies and Procedures. The Annual Report is submitted to the BoD and the Board of Governors for information and is published on the IRM's website.¹³⁷

4.1.3.7. Training and knowledge management

According to the 2021 Procedural Rules, lessons learnt from IRM activities shall regularly be included in staff trainings and onboardings.¹³⁸ In 2022, one major area of training pertained to giving advice on how to address incidences of sexual exploitation, abuse and harassment to project teams and supervisors, an issue that the IRM had identified as systemic and addressed in an extensive advisory note.¹³⁹

The substitution of the Expert Panel model by a fully integrated organizational unit following the 2021 policy review can be seen as a change aiming towards retaining institutional knowledge more easily and thereby facilitating institutional learning.

4.2. Asian Development Bank

The Asian Development Bank's Accountability Mechanism provides an independent forum for people adversely affected by ADB-assisted projects. It allows project-affected people to voice their concerns and seek solutions to their problems.

4.2.1. Overview

In 1995, the ADB established the Inspection Function which was replaced by the AM in 2004.¹⁴⁰ The Mechanism is currently governed by the 2012 Policy.¹⁴¹ It consists of two primary functions executed by separate entities: the Office of the Special Project Facilitator (OSPF) and the Office of the Compliance Review Panel (OCRP). The OSPF's

¹³⁷ Cf. AfDB, Procedures 2021, paras. 98–99.

¹³⁸ Cf. Id., para. 103.

¹³⁹ AfDB, Advisory Note 2022.

¹⁴⁰ Cf. ADB, AM Policy 2012, p. vii.; Bissel & Nanwani (2009), pp. 7–8.

¹⁴¹ ADB, AM Policy 2012.

role is to assist affected communities and individuals by facilitating communication with ADB management and other relevant parties. It employs nonformal, flexible, and consensus-based approaches to address the problems faced by people directly and materially impacted by ADB-financed projects. The focus is on finding solutions rather than assigning blame.¹⁴²

On the other hand, the Compliance Review Panel (CRP) is responsible for investigating complaints from individuals affected by ADB-funded projects, specifically related to non-compliance with ADB's operational policies and procedures, providing social and environmental safeguards.¹⁴³ It operates as a fact-finding body representing the ADB Board of Directors. A compliance review conducted by the CRP does not involve investigations into the borrowing country, executing agency, or private sector clients.

Both functions work jointly in conducting outreach activities aimed at making the mechanism better known and understood both within and outside ADB.

The Special Project Facilitator (SPF) heads the problem-solving function and reports directly to the President of the ADB.¹⁴⁴ They are supported by a team of three permanent employees.¹⁴⁵ The CRP consists of three members, one of whom is the chair and reports to the Board or the Board Compliance Review Committee.¹⁴⁶ They are supported by a team of three permanent employees.¹⁴⁷

To make the AM more accessible, a single entry point, the Complaint Receiving Officer (CRO), was established in 2012. The CRO is responsible for funneling all complaints into the complaints handling process in accordance with the complainant's choice.¹⁴⁸ The 2012 Policy further introduced the option of the claimant to exit the problem-solving function in order to change into the compliance review function, if they can allege non-compliance.¹⁴⁹ The changes were

¹⁴² Cf. Id., paras. 141 et seq.

¹⁴³ Cf. Id., para. 145.

¹⁴⁴ Cf. Id., paras. 108 et seq.

¹⁴⁵ Cf. Id., para. 108.

¹⁴⁶ Cf. Id., paras. 111 et seq.

¹⁴⁷ Cf. ADB, AM Policy 2012, paras. 117–118.

¹⁴⁸ Cf. Id., paras. 121, 124.

¹⁴⁹ Cf. Id., paras. 71 et seq.

introduced to improve the accessibility, credibility, efficiency, and effectiveness of the AM.

The ADB prescribes in its lending contracts, that project-based grievance mechanisms have to be established by the Bank's clients wherever Bank-funded projects are implemented.¹⁵⁰ People affected by these projects are encouraged to voice their concerns over negative impacts, rights violations, or alleged misconduct with the project-based grievance mechanisms before seeking solutions with the ADB's AM as a last resort.¹⁵¹

4.2.2. Complaints Handling Process

Complaints can be filed with the CRO by two or more people from a country in which an ADB-funded project is located. They can be represented by a duly appointed agent. Compliance Review can furthermore be initiated by one or more ADB Board members.¹⁵²

The complaints process is comprised of a four-step registration process followed by either a five-step problem-solving or a ten-step compliance review process. *Registration* consists of 1) *receiving*, 2) *acknowledging*, 3) *forwarding* the complaint to the relevant function, and 4) *informing* the complainant.¹⁵³ The *Problem-Solving Process* consist of 1) determining *eligibility*, 2) reviewing and *assessing* the complaint, 3) *problem solving*, 4) implementation and *monitoring* of agreed-upon remedial actions, and 5) *conclusion*.¹⁵⁴ The *Compliance Review Process* consists of 1) requesting *Management response*, 2) determining *eligibility*, 3) *Board authorization*, 4) conducting *compliance review*, 5) *draft report* of CRP, 6) *final report* of CRP, 7) *Board consideration* of CRP report, 8) *Management Action Plan*, 9) *Board decision* on action plan, and 10) *monitoring* of the actions and conclusion.¹⁵⁵

¹⁵⁰ Cf. ADB, Safeguard Policy Statement.

¹⁵¹ Cf. ADB, AM Policy 2012, para. 105.

¹⁵² Cf. Id., paras. 138–139.

¹⁵³ Cf. Id., paras. 155–161.

¹⁵⁴ Cf. Id., paras. 163–176.

¹⁵⁵ Cf. ADB, AM Policy 2012, paras. 178–192.

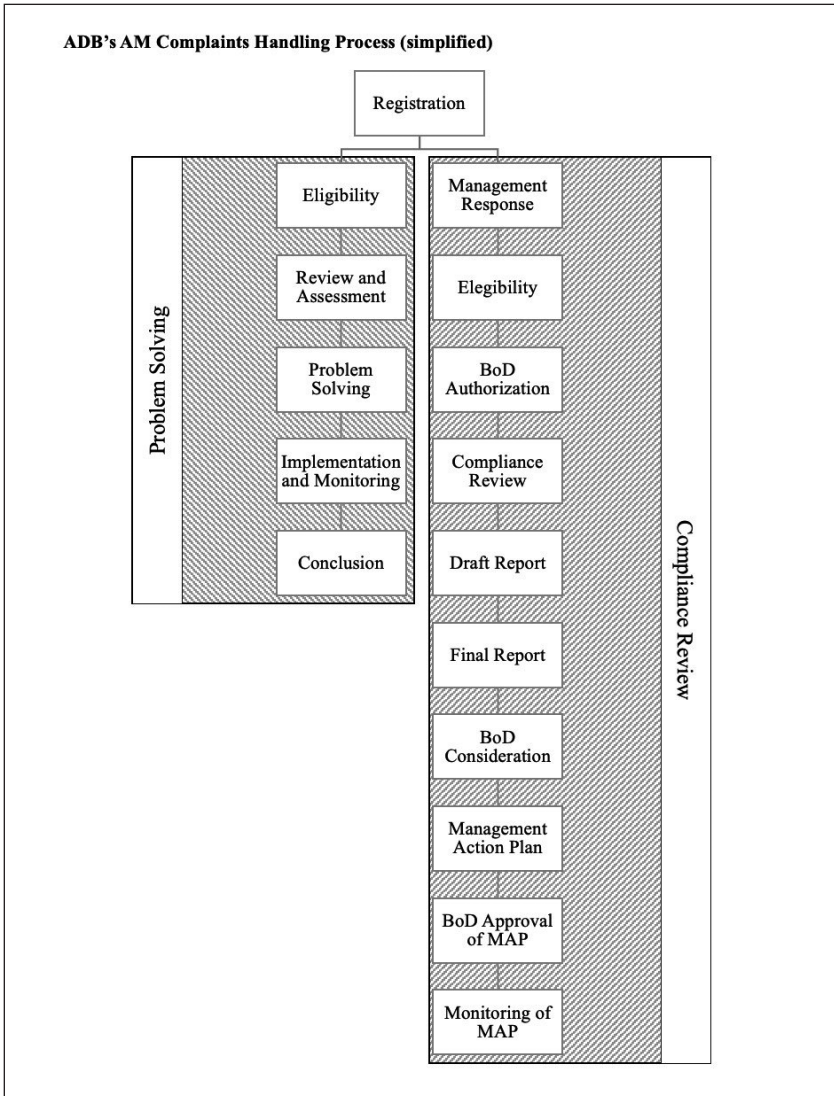


Figure 2: ADB's AM Complaints Handling Process¹⁵⁶

¹⁵⁶ Cf. Id.

4.2.3. Elements of Learning

4.2.3.1. Learning mandate

The Mechanism is designed to complement existing auditing, evaluation and learning systems within ADB¹⁵⁷ by serving as a focused mechanism for project-affected people, thereby contributing to learning and enhancing ADB's development effectiveness.¹⁵⁸ A major objective of the AM is to enhance learning and promote cultural change. As an overall goal, the Offices of the AM »strive to draw out cohesive lessons, and recommendations for general application in future development projects. These learnings and recommendations are intended to provide opportunities to improve project design and implementation and strengthen the accountability of Asian Development Bank (ADB) operations.¹⁵⁹ The spirit of our work is fact-finding and not fault-finding.«¹⁶⁰ Similarly, the »focus of our work is accountability, which is essentially learning from mistakes to do better for the optimum development impact (transformational).«¹⁶¹

As part of the Compliance Review Process, the BoD is involved and the Bank Management is required to develop a Management Action Plan to address issues found and this Action Plan is monitored and reported on by the CRP.¹⁶²

The AM launches various »knowledge products and services« targeting ADB operations staff as well as government and private sector partners in developing member countries. Among others, the OSPF produces the Lessons Learned Series and the OCRP produces project-specific lessons learnt reports.

4.2.3.2. Periodic reviews

There are no formal provisions, requiring the AM Policy to be reviewed periodically. However, the Policy does stipulate that to guide

¹⁵⁷ Cf. ADB, AM Policy 2012, para. 28.

¹⁵⁸ Cf. ADB, AM Policy 2012, p. ix, paras. 39, 65; see also Interview 2, Q1.

¹⁵⁹ See Interview 2, Q1.

¹⁶⁰ ADB, Annual Report 2022, p. iv.

¹⁶¹ ADB, Annual Report 2021, p. v.; see also Interview 2, Q1.

¹⁶² See Interview 2, Q2.

future »policy design and implementation, Management will engage expert(s) to undertake a study on the benefits and costs of the revised Accountability Mechanism.«¹⁶³ A study with this objective was commissioned by the OSPF in November 2022.¹⁶⁴

The 2012 Policy Review was headed by a six-member working group of the Bank's BoD and Management. They engaged two independent international experts with the objective to »take stock of the ADB experience, draw from the experiences of similar mechanisms, and examine the scope for improving the Accountability Mechanism. The review included extensive public consultations.«¹⁶⁵ The 2012 review introduced numerous far-reaching changes as it incorporated the feedback of NGOs and other stakeholders.¹⁶⁶

4.2.3.3. Stakeholder consultations

There are no formal requirements in the AM Policy to hold stakeholder consultations beyond the activities conducted during the handling of an individual complaint. However, both the 2003 policy, leading to the establishment of the AM and the 2012 Policy Review were preceded by extensive engagement with internal and external stakeholders. A major change in 2003 pertained to the extension of timeframes within which complaints could be filed. It was extended to the point in time, when the ADB issued a project completion report, which is typically between one and two years after the project has ended. In 2012, listening to feedback from NGOs and claimants, a single point of entry was created, relevant information could be provided sequentially by the claimants, and affected people could address the compliance review function without having to have completed the problem-solving function. Furthermore, the mandate of the problem-solving function (previously named the consultation function) was extended and made more flexible. Since 2012, the OSPF may »resolve problems using col-

¹⁶³ ADB, AM Policy 2012, para. 212.

¹⁶⁴ Cf. ADB, Annual Report 2022, pp. 52–53. The study is ongoing and more information on its status can be found at <https://www.adb.org/who-we-are/accountability-mechanism/policy-review> [last accessed: 29 July 2024].

¹⁶⁵ ADB, AM Policy 2012, p. vii.

¹⁶⁶ Cf. ADB, AM Policy 2012, pp. 4 et seq.

laborative approaches like consultative dialogue, information sharing, joint fact-finding, and mediation¹⁶⁷

While the complaints handling process is interactive and includes consultations with claimants and their representatives, there is no indication that claimants have been systematically surveyed about their experience and satisfaction with the AM.

