



Assessment of the Independent Accountability Mechanism of the European Bank for Reconstruction and Development

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Abbreviations/Acronyms:

ADB	Asian Development Bank
AE	Accredited Entity of the Green Climate Fund
AfDB	African Development Bank
AIIB	Asian Infrastructure Investment Bank
AIP	Access to Information Policy of the European Bank for Reconstruction and Development
ARC	Audit and Risk Committee of the European Bank for Reconstruction and Development Board of Directors
CAO/EBRD	Chief Accountability Officer for European Bank for Reconstruction and Development
CAO/IFC	Compliance Adviser Ombudsman of the International Finance Corporation
CR	Compliance Review
CRR	Compliance Review Report
EBRD	European Bank for Reconstruction and Development
EIB	European Investment Bank
EPP	EBRD Enforcement Policy and Procedures
ESD	Environment and Sustainability Department of European Bank for Reconstruction and Development
ESP	Environmental and Social Policy of European Bank for Reconstruction and Development
IAM	Independent Accountability Mechanism
IFI	International Finance Institution
IKI	Independent Complaints Mechanism of the International Climate Initiative
IRM/AfDB	Independent Recourse Mechanism of the African Development Bank
IRM/GCF	Independent Redress Mechanism of the Green Climate Fund
IPAM	Independent Project Accountability Mechanism of the EBRD
MAP	Management Action Plan
MIGA	Multilateral Investment Guarantee Agency
OCCO	Office of Chief Compliance Officer
PAP	EBRD Project Accountability Policy
PCM	Project Complaints Mechanism
PPM/AIIB	Project Affected People’s mechanism of the Asian Infrastructure Investment Bank
SECU/UNDP	Social and Environmental Compliance Unit United Nations Development Programme
WB	World Bank

Executive Summary:

1. The 2019 Project Accountability Policy (PAP) of the Independent Project Accountability Mechanism (IPAM) of the European Bank for Reconstruction and Development (EBRD) establishes that it shall be reviewed in 2024. In May 2023, IPAM submitted to the EBRD Board of Executive Directors, a Policy Review Concept Paper proposing a two-stage review process. The first stage would present an assessment of implementation of the PAP to date and a benchmarked analysis of other accountability policies. The Paper continued that should the Assessment propose the pertinence of a review of the policy, IPAM would then submit to the Board by mid-2024 a first draft of suggested policy changes.
2. The Concept Paper also established that, in any case, the intention of a policy review would be to improve the effectiveness and efficiency of the IPAM process; and adopt any innovations not available at the time of the approval of the current policy. The following specific objectives were proposed: (1) to clarify language should the current provisions lead to divergent interpretations that affect Policy implementation and mandate, (2) to adjust Policy provisions when implementation shows that there are areas of improvement as regards effectiveness and/or efficiency and (3) to incorporate best practices in accountability with a focus on remedy and safe access.
3. In line with the above, in December 2023, IPAM commissioned this consultant to undertake an assessment of the implementation of the PAP to date and an examination of the current policies and procedures of comparable accountability mechanisms to identify innovations and best practices so as to ensure that IPAM remains a leader in accountability. The Terms of Reference (TORs) of this work established the following deliverables:
 - Assessment of implementation of the PAP resulting from engagement with some representatives of the different stakeholder groups;
 - Policy Benchmarking exercise identifying areas of improvement or innovation to consider in the review;
 - Presentation to the EBRD Board Audit and Risk Committee on the findings and recommendations that will clearly differentiate proposals for improvement that require Policy changes, and those that can be addressed through improved operation.
4. This assessment and the recommendations made are based on two important principles. The first is assessing the Policy using the principles for non-judicial complaint mechanisms defined in the UN Guiding Principles on Business and Human Rights. The second principle is that there should be no regression or weakening of the policy. Thus, in assessing the current policy, any policy or implementation modification proposed was followed by a benchmarking exercise with other IAMs, and a presentation of good practices while indicating where IPAM stands viz-a-viz these practices.
5. The following important factors are taken into account by the assessment: First that the period of the PAP implementation has been rather short (implementation only started in July 2020). Second, IPAM started to operate under a different model when compared with its predecessor. It thus moved from a model where its predecessor, the PCM, was part of Management, and relied entirely on external experts, to a model where IPAM became independent from Management, with a direct reporting line to the Board, together with reliance on internal experts. It was thought that such a model would ensure independence, predictability, and consistency, especially in view of reliance on a more permanent team adopting a common approach and methodology to complaints processing.
6. The third factor considered is IPAM's relatively small staff size, who are handling many, and relatively complex cases. A final factor considered is the proposed extension of EBRD operations into a number of new countries and regions, therefore increasing the number of countries from which IPAM could potentially receive Requests. Despite the above factors, the IPAM case portfolio between July 2020 to

May 2023 has been composed of eleven PCM legacy cases together with the management of sixty new Requests received from 2020 to May 2023, of which sixteen have been registered. Of the twenty-seven cases managed from July 2020 to May 2023, fourteen are currently active. Sixteen cases out of twenty-seven have been managed under the PAP from the date of receipt. The rest, eleven have been partly managed under the 2014 PCM Rules of Procedures.

7. In general, following interviews with a select range of stakeholders, including Requesters, past and present EBRD Board members, EBRD staff, and Management, IPAM Staff, CSOs, peer IAM staff and experts working in the area of international accountability, there is a broad consensus on the fact that the PAP remains fit for purpose, compares favourably when benchmarked with the IAM policies of sister MDBs and, for the most part, encompasses numerous good provisions which should be preserved. Selection of the aspects where change is recommended has been based on the viewpoints of various IPAM stakeholders, benchmarking with sister IAMs and good practices from the accountability space. Some areas considered require a change in the Policy, while others, for the large part, pertain to changes in implementation processes and institutional culture. The assessment makes a distinction between both.
8. Proposed Policy changes relate to the Purpose of the Policy, where it is suggested that the PAP be revised to include clearer language around IPAM's objective and mandate in identifying harm and providing remedy for communities experiencing harm. The second proposed change relates to Streamlining the Early Stages of the Compliance Process, here it is proposed to shorten the Registration period, review aspects of the Assessment and Compliance Assessment stages which appear to be duplicative, with a possibility of combining them, while ensuring that the purpose of both is not lost. This is in addition to making mandatory a Management Response right after Registration. Other proposed policy changes include granting IPAM the option of initiating a Compliance Review in the absence of a Request and/or continuing with a Compliance Review in case the Requesters withdraw from the complaints process due to fear of retaliation.
9. Regarding retaliation, the assessment recognizes that there exists currently an imbalance where IPAM is seen as the primary entity responsible for handling retaliation faced by its Complainants rather than this being an institutional responsibility. It is thus proposed to include in the PAP a special escalation procedure regarding retaliation that involves informing Senior Management and the Board; developing specific internal expertise on the matter of retaliation; developing clear and specific protocols for protecting complainants, to be shared with Management; incorporating relevant language in the 2024 Environmental and Social Policy (ESP) that addresses the increasing risk of retaliation and establishes obligations for Clients to ensure the safety of those who raise concerns about EBRD projects.
10. The assessment also makes proposals regarding policy implementation. These include actions relating to improving the relationship between IPAM and Management where the following is recommended: frequent and regular, both formal and informal interactions between IPAM and Management should be encouraged; developing Terms of Reference for Management's IPAM Coordinator; finalizing Management Guidance on IPAM processes with focus on clarity and simplicity and clear delineation of responsibilities of IPAM, Management and Clients in the processing of cases; sponsoring joint events for instance around lessons learnt resulting from specific Compliance Reviews or Problem Solving exercises. Management should facilitate full access for IPAM to project related information. Management and especially Resident Offices should make the existence of IPAM known to EBRD Clients, project affected communities and CSOs.
11. A wide spectrum of stakeholders unanimously expressed the view that IPAM faces both capacity and resource issues, a situation further compounded by the increasingly large number of cases IPAM is processing. This caseload is likely to increase with the proposed expansion of EBRD operations to Sub-Saharan Africa and Iraq. the assessment recommends increasing the number of IPAM staff especially at more senior levels, whose experience would allow IPAM to speed up the complaints process and adhere to set timelines more easily, while also strengthening its learning and advisory services; to

increase the consultancy budget to allow recruitment of long-term consultants as required by the workload; develop Guidance with the aim of systematizing the process and outcomes of both Compliance Review and Problem-Solving functions, and maintaining a level of capacity and consistency necessary for these functions effectiveness.

12. The assessment also examined the implementation of Outreach and Learning activities making the following proposals for their increased effectiveness. It is proposed to undertake a rapid evaluation of outreach activities implemented to date and use the results to update the 2020-2024 Outreach Strategy; Resident Offices should be more proactive in disseminating information about IPAM to in-country stakeholders; it is also proposed that IPAM consider implementing the idea of longer “clinics” with CSOs and other stakeholders in some countries, in addition to the short information workshops undertaken currently. This is in addition to considering the undertaking of some pilot learning exercises.
13. Assessment of PAP implementation also pointed to the necessity of streamlining the finalization of Compliance Reviews and Management Action Plans. The following gaps were noted by the analysis: the lack of a mandatory Management Response to Compliance Review Reports, clarifying the nature of comments that Management and Requesters can make on the Compliance Review Report, the absence of Clients from consultations on the MAP, the information asymmetry between the key stakeholders of the CR process, lack of clarity around sequencing of documents and the associated consultation timelines, the latter tend to be confusing and often short. In response it is proposed that the process be streamlined based on the following principles. First, any proposed changes should not extend the process timeline any further. Secondly, all parties including IPAM, Management, and Clients should buy into the idea of adherence to and respect for agreed timelines. Thirdly, there should be no asymmetry of information among the various stakeholders. Fourthly, the whole process of consultation on the various drafts should be handled with utmost care while avoiding asymmetry of information and should also not jeopardize confidentiality; both to protect Requesters if there is a risk of retaliation and safeguard sensitive client information.
14. Stakeholders of problem-solving cases examined, expressed satisfaction and agreement with the process. However, the issues of the ability of IPAM to mobilize rapidly to the field to start a problem-solving process and the perceived power imbalance between Requesters and other stakeholders of problem solving were raised. It was proposed that such rapid mobilization of IPAM required additional resources, whereas undertaking confidence building measures, including training and awareness raising exercises, would serve to reduce the power imbalances between parties.
15. As regards the issue of Monitoring, stakeholders expressed the view that Monitoring is not being taken seriously by Management. This starts from the MAP itself, where several stakeholders have indicated that proposed Management actions are often weak, signifying a disconnect between harms communities suffer and remedial actions included in MAPs. Related to this is that the implementation pace of MAPs tends to be slow.
16. Related to the earlier discussion of IPAMs capacity, consultations have also proposed the necessity of recruiting specific monitoring expertise, separate from compliance review and problem-solving expertise. This is based on the fact that at present IPAM is handling a large Monitoring load. Another suggestion to strengthen Monitoring is to build an automated monitoring system. It is also proposed that when Management fails to implement its MAP commitments, it is not enough for IPAM to just publish a monitoring report. IPAM must continue to alert the Board and make recommendations as appropriate on what additional steps should be taken to achieve compliance, so that the Board can take appropriate action.
17. The assessment concludes that ensuring the effectiveness of both the proposed modifications to the PAP and aspects related to its implementation, require a culture shift accompanied by strong leadership and clear communication at all levels of EBRD, whereby Requesters are seen not as a source of

reputational risk for the institution, but as a source of learning, which is in turn a prerequisite for improved performance and accountability, so that success is not measured by loan volume but rather through the extent to which investments are sustainable and contribute to minimizing negative environmental and social impacts. This means that IPAM should be seen as an important tool of the Board, thus contributing to overall accountability processes within the institution.

18. Several Recommendations are proposed to address some of the gaps identified in the Policy itself and its implementation. The successful implementation of both sets of Recommendations however, hinges on the cultural shift mentioned above, and a stronger role for IPAM as one of the contributors to enhancing EBRD's social and environmental sustainability, especially as the institution expands to new countries of operation. Details of the recommendations are included in Annex II of this assessment.

