

Briefing for the EIB Board of Directors and the EIB Management Committee on the CSOs joint contribution to the EIB-CM Policy review.

[The CSOs comments](#) on the draft EIB-CM Policy were prepared by Accountability Counsel, CEE Bankwatch Network, CONCORD Europe, Counter Balance, Inclusive Development International, Recourse and Urgewald and were supported by thirteen other organisations.

Dear EIB Board of Directors, dear EIB Management Committee,

As civil society organisations with experience working with communities impacted by the EIB Group's investments and using the EIB Complaints Mechanism, we call on the EIB and its Board of Directors to revamp the EIB-CM in line with [international good practice](#) to establish an independent, transparent, accessible and effective mechanism as a mean of safeguarding human rights and preserving the environment in the pursuit of sustainable investment.

We have engaged in the EIB-CM applaudable consultative efforts, and we have provided jointly, among others, the following recommendations to improve the EIB-CM's legitimacy and effectiveness as to underpin the EIB Group's commitment to and reputation for sustainability and accountability.

1. Consult the EIB-CM Procedures prior their approval

It is our view that the **EIB-CM Procedures** should be incorporated into the Policy such that all substantive policies and related provisions operationalising the Policy are contained in one single standalone publicly consulted document. The Procedures may contain details that prospective complainants should know before deciding to engage with the EIB-CM, and there also is a public interest in preventing the maladministration of the Procedures. The Procedures have not been included in this present consultation, while the entering into force of the Policy was made contingent on the approval of the unknown Procedures. We urge the EIB to follow best practice amongst peer IAMS and present the draft updated Procedures to public consultation in the interest of public accountability and trust-building.

2. Strengthen operational independence of the EIB-CM

In accordance with the Charter of Fundamental Rights of the European Union, which gives every person the right to have his or her affairs handled impartially and fairly by the institutions of the Union, **we urge the EIB-CM Policy to guarantee the EIB-CM's impartiality.** The External Review Report offers a practical way to safeguard the EIB-CMs independence, and that is to “[i]ntroduce conflict of interest guidelines on the hiring or subsequent employment or engagement of the Head of the EIB-CM within the EIBG.”¹ This recommendation has not been addressed by the draft Policy. Cooling off periods between serving within the institution and serving on the institution's accountability mechanism have proven effective to instill trust and quell speculation as to

¹ See, External Review of the EIB Group Complaints Mechanism, Final Report, para. 47.

cronyism or improper fraternization that could compromise the integrity of the mechanism.² We note that the Head of the Review and Evaluation Process at the EIBG is appointed for a **fixed term of four years** - a measure which strengthens his or her independence in delivering supervisory function within the EIB.

We urge the EIB to establish the same rule for the Head of the EIB-CM who should be appointed by the EIB President in a transparent process, engaging the EIB Board of Directors, Audit Committee, European Ombudsman and external expert in the accountability and social or environmental fields. The **Head of the CM should not be eligible to perform remunerated work** or services for the EIB Group for the following two years at the end of their term.

The other measures which should be adopted include a provision about adequate resources and **budget**. Similarly to the Head of the Review and Evaluation Process, the Head of the EIB-CM should be responsible for determining the level of adequate resources (including staff number) and the Board of Directors should be responsible for approving the EIB-CM's budget.

Finally, we have serious reservations about leaving the final interpretation of the EIB-CM Policy to the EIB Group Inspector General.³ The EIB-CM's unique reporting line through the Inspector General risks a degree of non-transparency that could spur speculation of compliance assessments or findings being adulterated because of interests outside of the EIB-CM's discrete mandate. We recommend that the **EIB-CM retain full responsibility and authority to interpret its own policy**, recognizing that any overreach or disregard of the policy can still be challenged for maladministration through the office of the European Ombudsman. For the same reasons, we are concerned that the draft Policy suggests that during the handling of the Complaint, the EIB-CM Head may not address the EIB Management Committee without authorisation of the Inspector General.

Eventually, the same provision as in the EIB Evaluation Policy should be included that the **Board safeguard the independence of the EIB-CM** and have unfiltered access to information from the EIB-CM conclusions reports, monitoring reports and recommendations provided under its advisory function.

3. Establish escalation procedure in case of disagreement on SRAPs for high-risk projects

The current draft Policy fails to establish a clear and transparent authorisation process by the relevant governing bodies in line with their competences in the EIBG governance structure. Given the EIBG's unique governance structure, we urge the EIB-CM policy to more explicitly codify the role of not only the Management Committee, but also the Board of Directors, in ensuring that the EIB Group is fulfilling its remedy mandate.

In this respect, we note that the EIB Board of Directors is non-resident in nature. While the Board of Directors is the ultimate decision-making body which authorises the EIB's financing of

² See, Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms, p. 26 (Jan. 2024), available at https://cdn.prod.website-files.com/68e5762082f60ead6d3ad3ab/69120e1e0bcd523edf15e204_good-policy-paper-2024.pdf#page=26.