4.2.3.4. Active exchange with peer institutions

The AM is a member of the IAMnet and members of the OICRP and OSPF regularly attend the IAMnet's annual meetings, where best practices are shared, and training sessions can be attended. In 2022, the IAMnet focused on addressing the issue of reprisals and retaliation against complainants and how to mitigate respective impacts and risks.¹⁶⁸

4.2.3.5. Documentation and analysis of claims

In the annual reports (and annexes), the AM provides a structured description of its case portfolio. The data reported includes the status of complaints handled by the CRO within a year (transferred to problem-solving, transferred to compliance review, closed, or pending) as well as the project number(s) and countries, a complaint originated from.¹⁶⁹

Cases are furthermore categorized by the following criteria:

- profile of complainants,¹⁷⁰
- issues raised,¹⁷¹
- sector,
- geographic region.

The annual reports furthermore contain detailed descriptions and analysis of complaints handled by the CRP, including a dedicated sec-

¹⁶⁷ ADB, AM Policy 2012, para. 29.

¹⁶⁸ Cf. ADB, Annual Report 2022, p. 50.

¹⁶⁹ Cf. ADB, Annual Report 2022, pp. 2 et seq.

¹⁷⁰ Affected people/communities alone or with the support of an NGO.

¹⁷¹ Pertains to the life matter or matters raised by the claimants. Complaints may have more than one issue raised.

tion for lessons learnt from each eligible complaint.¹⁷² The descriptions of the complaints handled by the OSFF contain descriptions of the complaints, problem-solving process, and outcomes. More details can be found in the respective problem-solving report.

In 2022, there were a total of 38 complaints received by the CRO related to AM-functions out of 70 complaints overall.¹⁷³ Two remain pending with the CRO at the end of the year, twelve were closed, five transferred to Compliance Review and 19 forwarded to Problem-Solving. Of the Compliance Review Complaints, three were found ineligible and two were withdrawn. Of the Problem-Solving complaints, 16 were found ineligible¹⁷⁴ and three eligible.¹⁷⁵

All cases of OSPF and the CRP are listed in openly accessible *Complaints Registries*,¹⁷⁶ where relevant case data and reports can be accessed.

4.2.3.6. Regular reports

The AM's two offices produce a joint annual report providing a concise overview of the activities and initiatives carried out over the previous year. The reports only briefly highlight the case related activities because details of each complaint are contained in several dedicated concluding reports. The requirement to disclose information and updates on inspections, a topic raised about the 1995 Inspection Function by numerous NGOs, was first introduced in 2003 and further specified in 2012. The 2012 Policy furthermore directed the AM, the Independent Evaluation Department, and the Sustainable Development and Climate Change Department to jointly analyze lessons learnt on matters managed under the mechanism every three years.¹⁷⁷ The CRP provides their compliance reports to the Board, including

¹⁷² Cf. ADB, Annual Report 2022, pp. 2 et seq.

¹⁷³ This number has been consistent since 2018 with a dip to 27 complaints in 2020, attributed to the COVID19 pandemic.

¹⁷⁴ They were forwarded to the ADB operations departments as the claimants failed to demonstrate sufficient efforts to resolve the issue at the project level.

¹⁷⁵ Cf. ADB, Annual Report 2022, pp. 2, 20.

¹⁷⁶ OSPF Complaints Registry: <https://www.adb.org/who-we-are/accountability-mechanism/problem-solving-function/complaint-registry-year>; CRP Registry: <https://lnadbg4.adb.org/dir0035p.nsf/alldocs/BDAO-7XGAWN?OpenDocument&expandable=2>.

¹⁷⁷ Cf. ADB, AM Policy 2012, para. 212.

key lessons, and the Board is expected to take the relevant steps to return the Bank to compliance.¹⁷⁸

In 2021, the OCRP published five reports on lessons learnt from compliance review of projects. The insights shared in this series offer opportunities for enhancing project design, implementation, and strengthening the compliance review process.¹⁷⁹ The goal of the publication series is to contribute to capacity development in project management and to promote good institutional governance.¹⁸⁰ In 2021, the OCRP also published a comprehensive report on lessons learnt from the eight compliance reviews conducted from 2004–2020, in which trends in the causes of non-compliance as well as incentives for compliance are compiled. The publication highlights the importance of understanding and utilizing trends to make behavioral and operational improvements, leading to enhanced project design and reduced grievances. These improvements shall contribute to the overall development effectiveness of ADB. Some common threads identified include the necessity of comprehensive baseline data for impact modeling, good project design, and effective risk control and mitigation measures. Meaningful stakeholder engagement, particularly with vulnerable groups, was found to enable better project quality and innovative solutions. A thorough understanding of ADB policies facilitates compliance, minimizing risks and costs associated with remedial actions. Knowledge of the ADB Accountability Mechanism Policy instills confidence in stakeholders regarding ADB’s grievance redress and accountability mechanisms. Prompt supervision and monitoring reduce the risk of noncompliance and harm, mitigating reputational risks. A timely and comprehensive remedial action plan is crucial for preventing further marginalization of project-affected individuals, providing effective relief, and ensuring sustainable development outcomes.¹⁸¹

¹⁷⁸ See Interview 2, Q3.

¹⁷⁹ See Interview 2, Q3.

¹⁸⁰ Cf. ADB, Annual Report 2022, p. 50.

¹⁸¹ Cf. ADB, Annual Report 2022, p. 52.

In 2016¹⁸² and 2018¹⁸³, the Bank has issued Learning Reports on the Implementation of the Accountability Mechanism Policy.

4.2.3.7. *Training and knowledge management*

To enhance awareness and share insights with ADB staff, the AM Offices are tasked with outreach efforts in the form of workshops, training courses, and orientation sessions to emphasize its significance as a valuable tool for learning and ensuring project quality and development effectiveness.¹⁸⁴ The SPF, OSPF, CRP, OCRP, Management, and the Board shall work towards promoting a culture change that eliminates any lingering perception of the Accountability Mechanism being confrontational. Instead, outreach activities should aim for the mechanism to be recognized as a constructive and collaborative instrument in the pursuit of improved project outcomes.¹⁸⁵ When training staff, a particular focus is placed on the Bank's operations department and staff of project-level grievance mechanisms.¹⁸⁶ Government staff and project proponents involved in these mechanisms will coordinate awareness seminars with resident missions, project teams, local government units, and executing agencies.¹⁸⁷ The GRM training aims to improve the function of project GRMs, equip project staff with communication skills and knowledge of proper handling and management of grievances received from affected households and stakeholders, and improve participants' skills, knowledge, and practice in addressing problems encountered in ADB-assisted projects.¹⁸⁸

Given the active part, project teams play in the adherence to policies during project implementation, the CRP has started to discuss their findings with the operations department and country directors.¹⁸⁹

¹⁸² ADB, 2016 Learning Report.

¹⁸³ ADB, 2018 Learning Report.

¹⁸⁴ See Interview 3, Q4.

¹⁸⁵ Cf. ADB, AM Policy 2012, para. 209.

¹⁸⁶ Cf. ADB, Annual Report 2022, pp. 50–52; see also Interview 3, Q4.

¹⁸⁷ Cf. ADB, AM Policy 2012, para. 211.

¹⁸⁸ Cf. ADB, Annual Report 2022, pp. 50–52.

¹⁸⁹ See Interview 2, Q4.

In 2022, the Offices have offered trainings on self-awareness and internal bias, impartiality, problem-solving skills, overcoming impasse, managing multiparty or multi-representative mediations, cultural awareness, and diversity and their impact on mediation. The ADB is actively encouraging staff to complete mediation training and pursue certification by the Singapore International Mediation Institute.¹⁹⁰

4.3. European Bank for Reconstruction and Development

The European Bank for Reconstruction and Development (EBRD) established the Independent Recourse Mechanism in 2004¹⁹¹, which was replaced by the Project Complaints Mechanism (PCM) in 2009, and the Independent Project Accountability Mechanism (IPAM) in 2020. The IPAM handles complaints related to environmental, social, and disclosure matters concerning the Bank's investments.

4.3.1. Overview

There are two approaches to address complaints: Problem Solving and Compliance Review. Through Problem Solving, the IPAM facilitates non-adversarial engagement between parties, seeking consensual solutions to the concerns raised by complainants.¹⁹² Compliance Review on the other hand involves fact-finding investigations to assess the Bank's adherence to environmental, social, and disclosure standards¹⁹³ outlined in the Environmental and Social Policy (ESP)¹⁹⁴ and the Access to Information Policy (AIP)¹⁹⁵. The competencies and procedural rules of the IPAM are stipulated in the Project Accountability Policy (PAP)¹⁹⁶.

¹⁹⁰ Cf. ADB, Annual Report 2022, pp. 50–52.

¹⁹¹ Cf. Bissel & Nanwani (2009), p. 17.

¹⁹² Cf. EBRD, PAP 2019, p. 5.

¹⁹³ EBRD, PAP 2019, p. 5.

¹⁹⁴ EBRD, ESP 2019.

¹⁹⁵ EBRD, AIP 2019.

¹⁹⁶ EBRD, PAP 2019.

Apart from handling claims, the IPAM has additional responsibilities concerning outreach and institutional learning.¹⁹⁷ The outreach efforts are focused on making IPAM accessible to CSOs and affected communities, while also increasing awareness among EBRD staff, clients, and other stakeholders about the role and functions of IPAM.¹⁹⁸

The IPAM's operations are guided by the 2019 PAP which has replaced the previous PCM Rules of Procedure adopted in 2009¹⁹⁹ and 2014²⁰⁰ respectively, and the Guidance on Case Handling under the EBRD PAP²⁰¹. One major change introduced with the 2019 Policy, was that the IPAM was equipped with a dedicated and permanent team with »expertise in its subject matter, accountability, and knowledge of the way the EBRD conducts its business«²⁰². This is in contrast with its predecessor, the PCM. During the operating period of the PCM from 2010 to 2020, compliance review cases were managed by external consultants on a temporary contract basis.²⁰³ The Director of the PCM was the only permanent position within the mechanism. With the 2019 policy review both the institutional learning function and the outreach function were established and subsequently equipped with staff to execute these functions continuously.²⁰⁴ The change in the organizational setup towards a permanent core team is significant because it allows for the accumulation of knowledge and expertise within the mechanism itself.²⁰⁵ It was also a response to continuous complaints from CSOs and Bank staff about inconsistencies and a lack of predictability of the compliance review process²⁰⁶ which were attributed to the IPAM's operating model.

Organizationally, IPAM is independent from the ERDB.²⁰⁷ The Chief Accountability Officer as the Head of the IPAM reports directly to the

¹⁹⁷ Cf. EBRD, PAP 2019, p. 5.

¹⁹⁸ Cf. Id., pp. 25 et seq.

¹⁹⁹ EBRD, PCM 2009.

²⁰⁰ EBRD, PCM 2014.

²⁰¹ EBRD, Guidance 2019.

²⁰² EBRD, Annual Report 2022, p. 8.

²⁰³ Cf. EBRD, Annual Report 2022, p. 8.

²⁰⁴ See Interview 5, Q2.

²⁰⁵ See Interview 5, Q2.

²⁰⁶ Cf. EBRD, Annual Report 2022, p. 8.

²⁰⁷ Cf. EBRD, PAP 2019, p. 6.

Board, not the Bank's management and they are responsible for running the IPAM, implementing the PAP and making all decisions within the IPAM mandate. The annual budget is prepared and allocated by the Chief Accountability Officer and approved by the Board instead of the Bank's management. Any candidate for the Chief Accountability Officer cannot have worked for the Bank in the five years prior to their appointment and are banned from working for the Bank at the end of their term.²⁰⁸

4.3.2. Complaints Handling Process

Requests to the IPAM can be submitted by individuals or organizations who believe to have been or might be affected by a project funded by the EBRD.²⁰⁹ Organizations which are not directly affected can also submit requests if they can prove, they represent people who are directly affected.²¹⁰

The complaints handling process starts with the *Registration* of the complaint, followed by an initial *Assessment*. Then, there are two alternative courses: Problem Solving and Compliance Assessment. Problem Solving is comprised of a *Dispute Resolution Process* and when an agreement is reached a *Problem Solving Monitoring Phase*. In the Compliance Function, the (preliminary) *Compliance Assessment* is followed by a *Compliance Review*, the *Development and Approval of a Management Action Plan*, and a *Management Action Plan Monitoring Phase*.²¹¹

²⁰⁸ Cf. Id., pp. 26 et seq.