I. Introduction, Approach and Methodology:

- 1.1. The 2019 Project Accountability Policy (PAP) of the Independent Project Accountability Mechanism (IPAM) of the European Bank for Reconstruction and Development (EBRD) establishes that it shall be reviewed in 2024.¹ This provision is in line with Best Practices as detailed in the document entitled "Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms (IAMs)" (2024)² which states "In order to ensure that the mechanism continually improves and remains responsive to project-affected communities, **it should conduct public reviews at regular intervals.**"³
- 1.2. In May 2023, IPAM submitted to the EBRD Board of Executive Directors, a Policy Review Concept Paper proposing a two-stage review process. The first stage would present an assessment of implementation of the PAP to date and a benchmarked analysis of other accountability policies⁴. The Paper continued that should the Assessment propose the pertinence of a review of the policy, IPAM would then submit to the Board by mid-2024 a first draft of suggested policy changes.
- 1.3. The Concept Paper also established that, in any case, the intention of a policy review would be to improve the effectiveness and efficiency of the IPAM process; and adopt any innovations not available at the time of the approval of the current policy. The following specific objectives were proposed: (1) to clarify language should the current provisions lead to divergent interpretations that affect Policy implementation and mandate, (2) to adjust Policy provisions when implementation shows that there are areas of improvement as regards effectiveness and/or efficiency and (3) to incorporate best practices in accountability with a focus on remedy and safe access.⁵
- 1.4. In line with the above, in December 2023, IPAM commissioned this consultant to undertake an assessment of the implementation of the PAP to date and an examination of the current policies and procedures of comparable accountability mechanisms to identify innovations and best practices so as to ensure that IPAM remains a leader in accountability. The Terms of Reference (TORs)⁶ of this work established the following deliverables:
 - Assessment of implementation of the PAP resulting from engagement with some representatives of the different stakeholder groups;
 - Policy Benchmarking exercise identifying areas of improvement or innovation to consider in the review⁷;

¹EBRD Project Accountability Policy (PAP), April 2019 Section VIII: Review and Reporting

² Accountability Counsel et al "Good Policy Paper: Guiding Practice from the Policies of IAMs" January 2024. This Paper resulted from a Project which began in 2017 when a number of Civil Society Organizations experienced both in advising and accompanying communities in filing complaints to IAMs and also advising them, set out to capture the best existing practices from established IAMs, p,10

³ Ibid, p.38

⁴ See IPAM, "Project Accountability Policy Review Concept Note", 2023

⁵ Ibid.

⁶ See Annex. I

⁷ In 2024, the IPAM Policy review coincides with similar Reviews of the Asian Development Bank Accountability Mechanism, the Project-Affected People's Mechanism of the Asian Infrastructure Investment Bank, the Complaints Mechanism of the European Investment Bank and the World Bank's Accountability Mechanism. The timing of these Reviews is therefore opportune for exchanges and mutual lesson learning both on IAM Policies, but equally importantly, their implementation. Furthermore, the principals of these IAMs undergoing Reviews are part of an informal group, in the context of which lessons and experiences are being exchanged, all with the aim of achieving consistency and mutual learning across IAMs.

- Presentation to the EBRD Board Audit and Risk Committee (ARC) on the findings and recommendations that will clearly differentiate proposals for improvement that require Policy changes, and those that can be addressed through improved operation.
- 1.5. This assessment and the recommendations made are based on two important principles. The first is assessing the Policy using the principles for non-judicial complaint mechanisms defined in the UN Guiding Principles on Business and Human Rights.⁸ This is the same approach adopted in the above-mentioned Good Policy Paper which states: "we rooted our analysis in the UN Guiding Principles on Business and Human Rights' effectiveness criteria: Legitimacy, Accessibility, Predictability, Equitability, Transparency, Rights-Compatibility, and Serving as a Source of Continuous Learning."⁹
 - 1.6. The second principle is that there should be no regression or weakening of the policy. Thus, in assessing the current policy, any policy or implementation modification proposed is followed by a benchmarking exercise with other IAMs, and a presentation of good practices while indicating where IPAM stands viz-a-viz these practices.
 - 1.7. A combination of methods has been employed for this assessment based on the principle of getting a spectrum of views from individuals representing the different stakeholder groups with experience in how the PAP has been implemented to date. It is important to note that this remains an assessment and is not a definitive policy review leading to major changes. The objective has been rather to gather information on different aspects of effectiveness of the IPAM policy, its rules and procedures, in addition to examining issues of access, knowledge management and lesson learning. Therefore, any proposed areas for improvement/change have been based on information from interviews with various groups of stakeholders and benchmarking with other IAMs, while emphasizing the drawing of lessons and adherence to international best practices. Interviews were based on an indicative questionnaire which was used flexibly with the intention of helping to guide the discussion, and which was tailored to each group of stakeholders. An extensive literature review of the policy documents of peer IAMs, their rules and procedures, in addition to relevant studies and writings on international accountability was also undertaken.
 - 1.8. This Report is organized as follows: the first section is an assessment of the PAP, and based on input/feedback from different groups of stakeholders, certain areas that could make it more effective are identified. Each proposed change is benchmarked against practices in sister IAMs. The second part focuses on areas of improvement in policy implementation. In this respect, a benchmarking exercise of practices in sister IAMs are also presented. The final section presents the Conclusions and Recommendations of the Assessment. Annexes to the Report include the Terms of Reference of the Consultant, a Matrix summarizing proposed changes, a Table comparing IAM timelines for production of Compliance Review Reports (CRR) and Management Action Plans (MAPs), a list of persons met, a summary of stakeholder views, and the United Nations Business and Human Rights Effectiveness Criteria.
 - 1.9. Finally, it is emphasized that any change in order to be implemented successfully requires active cooperation across various Bank departments and structures, and an agreement on the fundamental premise that strengthening EBRD accountability goes beyond IPAM, but is rather a Bank-wide objective and endeavour.

⁸ See Annex VI

⁹ Good Policy Paper, p.11

II. Assessment Background

- 2.1. At the EBRD Annual Meeting and Business Forum of May 2019, the Bank launched the Project Accountability Policy to be implemented by the Independent Project Accountability Mechanism, which on 1st July 2020 replaced the Project Complaint Mechanism (PCM) as the accountability mechanism of the Bank. The 2019 PAP (which supersedes the 2014 PCM Rules of Procedure) established the office of the Independent Project Accountability Mechanism (IPAM) as an office independent from Bank Management, reporting directly to the Board through the ARC. The Policy describes the structure and procedures through which IPAM reviews environmental, social and transparency-related concerns regarding EBRD Projects; facilitates the resolution of issues among Project stakeholders; determines whether the Bank has complied with its Environmental and Social Policy (ESP) and Access to Information Policy (AIP) and, if applicable, addressing any existing non-compliance with these policies, while preventing future non-compliance by the Bank and promoting institutional learning.¹⁰
- 2.2. This assessment takes into account the following important factors: first that the period of the PAP implementation has been rather short (implementation only started in July 2020). Secondly, IPAM started to operate under a different model when compared with its predecessor. Specifically, it moved from a model where its predecessor, the PCM, was part of Management, and entirely relied on external experts, to a model where IPAM became independent from Management, with a direct reporting line to the Board, together with reliance on internal experts. It was thought that such a model would ensure independence, predictability, and consistency, especially in view of reliance on a more permanent team adopting a common approach and methodology to complaints processing.
- 2.3. The third factor to consider is IPAM's relatively small staff size¹¹, who are handling many, and relatively complex cases. A final factor to consider is the proposed extension of EBRD operations into a number of new countries and regions,¹² therefore increasing the number of countries from which IPAM could potentially receive Requests. Despite the above factors, the IPAM case portfolio between July 2020 to May 2023 has been composed of eleven PCM legacy cases together with the management of sixty new Requests received from 2020 to May 2023, of which sixteen have been registered. Of the twenty-seven cases managed from July 2020 to May 2023, fourteen are currently active. Sixteen cases out of twenty-seven have been managed under the PAP from the date of receipt. The rest, eleven have been partly managed under the 2014 PCM Rules of Procedures.
- 2.4. As regards problem solving, by end of 2023, five processes began under the PAP, three cases have reached agreement, with one of them closed and two others under monitoring, The fourth one was closed without resolution as the complainants withdrew due to fear of retaliation and the fifth one just initiated the dialogue in the last quarter of 2023. Additionally, four cases were being assessed to determine if they can go to problem solving.
- 2.5. As regards compliance, from 2020 to end of 2023, there have been 18 cases processed, with now five closed. During the period, five investigations were completed: three investigations under the PAP and two under PCM have been completed. In one case the Bank was found to be compliant, and the case was closed. The other four investigations came up with findings of non-compliance requiring Management Action Plans (MAPs). Currently, there are five cases under compliance

¹⁰ IPAM 2024 Work Programme and Budget, p.7

¹¹ See staff size comparisons for sister IAMs on p.19

¹² See EBRD Resolution No.259 "Amendment to Article 1 of the Agreement establishing the European Bank for Reconstruction and Development to Enable Limited and Incremental Expansion of the Geographic Scope of the Bank's Operations to Sub-Saharan Africa and Iraq" 18th May 2023.

assessment to determine if they are eligible for investigation; four investigations are ongoing and four cases are under monitoring of MAPs.

- 2.6. IPAM has undertaken several investigations, bringing compliance review findings that not only seek to correct non-compliance in specific projects but also identify systemic issues to inform the reviews of the ESP and AIP.¹³ As will be indicated below, stakeholders were generally appreciative of IPAM's work and the PAP remains among the most advanced when compared to other IAMs, including numerous innovations and provisions that need to be maintained and reinforced. The assessment acknowledges the above achievements, not losing sight of these important elements, and IPAM's fundamental role in contributing to the promotion of institutional accountability and fostering environmental and social sustainability of EBRD operations.
- 2.7. The present assessment begins with an examination of the Policy itself, the degree to which it remains fit for purpose, while examining specific aspects that merit some change.
- 2.8. In general, following interviews with a select range of stakeholders¹⁴(see Annex IV presenting in greater detail the views of various stakeholders) there is a broad consensus on the fact that the PAP remains fit for purpose, compares favourably when benchmarked with the IAMs of sister MDBs and, for the most part, encompasses numerous good provisions which should be preserved. Selection of the aspects where change is recommended is based on the viewpoints of various IPAM stakeholders, benchmarking with sister IAMs and good practices from the accountability space. Some aspects require a change in the Policy, while others for the large part pertain to changes in implementation processes and institutional culture. The analysis will make a distinction between both.
- 2.9. Below is a broad summary of the views of the various groups of stakeholders. It should be noted that this was a very general survey of different groups of IPAM stakeholders and cannot be characterized as a strict representative sample of those stakeholders and their views. The idea was to gauge broad trends, which are also supported by the benchmarking exercise and analysis of recent developments from peer IAMs and exchanges with the IAMs undergoing a similar exercise as mentioned earlier.

III. Summary of Stakeholder Views

- 3.1. The assessment included the results of interviews with 56 representatives from the stakeholder groups relevant to the IPAM process: Board of Directors, Bank Management and Staff, Clients, Requesters, Civil Society Organisations, other Independent Accountability Mechanisms and accountability experts.
- 3.2. EBRD Board members (both past and present) recognized the difficulty entailed in moving from the old PCM model to the current model of IPAM, and the impact this has had for IPAM in terms of the necessity of building internal capacity, while handling a large number of complex cases. They also mentioned some of the issues between IPAM and Management and expressed that the Board should not be put in the role of arbiter between the two.
- 3.3. EBRD Staff and Management, in addition to being interviewed, provided detailed written comments. They were concerned about lack of consensus around definitions of what constitutes a project(e.g. should associated facilities be included), reduced emphasis on harm and an over

¹³ IPAM Work Programme and Budget 2024, p.5

¹⁴ "Stakeholders" included Requesters, past and present EBRD Board members, staff, and Management, IPAM staff, CSOs, sister IAM staff and experts working in the area of international accountability.

emphasis on compliance, the necessity of streamlining the compliance review process including adjustment of timelines, some of which were seen to be too tight, avoiding information asymmetry between different stakeholders especially of the compliance process, and allowing greater leeway for Management to address Requesters concerns before a compliance review commences, especially when complaints were perceived to be “simple”. Those engaged in problem solving exercises appreciated the step-by-step approach taken by IPAM, and that often resorting to local mediators was the best approach to achieve positive outcomes of a problem-solving process. Several staff also questioned the motives of some Requesters and how genuine they were.

- 3.4. IPAM Staff reiterated issues concerning limited resources in the face of handling a large number of cases, many of which are rather complex. This has had an impact on adherence to timelines as set in the policy, in addition to affecting IPAM’s ability to engage in outreach and learning activities. They also raised the issue of the relationship with Management and how best to find ways and means of cooperation. The importance of developing guidance for the conduct of Compliance Reviews was also raised. Issues of the institutional responsibility for and ways for handling retaliation were also discussed.
- 3.5. CSOs interviewed included representatives of several CSOs active in the area of accountability whether through representing Requesters and/or providing advice to various IAMs. They emphasized that the current policy has several positive provisions which should be preserved including: IPAM independence from Management, the fact that Project-affected people are allowed to be supported by representatives of their choice, IPAM Compliance Review Reports can recommend project-specific actions to remedy harm or potential harm, and that Requesters are allowed to review and provide comments on draft MAPs. However, CSOs recommended permitting problem solving and compliance review to occur in any order, including simultaneously. They commented that IPAM and/or mediators must recognize and take measures to ameliorate power imbalances between parties to problem solving.
- 3.6. IPAM Requesters focused on the issues of length of the Complaints process, in addition to the extent to which IPAM is known among project affected communities. Several expressed that they came to know about IPAM by chance while recognising that the information on the IPAM website was sufficient, clear and was simple to understand.
- 3.7. EBRD Clients also expressed the view that it took a long time for IPAM to mobilize and start the problem-solving process, and that the process of building trust between the parties could progress quicker. Overall, however, they were satisfied with the problem-solving process. Although IPAM’s independence is recognized, they stated that there needs to be greater coordination between IPAM and Management.

