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Guidance on Case Handling under the EBRD Project Accountability Policy



European Bank
for Reconstruction and Development

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Section I: Purpose

The purpose of this document is to provide guidance on the implementation of the Project Accountability Policy (i.e., the Policy) and offer additional information on the manner in which the Independent Project Accountability Mechanism (IPAM) will screen Requests, handle Cases, and fulfil other aspects of its mandate.

IPAM is committed to helping stakeholders navigate the steps of the Case handling process.

Section II: Definitions

Terms used in this Guidance have the same meaning given to them in the Policy.

In particular:

- a) the definition of “Project,” includes references to the “**approval**” of a Project. The body in charge of approving proposed investments by the Bank is the Board. However, the Board may delegate this authority to a committee within the Bank, subject to certain conditions being met. A reference to an “approval” of a Project in the Policy is to be intended as the final decision made by the competent EBRD body on a proposed investment, being the Board or, as the case may be, a different body or committee within Bank management to which the Board has delegated its authority in respect of a Project.
- b) the definition of “Access to Information Policy” shall be read to include any related Directive (i.e. any directive relating to disclosure of Bank information issued by the President of the Bank in accordance with the Access to Information Policy), as amended from time to time. Under Paragraph 2.6 of the Policy, a Compliance Assessment may assess if the Bank has complied with a Project-specific provision of the Access to Information Policy or of any related Directive; and under Paragraph 2.7 of the Policy, a Compliance Review will determine whether the Bank has failed to comply with any project-specific provision of the Access to Information Policy, or of any related Directive.

Section III: Scope

Process for handling cases

1. Submission of a Request

1.1 **Who May Submit a Request.** IPAM recognises that Requests submitted by Organisations that are not directly or personally affected by a Project may relate exclusively to environmental issues, where no Project-affected People exist (e.g., if concerns relate to biodiversity in a remote area where there is no land or resource use occurring by local or regional populations). In such cases, Organisations can simply provide information to this effect, in accordance with Paragraph 2.1c)vi) of the Policy, in order for IPAM to waive the requirement that Organisations prove that they have engaged with Project-affected People prior to submitting the Request.

1.2 Clarification on Request Submission.

Any person or Organisation may contact IPAM before developing or submitting a Request, to seek clarification on the Case handling process. IPAM can provide information on the IPAM approaches and procedures and explain the provisions of the IPAM Policy and Guidance, without providing advice on the substantive aspects of a Request. IPAM may provide information on a confidential basis, if desired by the interested Party. IPAM can be contacted at the email address, fax number, mailing address or telephone number provided below. If international calls cannot be made, IPAM can also telephone interested individuals or Organisations upon Request. Following the submission of a Request, if there are omissions, IPAM can also discuss these omissions with Requesters and clarify what would be needed to complete the Request under Paragraph 2.2f) of the Policy, as required. In addition, publications summarising the IPAM process are also available on the IPAM website.

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1.3 **Requestor Representation.** A Representative may support a Requester throughout the entire Case handling process. However, for the avoidance of doubt, Requesters have the right to make changes to their authorization for representation at any time (i.e., and may proceed with a Request or a Case without Representation if desired).

1.4 **Confidentiality and Protecting Requesters' Identities.** Where confidentiality has been expressly requested under Paragraph 2.2c) ii. of the Policy, IPAM: a) will not disclose the Requesters' identities to any Party, verbally or otherwise, and b) will redact relevant information from the Request and IPAM reports as the key methods through which to protect Requesters' identities. Other methods such as the use of secure email, telephone and videoconferencing tools; coordination with Requesters regarding site visit approaches; a prohibition on the recording of meetings with any Relevant Parties; shuttle diplomacy; or other methods deemed appropriate by the IPAM Head and the Requesters may also be implemented to protect Requesters' identities.

1.5 **Data Submissions:** IPAM recognises that all Project stakeholders may not have the same level of access to detailed Project information. Throughout the Case handling process, IPAM will employ a *prima facie* approach, which means that the Mechanism will accept information provided by Requesters as correct, at face value, until demonstrated otherwise.

1.6 **Identifying a Preference for one of IPAM's Functions at Registration.** Requesters or their Representatives are not expected to be familiar with, or have a clear understanding of, IPAM's two Case handling functions (i.e., the Problem Solving function or the Compliance function). IPAM staff will explain the characteristics, approaches, activities and possible outcomes of the Problem Solving and Compliance functions following Request submission and Registration, as part of the Assessment stage.