²⁰⁹ Cf. Id., para. 2.1.a).i.

²¹⁰ Cf. id., para. 2.1.a).ii.

²¹¹ Cf. EBRD, PAP 2019, pp. 6–7.

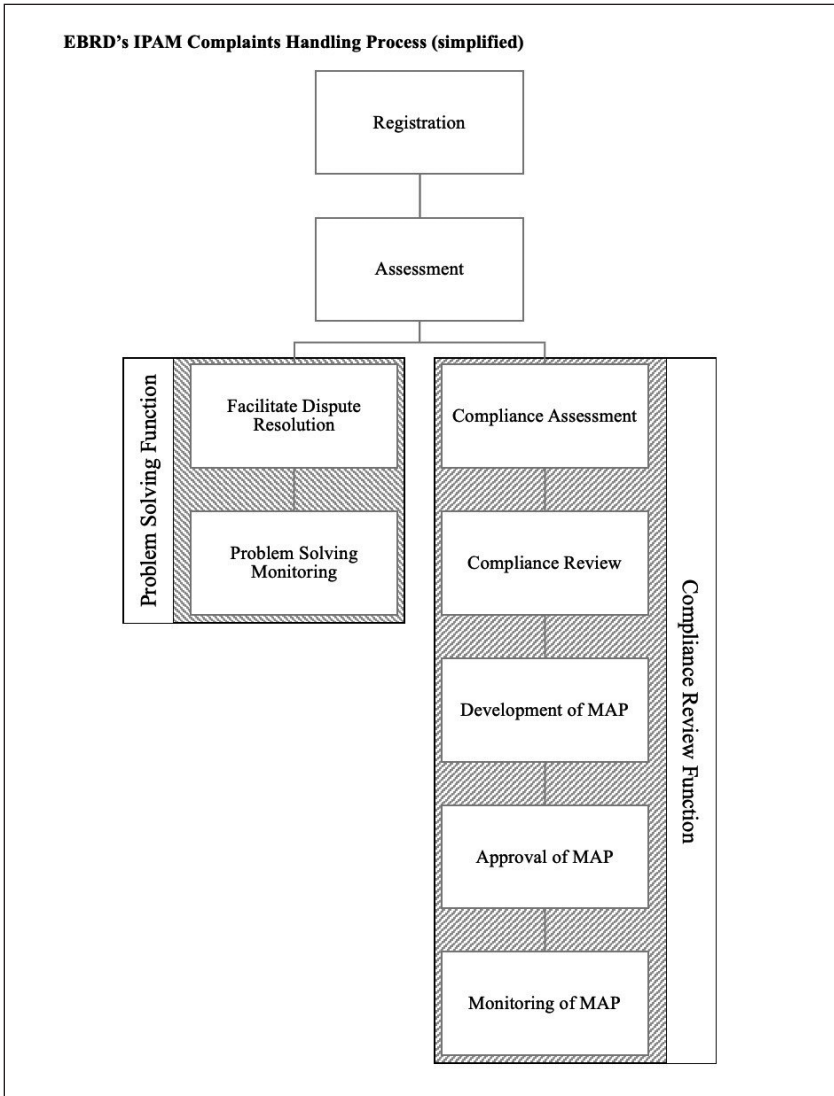


Figure 3: EBRD's IPAM Complaints Handling Process²¹²

²¹² Cf. EBRD, PAP 2019, p. 7.

4.3.3. Elements of Learning

4.3.3.1. Learning mandate

Since the adoption of the 2019 PAP, IPAM has a dedicated Institutional Learning Function, tasked to look at »commonalities, regions, types of financing, types of projects from every compliance review«.²¹³ A permanent Institutional Learning Officer makes recommendations on the project and the institutional level and monitors the changes implemented and their effects.²¹⁴

IPAM shares lessons derived from its cases with the Bank's management. It also creates knowledge products that capture insights, experiences, and evidence gathered from its casework. Through these endeavors, IPAM seeks to foster a culture of continuous learning within the EBRD.²¹⁵

The IPAM's compliance review reports contain specific recommendations on how the Bank can return to compliance. These in turn are typically included in the MAPs and their implementation is monitored.²¹⁶

4.3.3.2. Periodic reviews

The procedural rules as well as the underlying safeguarding policies are reviewed periodically, every five years. The current 2019 PAP is deemed to be reviewed in 2024.²¹⁷ No further instructions on how the review shall be done are stipulated.

4.3.3.3. Stakeholder consultations

IPAM's mandate extends to conducting outreach activities with internal and external stakeholders, fostering greater awareness and understanding of its policies and objectives. It actively engages with project-affected communities and civil society organizations to promote

²¹³ See Interview 5, Q1.

²¹⁴ See Interview 5, Q1.

²¹⁵ Cf. EBRD, PAP 2019, p. 26.

²¹⁶ See Interview 5, Q4.

²¹⁷ Cf. EBRD, PAP 2019, p. 29.

safe access. In 2022, the IPAM organized more than 30 outreach events and interacted with more than 60 CSOs.²¹⁸ The outreach events allow CSOs to bring attention to issues regarding the Bank's operations but also the IPAM itself.

While the complaints handling process is interactive and includes consultations with claimants and their representatives, there is no indication that claimants have been systematically surveyed about their experience and satisfaction with the IPAM.

4.3.3.4. Active exchange with peer institutions

The IPAM is an active member of the IAM network and shares knowledge on technical matters, good practices, and challenges, through the IAM network's annual meetings and working groups.²¹⁹ As of 2022, a pilot project for peer learning was initiated between the IAMs of EBRD, AfDB, and IADB, where in a series of sessions, practitioners shared tools, challenges, good practices, and successes in the field of problem solving.²²⁰

IPAM and the EBRD also contributed to the UN OHCHR commissioned research and report on Remedy in Development Finance.²²¹

4.3.3.5. Documentation and analysis of claims

In the annual reports (and annexes), the IPAM provides a structured and detailed description of its case portfolio. The data reported includes the status of cases handled within a year (active, closed, received, registered, not registered, pending registration) as well as the project number(s) and countries, a claim originated from.²²²

Cases are furthermore categorized by the following criteria:

- type of requester,²²³
- geographic location,

²¹⁸ Cf. EBRD, Annual Report 2022, pp. 4, 18.

²¹⁹ Cf. EBRD, Annual Report 2022, pp. 20–21.

²²⁰ Cf. Id., p. 20.

²²¹ Cf. Id., p. 9.

²²² Cf. EBRD, Annual Report 2022, pp. 10–16.

²²³ There are four types of requesters: Affected communities, affected individuals, affected organizations and non-affected organization.

- type of concern raised,²²⁴
- performance requirements raised,²²⁵
- sources of funding,²²⁶
- sector,
- project categorization.²²⁷

All cases of IPAM and its predecessors PCM and IRM are listed in openly accessible *Case Registries*,²²⁸ where relevant case data and reports can be accessed.

In the annual reports, the Chief Accountability Officer highlights emerging trends and reoccurring issues raised in complaints.

4.3.3.6. Regular reports

IPAM regularly prepares a variety of reports for the major steps of the case handling process.²²⁹ The most comprehensive report is the annual report, in which the IPAM shares the knowledge gained from its casework, offers guidance and insights based on the experiences and evidence gathered. The annual reports are submitted to the Board and the President as well as disseminated to the public.²³⁰

²²⁴ Pertains to the life matter raised by the claimants.

²²⁵ There are ten Performance Requirements set out in the EBRD's Environmental and Social Policy which define, how the Bank's projects should be implemented: 1. Assessment and Management of Environmental and Social Risks and Impacts, 2. Labor and Working Conditions, 3. Resource Efficiency and Pollution Prevention and Control, 4. Health, Safety and Security, 5. Land Acquisition, Restrictions on Land Use and Involuntary Resettlement, 6. Biodiversity Conservation and Sustainable Management of Living Natural Resources, 7. Indigenous Peoples, 8. Cultural Heritage, 9. Financial Intermediaries, 10. Information Disclosure and Stakeholder Engagement.

²²⁶ For projects co-funded by other IFIs.

²²⁷ EBRD-internal categorization to reflect the level of potential impacts and issues associated with a project, and to determine the nature and level of assessment, information disclosure and stakeholder engagement required.

²²⁸ IPAM Case Registry: <https://www.ebrd.com/ipam-case-registry.html>; PCM Registry: <https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/pcm-register.html>; IRM Registry: <https://www.ebrd.com/work-with-us/project-finance/project-complaint-mechanism/irm-register.html>.

²²⁹ Cf. EBRD, PAP 2019, pp. 6–19.

²³⁰ Cf. Id., p. 29.

4.3.3.7. Training and knowledge management

In 2022, the IPAM engaged with Bank staff and management. They conducted 14 tailored awareness sessions which emphasized the relevance of IPAM to the respective departments' work and facilitated knowledge exchange about its mandate. Furthermore, the Chief Accountability Officer orchestrated meetings with their counterpart in the Environmental and Sustainability Department, addressing collaboration challenges from the outset.²³¹

In a joint training session with the Office of the Chief Compliance Officer, responsible for handling complaints related to prohibited practices, corruption, and ethics, the IPAM staff sought to promote mutual learning and establish an effective methodology for exchanging information during the complaint processing.²³²

4.4. European Investment Bank

The EIB Group, comprised of the European Investment Bank (EIB) and the European Investment Fund (EIF), has established the EIB-Complaints Mechanism (EIB-CM) which can be addressed by corporations, citizens or CSOs with concerns about an EIB Group project, policy, or other activity.

4.4.1. Overview

The EIB-CM serves as a public accountability tool, enabling the resolution of disputes between complainants and the EIB Group through alternative means. Its primary objective is to ensure the right to be heard and the right to complain, giving voice to stakeholders' concerns regarding maladministration.²³³ »Maladministration means poor or failed administration. It occurs when the EIB Group fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards and procedures.«²³⁴ The EIB-CM per-

²³¹ Cf. EBRD, Annual Report 2022, p. 20.

²³² Cf. Id., p. 20.

²³³ Cf. EIB, Policy 2018, p. 5.

²³⁴ Id., para. 3.1.

forms four functions pertaining to complaints submitted: Complaints Investigation, Mediation, Advisory, and Monitoring.²³⁵

Addressing complaints is considered a collective responsibility within the Group, helping to improve its performance and activities in order to create better development results and positive impact.²³⁶ The EIB-CM operates under the 2018 Complaints Mechanism Procedures (CMOP) on a two-tier system. The system consisting of the EIB-CM as the internal complaints mechanism division and the European Ombudsman (EO), an external body of the EU, functioning as a second-tier complaints mechanism, which can be addressed if the claimant feels that the EIB Group »has not dealt with a complaint in a timely or correct manner«²³⁷. This two-tier system is a particularity of the EIB among the MDBs.²³⁸

Operationally, the Complaints Mechanism Division is responsible for the implementation of the Policy and Procedures governing the EIB-CM. It operates as part of the independent Inspectorate General, with the Head of EIB-CM being the Principal of the EIB Group Complaints Mechanism.²³⁹ The Inspectorate General also includes the Investigation and Evaluation unit.²⁴⁰ The EIB-CM maintains independence from operational activities of the EIB Group to ensure objectivity and safeguard the interests of internal and external stakeholders.²⁴¹ The Head of EIB-CM has authority over the admissibility of complaints, the type of mediation or investigation used, and the final decision on EIB-CM reports.²⁴²

4.4.2. Complaints Handling Process

Complaints to the EIB-CM can be filed by any member of the public for alleged maladministration of the EIB Group.²⁴³ Complainants do

²³⁵ Cf. Id., p. 13.

²³⁶ Cf. EIB, Annual Report 2022, p. vi.

²³⁷ EIB, Policy 2018, p. 19.

²³⁸ Cf. EIB, Annual Report 2022, p. 1.

²³⁹ Cf. EIB, Policy 2018, para. 5.1.

²⁴⁰ Cf. EIB, Annual Report 2022, p. 4.

²⁴¹ Cf. EIB, CMOP 2018, Rules of Conduct, p. 11.

²⁴² Cf. EIB, Policy 2018, para. 5.1.