IV. Proposed Policy Changes

- 4.1. As stated earlier, and as confirmed by the views of the various stakeholders, there exists a general consensus on the fact that no major changes need to be introduced into the PAP. Thus, while some aspects of the policy, following almost four years of implementation, can still be improved upon and would certainly benefit from a few ameliorations, the major challenge facing IPAM, and the EBRD at large, remains with the implementation of the PAP. Below are some of the policy changes recommended.
- 4.2. One general proposed change, mentioned by several stakeholders interviewed, relates to the format/presentation of the Policy. The 2019 PAP includes timelines for each stage of case

processing, but in a separate section of the policy, it is proposed that the timelines be integrated directly in each specific stage of case processing for easier reference.

4.3. **Purpose of Policy:**

- 4.3.1. Facilitating remedy for communities negatively impacted by the activities of an International Finance Institution (IFI) should constitute a basic part of the mandate of any IAM. IAMs are an integral part of delivering on the “do no harm” mandate and sustainability objectives of IFIs. Through their compliance review, dispute resolution and advisory functions, IAMs can help to remedy project-related harms, promote accountability and institutional learning, promote more consistent policy implementation, and help IFIs mitigate reputational and fiduciary risks.¹⁵ In relation to this, there should also be a clear focus on “harms” and not just “impacts”.
- 4.3.2. The PAP states “The purpose of the mechanism is to facilitate the resolution of social, environmental and public disclosure issues among Project stakeholders; to determine whether the Bank has complied with its Environmental and Social Policy and the Project-specific provisions of its Access to Information Policy; and where applicable, to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank.”¹⁶ Also, in the section of the PAP under the Compliance Review Report, it is stated IPAM should provide Bank Management with specific recommendations to address the findings of non-compliance. In addition, under the rubric: “Who may submit a Request”, it is stated “a Request may be submitted by individual(s) or Organization(s) who believe themselves to be (or to be likely to be) **affected** by a Project”.¹⁷ Thus, an explicit reference to remedy is absent. It is proposed that the Policy be revised to include clearer language around IPAM’s objective and mandate in identifying harm and providing remedy for communities experiencing harm.
- 4.3.3. It should be recalled that the Concept Note for this assessment presented to the EBRD Board in May 2023 has as one of its objectives to incorporate best practices in accountability with a particular focus on **remedy** and safe access. The section below benchmarks this suggested change in PAP’s purpose with what exists in the Policies of other IAMs and indicates how remedy is included and enabled in these IAMs policies. Reference is also made to the 2024 Good Policy Paper which provides the point of view of civil society organisations working in the area of accountability.
- 4.3.4. In this regard the 2024 Good Policy paper states: “An IAM’s mandate should be two-fold. First and foremost, to prevent harms and provide **effective remedy** to project-affected people and the environment; and second, to ensure institutional accountability and continuous improvement, especially regarding financial institution compliance with relevant policies and avoidance of social and environmental risks and impacts of financed projects. It is important that the IAM’s mandate encompass these two goals...”¹⁸
- 4.3.5. Benchmarking with Other IAMs:
- 4.3.5.1. *Compliance Adviser Ombudsman of the International Finance Corporation (CAO/IFC):*
- The CAO Policy states: ‘In executing its mandate, CAO facilitates **access to remedy** for Project-affected people in a manner that is consistent with the international principles

¹⁵ United Nations Office of the High Commissioner, “Remedy in Development Finance: Guidance and Practice”, 2022 p.49

¹⁶ PAP,p.2

¹⁷ PAP,p.8

¹⁸ “Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms”, 2024, p.13

related to business and human rights included within the Sustainability Framework.”¹⁹

4.3.5.2. *Independent Recourse Mechanism of the African Development Bank (IRM/AfDB):*

- The 2021 Operational Rules and Procedures of IRM/AfDB state: “The IRM provides people adversely affected by an Operation financed by the Bank with an independent mechanism through which they can seek **redress** and hold the Bank to account to ensure that it complies with its own policies and procedures related to sustainability”²⁰. Furthermore, it states that Compliance Reviews may recommend “... redress be provided to those harmed, which may include financial and/or non-financial considerations, as the case may be”.²¹

4.3.5.3. *Independent Complaints Mechanism of the International Climate Initiative (IKI):*

- The Policy of the Independent Complaint Mechanism of the International Climate Initiative includes **Remedy** among the functions of the mechanism, specifically stating that “people’s complaints will be handled in a manner that is fair, transparent, objective and equitable, and remedies will promptly be put in place in case of harm.”²²

4.4. **Streamlining the Early Stages of the Complaints Process:**

4.4.1. The Assessment heard many comments on the length of the complaints process, and the fact that it involved unnecessary repetition of certain actions as explained below. Such streamlining would assist IPAM in handling its heavy caseload (discussed in greater detail later), ensure faster and more agile responses to Requesters’ concerns, in addition to smoother and more effective project implementation for EBRD, its Clients and countries of operation. In addition, the Assessment also heard comments on the lack of an early Management Response to Requests. The three issues that relate to streamlining the early stages of the Complaints process are: length of Registration process, duplication between Assessment and Compliance Assessment, and lack of a Management Response in the early stages of the Complaints process. They are considered in greater detail below.

4.4.2. **Reducing the Registration period:**

4.4.2.1. There was unanimity on the necessity of shortening and streamlining the early stages of the complaints process. Currently, according to the PAP, the first two stages have a total timeline of 61 business days. Registration of the Request alone requires 21 business days followed by the Assessment process (with a timeframe of 40 business days). Registration involves an initial screening of the Request as stated in Para 2.2.(a) of the PAP.

4.4.2.2. It is proposed that the timeframe for registration be shortened from the current 21 days.

4.4.2.3. **Benchmarking with other IAMS:**

4.4.2.3.1. *Accountability Mechanism of the Asian Development Bank:*

- “The Complaints Receiving Officer will register the complaint on the Accountability Mechanism website within 2 days of receiving it. This is an administrative step and does not mean the complaint is admissible or eligible for problem solving or compliance review.”²³

¹⁹ IFC/MIGA Independent Accountability Mechanism (CAO) Policy, 2021, p.1

²⁰ African Development Bank, Independent Recourse Mechanism, Operational Rules and Procedures, 2021, p. 1

²¹ Ibid, p. 12

²² Independent Complaints Mechanism Policy of the International Climate Initiative, p.5

²³ Asian Development Bank, “Accountability Mechanism Policy”, 2012, p.38

4.4.2.3.2. *IKI:*

- “The complaints office sends confirmation of receipt to complainants within five (5) business days of receiving a complaint. The letter also includes a date by which the complaint mechanism will officially decide on the complaint’s eligibility. The complaint is forwarded to the expert panel for a decision as to eligibility, and recorded in the IKI CM **complaint register**.²⁴

4.4.2.3.3. *Independent Redress Mechanism of the Green Climate Fund (IRM/GCF):*

- “Within five (5) calendar days from the receipt of a grievance or complaint, the IRM shall send the complainant or representative, where one has been duly authorised, an acknowledgment and register the grievance or complaint in the IRM register.”²⁵

4.4.3. **Potential duplication between Assessment and Compliance Assessment:**

4.4.3.1. According to the PAP, the purpose of the Assessment stage is for IPAM to:

- “develop a clear understanding of the issues raised in a Request;
- discuss the Problem Solving and Compliance functions, their scope and possible outcomes with the Parties;
- assess the Parties’ willingness to engage in each function, while taking Requesters’ preference among functions into account;
- consider the updated status of other grievance resolution efforts if applicable”²⁶

4.4.3.2. The Assessment stage will consider contents of the Request, any information provided by Bank Management, the Client, Requesters through engaging with them, including through undertaking a site visit and completion of an Assessment Report, which will describe the outcome of the Assessment process, and will be submitted to the Board and President for information. The timeline set for the Assessment process is within 40 business days of registration of the Request.²⁷ Meanwhile the objective of a Compliance Assessment is to assess whether a Request is eligible for a Compliance Review.²⁸ This will involve considering the documentation and information already collected during the Assessment Stage as well as any new Project-specific and publicly available information. The Compliance Assessment will also include discussions with Requester’s, Management, the Client and other Stakeholders.²⁹ There is also a Compliance Assessment Report whose timeline within 60 business days of initiation of the Compliance Assessment.³⁰

4.4.3.3. Consultations with various IPAM stakeholders pertaining to the issue of the Assessment and Compliance Assessment process, almost unanimously converged on the view that maintaining both processes risks being repetitive. The general consensus after consultations with IPAM stakeholders and examination of best practices from sister IAMS, therefore, points towards a proposal for reviewing aspects of the Assessment and Compliance Assessment stages which appear to be duplicative, with a possibility of combining them, while ensuring that the purpose of both is not lost.

²⁴ IKI ICM Policy p.13

²⁵ IRM/GCF Policy, p.21

²⁶ PAP,p. 12

²⁷ Ibid.

²⁸ Ibid.p.15

²⁹ Ibid

³⁰ Ibid,p.23

4.4.3.4. Benchmarking with other IAMs:

- In reviewing the rules and procedures of other IAMs it was found that only the CAO has a comparable assessment stage. Others have a preliminary review and/or eligibility stage, which does not always result in a report as seen below for the IRM of the AfDB and the IAM of FinDev Canada.

4.4.3.4.1. *Inspection Panel/World Bank (IPN/World Bank):*

- Bank management responds within 21 business days after Registration of a Request. The Panel prepares an eligibility Report within 21 days of receiving Management Response, Panel recommends whether an investigation is warranted.³¹

4.4.3.4.2. *IRM/AfDB:*

- The IRM of AfDB has a “Preliminary Review” which is conducted within 21 business days of receipt of the Complaint, is based on information contained in the Complaint to determine if the Complaint contains a bona fide allegation of harm arising from a Bank Group-Financed Operation and undertake a reprisals risk check to ensure that adequate protections are in place for the Complainants. The Director may also request information and clarification about the Operation from Management. The IRM will thereafter either: register the Complaint; ask for additional information from the Complainants; or find the Complaint ineligible. Once a Notice of Registration has been publicly issued the case will enter a Complaints data gathering stage, in which the IRM staff will request a response from Management on the Complaint and gather additional information on the Complaint and its context.³²

4.4.3.4.3. *IAM/FinDev Canada:*

- FinDev Canada IAM Policy includes a Preliminary Review of complaints which takes place within thirty days of acknowledgement of receipt of a Complaint. This is described below:

“The acknowledgement of receipt of a Complaint by the IAM Officer will trigger a preliminary review to determine whether the Complaint is eligible for further processing. As part of the preliminary review, the IAM Officer shall:

- (a) Develop a clear understanding of the issues raised in a Complaint which may include interviews, site visits, and documentation review;
- (b) Discuss the dispute resolution and compliance review options, and possible outcomes with the Complainants; and
- (c) Assess the Complainants’ willingness to engage in either option, as well as their preferences in connection thereto.”³³

4.4.4. Early Management Response:

- 4.4.4.1. Contrary to other IAMs, the PAP does not make mandatory the production of Management Responses at specific points in the complaints process. Such Management Responses are important since they afford Management the opportunity right from the start to indicate their position as to whether or not they believe they have complied with the relevant Bank policies and procedures, and a description of all efforts made to date by Management or the Borrower/Client to resolve the issues raised in the Request. It could also include a historical review of Management actions, as relevant, in response to the Request.

³¹ World Bank, “Inspection Panel Operating Procedures”, 2022, p.9

³² IRM/AfDB Operating Rules and Procedures, p.6

³³ FinDev Canada, Independent Accountability Policy and Procedures, p.5

4.4.4.2. The PAP does mention an option for a Management Response to address the findings of a Compliance Review. Specifically, the PAP states “Bank Management **may** also prepare a Management Response addressing the findings of the Compliance Review Report, **if it deems appropriate**”.³⁴As stated, this Management Response is not mandatory.

4.4.4.3. In most IAMs, as will be shown below, a Management Response is mandatory at certain points of the complaints process, but especially at the start of the process. It is, therefore, recommended that such a Management Response be made a mandatory step of the Complaints process right after Registration. It is maintained that such a Management Response is important since it is an indicator of Management’s position from the beginning of the complaints process, based on this initial Management Response the concerned IAM may decide to defer a compliance review/problem solving exercise, or not undertake one at all.