³ See, Draft Complaints Mechanism Policy, para. 121 ("The EIBG Inspector General has the authority to interpret the Policy").

individual projects and is legally accountable for them, it is the Management Committee that is the highest executive governing body of the EIBG and the overseer of the day-to-day running of the institution. We also note that the EIB Board of Directors approves loans under the condition that they comply with the EIBG's Environmental and Social Policy (which is itself approved by the Board of Directors) or will have complied at the time the loan agreement is signed.

Therefore, we urge the **EIB-CM Policy to explicitly provide for the EIB Board of Directors to receive regular and substantial information** directly from the EIB-CM about the cases where there has been a disagreement between the EIBG Services and the EIB-CM on SRAPs.

The Board should be informed about decisions taken by the Management Committee concerning disagreements, including its justifications. In cases of **disagreement concerning high-risk projects**⁴ where the Management Committee was in favour of views presented by the Services, that either the SRAP is sufficient or not needed, the EIB-CM should be able, at its discretion, **to escalate their objections of the Management Committee decision to the Board** as the ultimate decision-making body on the SRAP. We anticipate that this escalation would generally only be necessary in a few cases with substantive and consequential issues at stake, so as not to overload the EIB Board of Directors with frivolous disagreements. Such provisions are necessary to ensure that both the Management Committee and the Board of Directors adequately exercise their statutory functions. We also believe that the mere possibility of Board intervention could in of itself encourage the Management Committee to exercise its neutral oversight function and be willing to support the development and implementation of SRAPs proposed by the EIB-CM despite the objection of EIBG Services.

4. Leverage the Advisory Function

As the draft EIB-CM Policy envisions an active advisory function, we urge the EIB Group to make effective use of the advisory function in its decision-making and pursuit of institutional accountability. Particularly, there should be more clarity on the duty for the Board of Directors to discuss and use advisory reports in decision-making. The Policy should be amended to include provisions that would require from the Board of Directors to engage in frequent interaction with the EIB-CM, including by requesting advisory services; discuss and use EIB-CM reports and advisory in decision-making processes and keep the EIB Group accountable for the implementation of decisions stemming from the advisory services provided by the EIB-CM.

5. Introduce clearer rights-based language

We urge the EIB Group as the EU body bound by the European Union Charter of Fundamental Rights to embrace the updated mandate through the lens of human rights. The draft Policy's preamble acknowledges that the EIB Group stakeholders have a "right to be heard" and a "right to complaint," but it falls short of naming "the right to an effective remedy for harm," which is a core tenet of international human rights law."⁵ The Guiding Principles of the EIB-CM as

⁴ As defined by the EIB's Environmental and Social Policy

⁵ See, Report of the United Nations High Commissioner for Human Rights, "Improving accountability and access to remedy for victims of business-related human rights abuse," [A/HRC/32/19](#), para. 6 (10 May 2016); see also Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, [A/72/162](#), para. 2 (18 July 2017).

articulated in paragraph 13 of the draft Policy ostensibly omit reference to rights compatibility, which is a core effectiveness criteria for grievance mechanisms under the UN Guiding Principle. We encourage the EIB Group to correct this oversight in the final draft of the EIB-CM Policy.

6. Enhance consultations with complainants throughout the process and monitoring

The draft Policy's preamble acknowledges that the EIB Group stakeholders have a "right to be heard" however it should be better reflected at each stage of the case handling process and during monitoring of corrective actions.

The draft Policy proposes that EIBG Services only consult with the complainants after SRAPs have been agreed with the Client/Promoter. We strongly urge the EIB-CM to require that **complainants be consulted on remedy during the drafting of SRAPs**, rather than effectively only after their finalisation, to reflect both longstanding good policy and the recommendations by the External Review.⁶ Consultation with complainants after SRAPs have been agreed with the Clients will make it far more difficult for EIBG Services to proactively incorporate the views of the complainants, resulting in SRAPs that are unlikely to benefit from complainants' knowledge of the on-the-ground realities with regard to what actions are necessary and feasible to redress verified harm.

Next, to ensure that SRAPs produce intended outcomes in the delivery of remedy and to facilitate trust-building with project affected communities and other external stakeholders, the EIB-CM should be able **to consult with all parties in the development of its monitoring reports** and conduct site visits, as appropriate, to verify information provided to it.⁷

Effective remedy also concerns timeliness. In this regard, we appreciate the potential benefits of the **new "Early Resolution" transfer function** proposed by the draft Policy. We commend the inclusion of guardrails to ensure the prudent use of Early Resolution. Nonetheless, as is required when developing SRAPs, it is also crucial that **EIBG Services is obliged to proactively engage with Complainants in coming up with corrective actions** to address issues of harm raised. No

⁶ See, Policy of the World Bank Inspection Panel, para. 82 (*"Management will communicate to the Panel the nature and the outcomes of the consultations with the affected parties on the action plan agreed between the Borrower and the Bank. The Panel may submit to the Board, for its consideration, a written or verbal report on the adequacy of these consultations"*); Procedures of the Green Climate Fund Independent Redress Mechanism, para. 67 (*"A draft remedial action plan shall be provided to the IRM, complainant, AE or the Executing Entity, giving them a minimum of ten [10] calendar days to comment"*); Policy of the Independent Complaints Mechanisms shared by Proparco, DEG, and FMO, para 6.88 (*"Management will consult with the Client, the Complainants, and any other relevant stakeholders in preparing the MAP"*); See, External Review of the EIB Group Complaints Mechanism, Final Report, para. 88 and recommendation 48 (4 Apr. 2025), available at https://consult.eib.org/consultation/cmconsultation/supporting_documents/external-review-reportpdf#page=48.