²⁴³ Cf. Id., para. 1.2.

not have to indicate the relevant rule or policy that may have been breached, the issue does not have to relate directly to EIB Group's (potential) non-compliance with specific standards, procedures or policies, and complainants must not prove, that they are directly affected by an issue reported.²⁴⁴

In a broader understanding, the complaints handling process of the EIB-CM is comprised of four major steps and followed by a monitoring phase: 1) *Complaint Submission*, 2) *Complaint Registration*, 3) *Complaint Handling Process*, 4) *Outcome*. Regarding complaint handling in the narrower sense, the CMOP contains provisions for three types of remedial procedures (*standard*, *extended* and *simplified*) and one *preventative* procedure applied when complaints pertain to actions or decisions which have not yet been taken.²⁴⁵ The CMOP prescribes a detailed timeframe for both the *standard*²⁴⁶ and the *extended procedure*²⁴⁷ in which the EIB-CM must reply to the complainant, after their complaint has been admitted.

²⁴⁴ Cf. EIB, Annual Report 2022, p. 4.

²⁴⁵ EIB, CMOP 2018; cf. EIB, Policy 2018, para. 4.2.

²⁴⁶ *Id.*, para. 1.11.

²⁴⁷ *Id.*, para. 2.6.

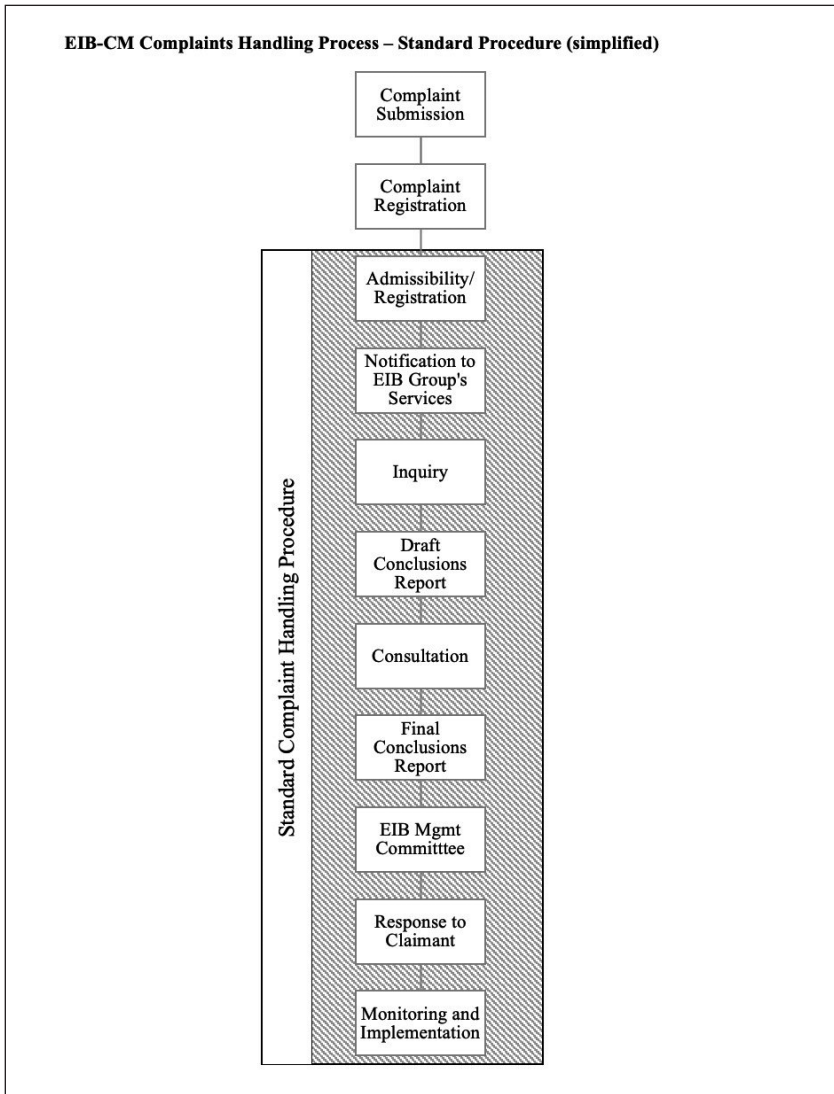


Figure 4: EIB-CM Complaints Handling Process Standard Procedure²⁴⁸

²⁴⁸ Cf. EIB Annual Report 2022, p. 3; EIB, CMOP 2018, para. 1.

4.4.3. Elements of Learning

4.4.3.1. Learning mandate

The Preamble of the Complaints Mechanism Policy states that the »Complaints Mechanism Division assists the EIB Group, for the common purpose of good administration, by advising on possible improvements to the implementation of its activities.«²⁴⁹ The President of the EIB Group stated in the 2022 Annual Report that »we [the EIB Group] always strive to do better, and the work of the Complaints Mechanism helps to identify areas of improvement and recommend any necessary remedial measures.«²⁵⁰ Within the institution, there are several dimensions of learning: The most formal one is the EIB-CM's *Advisory Function*, where structural or systemic issues are brought to the attention of the Bank's management and Board.²⁵¹ Below this, on an individual case level, there is either a compliance review or a dispute resolution process. Any compliance review report contains recommendations and suggestions for improvements, however these are usually tailored to the specifics of the case and directed at the project team, working on the ground. In dispute resolution, learning occurs more informally, as the claims raised, represent feedback to the project team about something that is not working well. This feedback can be used to reduce harm during the remainder of the project's implementation, however there is no evaluation or monitoring of whether this happens.²⁵²

4.4.3.2. Periodic reviews

The EIB-CM conducts a review of its Policy at least every five years, seeking input from EIB Group stakeholders through consultation. This review involves close collaboration with the EO due to the Complaints Mechanism's dual-tier setup.²⁵³

²⁴⁹ EIB, Policy 2018, p. 5.

²⁵⁰ EIB, Annual Report 2022, p. vii.

²⁵¹ Cf. EIB, Annual Report 2022, p. 2; Interview 6, Q1.

²⁵² See Interview 6, Q1.

²⁵³ Cf. EIB, Policy 2018, para. 9.

The review process consists of three steps: First, an external evaluation of the mechanism's performance and policy provisions by an external expert panel is concluded.²⁵⁴ Second, feedback and suggestions from CSOs and renowned consultancies focused on accountability are carefully evaluated. Based on these inputs, the EIB Group Complaints Mechanism is adjusted to incorporate relevant changes. Third, the changes are approved by the EIB and EIF Board of Directors. The policy review is proposed by the EIB Management Committee.²⁵⁵ The evaluation by the expert panel looks at how the mechanism is performing and also how it is working to improve the accountability of the EIB Group.²⁵⁶

4.4.3.3. Stakeholder consultations

According to the EIB-CM's Guiding Principles, »the development of the Complaints Mechanism shall be subject to a public consultative process with the EIB Group's various stakeholders.«²⁵⁷ There are regular meetings with CSO at least twice a year, where the organizations can inform EIB-CM staff about shortcomings and areas for improvement.²⁵⁸ The EIB-CM's policy furthermore prescribes that the EIB-CM »maintains proactive and cooperative contacts with all relevant external institutions, bodies and non-state actors including but not limited to the EO, other complaint mechanism functions, external experts and CSOs«.²⁵⁹

While the complaints handling process is interactive and includes consultations with claimants and their representatives, there is no indication that claimants have been systematically surveyed about their experience and satisfaction with the EIB-CM.²⁶⁰

²⁵⁴ See Interview 6, Q2.

²⁵⁵ Cf. EIB, Policy 2018, para. 9.

²⁵⁶ See Interview 6, Q7.

²⁵⁷ EIB, Policy 2018, para. 2.5.

²⁵⁸ See Interview 6, Q2.

²⁵⁹ EIB, Policy 2018, para. 7.3.

²⁶⁰ See Interview 6.

4.4.3.4. Active exchange with peer institutions

There is a regular and formalized exchange of the EIB-CM within the IAMnet, which helps identify issues that are relevant for most or all IAMs.²⁶¹ These exchanges allow the members within the network to address the issues as a collective and to »co-evolve as a group«.²⁶²

In 2022, the EIB-CM participated in an outreach event organized by the AIIB's PPM and attended by the accountability mechanisms of the ADB and the World Bank. The EIB-CM further organized a CSO workshop in Bosnia and Herzegovina in cooperation with among others the IAMs of the World Bank and the EBRD.²⁶³

EIB-CM actively pursues opportunities to collaborate with other IAMs regarding complaints pertaining to projects co-financed with other institutions.²⁶⁴

4.4.3.5. Documentation and analysis of claims

The EIB-CM handles a large case portfolio with 97 complaints in 2022 (54 of which were newly registered in 2022)²⁶⁵ when compared to the caseload of most other mechanisms.

In the annual reports (and annexes), the EIB-CM provides a structured and detailed description of its case portfolio. The data reported includes the status of cases handled within a year (open at the start of the year, received, closed, outstanding at the end of the year) as well as the geographic region, a complaint originated from.²⁶⁶

²⁶¹ Cf. EIB, Policy 2018, para. 7.2.

²⁶² See Interview 6, Q2.

²⁶³ Cf. EIB, Annual Report 2022, p. 38.

²⁶⁴ Cf. EIB, Policy 2018, para. 7.

²⁶⁵ Cf. EIB, Annual Report 2022, p. vii.

²⁶⁶ Cf. Id., pp. 5 et seq.

Cases are furthermore categorized by the following criteria:

- type of claim,²⁶⁷
- origin (type of complainant),²⁶⁸
- (types of) conclusions of registered cases.²⁶⁹

The annual reports also contain detailed descriptions of selected cases and all cases of the EIB-CM are listed in the openly accessible *Complaints Registry*,²⁷⁰ where relevant case data and reports can be accessed.

4.4.3.6. Regular reports

The EIB-CM provide quarterly reports on complaints, registered, ongoing and closed to the EIB's Management Committee, the Chairman of the Audit Committee and the EIF Chief Executive.²⁷¹ The activities and findings of the EIB-CM are reported regularly in the annual reports to the EIB Management Committee and the EIF Chief Executive who in turn inform the respective Boards of Directors to take note of the reports content and discuss emerging lessons.²⁷² The reports summarize the EIB-CM's work and presents detailed descriptions of the cases handled by the mechanism.²⁷³

Beyond the annual reports, the EIB-CM also, when handling individual complaints, »reports on findings, makes proposals regarding corrective actions and/or recommendations regarding possible improvements of existing procedures in the event that these recommendations result from findings of maladministration, and issues its reports for submission to the EIB Management Committee or the

²⁶⁷ EIB-internal classification of complaints in the following categories: 1) access to information, 2) customer relations, 3) environmental/social impact, 4) governance of financed projects, 5) own governance and administration, 6) human resources, 7) own procurement, 8) procurement-related.

²⁶⁸ Complaints can originate from corporations, CSOs and/or individuals.

²⁶⁹ Types of conclusions: 1) no grounds, 2) friendly solution, 3) recommendation, 4) prevention, 5) financing request dropped by the promoter, 6) inadmissibility.

²⁷⁰ EIB-CM Complaints Registry: <https://www.eib.org/en/about/accountability/complaints/cases/index.htm>.

²⁷¹ Cf. EIB, Policy 2018, para. 5.4.1.

²⁷² Cf. Id., para. 5.4.3.

²⁷³ Cf. EIB, Annual Report 2022.

EIF Chief Executive for consideration«²⁷⁴ When corrective actions are suggested an approved by EIB Management, »they must include an implementation plan as well as a detailed timeframe«²⁷⁵

4.4.3.7. *Training and knowledge management*

Training for staff is an integral part of the institutional learning at EIB. In 2022, there were trainings on preventing and dealing with reprisal, training on data protection and on best practices in dispute resolution and mediation techniques in the development context.²⁷⁶ The EIB-CM's staff also attended knowledge-sharing events on gender-based violence, data protection, human rights and environmental law.²⁷⁷ In an effort to provide effective support for the handling of reprisals, the EIB has published a brochure on the topic²⁷⁸ to disseminate information to staff and other stakeholders.

4.5. Inter-American Development Bank

The Inter-American Development Bank (IADB) has established the Independent Consultation and Investigation Mechanism (ICIM²⁷⁹) in 2010. The ICIM investigates allegations of harm produced by the Bank's failure to comply with its policies in bank-financed operations, typically relating to social and environmental issues.²⁸⁰

4.5.1. Overview

The IADB's Board of Governors created the Independent Investigation Mechanism as a function independent from Bank Management in 1994 to »increase the transparency, accountability, and effectiveness of the Bank«²⁸¹. Following internal review, the Mechanism was

²⁷⁴ EIB, Policy 2018, para. 6.1.1 k).

²⁷⁵ Id., para. 6.2.6.

²⁷⁶ Cf. EIB, Annual Report 2022, p. 41.

²⁷⁷ Cf. Id.