4.4.4.4. Benchmarking with Other IAMs:

4.4.4.4.1. *CAO/IFC:*

- The CAO Policy states that it will notify Management in writing of the transfer of a complaint to CAO’s compliance function for appraisal. Management will have 10 Business Days from the date of transfer to respond to the issues raised in the complaint. Regarding the response, IFC/MIGA will outline the steps it and/or its Client or Sub-Client have already taken, or intend to take, to facilitate compliance with relevant policies, procedures, and E&S Requirements, to address the allegations of Harm raised by the Complainants or raised in an internal request.³⁵

4.4.4.4.2. *IPN/World Bank:*

- Inspection Panel procedures state that Management within twenty-one business days after receiving the Notice of Registration submits to the Panel the Management Response. Management’s Response should include:
 - (i) Management’s view that it has complied with relevant Bank operational policies and procedures or instead that serious failures are attributable to Management’s own actions or omissions, to the Borrower or to other factors external to the Bank or both.
 - (ii) Evidence that Management has complied with the relevant Bank operational policies and procedures, or that it intends to comply with the policies and procedures relevant to the Requesters claims.³⁶

4.4.4.4.3. *IRM/GCF:*

- The Executive Director of the GCF Secretariat, in consultation with the relevant Accredited Entity of the GCF(AE), as appropriate, shall submit a response to the IRM within twenty-one (21) calendar days from the IRM’s request for a response. A copy of this response shall be provided by the IRM to the complainant. In its response, the GCF Secretariat should provide information:
 - (a) related to the factual statements and allegations contained in the grievance or complaint;
 - (b) about the steps taken by the GCF Secretariat to ensure compliance with applicable GCF operational policies and procedures, including those identified by the complainant or the IRM; and

³⁴ PAP,p. 18

³⁵ CAO Policy, p.18.

³⁶ World Bank, Inspection Panel Operating Procedures, 2022, p.15

- (c) about remedial actions, if any, that the GCF Secretariat may have taken or intends to take to ensure compliance with such policies or procedures, as appropriate.³⁷

4.5. **Proactive Compliance Reviews**³⁸:

- 4.5.1. Increasingly IAMs are including in their policies the option of initiating a Compliance Review (CR) in the absence of a request/complaint, subject to certain conditions or criteria. According to the 2024 Good Policy Paper, “In addition to accepting complaints from project-affected people, the mechanism should have the authority to initiate a CR itself.”³⁹
- 4.5.2. According to IPAM’s 2022 Annual Report, in recent years IPAM has witnessed an increase in the number of complaints expressing fear of retaliation. In 2022, four out of 8 Requests received and 50% of the active cases portfolio fell into that category. Although some provisions exist in the PAP for such situations, these are at times insufficient to ensure safe access. As a consequence, potential complainants may consider not filing a complaint or as in case 2020/07 decide to withdraw from a case despite the existence of harms.⁴⁰
- 4.5.3. Criteria/conditions for such Compliance Reviews may thus include fear of reprisals and/or information received by the IAM regarding the risk to the IFI’s reputation resulting from a particular operation it is financing, etc. It is argued that such an additional compliance instrument is of special importance for IPAM to have in its toolkit due to the nature of countries in which EBRD operates, all of which are countries undergoing important transitions with heightened risks and closing civic space. There is, therefore, an increased risk of retaliation and reprisals. It is recommended that IPAM be granted the option of initiating a Compliance Review in the absence of a Request and/or continuing with a Compliance Review in case the Requesters withdraw from the complaints process due to fear of retaliation. Currently, as will be indicated below, the IRM of the AfDB, the IRM of the GCF, CAO and the UNDP mechanism, all allow such compliance reviews in the absence of a Request, but under certain conditions, as is indicated.

4.5.4. Benchmarking with other IAMs:

4.5.4.1. IRM/GCF:

- According to its Procedures and Guidelines the IRM may initiate a Compliance Review if it:
 - (a) “receives information from a credible source that a GCF funded project or programme funded has adversely impacted or may impact a person, group of persons or community; and
 - (b) such information, if true, would pose a significant reputational risk to the GCF; and
 - (c) if the person(s) adversely impacted is/are unable to access the IRM;”⁴¹
- Furthermore, it is maintained that IRM may decide on the basis of *prima facie* evidence, to initiate proceedings which shall contain the details required under (a) to (c) above and shall set out the *prima facie* evidence on which the decision is based. This decision shall be published on the IRM website within five (5) calendar days.⁴²

³⁷ Green Climate Fund, Independent Review Mechanism, Procedures and Guidelines of the Independent Redress Mechanism, 2021

³⁸ This term is used by UNDP

³⁹ Good Policy Paper, p.65

⁴⁰ IPAM Annual Report, 2022, p.6

⁴¹ Green Climate Fund, “Procedures and Guidelines of the Independent Review Mechanism”, 2021, p.30

⁴² Ibid

4.5.4.2. IRM/AfDB:

- Under specific circumstances, the Director of IRM may initiate Compliance Reviews. These circumstances include:
 - (i) “Complaints raised to the IAMs of co-financiers in a Bank Group co-financed Operation for which no complaint has been submitted to IRM;
 - (ii) Operations in the public domain where there is a reputational risk for the Bank Group;
 - (iii) Cases where IRM receives information from a credible source that a Bank Group Financed Operation has adversely impacted or may impact persons, a community or the environment; or
 - (iv) Cases where IRM is informed of a risk of retaliation if a Complainant came forward.
 - (v) If a Compliance Review could provide an important learning opportunity.”⁴³
- In addition, it is maintained that Compliance Reviews initiated by IRM shall not prevent project-affected communities from filing a subsequent Complaint.⁴⁴

4.5.4.3. CAO:

- In response to an internal Request, CAO may start a compliance review process as explained below:
 1. “CAO may initiate a compliance appraisal of one or more Projects or Sub-Projects in response to an internal request from the CAO Director General (DG), the President, the Board, or Management.
 2. Such internal request may be made in circumstances where: (i) an appraisal is deemed necessary to review environmental and social compliance issues of systemic importance to IFC/MIGA; (ii) concerns exist regarding particularly severe Harm; or (iii) Project-affected people may be subject to, or fear, reprisals, preventing them from lodging a complaint with CAO.
 3. Requests initiated by the CAO DG, the President, the Board, or Management should include a written rationale for the compliance appraisal request.
 4. For compliance appraisals of more than one Project or Sub-Project, CAO will consult with Management before commencing the appraisal.”⁴⁵

4.5.4.4. Social and Environmental Compliance Unit of the United Nations Development Programme (SECU/UNDP):

- “Proactive investigations are defined as investigations intended to identify and respond to significant potential or actual harm to an individual or community resulting from an existing (but yet unidentified) failure of UNDP to meet its social and environmental commitments. The ability to investigate matters without first having to receive a request is intended to:
 - Allow SECU to respond to high-risk projects before harm occurs to individuals or communities, as well as damage to project success and UNDP’s reputation;
 - Address the situation in which, for a variety of reasons (e.g., cultural, lack of knowledge, etc.), impacts are not likely to be reported;
 - Serve as an effective deterrent to avoiding compliance with these commitments;
 - Build a more comprehensive and balanced portfolio of compliance cases at the

⁴³ IRM/AfDB, p.14

⁴⁴ Ibid

⁴⁵ CAO Policy, pp.17-18

corporate level across regions and development sectors;”⁴⁶

4.6. **Retaliation and Reprisals:**

- 4.6.1. At the time the PAP was being prepared, the above issue had only started to receive attention by the various IAMs. Meanwhile, many of the countries where EBRD currently operates are experiencing a shrinking of their civic space and, therefore, are becoming environments more susceptible to the occurrence of retaliation and reprisals. IPAMs 2022 Annual Report clearly indicates that the risk of retaliation is the greatest challenge faced by IPAM requesters. The Report continues, stating that in recent years IPAM has witnessed an increase in the number of complainants expressing fear of retaliation.⁴⁷ It should be noted that with EBRDs proposed geographical ramping up, this situation may intensify.
- 4.6.2. Safe Access was also raised as an issue to be examined in the May 2023 PAP Review Concept Note. As stated earlier, while the PAP does include provisions for confidentiality, these measures are not always sufficient to ensure safe access. Consequently, potential complainants may not even consider filing a complaint or, as in a recent case, may opt to withdraw from the complaints process even if their concerns remain unaddressed. In several EBRD countries of operation, as expressed by various stakeholders, approaching IPAM might even be life threatening. The combination of the above factors calls for a renewed focus on these issues, both at the level of IPAM policy and in its implementation.
- 4.6.3. References to Retaliation/ Reprisals exist in both the PAP and in the Guidance on Case Handling under the EBRD Project Accountability Policy.⁴⁸ In the PAP it is stated that IPAM is committed to taking steps to assess the risk of retaliation against persons involved in IPAM processes and outreach and to implement Retaliation risk mitigation measures in connection with Requests and/or outreach activities, anti-retaliation procedures consider confidentiality, risk assessment, risk mitigation and monitoring. To the extent feasible, IPAM will consult with Requesters (and their representatives if any) regarding the implementation of retaliation risk assessment and mitigation measures, in order that IPAM may approach concerns taking into consideration the context of each case.⁴⁹ The Guidance on Case Handling goes further stating that 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 referenced below.⁵⁰ More recently, in the Compliance Review Report for Case 2020/06, IPAM has recommended incorporating language in the 2024 ESP that addresses this increasing risk of retaliation and establishes obligations for clients and other project counterparties to ensure the safety of those who raise retaliation concerns.⁵¹
- 4.6.4. Meanwhile, the EBRD has developed the “Guidelines for EBRD Personnel on Handling allegations of Retaliation for Criticism and Complaints Related to EBRD Projects”.⁵² According to this set of Guidelines, the impairing or harming (or threatening to impair or harm) of a party, including an external stakeholder, with the intent to improperly influence the actions of that party in connection with a Bank project, is considered a “Coercive Practice” under the Bank’s Enforcement Policy and Procedures (EPP). A counterparty of the Bank that

⁴⁶ UNDP, Social and Environmental Compliance Unit, “Investigation Guidelines Social and Environmental Compliance Unit”, p.15

⁴⁷ IPAM Annual Report 2022, p.6

⁴⁸ “Guidance on Case Handling under the EBRD Project Accountability Policy”, 2019

⁴⁹ PAP, p.22

⁵⁰ on Case handling under the EBRD Project Accountability Policy”, p.8.

⁵¹ IPAM Compliance Review Report for Case 2020/06, p.51

⁵² “EBRD, Guidelines for EBRD Personnel on Handling Allegations of Retaliation for Criticism and Complaints Related to EBRD Projects”

has been suspected to have engaged in a Coercive Practice is subject to Enforcement Proceedings under the EPPs, an action which may eventually result in the Project's cancellation. In such circumstances, the matter must be reported directly to the Office of the Chief Compliance Officer (OCCO) for its assessment and potential action under the EPPs. At OCCO, the standard of evidence for proof of retaliation is very high, and therefore, there are very few cases where these standards of evidence can be met. This essentially means that a large part of IPAM cases alleging retaliation cannot be investigated by OCCO leaving an institutional gap given the large number of retaliation cases handled by IPAM, as stated earlier. Furthermore, the type of expertise that OCCO deploys at the moment is more related to instances of financial fraud so that outcomes of investigations would be more related to sanctions such as debarment etc., and therefore not necessarily relevant to the kind of retaliation IPAM Requesters may be subject to.

