

Recommendations for EBRD's IPAM Review

December 2023

This brief summarizes Accountability Counsel's recommendations for the upcoming review of EBRD's Project Accountability Policy. As IPAM's policy is already one of the strongest among IAMs, we recognize the risk that a review could result in negative changes that weaken IPAM's effectiveness. For that reason, in addition to proposing changes to the policy and its implementation, we also highlight some of the best provisions of IPAM's current policy that should be preserved.

Recommended changes to the policy:

- **IPAM should have authority to self-initiate compliance reviews.** EBRD operates in many countries where there is a high risk of reprisals against potential complainants. For these contexts in particular, it is critical for IPAM to be able to investigate potential non-compliance without having to receive a complaint.
- **Remove the requirement that requesters first raise their complaint with the Bank and/or the Client.** While it is good that this requirement can be waived if complainants show that such efforts would be dangerous or futile, it would be even better to change it from a requirement to a "voluntary inclusion in the Request."
- **Permit problem solving and compliance review to occur in any order, including simultaneously.** Considering the intrinsic differences between IPAM's functions, requesters should have the right to choose which one(s) may best serve them and in what sequence. IPAM should be empowered to conduct problem solving and compliance review contemporaneously or sequentially, as appropriate and as requested by requesters.
- **Allow IPAM and/or mediators to recognize and take measures to ameliorate power imbalances between parties to problem solving.** Parties to mediation generally do not have equal resources, capacity, political power, and information regarding issues at hand. While maintaining impartiality, mediators may have to support the parties differently in order to ensure that both may participate effectively and on equal terms in the process.

Recommended changes relating to implementation of the policy:

- **Increase resources allocated to IPAM.** IPAM currently does not have enough staff to timely handle the volume of complaints it receives. In addition, resource constraints have undermined IPAM's advisory function.
- **Improve management's response to IPAM findings of non-compliance.** The Project Accountability Policy requires EBRD to produce Management Action Plans (MAPs) that identify, for *each* instance of non-compliance found: (1) Project-level measures to restore compliance and address harm to complainants, (2) changes to EBRD policies and practices in accordance with IPAM recommendations, (3) an implementation plan for the

MAP, and (4) estimated human and budgetary resources required for MAP implementation (2.7.1 a). However, in practice, management frequently contests IPAM's compliance findings and recommendations. A functioning accountability system requires that management accept and respond to IPAM's findings even when it does not agree with them. The IPAM review process should include an evaluation of EBRD's response to IPAM's findings, with recommendations on operational guidance, including training, for management on how to effectively engage with IPAM.

Good provisions of the current policy that should be preserved:

- IPAM is independent from management and has a direct reporting line to the Board (Section I: Purpose).
- Project-affected people are allowed to be supported by representatives of their choice (2.1 d. viii).
- IPAM's compliance review reports can recommend project-specific actions to remedy harm or potential harm (2.7 d. ii. a).
- Requesters are allowed to read and provide comments on draft management action plans (2.7.1 c).
- IPAM does not support problem-solving agreements that would be contrary to EBRD policies or in breach of any applicable law (2.4 b. iii).
- IPAM shares institutional learnings and recommendations from problem-solving cases with EBRD management and the Board (2.4 e. iv).
- IPAM monitors and publishes regular reports on the implementation of management action plans and problem-solving agreements (2.5 a; 2.8 a).
- IPAM can conduct Project site visits as part of its monitoring activities (2.5 c iii; 2.8 c iv).
- IPAM has an advisory function to promote institutional learning (3.2 f).
- IPAM has a mandate to conduct outreach among internal and external stakeholders in order to ensure that IPAM's purpose, functions and activities are known and understood (1.2 b).

We look forward to continuing to provide comments and feedback throughout the review process. Please do not hesitate to reach out anytime we can be of assistance.

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