²⁷⁸ EIB, Reprisals 2022.

²⁷⁹ Most IADB documents refer to the mechanism by its Spanish abbreviation »MICI«, even when the document language is English.

²⁸⁰ Cf. IADB, Policy 2021, para. 5.a.

²⁸¹ Id., para. 2.

replaced by the ICIM in 2010 which was first evaluated in 2012 by the IADB's Office of Evaluation and Oversight.

The ICIM handles complaints in two ways²⁸²: the *Consultation Phase* and the *Compliance Review Phase*. The Consultation Phase provides an opportunity to address the issues raised in a voluntary, flexible, and collaborative manner.²⁸³ The Compliance Review Phase offers an investigative process to establish whether the Bank has failed to comply with any of its relevant policies and whether this has caused the requester harm.²⁸⁴ The ICIM's mandate is restricted to alleged violations of any of the operational policies listed in para. 11 of the ICIM Policy. Requesters may choose which phase they prefer or whether they opt for both phases in sequence.²⁸⁵

Requests can be filed by two or more people residing in a country where a bank-financed project is implemented or by a representative with evidence of the authority to represent them.²⁸⁶ Requests must indicate that sufficient efforts have been undertaken to address the issue with the Bank's management,²⁸⁷ as the ICIM is considered a mechanism of »last-resort«²⁸⁸.

The ICIM is headed by a director, assisted by phase-coordinators and administrative staff »necessary to perform the Mechanism's work efficiently and effectively«.²⁸⁹ The director and the ICIM Office are accountable to the Board to which they will report periodically.²⁹⁰ The director, and phase-coordinators will be chosen from outside the bank and will not be allowed to work at the IADB in any capacity after their engagement with the ICIM has ended.²⁹¹

From 2020 to 2022 the MICI migrated from temporary consultancies towards a fixed team with four permanent positions for each of

²⁸² »Phase« is the term used in most official IADB communication, although it can be compared to the term »function« used by other IAMs.

²⁸³ Cf. IADB, Policy 2021, para. 7.a.

²⁸⁴ Cf. Id., para. 7.b.

²⁸⁵ Cf. Id., para. 17.

²⁸⁶ Cf. Id., para. 13.

²⁸⁷ Cf. Id., para. 14.g.

²⁸⁸ Id., para. 5.c.

²⁸⁹ IADB, Policy 2021, para. 8.

²⁹⁰ Cf. IADB, Policy 2021, para. 50.

²⁹¹ Cf. Id., para. 52.

the phases, resulting in greater stability for case management, and improved processes and management times.²⁹²

4.5.2. Complaints Handling Process

The complaints handling process starts with the *Intake* of the complaint, followed by an initial *Eligibility Assessment*. Then, there are two alternative »phases«: Consultation and Compliance Review. The Consultation phase is comprised of an *Evaluation* and a *Dialogue*, potentially followed by an *Agreement* and the *Monitoring* of this Agreement. In case no agreement can be reached, a complaint can be transferred to the compliance review phase. The Compliance Review Phase is comprised of an initial *Recommendation* on how to proceed by the Director in consultation with the Management, an *Investigation*, a *Compliance Report* and the *Development, Approval and Monitoring* of an *Action Plan*.²⁹³

²⁹² Cf. IADB, Annual Report 2022, p. 2.

²⁹³ Cf. IADB, Policy 2021, paras. 13 et seq.

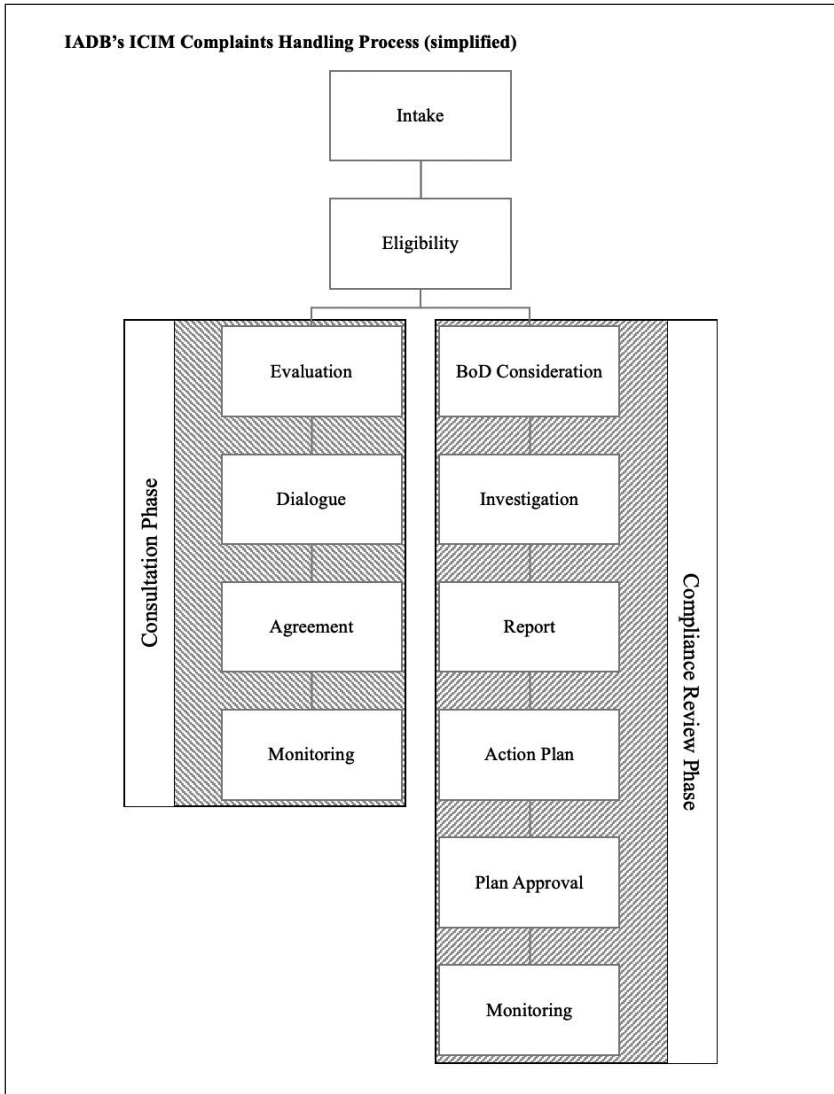


Figure 5: IADB's ICIM Complaints Handling Process²⁹⁴

²⁹⁴ Cf. IADB, Policy 2021, paras. 13 et seq.

4.5.3. Elements of Learning

4.5.3.1. Learning mandate

While institutional learning is not set out explicitly in the mechanism's current policy, the annual reports disclose a dedicated budget for institutional learning and the topic is featured prominently on the mechanism's website, stating that through investigations and agreements, »we generate lessons learnt that foster institutional change and enhance the environmental and social sustainability of the I[A] DB Group«²⁹⁵. Lacking a dedicated advisory function, the ICIM has created a knowledge program, the *MICI Reflections* to promote institutional reflection based on cases managed and to develop insights that contribute to improving the performance of the IDB Group.²⁹⁶

The Board of Executive Directors has acknowledged, that the »work of MICI has been key to incorporating the experience and feedback provided by the civilian population into our policies. In particular, MICI's compliance work contributed to the evaluation and revision of Environmental and Social Safeguards, which in 2021 resulted in a new framework of environmental and social policies that were among the most comprehensive and modern among multilateral institutions.«²⁹⁷

4.5.3.2. Periodic reviews

The ICIM policy will be reviewed periodically at the discretion of the BoD, after a maximum of five years of entering into effect. The time and form of the review will be determined by the Board.²⁹⁸ The latest policy review was done by the Bank's Office of Evaluation.²⁹⁹

4.5.3.3. Stakeholder consultations

ICIM maintains an active dialogue with CSOs and defenders of environmental and social rights in the region and carries out internal out-

²⁹⁵ See <https://www.iadb.org/en/mici/mici-independent-consultation-and-investigation-mechanism> [last accessed 4 August 2023].

²⁹⁶ Cf. IADB, Annual Report 2022, p. 12.

²⁹⁷ IADB, Annual Report 2022, p. 2.

²⁹⁸ Cf. IADE, Policy 2021, para. 70.

²⁹⁹ See Interview 5, Q5.

reach activities. Throughout 2022, ICIM held five meetings with CSOs of the region: four remotely and one in person in New York. Besides, ICIM was invited by IDB and IDB Invest to participate, for the first time, in a meeting with CSOs to submit the new complaint response mechanisms created by both institutions. The session clarified questions regarding the articulation of the various available avenues, their respective roles, and features.³⁰⁰

While the complaints handling process is interactive and includes consultations with claimants and their representatives, there is no indication that claimants have been systematically surveyed about their experience and satisfaction with ICIM.

4.5.3.4. Active exchange with peer institutions

The ICIM is an active member of the IAMnet. Sharing experiences among various independent accountability mechanisms is considered a valuable source of knowledge and insights to strengthen its work. In 2022, ICIM team conducted several specialized sessions on dispute resolution practices within the context of the IAMnet and engaged in bilateral meetings with other interested institutions to share information about the Mechanism's structure and operation.³⁰¹

If a request involves another independent accountability mechanism, the ICIM will engage in collaboration with that mechanism. This collaboration may include sharing information and technical expertise, as well as coordinating joint site visits whenever feasible. The primary goal of this collaboration is to enhance the Mechanism's cost-effectiveness and prevent unnecessary duplication of efforts for all parties involved.³⁰²

4.5.3.5. Documentation and analysis of claims

In the annual reports (and annexes), the ICIM provides a structured and detailed description of its case portfolio. The data reported includes total number and status of cases handled within a year.³⁰³

³⁰⁰ Cf. IADB, Annual Report 2022, p. 9.

³⁰¹ Cf. IADB, Annual Report 2022, p. 11.

³⁰² Cf. IADE, Policy 2021, para. 68.

³⁰³ Cf. IADB, Annual Report 2022, pp. 14 et seq.

Cases are furthermore categorized by the following criteria:

- country, a claim originated from,
- type of complainant,³⁰⁴
- complainants with or without representation,
- type of harm alleged,³⁰⁵
- sector.

All cases of ICIM are listed in the openly accessible *Public Registry*,³⁰⁶ where relevant case data and reports can be accessed.

4.5.3.6. Regular reports

The ICIM Director prepares an annual report detailing the mechanism's activities in the preceding year. The report includes information about the requests received, their status, and outcomes. Additionally, the report may cover lessons learnt, trends, systemic issues, and recommendations derived from ICIM cases to address noncompliance and offer relevant advice. The Board will be provided with the annual report for informational purposes.³⁰⁷

4.5.3.7. Training and knowledge management

While there are some references to internal dissemination of knowledge about the mechanism among IADB staff and departments in the annual report³⁰⁸, the primary activity regarding training of staff pertain to the publication of the *MICI Reflection* knowledge product.

³⁰⁴ There are four types of requesters: individual, community groups, indigenous communities, and other.

³⁰⁵ There are seven types of negative impacts registered: living conditions, economic, environmental, health, cultural, safety, and social fabric.

³⁰⁶ ICIM Public Registry: <https://www.iadb.org/en/mici/idb-public-registry-chronological>.

³⁰⁷ Cf. IADB, Policy 2021, para. 61.

³⁰⁸ Cf. IADB, Annual Report 2022, Annex 2.

4.6. World Bank Group

The World Bank Group (WBG) operates the World Bank Accountability Mechanism (WB-AM) housing the Inspection Panel (IP) and the Dispute Resolution Service (DRS).

4.6.1. Overview

Established in 1993, the IP was the first IAM of any of the MDBs. It is an independent fact-finding body, aiming to promote accountability. As recently as 2020, the BoD made significant changes to the accountability setup. The BoD approved the establishment of the World Bank Accountability Mechanism³⁰⁹ comprised of the *Inspection Panel* and the newly established *Dispute Resolution Service* which became operational in October 2021. It furthermore formalized the IP's *Advisory Function*, allowing the Panel to comprise lessons learnt from its investigations to support institutional learning.³¹⁰³¹¹

The IP receives and investigates requests from people and communities who are likely to be adversely affected by WBG-funded projects.³¹² The DRS adds the option to resolve complaints, subject to IP requests, between complainants and the borrowers.³¹³ The Advisory Function of the IP provides advisory services based on lessons from its cases but »shall not extend to specific operational guidance, or advice on the merits of a specific Bank policy, procedure, directive or similar document.«³¹⁴

The AM's work program, budget and staffing is managed by the AM Secretariat comprised of the AM Secretary, who is appointed for a five-year non-renewable term by the Executive Directors and supported by administrative staff.³¹⁵ The Secretariat also oversees the DRS³¹⁶ and collaborates with the IP on outreach and administrative

³⁰⁹ Cf. WBG, Accountability Mechanism Resolution 2020, paras. 1–2.