- 4.6.5. The above therefore indicates the existence of an **institutional gap** as regards how to deal with retaliation. This gap manifests itself in the fact that OCCO only has the mandate and skills equipping it to handle a narrow part of the retaliation allegations received by EBRD. The above-mentioned Guidelines for EBRD personnel do include a process, but it is rather low key and largely remains at the level of the Resident Office and Operations Lead to handle the matter. This leaves IPAM with a large responsibility as regards retaliation with which it is not well equipped to handle. There is also no clear role for Management in dealing with retaliation faced by IPAM requesters.
- 4.6.6. Stakeholder consultations on the matter indicate the seriousness of retaliations in general, and their impact on IAMs, specifically that in certain countries characterized by high retaliation rates, IAMs risk losing their relevance. Regarding IPAM, it is maintained that there was no mechanism for enforcing the institution's zero-tolerance anti-retaliation policy. It was also mentioned that members of Management themselves, may also be subject to retaliation in the context of their handling of a specific IPAM Request. Several stakeholders also raised the issue of the importance for IAMs to have retaliation expertise among their staff and in certain extreme cases to engage protection specialists.
- 4.6.7. The following actions are proposed with the aim of changing the current imbalance where IPAM is seen as the sole entity responsible for handling retaliation issues facing its Complainants instead of that being an institutional responsibility:
- Include in the PAP a special escalation procedure regarding retaliation that involves informing Senior Management and the Board;
 - Developing specific internal expertise on the matter of retaliation;
 - IPAM should develop clear and specific protocols for protecting complainants, to be shared with Management;
 - Incorporate relevant language in the 2024 ESP that addresses the increasing risk of retaliation and establishes obligations for Clients to ensure the safety of those who raise concerns about EBRD projects;
- 4.6.8. *Benchmarking with other IAMs:*
- 4.6.8.1. *Inspection Panel/World Bank:*
- The Panel develops a protection timeline (with concrete escalatory steps) and considers the matter active until the safety of the person facing retaliation is guaranteed. The Panel does so in close coordination with the Bank's Senior Management, recognizing that it will be necessary for Bank Management to lead the efforts. Any proposed measures will

prioritize the safety and wellbeing of those under threat.⁵³

4.6.8.2. *IRM/AfDB:*

- If despite preventive measures a risk of reprisal materializes, the IRM will discuss with the concerned person or group what the appropriate course of action for this person or group of persons in relation to the Complaint might be. In this context not having any direct ability to physically protect Complainants or otherwise safeguard a person from possible negative consequences IRM will seek to be clear about the limitations of its ability to respond to such instances of threat and reprisal. In addition, IRM will inform and escalate the matter to Senior Management, the Boards of Directors and the President as necessary so that the AfDB may take appropriate action. Any proposed measures should prioritize the safety of persons under threat. IRM may reflect significant security concerns in case related reports for context, if safe and with the concerned person or groups concerned and will report aggregate information on threats and reprisals in its Annual Reports.⁵⁴

4.6.8.3. *Asian Infrastructure Investment Bank/Project Affected Peoples Mechanism (AIIB/PPM)*

- “If PPM monitoring or other information indicates that Retaliation has occurred despite precautionary measures, the PPM endeavours to communicate with the Requestors and in-country Authorized Representative to understand and corroborate the facts. The PPM then presents a Retaliation incident report to the President, Management, and the Board of Directors. The PPM and Management then attempt to implement any planned response developed with the Requestors and in-country Authorized Representative (where possible).”⁵⁵

V. Policy Implementation:

5.1. This section of the Report assesses implementation of the IPAM Policy with a focus on an examination of the following aspects: Relationship with Management, IPAM Capacity and Resources, Outreach and Learning, Streamlining the Finalization of Compliance Reviews and Management Action Plans, Problem-Solving and Monitoring.

5.2. Relationship with Management:

5.2.1. As stated above, with the coming into effect of the PAP, IPAM moved from a model where it depended on external experts and was part of Management to a completely different model where it is independent, has its own staff, and under the leadership of the Chief Accountability Officer, reports directly to the Board through the Audit and Risk Committee. It has thus become closer to the model most characteristic of sister IAMs.

5.2.2. In most IAMs (see recent external reviews of CAO/IFC⁵⁶ and IRM/AfDB⁵⁷) and due to its very nature, the relationship between IAMs and Management may be characterized as a

⁵³ World Bank, Inspection Panel, “Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process”, 2018,. P.4

⁵⁴ IRM/ADB,p.4

⁵⁵ Asian Infrastructure Investment Bank, Project Affected Peoples Policy, para. 9.2.

⁵⁶ International Finance Corporation, External Review of IFC/MIGA E&S Accountability, Including CAO’s Role and Effectiveness: Report and Recommendations,2020

⁵⁷ African Development Bank, Third Review of the African Development Bank’s Independent Review Mechanism, 2021

challenging one. This is related to the fact that it is a relationship which intrinsically involves a critique of Management, and an implication that Management is not following its own policies, rules and procedures.

- 5.2.3. Stakeholder consultations undertaken, in the context of this assessment, unanimously characterized the relationship between IPAM and Management as a difficult one.
- 5.2.4. Challenges to the independence of an IAM may come both from within and outside an institution. This may not necessarily take the shape of direct interference but from less obvious day to day sources such as routine administrative tasks related to the Complaints handling process. Challenges to independence and efficiency can come in the form of administrative delays or denials and mostly a lack of knowledge or a weak understanding of the IAMs independence and mandate.⁵⁸
- 5.2.5. Stakeholders consulted have pointed to the following aspects as ones where the difficulty of the relationship with Management manifests itself: disagreement over IPAM findings/recommendations, lack of consensus over definition of what comes under IPAM mandate, tone and language used in documents, difficulties with access to information necessary for IPAM to undertake its functions and Management's role in making the existence of IPAM known in EBRD countries of operation. In relation to the latter, the PAP states that IPAM will encourage staff members at its headquarters and in Resident Offices to integrate IPAM information into other Bank activities and publications. Bank staff members are also encouraged to support IPAM to publicize its mandate and functions.⁵⁹
- 5.2.6. Management has lately contested several of IPAM's compliance findings and recommendations. A functioning IAM requires that Management accept and appropriately respond to an IAMs findings even when it does not necessarily agree with them.
- 5.2.7. The tone and language used in IPAM reports have been often characterized as being accusatory or "nit picking", rather than constructive and solution seeking. Furthermore, in order for IPAM to fulfill its role fully, it requires access to Management and staff and relevant documentation pertaining to operations about which complaints have been received. The default situation should be that information required by IPAM in its handling of a case be readily accessible through the Bank's electronic and archive systems. However, these systems are not always updated, and IPAM then has to resort to sending specific requests for information. This seems to be an issue that is also confronted by the Bank's Evaluation function.
- 5.2.8. Another aspect of the relationship is seen in a tendency for Management to prefer problem solving over compliance review, portraying the former process as the preferred way to achieve redress for complainants. As a result, the greatest tension in IPAM/Management relations manifests itself in the case of Compliance Reviews rather than Problem Solving.
- 5.2.9. At present the Environment and Sustainability Department (ESD) designates a staff member to play the role of IPAM Coordinator/focal point, although there is no attached Terms of Reference for this role. ESD is also in the process of developing guidance for streamlining/facilitating the relationship between IPAM and Management for which IPAM has already provided comments. This guidance remains at drafting stage. In all cases it needs to be simple and clear while emphasizing constant interaction between IPAM and Management. Several examples of such guidance already exist and should be consulted to

⁵⁸ GCF, Blog Lalanath da Silva" Reflections on Establishing and Scaling Up the IRM: Five Key Lessons", 2022

⁵⁹ PAP, p.25

inspire the EBRD one.⁶⁰ In all cases, it is important to draw clear lines politely and firmly and to institutionalize acceptable protocols and procedures that help maintain healthy relations.⁶¹

5.2.10. The Good Policy Paper states in this regard, “The financial institution’s management and staff should be required to fully cooperate with the mechanism in order to ensure the mechanism’s effective functioning. Upon the request of the mechanism, the institution’s management and staff should, inter alia, provide full access to project-related information, respond frankly to questions posed by the mechanism in the course of its activities, and assist in arranging travel to the project site and field offices.”⁶²

5.2.11. On the issue of IPAM/ Management relations the following actions are recommended:

- Frequent and regular, both formal and informal interactions between IPAM and Management are necessary and encouraged;
- Developing Terms of Reference for Management’s IPAM Coordinator;
- Finalizing Management Guidance on IPAM processes with focus on clarity and simplicity and clear delineation of responsibilities of IPAM, Management and Clients in the processing of cases;
- Sponsoring joint events for instance around lessons learning resulting from specific Compliance Reviews or Problem Solving exercises;
- Management to facilitate full access for IPAM to project related information;
- Management and especially Resident Offices to make existence of IPAM known to EBRD Clients, project affected communities and CSOs.

5.2.12. Benchmarking with other IAMs:

5.2.12.1. *IRM/AfDB:*

- “Management shall make significant efforts to make the IRM better known among affected communities and Borrowers/Clients and shall mainstream information about the IRM in community consultations, and in Bank policies and procedures and Operations documents. Any AfDB Borrowers/Clients and sub-clients (including Financial Intermediaries) shall be required to disclose the existence of the IRM to project-affected communities.”⁶³
- “The IRM shall work with Bank Group Management to establish, maintain, and update an indicative list of relevant policies and procedures of the Bank Group pertaining to its work and post this on its website.”⁶⁴
- “When conducting any inquiry, assessment or review for a Problem-Solving exercise or a Compliance Review, the IRM Director, staff and consultants shall have full access to relevant Bank Group staff and files, including electronic files, cabinets and other storage facilities and Bank Group staff and consultants shall be required to cooperate fully with the IRM.”⁶⁵

5.2.12.2. *IRM/GCF:*

- “We also conducted in reach events at the GCF for staff. These were called “Learning and Dialogue Forums” and were conducted under the Chatham House rules. They created a safe space for open, honest dialogue between the IRM and management staff. We learned from

⁶⁰ For example see: World Bank, “Bank Procedure: Inspection Panel”, 2021

⁶¹ GCF, “Reflections on Establishing and Scaling Up the IRM: Five Key Lessons”

⁶² Good Policy Paper, p.

⁶³ IRM/AfDB, P 1

⁶⁴ Ibid,p.2

⁶⁵ Ibid, p.19

each other on those occasions.⁶⁶

5.3. **Capacity And Resources:**

- 5.3.1. A wide spectrum of stakeholders unanimously expressed the view that IPAM faces both capacity and resource issues, a situation further compounded by the increasingly large number of cases IPAM is processing. This caseload is likely to increase with the proposed expansion of EBRD operations to Sub-Saharan Africa and Iraq. The current model adopted by IPAM, as indicated earlier, is based on relying almost exclusively on its internal staff in contrast with the previous situation of depending on an external roster. While this model conforms to the model in most IAMs⁶⁷, it is not supported by a commensurate level of resources, which has only made this capacity and resources gap more salient. The consequences of capacity and resource constraints are two-fold: first, difficulty in adhering to set timelines, therefore prolonging the complaints process, potentially delaying solutions for Requesters and project implementation. Second, with the clear priority allotted to case handling, other important activities of IPAM such as outreach and learning/advisory are suffering. IPAM staff by end 2023 was constituted of: the Chief Accountability Officer, 1 Associate Director, 1 Principal, 2 Associates, 2 Analysts and 1 part-time Senior Assistant. During 2023 IPAM lost one experienced staff member.
- 5.3.2. The following questions need to be considered regarding staffing capacity. First, are there sufficient staff to implement the mandate of IPAM, secondly do those staff have the requisite skills profile and thirdly, are those staff at the appropriate level of seniority.
- 5.3.3. According to the 2024 IPAM Work Programme, it was estimated that thirteen active cases would be transferred from the 2022 case portfolio and that two to three new requests would be added during 2023. That would have resulted in an estimated maximum case load of sixteen cases. In actual fact, fourteen active cases were transferred from 2022, and nine new Requests were registered raising the number to 23 cases managed during the year. Three of them concluded their processing during 2023, so currently the active portfolio is composed of twenty cases.⁶⁸
- 5.3.4. For the purposes of this assessment, a preliminary comparative exercise was undertaken using data from 2022 Annual Reports of several IAMs to find out the number of cases and staff working on them. It should be acknowledged that such a comparison is rather difficult to undertake due to differing definitions and range of functions for each IAM⁶⁹ (e.g., World Bank Accountability Mechanism does not have a monitoring function and only just started a dispute resolution function etc.) Despite this difficulty, it is possible to gauge broad trends.
- 5.3.5. This preliminary data largely derived from the 2022 Annual Reports of select IAMs is presented in the Table below. The Table clearly shows that IPAM, taking into account the number of cases compared to staff, has a rather heavy workload, and as stated above, with

⁶⁶ GCF, “Reflections on Establishing and Scaling Up the IRM: Five Key Lessons”

⁶⁷ See this paragraph from the Good Policy Paper” “In recent years IAMs have shifted away from the “roster” structure – whereby external experts from a roster list are called in to handle the compliance investigation and/or dispute resolution as needed – towards an in-house model with a high-level director overseeing designated staff to handle complaints. This trend is positive: although the roster model can enable independence, it has resulted in inconsistent handling of complaints by a single mechanism and allowed a vacuum at the financial institution of high-level internal expertise and institutional knowledge on accountability issues.”p.20

⁶⁸ IPAM Work Programme and Budget for 2024, 2023,p.10

⁶⁹ The difficulty of making comparisons across IAMs is highlighted in the following Blog: Samer Araabi “Why Can’t We Compare Complaints”, Accountability Counsel, September 5 2023

the expansion of EBRD into new countries of operation, this is only likely to increase. It should be noted that the Board has approved additional staff for IPAM.

IAM	Nr. of Professional Staff	Nr. of new complaints filed	Nr. of complaints registered in 2022	Nr. of previous cases carried forward from 2021	Total nr. of Cases	Time of Publication
ADB SPF CRP	11	24	5	2	7	2022
AFDB IRM	8	15	5	11	16	2022
EBRD IPAM	7	8	3	13	16	2022
GCF IRM	5	2	2	2	4	2022
IDB MICI	16	21	6	12	18	2022
IFC CAO	29 [†]	22	12	46	58	2023
WB AM	21	8	4	3	7	2022

*Data collected from 2022 Annual Reports, except for IFC CAO: Annual Report 2023, also CAO in addition to staff have 6 long term consultants. AfDB/IRM cases include two that are in referral so comparatively reduced effort is involved as regards these cases.

