



The
Federal Government



Independent Complaint Mechanism

Policy

1.2.2022

Table of Contents

- 1 Introduction 2
- 2 Principles..... 3
 - 2.1 Objectives 3
 - 2.2 Scope of applicability 4
 - 2.3 Principles 4
 - 2.4 Functions and framework..... 4
 - 2.5 Applicable standards..... 5
 - 2.6 Governance 6
 - 2.7 Cooperating with complaints procedures in place at IOs 8
- 3 General rules of procedure 9
 - 3.1 Submitting a complaint..... 9
 - 3.2 Language 9
 - 3.3 Method of submission 10
 - 3.4 Required information..... 10
 - 3.5 Transparency, confidentiality and anonymity 10
 - 3.6 Free choice of complaint mechanism 11
 - 3.7 Exclusions 11
- 4 Complaint review..... 12
 - 4.1 Eligibility 12
 - 4.1.1 Eligibility criteria..... 12
 - 4.1.2 Eligibility review 12
 - 4.2 Justification 13
 - 4.2.1 Preliminary investigation 13
 - 4.2.2 Problem-solving processes 14
 - 4.2.3 Compliance processes 15
- 5 Investigations proprio suo motu 18
- 6 Advisory support and institutional learning..... 19
- 7 Monitoring 19
- 8 Protecting complainants..... 19
- 9 Capacity building, outreach and institutional learning 20
- 10 Final provisions..... 20

List of acronyms used

CM	Complaint mechanism
BMU	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety
CBD	Convention on Biological Diversity
IO	Implementing organisation
sPM	Specialist project manager/project management
IAM Network	International Accountability Mechanisms Network
IFC	International Finance Corporation (World Bank Group)
IKI	International Climate Initiative
cPM	Commercial project manager/project management
OECD	Organisation for Economic Co-operation and Development
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
ZUG gGmbH	Zukunft-Umwelt-Gesellschaft gGmbH

1 Introduction

The International Climate Initiative (IKI) is an instrument of the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) for the international financing of climate change mitigation and biodiversity. IKI operates within the framework of the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD), financing climate change mitigation and biodiversity conservation in developing, emerging and transition countries.

The office of the International Climate Initiative can be found at Zukunft – Umwelt – Gesellschaft (ZUG) gGmbH (hereinafter referred to as “ZUG”). ZUG is the project management agency for the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), which administers the IKI funding programme. ZUG is involved in organising IKI calls for project ideas, reviews project and programme applications before a final decision is made by the BMU, and assesses interim and expenditure reports in terms of the use of funds and the success of the project or programme. ZUG is jointly responsible with implementing organisations and their partners for the practical implementation of IKI funding activities. Steering and political responsibility for the IKI lies with the BMU.

To ensure sustainability and compliance with national and international standards¹, organisations implementing IKI projects are responsible for compliance with social and environmental standards and for the lawful use of approved funding. The independent complaint mechanism is intended to bolster these principles in the long term.

The complaint mechanism ensures that complainants who feel directly impacted by an IKI project have the right to be heard in order to facilitate dispute resolution, uncover breaches of compliance, and gain insight for ongoing and future projects. It investigates violations of environmental and social safeguards, of budgetary law as well as incidents of economic crime in the context of the IKI promotion activities. The selection decision as such is not the subject of the complaints procedure. It investigates breaches of environmental and social safeguards, budgetary law, incidents of financial crime, reprisals and threats against complainants that fall under the scope of the IKI's funding activities. The selection decision per se cannot be the subject of any complaint process.

This policy sets out the content, structure and procedures underlying IKI's independent complaints mechanism. The mechanism's processes as stipulated in this document permit external parties to lodge a complaint about an IKI project.

¹ See annex

2 Principles

2.1 Objectives

The complaint mechanism is intended to support with IKI's environmental, social and compliance risk management, and to ensure the BMU, ZUG and implementing organisations are held accountable to all stakeholders in implementing the IKI. The mechanism aims to ensure compliance with IKI safeguards, applicable fraud prevention standards and contracts and provisions to prevent breaches of budgetary and grant laws, and to prevent reprisals and threats against complainants in order to achieve the following (see Section 2.4):