³¹⁰ Cf. WBG, Inspection Panel Resolution 2020, para. 59.

³¹¹ Cf. WBG, Operating Procedures 2022, para. 111.

³¹² Cf. WBG, Inspection Panel Resolution 2020, para. 13.

³¹³ Cf. Id., paras. 30 et seq.

³¹⁴ WBG, Inspection Panel Resolution 2020, para. 59.

³¹⁵ Cf. WBG, AM Resolution 2020, paras. 3 et seq.

³¹⁶ Cf. Id., para. 4.e.

matters. The IP consists of three members of different nationalities.³¹⁷ They are appointed for a five-year non-renewable term by the WBG's BoD to which they report.³¹⁸ The members elect the Panel's Chairperson for a period of one year.³¹⁹ Staff of the WBG may not serve as Panel members for a period of two years after their employment has ended and Panel members may not be employed by the Bank after the end of their service on the Panel.³²⁰ The IP is supported by the permanent Panel Secretariat.

4.6.2. Complaints Handling Process

Any request to the AM must be filed with the IP.³²¹ Requests for inspection may be submitted by two or more people, claiming to be directly adversely affected by a Bank-financed project or alternatively, a representative may act on their behalf.³²² In exceptional cases, where serious violations of the Bank's policies and procedures are alleged, an Executive Director may also submit a request.³²³ The Board may instruct the Panel to conduct an investigation at any time.³²⁴

Since the most recent review of 2020, claims can be submitted to the Inspection Panel up to 15 months after the closing date of a loan.³²⁵ Previously, claims could not be submitted after the closing date or after 95% or more of a loan had been disbursed.³²⁶

Upon *receiving* a request, the IP will determine whether to *register* it (1). After the *confirmation of technical eligibility* (2), and after having received an initial *Management Response* (3), the IP will make a *recommendation* (4). If the investigation is recommended by the IP and

³¹⁷ Cf. Id., para. 3.

³¹⁸ Cf. Id., para. 4.

³¹⁹ Cf. Id., para. 8.

³²⁰ Cf. Id., paras. 6, 11.

³²¹ Cf. WBG, Operating Procedures 2022, para. 14.

³²² Cf. Id., para. 15.a.-c.

³²³ Cf. WBG, Operating Procedures 2022, para. 15.d.

³²⁴ Cf. WBG, Inspection Panel Resolution 2020, para. 13.

³²⁵ Cf. WBG, Operating Procedures 2022, para. 16.

³²⁶ Cf. Id., para. 16.

approved by the BoD, the AM secretary will *offer to refer the request to the DRS* (5).³²⁷

Should both parties (the requester(s) and the borrower(s)) agree, the four step DR Process will be conducted. The process begins with the *joint selection of a mediator* (1) which may be chosen from the pool of mediators maintained by the DRS³²⁸ followed by a *framework agreement* on »the objectives, scope, participants, methods, stages and timelines of the dispute resolution process«³²⁹ (2). The DR Process *concludes* with either an agreement, the withdrawal of one or both parties from the process or the expiration of the agreed upon dispute resolution period (3).³³⁰ The process is followed up by a *report* issued by the AM Secretary (4) and sent to the BoD, the Bank's Management, and the IP.

After the DRS Process is completed without an agreement or in case either of the parties does not agree to engage in DRS, the IP initiates the five step investigation phase.³³¹ The principal *investigation* (1) includes the gathering of materials and relevant documents, the commissioning of expert opinions, field visits and meetings with relevant staff or other stakeholders.³³² All activities are accompanied by regular interactions with requesters and Bank management.³³³ After the investigation is completed, the *investigation report* (2) is shared with the requester³³⁴ and submitted to the BoD. The BoD forwards the report to the Bank's Management and the Management produces a *Management Report and Recommendation (MRR) including a MAP* (3) which is subject to *approval by the BoD* (4). Following the BoD's approval of the MAP and the Panel's request to verify the MAP's implementation, the Panel may under certain restrictions *verify the implementation of the MAP* (5).³³⁵

³²⁷ Cf. Id., section 3.

³²⁸ Cf. WBG, AM Resolution 2020, para. 12.

³²⁹ Id., para. 12.c.

³³⁰ Cf. Id., para. 13.a.

³³¹ Cf. WBG, Operating Procedures 2022, para. 61.

³³² Cf. Id., para. 63.

³³³ Cf. Id., paras. 63.d., 65, 66.

³³⁴ This step was first introduced by the 2020 Inspection Panel Resolution.

³³⁵ Cf. WBG, Operating Procedures 2022, section 3.

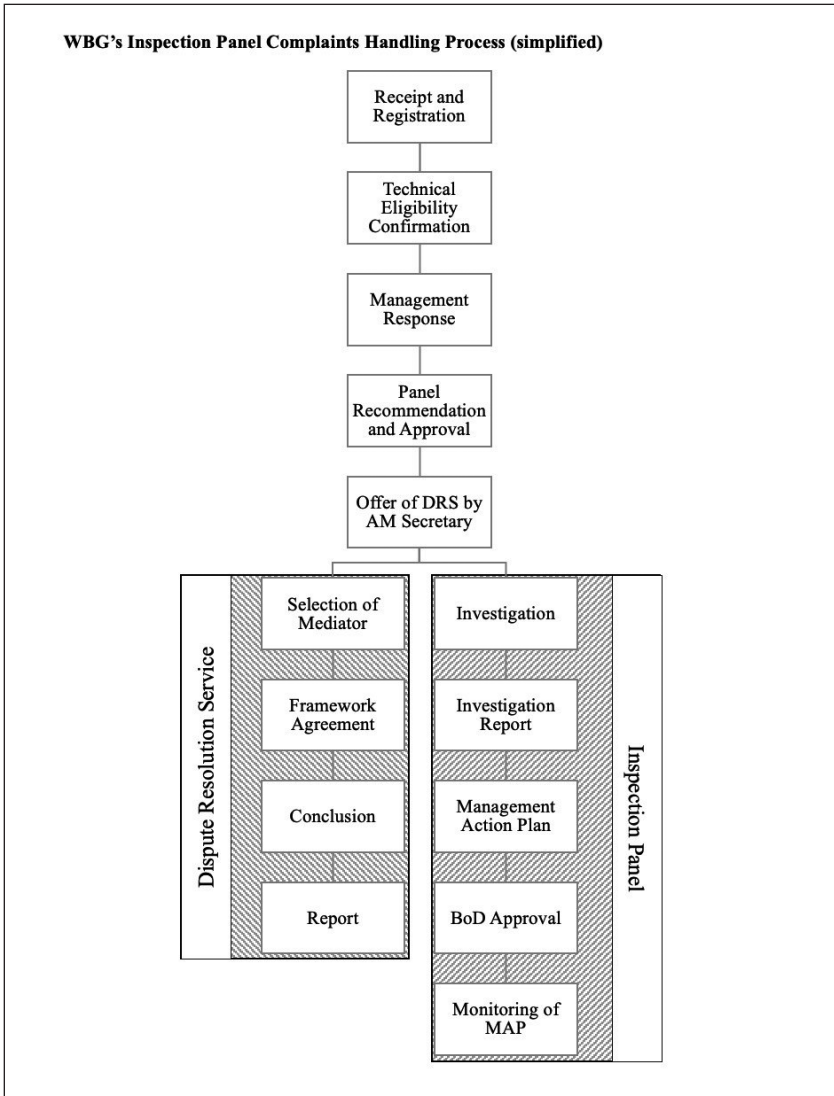


Figure 6: WBG's IP Complaints Handling Process³³⁶

³³⁶ Cf. WBG, Operating Procedures 2022, section 3.

4.6.3. Elements of Learning

4.6.3.1. Learning mandate

Aside from offering a forum for people negatively affected by the Bank's projects, the IP is expected to provide »an independent and impartial assessment of claims about harm and related noncompliance with Bank policies as a check-and-balance for the Board and other concerned stakeholders. This contributes towards institutional learning and helps to improve development effectiveness of World Bank operations.«³³⁷

The IP's advisory function was formally stipulated in 2020, however even before, the Panels have been vocal about their findings. The »Emerging Lessons Series« resulting from the Panel's investigations have played a pivotal role in expanding accountability improvements both within the functioning of the Panel as an IAM and in the execution of the World Bank's project planning and implementation endeavors.³³⁸ The cases presented by the Panel exert a direct influence on knowledge acquisition within the World Bank, yielding tangible results such as the establishment of renewed guidelines and enhanced understanding of policy application, along with heightened efforts towards strengthening social safeguards through capacity building.³³⁹ These transformations contribute to enhanced development outcomes and serve as a means of rectifying the concerns of those affected by projects.³⁴⁰

The Emerging Lessons reports involve an examination of IP cases where instances of non-compliance with the specified policies have been identified. The findings are then organized into lessons categorized by distinct stages within the project cycle. These reports are crafted by the IP in collaboration with the secretariat, subsequently undergoing external peer evaluations. Following a launch event that centers around the particular policy, the reports receive widespread

³³⁷ WBG, Operating Procedures 2022, para. 2.b.

³³⁸ Cf. Castro de la Mata et al (2019), p. 80.

³³⁹ Cf. Id.

³⁴⁰ Cf. Id.

distribution. The value of these insights has been acknowledged by Management.³⁴¹

Another, more immediate mandate to promote learning pertains to the competencies of the IP in the investigation process (see below): When the IP submits its findings in the Investigation Report to the BoD, the Bank Management is expected to produce a Management Action Plan (MAP) in which it addresses the findings and proposes remedial actions. Since 2021, the Panel may – with prior approval of the BoD and in collaboration with the Group Internal Audit (GIA) – verify the implementation of these MAPs and submit a respective verification report to be considered by the BoD.³⁴²

4.6.3.2. Periodic reviews

Since its establishment in 1993, the BoD adopted two documents developed by a working group containing clarifications on certain aspects of the IP in 1996³⁴³ and 1999³⁴⁴. The BoD also updated the IP's procedural rules in 2014. The most recent changes adopted by the Board in 2020, followed by the updated Operating Procedures in 2022 were the result of a 36-month review period of the »Panel's toolkit«, which began after the Bank approved its new Environmental and Social Framework.

Neither of the documents however contain stipulations on whether, when and how revisions of the Operating Procedures or the AM Resolutions shall occur.

4.6.3.3. Stakeholder consultations

The IP consults with various stakeholders »during all stages of the [inspection] process«. ³⁴⁵ The Panel furthermore holds events to discuss the »outcomes of its investigations and other reports with Man-

³⁴¹ Cf. Id.

³⁴² Cf. WBG, Operating Procedures 2022, paras. 89 et seq.

³⁴³ WBG, 1996 Clarification.

³⁴⁴ WBG, 1999 Clarification.

³⁴⁵ WBG (2022), Operating Procedures, para. 5.e.

agement and relevant stakeholders so as to facilitate institutional learning«,³⁴⁶

When revising the AM's Operating Procedures, a draft was published online and opened for comments. The opportunity was used by CSOs, academia, government agencies, former Panel member and other individuals and their comments were considered for the final document.³⁴⁷ Since approximately 2014, the IP is holding regular biannual meetings with CSOs to »address concerns and establish common ground«.³⁴⁸ The recommendations of relevant CSOs are regularly included in the guidelines developed by the Panel (e. g. the Guidelines to reduce Retaliation Risks and Respond to Retaliation During the Panel Process³⁴⁹) and in the »Emerging Lessons Series«.

While the inspection process is interactive and includes consultations with requesters and their representatives, there is no reference made in the annual reports that they are systematically surveyed about their experience and satisfaction with the IP during or after the proceedings.

4.6.3.4. Active exchange with peer institutions

The IP is a member of the IAMNet. As such it participates in the network's annual meetings and collaborates on sharing knowledge about issues relevant to the peer network. In 2022, the AM collaborated with other IAMs to arrange and engage in global outreach sessions, educating communities about accessing their services. These sessions occurred in various locations, including Beirut and Sarajevo in person, and virtually in Nepal and Pakistan.³⁵⁰

The Panel aims to streamline complaint processing by coordinating with IAMs of other IFIs when complaints are related to co-financed projects. This coordination is guided by principles of collaboration, maintaining the IP's independence and impartiality. The specifics of these cooperations, guided by past practice and experience sharing, will be outlined in a Memorandum of Understanding, ensur-

³⁴⁶ Id., para. 111.