⁷ See, e.g., the Accountability Mechanism policy of the Asian Development Bank, para. 194 (*"The methodology for monitoring may include [i] consultations with the complainants, the borrower, the Board member concerned; Management; and staff; [ii] a review of documents; and [iii] site visits. The CRP will also consider any information received from the complainants and the public regarding the status of implementation"*).

solutions or remedies should be proposed or finalised without prior and direct engagement with the Complainants to seek their opinion on their adequacy.

7. Better delivery of remedy through Dispute Resolution

We commend the draft Policy for providing much clearer guidance on DR processes and putting it on a more equal footing with CR processes. We urge it to further ensure DR processes are designed to deliver remedy for Complainants, particularly **by strengthening the EIB-CM's monitoring mandate of commitments** contained within Dispute Resolution agreements.

Important to the timely delivery of remedy is **flexible sequencing of DR and CR processes**. Insofar as the screening process is intended to help the EIB-CM “*determine the most appropriate way forward*” to handle the issues in a complaint, taking the Complainant’s preference into account, they should have the latitude to bifurcate issues to allow DR and CR to take place simultaneously in the service of efficiency and shortened process.⁸ The draft Policy allows for the termination of the Dispute Resolution process by the EIB-CM: (1) if the process exceeds 18 months and the EIB-CM determines that the process is no longer likely to lead to a resolution or has ceased to constitute an efficient use of resources or (2) if the process exceeds 24 months, i.e. following a single extension of up to six months. This departs significantly from good policy. There should not be a maximum time limit on the Dispute Resolution process. There have been many examples of processes that took longer than 24 months and reached a satisfactory resolution.

We also urge that the EIB-CM Policy establishes a **presumption of public disclosure of the Dispute Resolution agreements** by default, subject to redactions or withholding from disclosure on the basis of any confidentiality arrangements agreed between the parties.

We urge the Policy to further **establish regular monitoring intervals for Dispute Resolution agreements** with at least the same frequency as those for the SRAPs, namely every six months. Further, if it becomes evident during the monitoring that the agreed remedial actions within the Dispute Resolution agreement are not being implemented, the EIB-CM should be able to exercise the right to conclude a DR process, fully or on issues not implemented, after obtaining the Complainants’ consent and transfer the unresolved issues of the Environmental and/or Social Complaint for an Initial Compliance Assessment.

8. Clarify the admissibility of complaints implicating financial intermediary lending

The eligibility of complaints regarding projects funded via financial intermediaries is of significant importance, given the fact that it comprises a substantial portion of the EIB’s portfolio (over one-third), and one-hundred percent of the EIF investments. For the benefit of transparency,

⁸ See, e.g., the policies of the United Nations Development Programme’s Social and Environmental Compliance Unit (“SECU,” offering compliance investigation) and Stakeholder Response Mechanism (“SRM,” offering dispute resolution) (SECU para. 33: “*If both processes are applicable, the Complainant will be informed that both are applicable, and be given the choice to proceed with compliance review, stakeholder response [dispute resolution], or both*”; SRM para. 18: “*When SECU advises the SRM of the need for [a compliance] review, it is the responsibility of the receiving office to communicate to the requestor any planned action by the SECU to review compliance issues, and to discuss with the requestor the possibility of conducting compliance review before, after, in parallel with, or instead of grievance resolution*”).

predictability, and consistency of practice, we urge clarification on the “materiality” assessment that is envisioned in the draft Policy to guide admissibility determinations. We recommend drawing on a similar approach applied by the IFC CAO policy.

9. No regression in the handling of pre-project approval complaints

While it is in line with good practice that the EIB-CM allows early, pre-approval complaints, there appears to be regressions from the previous Policy. Under the draft Policy such complaints are effectively **rendered inadmissible by being immediately transferred to EIBG Services and closed**. The EIB-CM is not required to track the complaint to ensure that concerns have been given due consideration and appropriately addressed. The EIBG Services isn’t required to provide a response to the Complainants until after the relevant project financing has been approved, effectively treating the approval of the financing in question like a foregone conclusion regardless of the scale and nature of the complaint. We are therefore concerned that the draft Policy reflects an unjustifiable backsliding of the provisions concerning pre-approval complaints when there is an opportunity to strengthen its effectiveness by enabling swift and effective handling of such cases when non-compliance is identified early and thus can be corrected more easily. We echo the relevant recommendations of the External Review, including that **pre-approval complaints should be referred to the EIBG Services with a defined time period to address the concerns, after which they should proceed through the regular EIB-CM complaint handling procedures.**⁹

⁹ See, External Review of the EIB Group Complaints Mechanism, Final Report, para. 54 (4 Apr. 2025), available at https://consult.eib.org/consultation/cmconsultation/supporting_documents/external-review-reportpdf#page=48.