1. **Preventing negative environmental and social impacts:** ZUG is required by the BMU to ensure that projects financed through IKI comply with IKI safeguards². Organisations implementing IKI projects are required to design project activities in accordance with IKI safeguards. The complaint mechanism is designed to help ensure that IKI projects operate in compliance with IKI safeguards, to prevent harm to affected populations and the environment, and to provide an effective remedy if harm is done, despite efforts to prevent it.
2. **Preventing economic crime and complying with budgetary law:** the complaint mechanism is designed to help ensure IKI projects operate in accordance with national and international laws and standards³, thereby preventing corruption, embezzlement and fraud. Organisations implementing IKI projects are required to design project activities in accordance with statutory provisions, in particular criminal and budgetary/grant provisions.
3. **Preventing threats and reprisals against complainants:** The IKI does not tolerate retaliation, including threats, intimidation, harassment, or violence against individuals who express their opinions on or opposition to projects funded by the IKI. The IKI complaint mechanism takes any credible allegations of reprisals seriously. The IKI complaint mechanism strives to address complaints of this nature within the scope of its mandate. In these cases, concerns will be discussed directly with the client and/or another relevant party, and follow-up measures will be taken where necessary.
4. **Promoting institutional learning:** the complaint mechanism is designed to promote institutional learning. Complaints can provide guidance on how processes and standards at and between the BMU, ZUG and implementing organisations (IOs) can be adjusted to mitigate potential negative social and environmental impacts of future IKI projects, increase positive impacts and/or prevent corruption, misappropriation and fraud, thereby improving ZUG's overall efficacy as the responsible project management agency.

² Link to safeguards on the website (once published)

³ Annex 2 to Administrative Ruling No. 5.1 on Section 44 of the German Federal Budgetary Code (Bundeshaushaltsordnung [BHO]). General ancillary provisions for grants to fund projects (Allgemeine Nebenbestimmungen für Zuwendungen zur Projektförderung [ANBest-P]) is particularly relevant to IKI; see https://www.bva.bund.de/SharedDocs/Downloads/DE/Aufgaben/ZMV/Zuwendungen_national/nebenbestimmungen_anbest_p_2019.pdf?__blob=publicationFile&v=6 (German only)

2.2 Scope of applicability

The complaint mechanism applies to all projects financed from IKI funds.

The complaint mechanism handles complaints and evidence ('complaints') arising from breaches of environmental or social safeguards (IKI safeguards), budgetary and grant law and incidents of economic crime. It also handles complaints involving threats or reprisals carried out by implementing organisations or their implementing partners experienced by complainants as a result of their complaint to the IKI complaint mechanism.

BMU staff, ZUG management, ZUG staff and staff working for implementing organisations are required to cooperate fully with the complaint mechanism to ensure effective functioning.

2.3 Principles

The complaint mechanism is operated on the basis of the following principles: They are based on the eight (8) criteria for non-judicial complaint mechanism stipulated by the UN Guiding Principles on Business and Human Rights⁴ as well as the criteria set out by the Independent Accountability Mechanisms Network⁵ for independent complaint mechanisms.

- a. Institutional, financial and substantive independence from IKI's operational units, i.e. ZUG and BMU operational units
- b. Process accessibility and predictability for stakeholders
- c. Transparency in terms of processes and outcomes in compliance with data protection and confidentiality requirements to protect whistleblowers and alleged defendants
- d. Responsiveness and willingness to act on the concerns of complainants and encourage their participation as equals
- e. Fairness towards all stakeholders and willingness to engage in dialogue
- f. Objectivity, commitment and cost efficiency in handling cases
- g. Complementarity with other ZUG systems, including safeguards, financial project management, quality assurance, monitoring and evaluation, and the compliance system, in particular integrity/corruption prevention
- h. Geared towards international treaties⁶ and Germany's voluntary commitments, as well as good practice from other complaint mechanisms

2.4 Functions and framework

The complaint mechanism performs the following functions:

- **Problem-solving:** attempts are made to resolve concerns raised by complainants as part of a consensual process involving complainants, implementing organisations and other relevant stakeholders.
- **Compliance:** investigations are made into compliance with IKI safeguards as well as any incidents of economic crime, breaches of budgetary or grant law, reprisals or

⁴ Guiding principle No. 31, see <https://www.auswaertiges-amt.de/blob/266624/b51c16faf1b3424d7efa060e8aaa8130/unleitprinzipien-de-data.pdf> (German only)

⁵

[independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful_materials_on_accountability/basic_criteria_for_participation_in_the_independent_accountability_mechanisms_\(iams\)_network?openDocument](https://independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful_materials_on_accountability/basic_criteria_for_participation_in_the_independent_accountability_mechanisms_(iams)_network?openDocument)

⁶ See first footnote

threats against complainants (see Section 2.5). Appropriate remedial action is taken in the event of non-compliance.

- **Initiating in-house investigations:** investigations are initiated to investigate complaints, including anonymous complaints regarding a person, group or association that may be or may have been impacted in the process of implementing an IKI project.
- **Remedy:** 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. Remedial action usually includes:
 - o recommendations for project-specific measures to bring the IKI project into compliance with environmental and social safeguards and specifying the cost of any measures required to comply with environmental and social safeguards;
 - o recommendations for changes to IKI policies, procedures, guidelines and systems to be implemented in an effort to avoid current and future incidences of non-compliance, both for the project in question and for other projects; and
 - o promotion of institutional learning and capacity building in IKI implementation.
- **Monitoring the outcomes of complaint investigations:** monitoring the implementation of decisions or agreements relating to complaints, depending on whether problem-solving or compliance processes have been (see 2.5) applied, and reporting to the supervisory body (see 2.6 a).
- **Advisory:** consultation by the BMU and ZUG management on existing IKI policies, procedures, guidelines or systems based on international standards and lessons learned from complaints received in order to systematically improve the social and environmental impacts of IKI projects and ensure the lawful use of taxpayers' money.
- **Stakeholder engagement:** training for and continued discussion with ZUG staff and, where appropriate, BMU staff and other relevant stakeholders, in particular implementing organisations, affected people and their representatives. In addition, publicising the activities and principles behind the complaint mechanism to all IKI project stakeholders and the wider public.
- **Exchange:** the complaint mechanism maintains close relationships with other complaint mechanisms in Germany and internationally to ensure the exchange of best practices and lessons learned. The complaint mechanism is pursuing membership in the Independent Accountability Mechanisms Network to formally institutionalise this exchange.