³⁴⁷ Cf. WBG, Annual Report 2022, p. iii.

³⁴⁸ WBG, IP at 25 Years, p. 64.

³⁴⁹ Id., pp. 124 et seq.

³⁵⁰ Cf. WBG, Annual Report 2022, p. iii.

ing compliance with resolutions, rules, and procedures while respecting confidentiality and disclosure requirements. The level of collaboration depends on the stage of the IP process.³⁵¹

4.6.3.5. Documentation and analysis of claims

In the Annual Reports (and annexes), the WBG-AM provides several detailed case studies, providing project information, a description of the request, the Bank Management's response, the Panel's investigation and findings, the MAP, and the Board's discussion or action.³⁵² In the Annex, accumulated statistical information about the cases is provided.

There, the cases are categorized by the following criteria:

- country, a claim originated from,
- major policy issue raised in request,
- type of requesters and representatives,³⁵³
- project funding source,³⁵⁴
- case processing history.³⁵⁵

In the fiscal year 2022³⁵⁶, the IP received eight new requests for inspection, four of these were not registered, two cases entered DR, one request is still pending and in another the IP began its investigation.³⁵⁷ The IP maintains an online *Register*³⁵⁸ of cases, containing a case status tracker and linking all relevant documentation. After a compliance review is completed and the IP's investigation report alongside

³⁵¹ Cf. WBG, Operating Procedures 2022, para. 72.

³⁵² Cf. WBG, Annual Report 2022, p. 6.

³⁵³ There are five categories of requesters: community; community and local CSOs; local CSOs; community, local CSO and international CSO; international CSO.

³⁵⁴ There are four types of project funding sources: IBRD; IDA; IBRD and IDA; GEF/Trust Funds/Others.

³⁵⁵ There are six types of case processing histories: request received; registered; investigation recommended; investigation undertaken; dispute resolution process; pilot.

³⁵⁶ 1 July 2021 – 30 June 2022.

³⁵⁷ Cf. WBG, Annual Report 2022, p. 6.

³⁵⁸ Accessible through: <https://www.inspectionpanel.org/panel-casescomplaints/registered-requests>.

the MAP have been considered by the BoD, the Bank makes the relevant documents available to the Requester(s) and the public.³⁵⁹

4.6.3.6. Regular reports

The AM Secretary and the IP Chairperson are responsible for compiling an annual report that provides an overview of the AM's case handling activities during the previous year. The report contains summaries of the cases and investigations undertaken, as well as detailed descriptions on the cases not registered or pending decision. The annual report does not contain further information on the mechanism's other activities. Lessons learnt are however compiled and published in separate – topic specific – »Emerging Lessons« reports.

4.6.3.7. Training and knowledge management

The lessons and insights garnered from Panel cases have been utilized by Bank Management across multiple areas. This encompasses the incorporation of insights into Guidance Notes aimed at staff, revisions to policies, comprehensive staff training on Safeguards, and discussions within the Environmental and Social Communities of Practice.³⁶⁰ While the annual reports state, that the permanent IP secretariat »organizes and participates in outreach activities, seminars and other events, and disseminates information about the Panel, its mandate and work«, no information is available on whether this includes trainings for Bank or project staff.

³⁵⁹ Cf. WBG, Operating Procedures 2022, para. 84.

³⁶⁰ Cf. Castro de la Mata et al (2019), p. 80.

5. Discussion

In the pursuit of enhanced development outcomes and risk reduction, all banks have unequivocally reaffirmed their commitment to learning and the refinement of their operations. This shared dedication to improvement is mirrored in the integration of numerous facets of institutional learning within the frameworks of both the MDBs and the IAMs. These commitments find expression in official documents and publications (e. g. policy papers), underscoring the importance of a learning-oriented approach.

5.1. Lessons Learnt

Over the course of recent decades, notable changes have been introduced to the mechanisms themselves, revealing a steadfast willingness to evolve and address identified deficiencies. These modifications or lessons learnt span various dimensions, including the mechanisms' functions or mandates (1), structures and resources (2), and procedures (3). The following are some examples, identified in the investigation.

5.1.1. Lessons on Mandate and Functions

Originally, IAMs were elements in the Bank's quest to increase accountability, hence their mandate was to verify or falsify claims of non-compliance or policy violations. Over time, the mandate of some mechanisms was expanded to include a dispute resolution process, an advisory function or both. In cases involving disputes, it was recognized that sometimes a compliance investigation alone could not offer the solution individuals required. Instead, it was necessary to resolve conflicts from development projects in a way that satisfied the affected individuals or communities.³⁶¹ It should be noted though, that while this might provide the desired redress for the claimant, dispute resolution does not typically create an incentive for the Bank's Management to address the more systemic issues.³⁶²

³⁶¹ See Interview 3, Q5; cf. Suzuki & Nanwani (2005), p. 219.

³⁶² See Interview 3, Q3.

The formalization of an advisory function (if it was not intended at the mechanism's establishment) often succeeded an already established practice of the mechanisms to raise awareness about issues outside their formal mandate of compliance investigation. Given the often very strict confinements of their investigation mandate, certain issues, particularly systemic ones, could not be sufficiently addressed in an investigation report. However, leaving them unaddressed bore the risk of reproducing violations in other settings. Obtaining the official mandate to advise the Banks' Managements and Boards can be a purposeful usage of the mechanisms' experiences and insights.³⁶³ It should not go unmentioned that there are also movements in the opposite direction, in that an existing Advisory Function is reduced or abolished.³⁶⁴

5.1.2. Lessons on Structures and Resources

Structural enhancements adopted by some mechanisms include the establishment of permanent organizational units supporting the work of the IAM. This can not only result in more outreach activities and the retention of knowledge, it can also help execute a structured approach to institutional learning and to maintain once established communication avenues to relevant stakeholders. Having more human resources at their discretion, can also lead to a more active exchange between the IAM, the MDB, the public and peer institutions in various forms.

Other structural changes relate to whether cases are handled externally on a contractual case by case basis (e.g. Expert Panel) or whether there is a dedicated set of professionals handling complaints over a certain period of time.³⁶⁵

5.1.3. Lessons on Procedures

Many of the changes adopted over the years pertain to the mechanisms' procedures. CSOs have played a vital role in creating aware-

³⁶³ See Interview 3, Q5.

³⁶⁴ See Interview 2, Q4.

³⁶⁵ See e.g. the change in the operating model of the EBRD's IPAM; cf. Bissel & Nanwani (2009), p. 27.

ness about procedural shortcomings. Their feedback has influenced such refinements as the extension of the timeframe for claim submission³⁶⁶ and measures to simplify entry procedures. Other changes, like the expansion of certain capacities within the complaints handling process and the specification of procedural steps to include fixed timeframes have been incorporated to address inadequacies identified by the mechanisms which have reduced their effectiveness to provide remedy.

5.2. Challenges Remaining

Despite these adaptations, several challenges remain on the path to effective accountability and continuous learning. They pertain to personnel discontinuity (1), the relation between the Bank and the IAM (2), the policy review process (3), the limited accessibility of the IAMs (4), and the resources available to the mechanism (5). While this list is not exhaustive, most aspects found in the analysis and raised by the interviewees can be subsumed into these issues.

5.2.1. Deliberate Discontinuity of Personnel

The intentional practice of limiting the duration an individual can hold specific roles within accountability mechanisms serves multiple purposes that contribute to their effective functioning. One of the primary benefits of this approach is to ensure the mechanisms' independence from any potential influence exerted by the banks they oversee. By preventing individuals from becoming entrenched in their positions, the mechanisms safeguard against undue external pressures and maintain their impartiality in evaluating the banks' actions and projects.

Moreover, this practice of deliberate discontinuity helps prevent operational blindness. As officials rotate out of their roles, new perspectives and fresh insights are introduced into the mechanisms' decision-making processes. This infusion of new voices ensures that the mechanisms do not become insular or overly accustomed to certain ways of thinking. It encourages a dynamic environment where

³⁶⁶ Cf. Bissel & Nanwani (2009), p. 29.

different viewpoints can be considered, promoting a more thorough and balanced assessment of projects and complaints. Additionally, because the number of individuals with relevant expertise and reputation is relatively small, the probability that they will be consulted in some capacity by another IAM is high. This can result in a »cross-fertilization« among the mechanisms as good practices of one mechanism can inform the development of another.³⁶⁷

However, while this deliberate discontinuity has clear advantages, it also raises potential challenges in sustaining accountability efforts. Frequent turnover of personnel might lead to a loss of institutional memory, where valuable lessons learnt from previous cases or experiences are not effectively passed on to incoming officials. This can hinder the continuity of knowledge, and the continuous monitoring of recommendations made which may result in relearning lessons that could have otherwise informed decision-making.

Balancing the need for independence and fresh perspectives with the imperative of maintaining institutional memory and ensuring a seamless transition is a complex challenge. Mechanisms must carefully manage this tension to uphold their credibility, effectiveness, and commitment to both independence and sustained accountability. This may involve implementing mechanisms to capture and transfer institutional knowledge, fostering collaboration between outgoing and incoming officials, and carefully considering the timing and nature of personnel changes to minimize disruptions.

5.2.2. Relation between the Bank and the IAM

The dual challenge of ensuring functional independence while maintaining a level of relevance that captures the attention and respect of the Bank is a delicate equilibrium that lies at the heart of effective accountability and learning processes. IAMs must be independent and safeguarded from undue influence or bias, enabling them to objectively evaluate claims, identify shortcomings, and hold the Bank accountable where noncompliance has been identified.³⁶⁸

³⁶⁷ See for example, Imrana Jalal who in 2023 is heading the OSFP and was previously a member of the Inspection Panel; and Victoria Marquez Mees, as of 2023, Chief Accountability Officer and Head of IPAM who was previously engaged with ICIM.

³⁶⁸ See Interview 5, Q2.

However, functional independence alone may not be sufficient. For the mechanisms' findings and recommendations to lead to tangible changes and improvements within the Bank's policies and operations, there needs to be a certain level of relevance and resonance.³⁶⁹ If the Bank perceives the IAM as disconnected or detached from its goals and objectives, there might be a tendency to dismiss or overlook their insights. The same can be true if the Bank sees the complaints handling as confrontational and the IAM as the Management's adversary. If this is the case, complaints might not be seen as opportunities for learning and improvement but as something to avoid or render difficult. A consequence can be an organizational culture, in which mistakes are covered up and responsibility is denied. While this is detrimental to the Bank's learning capacity, a complete lack of individual consequences may also result in reduced respect for policies and rules.³⁷⁰ It appears important for the IAMs to adopt a non-adversarial approach, striving to create an environment where the Bank remains receptive to their recommendations.³⁷¹ Expressions of such an environment can be the inclusion of IAM learnings in regular trainings for bank staff,³⁷² the consideration of the IAM's suggestions in Policy Reviews of the Bank and the involvement of the IAM in the implementation of their findings into lending or project planning practices. A positive example for successful learning in this regard pertains to the ADB: After findings of the CRP, the ADB changed their project preparation due diligence to include an assessment of the borrower's capacity to adhere to safeguarding standards.³⁷³ It should be noted that even when there is willingness to learn, opportunities must be provided and time allocated to the respective organizational units and individuals.³⁷⁴

³⁶⁹ See Interview 1, Q3; Interview 2, Q2, Q4.

³⁷⁰ See Interview 1, Q3; Interview 5, Q4.

³⁷¹ See Interview 1, Q3.

³⁷² See Interview 3, Q1.

³⁷³ See Interview 2, Q1.

³⁷⁴ See interview 1, Q3; Interview 6, Q4.

5.2.3. Policy Review Process

When mechanisms' policies are (re)drafted, a significant challenge lies in making sure that new policies can be implemented as intended given the circumstances, capacities and resources provided to the mechanism.³⁷⁵ Therefore it is necessary to include diverse perspectives. Any working group tasked with a review should ensure that there is sufficient expertise about the policies and operations of the Bank, the capabilities, and processes of IAMs as well as the realities of those consulting the mechanisms.³⁷⁶ Any redrafting should be based on an evaluation of the current status.³⁷⁷ Ideally, any periodic policy review should be able to draw on feedback and insights collected systematically from claimants and project-based grievance mechanisms during the implementation period of the previous policy. This is particularly relevant to identify unnecessary obstacles, complexities or inadequacies in the complaints handling processes. After the evaluation, policy drafts should be derived and subjected to public consultations for additional insights.³⁷⁸

5.2.4. Accessibility

One challenge of some mechanisms is that they have a relatively small number of requests which are actually processed by the mechanism.³⁷⁹ It is understood that a lack of complaints is not necessarily indicative of there not being any issues in a particular area or project.³⁸⁰ Some mechanisms have found that the mechanism is not well known, either to bank staff or the public.³⁸¹ Most mechanisms have found that potential claimants fear reprisals for seeking assistance through the mechanisms, and hence refrain from contacting the mechanisms altogether.³⁸² Others have identified, that potential

³⁷⁵ See Interview 5, Q5.