- 5.3.6. Cases undergoing Compliance Review, in particular, are impacted by this heavy workload and consequently suffer from significant delays. According to the 2024 Work Program document, and as corroborated by the observations heard from numerous stakeholders during the assessment, the following are the main constraints faced by the Compliance team. Currently, the Compliance Team is constituted of three members, the most senior having only joined IPAM in July 2022. As a stopgap measure, IPAM was able to get support from Office of the General Counsel and contracted one consultant to assist during six months to support the function. However, if the workload remains at around ten cases per year, IPAM would require reinforcing the team with additional staff to be able to meet the Policy-mandated timeframes.
- 5.3.7. As stated above, the caseload is large and is characterized by overlapping timeframes, cases have to be put in a queue, and therefore suffer delays in processing. Furthermore, most of the cases are quite complex, which becomes very taxing for staff, who have to spend more time and effort in data gathering, reviews and interviews with concerned staff and stakeholders. Added to this, is the quality assurance process which is bottlenecked at the level of the Associate Director and the CAO, who have to ensure the quality of reports, provide accurate and relevant evidence to the Board regarding the identified compliances or non-compliances with the ESP and AIP, as well as to design effective recommendations to correct the identified non-compliances. Furthermore, the different stages of the process itself are long with multiple steps, added to which is the issue of translation into English of relevant documents related to a Case and then translating the Case reports into relevant languages at different points in the process to ensure that reports are accessible to Requesters and Clients.⁷⁰ All of the above adds to the length and cost of the case handling process and further strains IPAM's capacity. This in turn has implications for the effectiveness of project implementation. Such a situation does not allow IPAM to adhere to the set timelines, creates frustration for complainants and limits IPAM's fulfilment of other important parts of its mandate such as learning, as mentioned above. Meanwhile, under the Problem-Solving function, IPAM is managing **six cases** which are in varying stages of completion. The strain

⁷⁰ IPAM Work Programme and Budget for 2024,p.12

in human resources is also relevant for this function as the number of cases in problem-solving increase.

- 5.3.8. Pertaining to the questions on staffing raised above, therefore, the analysis has indicated that IPAM does not have sufficient staff resources to handle both the increasingly expanding caseload and other IPAM functions. Also, compared with the situation in sister IAMs, the IPAM team has fewer years of experience in undertaking Compliance Reviews in particular, there is a steep learning curve which only delays processes further. According to stakeholder consultations, the lack of resources does not facilitate the recruitment of more senior staff, especially for Compliance Reviews. The seniority of IPAM staff is also important to the nature of interaction and dialogue with Management and Clients.
- 5.3.9. Reinforcement of IPAM capacity also requires developing appropriate guidance for carrying out IPAM functions. IPAMs current “Guidance on case handling under the EBRD Project Accountability Policy” provides little practical direction and guidance for the handling of Compliance Reviews and/or Problem Solving, their different steps, standards of evidence etc. There is, therefore, an urgent need to develop such Guidance, which could be drawn from the experience of sister IAMs on the matter.
- 5.3.10. On the issue of Resources and Capacity, therefore, the following is proposed:
- Increase the number of IPAM staff especially at more senior levels, whose experience would allow IPAM to speed up the process and adhere to set timelines more easily, while also strengthening its learning and advisory services;
 - Increase the consultancy budget to allow recruitment of long- term consultants as required by the workload;
 - Develop Guidance with the aim of systematizing the process and outcomes of both Compliance Review and Problem-Solving functions, and maintaining a level of capacity and consistency necessary for these functions effectiveness. This does not have to be a “starting from scratch exercise”, several IAMs already have materials that can be easily adapted for the requirements of IPAM cases, and the IPAM experience to date will also help in the development of such Guidance.

5.4. **Outreach and Learning:**

- 5.4.1. According to the PAP, “IPAM has a mandate to conduct outreach among both internal and external stakeholders, in order to promote greater knowledge and understanding of this Policy and IPAM’s purpose, functions and activities.”⁷¹ The preparation of an outreach strategy was one of the foundational actions undertaken by IPAM in its first year of operation. The strategy was to serve as guidance to the IPAM team for the design and implementation of Outreach annual activity programmes, accompanied by a set of indicators to assess performance. IPAM developed an outreach strategy covering the period 2021-2024. This document was consulted with civil society organizations, relevant Bank stakeholders and other IAMs to invite comments and suggestions prior to finalizing it.
- 5.4.2. Stakeholder consultations indicate that IPAM has undertaken a lot of outreach activities both alone and in partnership with others, and often in partnership with the EBRD civil society team. Stakeholders have, however, expressed the view that, due to lack of resources, outreach was often tagged onto other activities such as compliance reviews or problem-solving site visits etc. and that not sufficient time was allocated to the outreach activity. Furthermore, it was added that those staff who are combining IPAM core functions with outreach, might not have the skills to undertake the latter. Meanwhile, it was maintained that

⁷¹ PAP, p. 25

there was an urgent need to understand the CSO landscape in countries of EBRD operation and that such a task required much more time than can be afforded by short information sessions lasting a few hours, which is the current model. This is thought to be particularly important in countries where there is a serious closing of civic space.

- 5.4.3. CSO stakeholders from North Africa, in particular, a region from which no complaints have been received to date, raised the following issues: that local EBRD offices were not sufficiently engaged to provide information on IPAM, that there was a lack of documentation in local languages, lack of Arabic speaking staff in IPAM etc. It was also mentioned that developing Guidance/Procedure in what several stakeholders called “plain language” would be helpful. The idea was also proposed of undertaking visits to affected or potentially affected communities, rather than depending on meeting in hotels. It was also expressed that Resident offices should play a bigger role in making IPAM known to local communities. All Requesters interviewed said that they came to know about IPAM through its website, none mentioned the Resident office.
- 5.4.4. As regards learning and advisory services, none have been undertaken or provided to date, most stakeholders expressed the view that the learning advisory function remains important, and merits being tested soon. The lack of learning products is related to two factors, first that IPAM remains a young IAM, and not enough data has been systematically generated from IPAM cases to allow the capture of trends necessary for the development of learning products. Secondly, IPAM has been faced with a large number of cases, and this is where the capacity and resources have been directed for the most part, leaving little time and resources for developing learning products. Several stakeholders consulted also raised the issue that EBRD suffered from the lack of a robust learning culture, due to its greater focus on banking and transactions. This in itself calls for the urgency of starting this function given its importance to contributing to EBRDs environmental and social sustainability, while reducing risks of harm to people and the environment.
- 5.4.5. For the purposes of this assessment stakeholders were also questioned about the IPAM website and registry of IPAM. It was expressed that levels of accessibility and data transparency were considered very high for IPAM especially when compared with peers. IPAM has filterable complaints linking the complaint to the project. It was found that there is a high level of document disclosure, including a good summary at the top, with cases being numbered, which is a positive aspect since there is always the possibility of multiple complaints from the same project. It was expressed that this level of information disclosure is positive and should continue. Furthermore, it was found that transparency with complaints that make it through substantive stages is quite robust at the moment, but that it is essential that the registry catalog every complaint that comes to IPAM, even if it doesn’t meet registration criteria, and there is a need to be transparent about the reasons why.
- 5.4.6. Pertaining to advisory and learning functions the Good Policy Paper maintains: “The advisory function should derive thematic and systemic lessons from trends in the mechanism’s caseload, in both compliance and dispute resolution, and other sources in order to provide guidance to the financial institution’s leadership on improving the institution’s social and environmental performance. The advisory function helps to embed an institutional culture of continuous learning and improvement of policy and practices.”⁷²
- 5.4.7. In view of the above, the following actions are proposed in the area of Outreach and Learning:

⁷² Good Policy Paper, p.17

- Undertake a rapid evaluation of outreach activities undertaken to date and use the results to update the 2020-2024 Outreach Strategy;
- Resident Offices to be more proactive in disseminating information about IPAM to in country stakeholders;
- Consider implementing the idea of longer “clinics” with CSOs and other stakeholders in some countries, in addition to the short information workshops, an activity which would entail additional resources;
- Consider undertaking some pilot learning exercises.

5.4.8. Benchmarking with Other IAMs:

5.4.8.1. *IRM/GCF:*

- “The IRM will report to the Board, through the Board Committee, on lessons learned and insights gained from handling cases and from good international practices, and may recommend reconsideration of relevant GCF operational policies and procedures, guidelines and systems.”⁷³

5.5. Streamlining the Finalization of Compliance Reviews and Management Action Plans:

5.5.1. Many of the stakeholders interviewed expressed dissatisfaction with the process of the production/finalization of CR Reports and consultations surrounding them, emphasizing that the process needed to be streamlined and clarified while re-examining some of the respective timelines. The following observations can be made on the process as currently included in the PAP: (a) lack of a mandatory Management Response to the CR, (b) what is the nature of comments that Management and Requesters can make on the Compliance Review Report, (c) absence of Client from consultations on the MAP, (d) often there is information asymmetry between the key stakeholders of the CR process, (e) lack of clarity around sequencing of documents and (e) related consultation timelines tend to be confusing and often short.

5.5.2. Annex III presents a Table comparing such timelines and processes across IAMs. This comparison allows starting the exercise of streamlining of this important process. Following from the above, it is proposed Compliance Review and Management Action Plans finalization be streamlined based on the following principles. First, any proposed changes should not extend the process timeline any further. Secondly, all parties including IPAM, Management, and Clients should buy into the idea of adherence to and respect for agreed timelines. Thirdly, there should be no asymmetry of information among the various stakeholders. Fourthly, the whole process of consultation on the various drafts should be handled with utmost care while avoiding asymmetry of information and should also not jeopardize confidentiality; both to protect Requesters if there is a risk of retaliation and safeguard sensitive client information. In addition to the above principles the benchmarking below provides additional information on the process of finalizing these important documents.

5.5.3. Benchmarking with other IAMs:

5.5.3.1. *CAO/IFC:*

- During the preparation of the MAP, Management will be required to consult the Complainant and the Client. Actions that involve the Client - will be agreed with the Client. prior to inclusion in the MAP.⁷⁴

5.5.3.2. *IRM/ADB:*

⁷³ IRM/GCF,p.40

⁷⁴ CAO Policy, p.26

- **Preparation of Compliance Review Report:**

- Within thirty (30) Business Days of completion of its data gathering investigation, the IRM shall:
 - (a) Prepare a draft Compliance Review Report containing the IRM’s findings and recommendations; and
 - (b) Circulate it promptly to Management for review and comments on factual matters only.
 - (c) Share the draft Compliance Review Report with the Complainants for review and comments on factual matters only, with clear indication of its draft status and thus, confidentiality attached to it;
 - (d) The Management and Complainants shall submit their comments to IRM within twenty-one (21) Business Days from the date of receipt of the draft report; both sets of comments shall relate to factual accuracy only. Upon receipt of comments from Management and the Complainants, IRM shall finalize the Report within twenty-one (21) Business Days and submit it to Management for information, and the Boards of Directors, for consideration and decision.⁷⁵

5.5.3.3. *From IRM/GCF:*

- “Reaching an agreement with the IRM (...) regarding the final remedial action plan shall not prevent the IRM from recommending improvements to the final remedial action plan, if necessary, during its implementation. Where the IRM recommends improvements to a final remedial action plan, the Secretariat shall take appropriate steps to amend such final remedial action plan.”⁷⁶

5.6. **Problem Solving:**

5.6.1. In general, stakeholders of problem-solving cases examined, expressed satisfaction and agreement with the process. As part of the assessment the consultant interviewed the stakeholders for two cases namely Belgrade Solid Waste Project, and Albania Railways projects. The stakeholders included responsible Bank staff, Requesters, Requesters representatives, and Clients. Specifically, Requesters stated that once they came to know about IPAM, access through the website was easy, and there was sufficient information on how to proceed with the Request. Views on the role of Bank staff was not uniform, thus some stakeholders were satisfied and appreciated the leverage of Bank staff in influencing Government/Clients. Despite general satisfaction regarding the overall problem-solving process the following issues were raised: the length of the process, the long time it took for IPAM to mobilize and get to the field, creating some frustration for Requesters and their Representatives. Also, Requesters stated that they sometimes “felt in the dark” and that communication with IPAM was rather intermittent. Additional issues raised included the length of time necessary to build trust between the different parties, in addition to the perceived power imbalance between them. One CSO representing Requesters in a problem-solving exercise stated that the issue of power imbalance between Requesters and parties to that exercise was an issue of concern that might have a negative impact on progress of the problem-solving process.

5.6.2. Some CSOs also raised the issue of sequencing of Problem Solving and Compliance Review processes specifically that problem-solving and compliance review should occur in any order, including simultaneously, and that Requesters should have the right to choose which function

⁷⁵ IRM/AfDB, p.12

⁷⁶ IRM/GCF, p.29

may best serve them and in what sequence.