2. Registration

2.1 Nothing in Paragraph 2.2c) of the Policy is intended to limit IPAM's mandate to review, within the scope of a Compliance Review or a Problem Solving initiative, Requests related to: the Bank's financial intermediary Projects; financial intermediary Client obligations under the Environmental and Social Policy; the activities of third parties acting on behalf of the Client, or carrying out aspects of Project implementation (such as private security forces, contractors, or consultants); or of any other actor who is under control of, or who maintains a formal relationship with, the Bank or the Client in respect of a Project.

2.2 IPAM's mandate allows it to review environmental, social and transparency-related issues captured by the Environmental and Social Policy and Project-specific provisions of the Access to Information Policy exclusively. However, other offices or departments within the Bank comprehensively address many of the issues ineligible for IPAM Registration described in Paragraph 2.2c) of the Policy:

- a) The Office of the Chief Compliance Officer is responsible for addressing concerns related to fraud, corruption and misconduct. Information on the EBRD's Compliance Function can be found at: <https://www.ebrd.com/who-we-are/our-values/investigating-fraud-and-corruption.html>. Concerns may be submitted to compliance@ebrd.com.
- b) The Procurement Policy and Advisory Department is responsible for addressing procurement-related complaints. Information on the procurement complaint process, the eligibility of complaints and access to the EBRD Procurement Complaint Form can be found at: <https://www.ebrd.com/work-with-us/procurement/project-procurement-complaints.html>. Complaints may be submitted to ProcurementComplaint@ebrd.com.
- c) Questions or concerns that fall outside of these subject areas can be submitted to the EBRD's Civil Society Engagement Unit, at cs@ebrd.com. Information on opportunities for the public to engage with the EBRD is available at: <https://www.ebrd.com/who-we-are/civil-society-engagement/contact.html>.

2.3 Suspension of a Request.

- 2.3.1 During the Registration process, IPAM will typically consult with the Requesters to develop a better understanding of the Request, the issues underlying the Request submission, and to identify if there are any omissions to the Request rendering it incomplete, but which can be remedied.

2.3.2 In situations where a Request is suspended and subsequently closed due to incompleteness under Paragraphs 2.2f) of the Policy (including as a result of a failure to address omission in a Request within the timeline set out in Paragraph 2.2f) of the Policy), this, does not prevent Requesters from re-submitting the Request in the future, when the additional information required by the Policy is included to render the Request complete.

2.4 **Outcomes.** IPAM's Registration of a Request represents an administrative step, acknowledging that the Request meets the Registration criteria set out in Paragraphs 2.2 of the Policy. It should be clarified that the Registration of the Request does not involve a judgement on the merits, truthfulness or correctness of the content of the Request.

3 Assessment

3.1 **Outcomes.** IPAM's Assessment of a Request represents an administrative step, seeking to assess the Parties' willingness to engage in each function and determining the pursuit of any such function. It should be clarified that the Assessment of the Request does not involve a judgement on the merits, truthfulness or correctness of the content of the Request.

4 Problem Solving

4.1 **Approach.** A number of different approaches can be used to pursue the resolution of issues between Parties through Problem Solving. IPAM will select approaches in consultation with the Parties, which may include:

- a) **Facilitation and Information Sharing:** In many cases, the Request will raise questions regarding the current or anticipated impacts of a Project. Facilitated information sharing will seek to help Requesters obtain information or clarification, which results in the resolution of concerns.

- b) **Mediation or Conciliation:** Mediation involves the intervention by a neutral third party in a dispute, with the purpose of assisting the Parties in voluntarily reaching their own mutually-satisfying agreement.

Alternatively, in Conciliation processes, the neutral third-party may also make recommendations to the participants as part of the process as well.

- c) **Joint fact-finding:** Where there is uncertainty around the facts of a Project, the Parties may decide that joint fact-finding is a suitable approach. The Parties will jointly agree on the issues to be examined, and the methods, resources, and people who will be used to conduct an examination. Parties will also agree on the manner in which information generated from the joint fact-finding process will be used by the Parties.
- d) **Dialogue and Supported Negotiation:** Where communication among Parties has been limited or disrupted, IPAM may encourage the Parties to engage directly in dialogue and negotiation to address and resolve the issues raised in the Request. IPAM may offer capacity building and/or expertise to assist the Parties in this process.