³⁷⁶ See id.

³⁷⁷ See id.

³⁷⁸ See Interview 1, Q3.

³⁷⁹ See Interview 5, Q4.

³⁸⁰ See Interview 1, Q2; Interview 4, Q4.

³⁸¹ See Interview 1, Q3.

³⁸² See Interview 5, Q2; Interview 6, Q2.

claimants do not trust that a claim will produce a positive outcome. All these aspects result in reduced accessibility of the mechanism, a reduced number of claims and hence a limitation of institutional learning opportunities.³⁸³

5.2.5. Resources

Institutional learning requires resources for both its conceptualization and execution. Designated staff members can play a pivotal role not only in crafting communication tailored to specific audiences but also in organizing knowledge-sharing events, engaging with stakeholders, and conducting outreach initiatives.³⁸⁴ Additionally, their involvement can encompass facilitating the implementation of recommendations and monitoring their progress, particularly, after a compliance investigation has formally ended.³⁸⁵

Adequate resources are equally imperative to ensure the effective implementation of policies in accordance with the stipulated guidelines and the highest benchmarks. Insufficient resources may result in unwarranted delays of the claims handling process or inaccuracies that can compromise the integrity of the process.

5.3. Recommendations

Many lessons have already been learnt. For other aspects, it can be observed, that IAMs are continuously balancing conflicting interests and testing ways to find the best options. Some considerations however appear to not have received the attention they deserve in terms of their potential impact on institutional learning. These include a systematic evaluation of the mechanisms' effectiveness in promoting institutional improvements (1.), a structured and transparent monitoring approach (2.), intensified cooperation between IAMs (3.), the inclusion of project-based grievance mechanisms in all learning endeavors (4.), and considerations for preventative actions (5.).

³⁸³ See Interview 5, Q2.

³⁸⁴ See Interview 4, Q1.

³⁸⁵ See Interview 5, Q1.

5.3.1. Systematic Evaluation of Effectiveness

Most mechanisms conduct regular policy reviews which often include an evaluation part. However, the periods of these reviews are not necessarily regular, there are no *standardized guidelines for the evaluation*, and it is unclear to what extent the experiences of claimants are integrated into the evaluation. The 2016 study by CIEL, in which the mechanisms were measured against the effectiveness criteria of UNGP 31,³⁸⁶ pinpointed areas for improvement across all mechanisms and could be a model for future evaluations. Ideally, the MDBs should adopt a common framework like the UNGP 31 effectiveness criteria to measure the mechanisms' effectiveness against these criteria on a yearly basis. Adopting a common evaluation framework across IAMs provides additional opportunities for information exchange within the sphere of development finance but also with other sectors where non-judicial grievance mechanisms are installed. It may also incite constructive competition amongst the mechanisms and the respective MDBs and facilitate the professionalization of the evaluation process.

An important aspect, which should be included in the annual effectiveness evaluations, is the *feedback of claimants* about their experiences with the mechanisms.³⁸⁷ Creating a surveying format to systematically³⁸⁸ generate feedback right after a case handling process has been concluded and also after a certain period of time has elapsed can generate relevant insights on what is and what is not working well for the people the mechanism are intended for. It can also help to monitor the implementation of case handling outcomes. While most case handling processes include interaction with claimants during certain steps, none of the mechanisms analyzed appears to systematically consult claimants about their satisfaction with the process.

Furthermore, while the *interaction with CSOs* is a stable element of most mechanisms' work, and many have scheduled regular annual or biannual meetings, only few have established formalized structures

³⁸⁶ Center for International Environmental Law (2016).

³⁸⁷ Generating feedback is also recommended by the ARP III Report.

³⁸⁸ See Interview 5, Q2.

to include the views and insights of CSOs into their work, e. g. in the form of an advisory panel with stipulated competencies.

5.3.2. Structured and Transparent Monitoring Approach

Most mechanisms have over the past decades pushed for more accountability of the Banks' managements to address their findings, implement their recommendations, and consider institutional changes to ultimately achieve the goal of more effective development projects and fewer rights violations. Many case handling processes now require the management to contribute and produce remedial or management action plans intended to bring the banks back to compliance. Some have even stipulated maximum timeframes to prevent undue delays. Still, there seems to be room for improvement, as many interviewees have noted that IAM recommendations cannot be enforced against the managements³⁸⁹ and not all IAMs have the mandate (or the resources) to monitor and report on the implementation of the banks' remedial actions.³⁹⁰ Installing an effective monitoring system to systematically and continuously track if and how findings of compliance investigations, agreements of dispute resolutions,³⁹¹ and recommendations of advisory notes have been integrated into bank practices and policies could increase accountability and produce tangible institutional improvements.³⁹²

5.3.3. Intensified Cooperation among IAMs

The IAMnet represents a dedicated network of IAMs producing insights and allowing for knowledge sharing between mechanisms on a continuous basis. Most mechanisms have also entered cooperative outreach activities and collaborate on issues they have all found to be relevant for their respective claimants or the projects they investigate.³⁹³ The annual meetings are used to share good practices and they are valuable for the learning of its members. For claims related

³⁸⁹ See Interview 2, Q4; Interview 5, Q1.

³⁹⁰ See Interview 3, Q1.

³⁹¹ See Interview 3, Q3.

³⁹² See Interview 6, Q4; cf. Bissel & Nanwani (2009), p. 31.

³⁹³ See Interview 1, Q4; Interview 4, Q1.

to co-financed projects, mechanisms typically agree on a path to collaborate, however due to the different mandates, competencies, and resources, establishing such an agreement is not always straight-forward. Ideally, all mechanisms should adopt a standard procedure stipulating primary responsibility for each claim.³⁹⁴

5.3.4. Inclusion of Project-based Grievance Mechanism in the Learning Process

Most mechanisms are redress mechanisms of last resort and claimants are typically required to first file their claims with a project-based grievance mechanism, expecting to resolve any issues on a local level. The installation of these mechanisms is required by the banks in their lending contracts. However, most annual reports of IAMs are inexhaustive regarding the intensity of cooperation, communication, and mutual learning between the project-based grievance mechanisms and the IAMs. Some IAMs mention providing trainings to local teams³⁹⁵ however it remains unclear from most annual reports to what extent the claims handled by project-based mechanisms inform the IAMs or whether insights are reported back to the Banks. Because the project-based mechanisms are set up only temporarily, their institutional memory should be captured and centralized by the IAMs and used to inform policy and management decisions.

5.3.5. Preventative Monitoring

A final, possibly controversial recommendation pertains to the idea to extend the IAMs' mandate to »preventative monitoring« of high-risk projects through the monitoring of project reports. It is a practice established at the PPM of the AIIB³⁹⁶ in which the PPM has a »watch-list« of ongoing projects which have been deemed to bear high social, economic or environmental risks based on the Bank's risk assessment and previous findings. For projects on the watch-list, the PPM

³⁹⁴ A more controversial idea is to create a single IAM, funded and equipped by all MDBs with standardized proceedings, responsible for handling all cases related to development financing, along with a common fund from which compensations to individuals could be paid. See Bradlow (2019).

³⁹⁵ See Interview 2, Q3; Interview 3, Q2.

³⁹⁶ See Interview 4, Q2.

receives regular project update reports and can provide feedback and trainings on how certain risks could and should be mitigated. None of the other mechanisms analyzed appear to have a similar mandate to preventatively monitor risky projects, yet this might be because it falls within the responsibilities of other (independent) audit units of the banks.

6. Conclusion and Outlook

IAMs are necessary instruments to provide remedy for people affected by the development projects funded by MDBs, as other paths are often inexistent or insufficient. IAMs are strongly committed to promote learning. This includes improving their own procedures and practices as well as inciting change in the institutions they are associated with. Their overarching goal is to channel the insights from complaints into institutional learning so that development projects can be designed, planned, and implemented more effectively while simultaneously safeguarding communities and the environment against negative impacts.

The mechanisms have incorporated multiple elements to incite learning and they are constantly adapting and reacting to new findings and experiences. They navigate a difficult setting, in between organizational independence and contextual relevance. With the insights generated from case handling, they have supported the development of more effective safeguarding policies and informed implementation practices of remedial measures, yet they have not exhausted their full potential as sources of continuous learning.

The greatest improvements could come from a more systematic, regular, and exhaustive evaluation of the mechanisms' effectiveness along the framework of the UNGP 31 effectiveness criteria as well as through the formalization of a transparent and continuous system of monitoring and reporting. Both aspects could be supported by the systematic collection of feedback from claimants.

Future research could address the questions how to design both the monitoring system as well as how to standardize the effectiveness evaluation.

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List of Abbreviations

A

ADB	Asian Development Bank
AfDB	African Development Bank
AIIB	Asian Infrastructure Investment Bank
AIP	Access to Information Policy (of the EBRD)
AM	Accountability Mechanism (of the ADB)
ARP	Accountability and Remedy Project

B

BHR	Business and Human Rights
BID	Banco Interamericano de Desarrollo
BoD	Board of (Executive) Directors
BRICS	Brazil, Russia, India, China, South Africa

C

CAF	Development Bank of Latin America/Corporación Andina de Fomento
CAO	Compliance Advisor Ombudsman (of the WBG)
CDB	Caribbean Development Bank
CMOP	Complaints Mechanism (Operating) Procedures
CRC	United Nations Convention on the Rights of the Child
CRMU	Compliance Review and Mediation Unit (of the AfDB)
CRO	Complaint Receiving Officer (of the ADB)
CRP	Compliance Review Panel (of the ADB)
CSO	Civil Society Organization

D

DR	Dispute Resolution
DRS	Dispute Resolution Service (of the WBG)

E

EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank

EIB-CM	Complaints Mechanism of the European Investment Bank
EIF	European Investment Fund
EO	European Ombudsman
ESF	Environmental and Social Framework (of the AIIB)
ESGRM	Environmental and Social Grievance Redress Mechanism (of the CAF)
ESP	Environmental and Social Policy (of the EBRD)
EU	European Union
G	
GIA	Group Internal Audit (of the WBG)
GRM	grievance redress mechanism
I	
IADB/IDB	Inter-American Development Bank
IAM	independent accountability mechanism
IAMnet	Independent Accountability Mechanism Network
IBRD	International Bank for Reconstruction and Development
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICIM/MICI	Independent Consultation and Investigation Mechanism (of the IDB)
IDB/IADB	Inter-American Development Bank
IFI	International Financial Institution
IGO	Intergovernmental Organization
IO	International Organization
IP	Inspection Panel (of the WBG)
IPAM	Independent Project Accountability Mechanism (of the EBRD)
IRM	Independent Recourse Mechanism (of the AfDB)
IsDB	Islamic Development Bank
M	
MAP	Management Action Plan
MDB	Multilateral Development Bank

MDG	Millennium Development Goals
MICI/ICIM	Mecanismo Independiente de Consulta e Investigación (of the IDB)
MIGA	Multilateral Investment Guarantee Agency
MNE	Multinational Enterprise
MRR	Management Report and Recommendation
MS	member state(s)
N	
NAP	National Action Plan
NDB	New Development Bank
NGO	Non-Governmental Organization
O	
OCRP	Office of the Compliance Review Panel
OECD	Organization for Economic Co-Operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSPF	Office of the Special Project Facilitator (of the ADB)
P	
PAP	Project Accountability Policy (of the EBRD)
PCM	Project Complaints Mechanism (of the EBRD)
PCM-CDB	Project Complaints Mechanism (of the CDB)
PPM	Project-affected People's Mechanism (of the AIIB)
S	
SDG	Sustainable Development Goals
SPF	Special Project Facilitator (of the ADB)
U	
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNC	Charter of the United Nations

Independent Accountability Mechanisms as Sources for Continuous Learning

UNCED	United Nations Conference on Environment and Development
UNGA	United Nations General Assembly
UNGP	United Nations Guiding Principles on Business and Human Rights
UNHCR	United Nations Human Rights Council
USA	United States of America
W	
WB	World Bank
WBG	World Bank Group

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About the Author

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