5.6.3. The following is proposed regarding Problem Solving:

- Increasing resources at IPAM disposal to mobilize rapidly and get to the field as quickly as possible;
- Improved communication between IPAM and Requesters on case developments so that all stakeholders are at the same level of information;
- Undertaking confidence building measures, including training and awareness raising exercises, that will serve to reduce the power imbalances between parties.

5.6.4. Benchmarking with other IAMs:

5.6.4.1. *IRM/AfDB:*

- “The Problem-Solving exercise shall be particularly sensitive to the existence of power asymmetries between the negotiating parties, particularly concerning the availability of information needed and the capacity of the parties to participate effectively in these processes. The IRM may propose capacity building exercises to facilitate meaningful participation by the parties.”⁷⁷

5.6.4.2. *FinDev Canada:*

- “The IAM will work with the Parties in establishing a reasonable timetable for the process, not to exceed one year, and will endeavor to work efficiently and expeditiously in assisting the Parties in identifying means to adequately address the concerns raised. The timetable for the process may be extended beyond one year by agreement of the Parties and the Chief IAM Officer.”⁷⁸

5.7. Monitoring:

5.7.1. According to the PAP, IPAM will monitor the implementation of approved MAPs, in the context of the non-compliance findings identified in the CR. In its monitoring activities IPAM will among others consider the contents of the monitoring updates received from Bank Management. Management is required to update IPAM on the implementation status of each approved MAP at least bi-annually. IPAM will issue Monitoring Reports at least bi-annually to describe IPAM’s ongoing monitoring activities as regards each open case. This is in addition to providing updates on the implementation of each MAP by Management until IPAM determines that full implementation of the MAP has been attained. If necessary, IPAM will report any issues with the implementation of MAPs or any issues of non-compliance outstanding as part of its quarterly reporting or on an as-needed basis.⁷⁹

5.7.2. As regards the issue of Monitoring, stakeholders expressed the view that Monitoring is not being taken seriously by Management. This starts from the MAP itself, where several stakeholders have indicated that proposed Management actions are often weak, signifying a disconnect between harms communities suffer and remedial actions included in MAPs. Related to this is that the implementation pace of MAPs tends to be slow. This is despite the fact that remedial actions in MAPs are supposed to be time bound and costed. The other point raised by stakeholders is that there are no consequences for Management if MAP actions are not implemented on time or not implemented at all. Reasons for Management delay may be due to lack of Client commitment to undertake action and/or lack of incentive for Management

⁷⁷ IRM/AfDB,p.9

⁷⁸ FinDev Canada,p.9

⁷⁹ PAP,p.19

to complete actions especially since there do not seem to be consequences for Management inaction. Thus, as expressed by several stakeholders, the Monitoring process at present “lacks teeth”.

5.7.3. In addition, and related to the earlier discussion of IPAMs capacity, consultations have also proposed the necessity of recruiting specific monitoring expertise, which is underway, separate from compliance review and problem-solving expertise. This is based on the fact that at present IPAM is handling a large Monitoring load made up of six projects. Another suggestion to strengthen Monitoring is to build an automated monitoring system.

5.7.4. It is also proposed that when Management fails to implement its MAP commitments, it is not enough for IPAM to just publish a monitoring report. IPAM must continue to alert the Board and make recommendations as appropriate on what additional steps should be taken to achieve compliance, so that the Board can take appropriate action.⁸⁰ The examples below provide suggested actions that can be followed to strengthen the monitoring function.

5.7.5. Benchmarking with Other IAMs:

5.7.5.1. *IRM/GCF:*

- “The IRM shall report to the Board any cases of which it becomes aware where a final remedial action plan, or any part thereof, cannot be or is not being implemented. The IRM’s prior agreement on the final remedial action plan shall not prevent the IRM from recommending improvements to the final remedial action plan, if necessary, during its implementation. Where the IRM recommends improvements to a final remedial action plan, the Secretariat shall take appropriate steps to amend such final remedial action plan...”⁸¹

5.7.5.2. *CAO/IFC:*

1. “IFC/MIGA will be responsible for supervising implementation of the MAP and will submit progress reports to the Board on the implementation of the MAP at such intervals as proposed by Management or otherwise approved by the Board. Every progress report will summarize the implementation status of the MAP in the period covered by the report, including actions completed actions in ongoing implementation, and upcoming actions based on timelines included in the MAP. It also may include information on engagements undertaken during the reported period. CAO will publish IFC/MIGA progress reports on its website and incorporate these reports into its annual public monitoring report.
2. As requested by Management, CAO, or the Board, CAO and Management will provide a briefing in the format requested by Executive Directors or the Board on progress made in the implementation of remedial measures in MAPs, including Project- or Sub-Project-level actions and IFC/MIGA systemic responses to CAO compliance findings.
3. The Board may consider options on how to strengthen the implementation of measures in the MAP, if necessary, taking into account Management progress reports and CAO monitoring reports.”⁸²

VI. Conclusions and Recommendations:

6.1. The main conclusion of this assessment, arrived at after document review, benchmarking with other IAMs, and wide-ranging stakeholder exchanges (See Annexes for details of persons met and summary of stakeholders’ comments) is that the PAP remains fit for purpose and is not

⁸⁰ See Good Policy Paper for this idea, p.74

⁸¹ IRM/GCF,p.29

⁸² CAO,pp.26-27.

characterized by major shortcomings. IPAM's structure and positioning were also thought to be appropriate, guaranteeing its independence with the direct reporting line to the Board through the Audit and Risk Committee.

- 6.2. Both the modifications to the PAP and aspects related to its implementation, however, require a culture shift accompanied by strong leadership and clear communication at all levels of EBRD, whereby Requesters are seen not as a source of reputational risk for the institution, but as a source of learning and a prerequisite for improved performance and accountability, so that success is not measured by loan volume but rather through the extent to which investments are sustainable and contribute to minimizing negative environmental and social impacts.⁸³ This means that IPAM should be seen as an important tool of the Board, thus contributing to overall accountability processes within the institution.
- 6.3. For the above vision to be implemented, however, a much more collaborative relationship between Management and IPAM is imperative. This necessitates greater cooperation between them, while understanding and respecting the differences in roles and responsibilities of IPAM, Management and Clients.
- 6.4. Many of the proposed changes/modifications are not cost-intensive but rather require culture and organizational shifts reinforcing the role of IPAM as an important instrument for the Board, and an important part of EBRD's heightened accountability accompanied by environmental and social sustainability of operations, an important goal towards which all parts of the institution must strive and contribute. This being said, as emphasized earlier IPAM does suffer from capacity issues, which can only be corrected through increased resources, especially human ones. Increased resources will allow IPAM to handle cases more efficiently, and effectively while contributing to institutional learning within the institution. With time these lessons developed will impact policy amendments and implementation which should contribute to further consolidating EBRD's environmental and social sustainability, especially as it expands its operations into new geographical areas.
- 6.5. Several Recommendations are proposed to address some of the gaps identified in the Policy itself and its implementation. The successful implementation of both sets of Recommendations however, hinges on the cultural shift mentioned above, and a stronger role for IPAM as one of the contributors to enhancing EBRD's social and environmental sustainability, especially as the institution expands to new countries of operation. Details of the recommendations are included in Annex II of this assessment.

⁸³ See Remedy in Development, p.110

Annex I: Terms of Reference for Assessment

Independent Project Accountability Mechanism (IPAM) **Terms of Reference – Policy Review Consultant**

Overview

The Independent Project Accountability Mechanism (IPAM) is the project complaints mechanism of the EBRD. It receives and reviews complaints raised by Project-affected people and civil society organisations about Bank-financed Projects, which are believed to have caused harm. The purpose of the mechanism is to facilitate the resolution of social, environmental and public disclosure issues; to determine whether the Bank has complied with its Environmental and Social Policy and the Project-specific provisions of its Access to Information Policy; and where applicable, to address any existing non-compliance with these policies, while preventing future non-compliance by the Bank.

The Independent Project Accountability Mechanism (IPAM) reviews concerns raised by individuals or organisations related to Environmental and Social Policy and the project-specific provisions of its Access to Information Policy concerning Bank-financed projects which are believed to have caused, or to be likely to cause harm.

IPAM operates currently under the 2019 Project Accountability Policy (PAP) that was approved by the EBRD Board in April 2019 and according to Section VIII, it is to be reviewed in 2024.

The 2019 review involved a complete overhaul of accountability in EBRD, superseding the 2014 Project Compliance Mechanism Rules of Procedures, introducing changes in organisational structure, reporting lines, business model and mandate.

Main changes include:

- Establishment of a new office, IPAM, independent from Management led by the Chief Accountability Officer
- Direct reporting line to the Board through the Audit and Risk Committee.
- Change of business model from one relying on external experts to a staff-based process
- Timeframes for each case processing stage
- Increased mandate for outreach and institutional learning
- Enhance accessibility and provisions to assist IPAM in addressing the risk of retaliation.

The 2019 review also involved a highly participatory consultative process, with over 300 comments received from the Board, civil society organisations and public in general.

The PAP came into effect on July 2020 with the appointment of the first EBRD Chief Accountability Officer (CAO) and by end of 2023, it will have been in operation for three and a half years.

The IPAM office has currently a headcount of 7 staff members under the supervision of the CAO, managing a portfolio of 20 active cases. During the July 2020 to November 2023 period, it has managed 11 PCM legacy cases + 67 requests of which 21 have been registered. It has also actively engaged in outreach and inreach activities, both virtual and in-person; provided feedback for the policy review of the Environmental and Social Policy and the Access to Information Policy; participated in different working groups, internal and external to promote best practice in accountability, among other activities.

- (i) The 2019 Policy review transformed the approach of EBRD and the few years of operation of IPAM cannot yet provide a full picture of the impact of the new organisational policy in promoting accountability and fostering greater sustainability in EBRD operations. However, in spite of the limited practice, the IPAM team has been able to identify specific areas where a policy review could increase the effectiveness and efficiency of the IPAM process. In line with this, the following objectives for the 2024 review have been set and presented to the Audit and Risk Committee of the Board:
- Clarify language should the current provisions lead to divergent interpretations that affect Policy implementation and mandate.
 - Adjust Policy provisions when implementation shows that there are areas of improvement as regards effectiveness and/or efficiency.
 - Incorporate best practices in accountability - focus on remedy and safe access.

IPAM is seeking to engage an expert consultant to provide support in the first stage of the policy review process which involves an assessment of the implementation of the PAP to date and a review of the current policies and procedures of comparable accountability mechanism to identify innovations or best practices so as to ensure that IPAM remains as a leader in accountability.

The consultant will have to have a deep understanding of independent accountability mechanisms and the importance of their effective, transparent and independent operation. In addition, the consultant will have knowledge of how environmental and social safeguards standards are applied with international financial institutions and, in particular, the EBRD.

Scope of work

Under the supervision of the CAO, the consultant services will be required to engage in the following activities:

1. Engage with the IPAM team to identify strengths and challenges in the implementation of the 2019 Project Accountability Policy in the areas of case management, outreach, lessons learned
2. Engage selected stakeholders (Board, Bank Management, Requesters, civil society representatives, other IAMs) who have participated in activities under the 2019 PAP purview to gather their views on IPAM, the implementation of the PAP and areas of improvement.
3. Contrast the 2019 PAP with latest Policies and Procedures of relevant IAMs to propose the introduction of innovations that will increase the effectiveness of IPAM.

Deliverables

- Assessment of implementation of the PAP resulting from the engagement of the different stakeholder groups.
- Policy Benchmark report identifying areas of improvement or innovation to consider in the review
- Presentation to the Audit and Risk Committee on the findings and recommendations that will clearly differentiate proposals for improvement that require Policy changes, and those that can be addressed through improved operation.

All deliverables shall be and remain the exclusive property of EBRD without restriction or limitation upon their use and the consultant will grant to EBRD the right, title and interest in all copyright material first produced and composed pursuant to the contract.

Timeline

The consultancy services are to be undertaken in the period of November – December 2023.

In addition to fees, IPAM will cover pre-approved travel to EBRD HQ for interviews and presentation of results and interpretation services to allow engagement with non-English speaking stakeholders.