4.2 **The Selection of Appropriate Problem Solving Consultants.** Problem Solving activities may be led by IPAM directly, or implemented with the support of consultants. IPAM will seek to engage local or regional mediators, facilitators and interpreters, with the appropriate qualifications and linguistic and cultural knowledge to effectively carry out Problem Solving initiatives.

4.3 **The Selection of Appropriate Compliance Consultants.** Compliance Assessment and Review activities will be led by IPAM directly, however, IPAM may be supported by consultants. IPAM will engage specialists with the appropriate qualifications to effectively conduct the scope of work of relevance to a particular area of the Compliance Review.

4.4 **Problem Solving Outcomes.** In addition to the Problem Solving outcomes identified in Paragraph 2.4e)i., ii. and iii.; Paragraph 2.4e)iv. ensures that Project-specific institutional learnings and IPAM recommendations are not only transmitted to Management through the Compliance function, but can also be transmitted during and/or following the completion of Problem Solving. IPAM will provide formal feedback to Bank management on Problem Solving cases, establishing a Request feedback loop for both functions. Any feedback provided will respect the confidentiality requests and constraints of the Case.

5 Compliance Assessment

5.1 **Consideration of Direct, Indirect and Material Harm.** Under Paragraph 2.6 of the Policy, the assessment as to whether it appears that the Project may have caused, or may be likely to cause, direct or indirect and material harm may involve (but is not limited to) an evaluation of the direction, magnitude, geographic extent, duration, reversibility, frequency and probability of the effect(s) or potential effect(s) of the Project, as raised in the Request.

6 General Provisions for Case Handling

6.1 **Site Visits:** IPAM will engage with the Parties in the planning of IPAM site visits. Parties will be consulted and invited to provide input into site visit agendas; meeting participants; health and safety considerations; and retaliation risk mitigation measures, as appropriate. IPAM will share key 'ground rules' and conditions for site visits and engagement in IPAM site visits.

6.2 **Retaliation.** IPAM's Retaliation procedures consider confidentiality, risk assessment, risk mitigation and monitoring. To the extent feasible, IPAM will consult with Requesters (and their Representatives, if any), in the implementation of Retaliation risk assessment and mitigation measures, in order that IPAM may approach concerns in consideration of the context of each Case, to the extent feasible.

If any individual involved in an IPAM case experiences any form of Retaliation, they should report it immediately to IPAM, through:

- a) the IPAM staff member(s) with whom which they are in contact, if applicable; or
- b) the IPAM contact information in Section 1.2 above, or through any other secure communication channel they feel comfortable employing.

If IPAM staff is made aware of an incident of Retaliation, the Mechanism will report it to the Bank, in accordance with the EBRD Internal Guidelines on Handling Allegations of Retaliation for Criticism and Complaints Related to our Investments.

7 Outreach and Training

7.1 **Training and Outreach Needs.** IPAM welcomes feedback from individuals, Organisations, Bank management and Clients on their training, outreach and capacity building needs. IPAM also encourages feedback on effective communication platforms through which to reach the public in countries of operation.

7.2 **Awareness of IPAM.** Promoting the public's awareness of EBRD investment in specific development projects, and of IPAM's existence and mandate, both represent important elements to foster access to IPAM. Project Stakeholder Engagement Plans will now typically include obligations for Clients to disclose EBRD financing of the Project to affected stakeholders in a meaningful way for the local context, and to provide contact information for EBRD's Civil Society Engagement Unit (cs@ebrd.com) so concerns may be raised, as needed, with EBRD Management. The Civil Society Engagement Unit may make individuals and Organisations aware that IPAM exists, particularly where a stakeholder identifies that the Management response has not addressed the concerns they have raised.

Section IV: Disclosure

This Guidance will be disclosed on IPAM's website.

Section V: Effective Date

This Guidance is effective on the date on which the Policy becomes effective.

Section VI: Decision Making Framework

The IPAM Head is accountable for this Guidance

The IPAM Head is responsible for this Guidance.

Section VII: Related Documents

1. Project Accountability Policy (2019)
2. Environmental and Social Policy (2019)
3. Access to Information Policy (2019)

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Information requests

For requests and enquiries, please go to
www.ebrd.com/inforequest

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Accountability Policy
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