ANNEX II: Matrix of Proposed Changes

Nr. 1	Changes to the Project Accountability Policy	Recommendations
1.1	Purpose of Policy	It is proposed that the Policy be revised to include clearer language around IPAM's objective and mandate in identifying harm , and providing remedy for communities experiencing harm.
1.2	Streamlining the Early Stages of the Complaints Process:	It is proposed that the timeframe for registration be shortened. It is also proposed that the assessment stage and the compliance assessment stage, which appear duplicative be reviewed while ensuring that the purpose of both is not lost. Management Response be made a mandatory step of the Complaints process right after Registration.
1.3	Proactive Compliance Reviews	IPAM be granted the option of initiating a Compliance Review in the absence of a Request and/or continuing with a Compliance Review in case the Requesters withdraw from the complaints process due to fear of retaliation.
1.4	Retaliation and Reprisals	<ul style="list-style-type: none"> • Include in the PAP a special escalation procedure regarding retaliation that involves Senior Management and the Board; • Developing specific internal expertise on the matter of retaliation; • Develop clear specific protocols for protecting complainants, to be shared with Management; • Incorporate relevant language in the 2024 ESP that addresses the increasing risk of retaliation and establishes obligations for Clients to ensure the safety of those who raise concerns about EBRD projects;

Nr. 2	Issues in Policy Implementation	Recommendations
2.1	Relationship with Management	<ul style="list-style-type: none"> • Increase the frequency and regularity, both formal and informal of interactions between IPAM and Management; • Developing Terms of Reference for Management/IPAM Coordinator; • Finalizing Management Guidance on IPAM processes with focus on clarity and simplicity and clear delineation of responsibilities of IPAM, Management and Clients in the complaints process; • Sponsoring joint events for instance around lessons learning resulting from specific Compliance Reviews or Problem Solving exercises; • Management to facilitate access to project related information. • Management and especially Resident Offices to make existence of IPAM known.
2.2	Capacity and Resources	<ul style="list-style-type: none"> • Increase IPAM headcount in consultation with Board • Increasing the consultancy budget to allow recruitment of long- term consultants as required by the workload; • Developing Guidance for both Compliance Review and Problem Solving with the aim of systematizing both processes, reducing the current steep learning curve and maintaining a level of capacity and consistency as to undertaking both of these important functions.
2.3	Outreach and Learning	<ul style="list-style-type: none"> • Undertake a rapid evaluation of outreach activities implemented to date and use the results to update the current Outreach Strategy; • Make greater use of the Resident Offices in dissemination of information on IPAM including through distribution of brochures and other relevant information materials. • Consider implementing the idea of longer “clinics” with CSOs and other stakeholders in some countries, in addition to the short information workshops, this will of course require a higher volume of resources.;

		<ul style="list-style-type: none"> • Start developing some “pilot” learning products, one idea could be to undertake a “Self-Assessment” of IPAM using the UNGP Guiding Principles.
2.4	Streamlining the Finalization of CRs and MAPs	<ul style="list-style-type: none"> • First, any proposed changes should not extend the process timeline any further. • Secondly, all parties including IPAM, Management, and Clients should buy into the idea of adherence to and respect for agreed timelines. • There should be no asymmetry of information among the various stakeholders. • The whole process of consultation on the various drafts should be handled with utmost care while avoiding asymmetry of information and should also not jeopardize confidentiality; both to protect Requesters if there is a risk of retaliation and safeguard sensitive client information. • The whole process of consultation on the various drafts should be handled with utmost care while avoiding asymmetry of information and should also not jeopardize confidentiality; both to protect Requesters if there is a risk of retaliation and safeguard sensitive client information.
2.5	Problem-Solving	<ul style="list-style-type: none"> • Increased resources for rapid mobilization of IPAM; • Improved communication between IPAM and Requesters; • Confidence building measures such as capacity training for parties to problem solving.
2.6	Monitoring	<ul style="list-style-type: none"> • Recruiting specific monitoring expertise separate from compliance review and problem solving expertise; • IPAM must continue to alert the Board and make recommendations as appropriate on what additional steps should be taken to achieve compliance, when Management is slow in or fails to implement MAPs.

Annex III: Compliance Review Reports and Management Action Plan Timelines for Select IAMs

IAM	Compliance Review Process (CR)	Management Action Plan (MAP)	Remarks
ADB SPF CRP	<ul style="list-style-type: none"> • Provide CR TOR to Board: Within 10 days from Board's approval • Draft CR Report, Management and Stakeholder responses: Within 45 days • Final CR Report: Within 14 days of receiving the responses • Board consideration of the CR Panel Report: Within 21 calendar days of receiving the CRP's final report • CR Final Report: Within 7 days after the Board's consideration 	<ul style="list-style-type: none"> • Submission of MAP to Board: 60 days after Board consideration of CRP Report • Board's response to MAP: Within 21 calendar days after receipt of MAP • Distribution of final comments and MAPS to complainants and borrowers: Within 7 days after the Board's consideration 	
AfDB IRM	<ul style="list-style-type: none"> • CR Investigation & Draft Report: Within thirty (30) Business Days of the data gathering investigation. • Management and Complainants comments: Within twenty-one (21) Business Days from the date of receipt of the draft report • Final CR Report: Within twenty-one (21) Business Days from receipt of comments. 	<ul style="list-style-type: none"> • MAP Developed & Approved: Within sixty (60) Business Days of submission of the CR Report. • Present CR Report, MR & MAP to Board: Within thirty (30) Business Days from the date of distribution of the MR & MAP to the Boards of Directors. 	

<p>FinDEV (Canada)</p>	<ul style="list-style-type: none"> • CR assessment: Completed within 40 days of receiving Management’s response • Compliance investigation: Start within 20 days of the circulation of the Note, to be completed within 90 days depending on the nature, complexity, and scope of the investigation • Draft CR Report: Within 30 days of completion of the investigation • Comments on Draft CR Report: Within 20 days of receiving the draft CR Report • Final CR Report: Within 20 days after receipt of comments on draft CR Report 	<ul style="list-style-type: none"> • Draft MAP: 60 days after final CR Report submission • Final MAP: Within 20 days after receipt of comments on the draft MAP from the Complainant(s), Client(s) and IAM • Communication of Final CR Report and MAP: Within 20 days from Board of Directors decision on Final CR Report and MAP 	
<p>GCF IRM</p>	<ul style="list-style-type: none"> • Compliance Appraisal: Within twenty-one (21) calendar days of the receipt of management Response • Publication of Appraisal Report: Within five (5) calendar days of appraisal completion • Compliance Investigation and Draft Report: Within one (1) year of the publication of the IRM’s compliance appraisal report • Comments from Management and Complainant/s: Within twenty-one (21) calendar days of the receipt of the report • Final Compliance Report: Not specified • Publication of the Final CR: Within ten (10) calendar days from the day the Board takes a decision 	<ul style="list-style-type: none"> • Publication of Board Decision on Final CR: Within five (5) calendar days from the date on which the Secretariat publishes the Board decision • Draft Remedial Action Plan: Within sixty (60) calendar days of Board decision to include RAP • Comments on RAP: A minimum of ten (10) calendar days • Final RAP: Within ten (10) calendar days of receiving the comments 	

<p>IDB MICI</p>	<ul style="list-style-type: none"> • Recommendation for CR and TOR: 21 business days • Comments by Management and Requesters: Up to 15 Business Days • Investigation and Draft CR Report: Maximum term of six calendar months as of formation of the Panel. • Comments by Management and the Requesters: 21 Business Days draft report. • Final CR: Within 21 business days after receipt of comments by Management and the Requesters 	<ul style="list-style-type: none"> • Management Response and MAP: Time not specified 	
<p>IFC CAO</p>	<ul style="list-style-type: none"> • Complaint Assessment: Within 90 Business Days of the eligibility date or 120 days (30 days extension if Parties confirm resolution is likely of DR is requested) • Comments on Draft Assessment Report: At least 10 Business Days prior to finalizing the report • Management and Client response on Compliance Function selection: 10 Business Days from the date of transfer or upon request from Management extended for up to 10 Business Days in exceptional circumstances • Compliance Appraisal: Within 45 Business Days after compliance function initiated or 65 days (20 days extension) in exceptional circumstances • Management Response to Appraisal Report: 10 Business Days from the date of circulation • Board Review of Appraisal (request for Investigation): 10 Business Days • Draft Compliance Investigation Report: Within one year of the disclosure of the appraisal report. • Management Response to Compliance Investigation Report: 20 Business Days from the receipt of the draft report 	<ul style="list-style-type: none"> • Management Response and MAP: Within 50 Business Days of receiving CAO's compliance investigation report and findings 	

	<ul style="list-style-type: none"> • Final Compliance Investigation Report: 20 Business Days 		
<p>WB AM</p>	<ul style="list-style-type: none"> • IPN Eligibility Report: 21 business days • Management Response to IPN Eligibility Report: 10 business days • Distribution of Eligibility Report: Within (14 days) two weeks of the Board's decision • Decision on Resolution Process (DR/CR): No later than 30 business days after authorization of the investigation • Publication of Investigation Plan: Within six weeks after the AMS confirms CR resolution process • Investigation completed: Within 6 (six) months following completion of the investigation plan 	<ul style="list-style-type: none"> • Management Report and Recommendation (MRR) submission to Board: Within six (6) weeks from receiving the Panel's findings • Publication of the Investigation Report and the MRR: Within two (2) weeks after the Board meeting 	

Annex IV: Persons Met:

ANNEX V: Summary of Stakeholder Views

EBRD Board Members:

EBRD Board members recognized the difficulty entailed in moving from the old PCM model to the current model of IPAM and the impact this has had for IPAM in terms of the necessity of building internal capacity while handling a large number of complex cases. They also recognized some of the issues with IPAM and Management and expressed that the Board should not be put in the role of arbitration between the two. Some Board members raised the issue of Remedy as one of concern to all sister IFIs but no specific proposal on how to ensure Remedy was suggested, it was stated that everyone was waiting to see how it would be handled by IFC.

IPAM Staff:

IPAM raised the issues of staffing, capacity and resources. They indicated the importance of referencing remedy in the PAP purpose/objectives. They also indicated their views on the length of the Assessment Process and overlap with activities of Compliance Assessment. The lack of methodology/guidance on compliance reviews was also mentioned. This is in addition to the importance of adding Self-Initiated Compliance Reviews as a new instrument in IPAMs tool kit

EBRD Staff and Management:

EBRD Staff and Management were concerned for lack of consensus around definitions of what constitutes a project (e.g. should associated facilities be included), reduced emphasis on harm and an over emphasis on, compliance, the necessity of streamlining of the compliance review process including adjustment of timelines some of which were seen to be too tight, avoiding information asymmetry between different stakeholders of the compliance process, and allowing greater leeway for Management to address Requesters concerns before a compliance review commences. Those engaged in problem solving exercises appreciated IPAM role and interaction with IPAM staff on problem solving.

CSOs:

CSOs emphasized that the current policy has several provisions which should be preserved including:

Independence from Management, Project-affected people are allowed to be supported by representatives of their choice, IPAM Compliance Review Reports can recommend project-specific actions to remedy harm or potential harm, Requesters are allowed to read and provide comments on draft MAPs, IPAM monitors and publishes regular reports on the implementation of management action plans and problem-solving agreements, IPAM can conduct Project site visits as part of its monitoring activities. Proposed changes include: IPAM should have authority to self-initiate compliance reviews. 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. Increase resources allocated to IPAM. Improve management’s response to IPAM findings of non-compliance. CSOs from North Africa in particular raised issues of language and availability of IPAM staff with Arabic language competencies, in addition to expanding outreach to include visits to potentially affected communities.

Advisory function must be enhanced and resourced, problem-solving process is slow, it should be less bureaucratic and more people centered, IPAM does not have strong influence on Clients, would like to see greater involvement of the resident offices in **public** problem solving processes.

IPAM Requesters:

IPAM Requesters focused on the issues of length of the Complaints process, in addition to the extent to which IPAM is known among project affected communities. Several expressed that although they came to know about IPAM by chance, that the information on IPAM website was sufficient and was clear and simple to understand.

EBRD Clients:

EBRD Clients expressed the view that it took a long time for IPAM to mobilize and start the problem-solving process, and that the process of building trust between the parties could progress quicker. Overall, however, they were satisfied with the problem-solving process. It was felt that Compliance Reviews were more directed at the Bank, and it was unlikely that the Requesters would get anything out of the process quickly. Although IPAM's independence was recognized, it was expressed that there needs to be greater coordination with Management. 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.

ANNEX VI: Benchmarking against the Guiding Principles on Business and Human Rights' Effectiveness Criteria:⁸⁴

IAMs are non-judicial mechanisms to which principle 31 of the Guiding Principles applies. Under principle 31, GRMs should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue.

GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS' EFFECTIVENESS CRITERIA FOR NON-JUDICIAL GRIEVANCE REDRESS MECHANISMS

Effectiveness criteria	Key attributes
Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes	Trustworthy Accountable
Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access	Known Variety of access points Assistance to overcome barriers
Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcomes available and means of monitoring implementation	Clear procedures Clear time frames
Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms	Fair access to information, advice and expertise Fair treatment
Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake	Keeping parties informed about progress of cases Providing information about the process to build confidence
Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights	Outcomes and remedies accord with international standards and are adequate, effective and prompt Outcomes and remedies do not contribute to (further) human rights harms Outcomes and remedies are implemented in practice No prejudice to legal recourse
A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms	Identification of lessons for improving the mechanism and preventing future harm
Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances	Consulting "users" (including internal users) on design and performance Decisions arrived at through dialogue with those affected

⁸⁴ "Remedy in Development", Annex II

Annex VII: List of References

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