2.5 Applicable standards

Two (2) primary procedures are available. Complainants may choose between

- a) a compliance review, whereby the IKI complaint mechanism reviews the BMU/ZUG's and implementing organisations' compliance with IKI safeguards and with budgetary and grant law, as well as any reprisals or threats made against complainants.
- b) a mediation-based alternative dispute resolution procedure, whereby the IKI complaint mechanism facilitates a voluntary process between the parties to reach a mutually acceptable resolution to the issues raised in the complaint; and

The IKI complaint mechanism assists complainants in finding an appropriate procedure for their complaints.

a) Compliance procedures

As part of a compliance procedure, the complaint mechanism verifies that the funding activities carried out by IKI and the project activities carried out by the implementing organisation comply with the following standards and guidelines:

In a safeguards case, this specifically includes:

- IKI safeguards⁷, which comply with GCF safeguards 2–8 (currently the IFC Performance Standards for Environmental and Social Sustainability). IFC Performance Standard 1 does not apply because it contains requirements for IFC processes that are not applicable to IKI projects across the board.⁸
- All contract documents between the BMU and the implementing organisation, in particular the project proposal, including safeguards annex

In the event of economic crime or breaches of budgetary law, this particularly includes:

- national and international regulations on preventing and dealing with corruption, in particular the United Nations Convention against Corruption (31 October 2003) and the applicable national standards ratifying the UN convention, the OECD Recommendation of the Council on Public Integrity (26 January 2017) and other international standards adopted by the G-20 and the EU
- other statutory provisions that apply to the implementing organisation's activities and serve to ensure the lawful use of funding, i.e. German budgetary and grant law

(b) Problem-solving processes

The problem-solving process is an open and flexible approach that assists the parties in finding solutions to dealing with concerns raised by complainants. The procedure is conducted in accordance with the law and international treaties, and is based on good practice in comparable institutions.

2.6 Governance

a) Structure

The complaint mechanism consists of the following elements:

- Expert panel: the expert panel decides on individual procedural steps and is responsible for reviewing the substance of a complaint. The expert panel is composed of outside experts not affiliated with ZUG. The chair of the expert panel is responsible for ensuring the Case processing of the complaint mechanism functions effectively and efficiently.

⁷ Likely also the policy, which should be ready by late 2021.

⁸ Link to application of IKI safeguards: <https://www.international-climate-initiative.com/en/about-iki/safeguards/>

IFC Performance Standards: Performance Standard 2: Labour and Working Conditions; Performance Standard 3: Resource Efficiency and Pollution Prevention; Performance Standard 4: Community Health, Safety, and Security; Performance Standard 5: Land Acquisition and Involuntary Resettlement; Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources; Performance Standard 7: Indigenous Peoples

Performance Standard 8: Cultural Heritage, published at:

https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards

- Complaints office: the complaints office is responsible for the organisational processes involved in the complaint mechanism and supports the expert panel. The complaints office is located at ZUG.

The complaint mechanism functions independently of ZUG management and ZUG's operational activities. For the complaint mechanism to be able to conduct its work independently, operational procedures will be put in place to ensure substantive, institutional and financial autonomy.

The complaint mechanism reports to and is accountable to a supervisory body. This supervisory body is located at the BMU. The supervisory body comprises representatives, yet to be determined, from three (3) units overseeing IKI projects or involved in corruption prevention. These are IK I 6, N I 4 and Z II 5.⁹ More information about the role: 2.6, 4.1.2 f, 4.2.1.f., 4.2.2 g, , 4.2.2. j., 4.2.3. m., 4.2.2. n., 4.2.2. o., 4.2.3.q., 7.

IKI complaint mechanism staff have full and direct access to relevant IKI staff and all project files. IKI management and consultants engaged by IKI management will be required to fully cooperate with compliance mechanism staff.

b) The independent panel of experts

The expert panel consists of three (3) outside experts. Experts are chosen such that the broadest possible range of expertise is covered by panel members in terms of environmental, social and legal issues relevant to the safeguards, including economic crime, budgetary law and investigative and mediation experience.

A public tender procedure will be initiated to fill vacancies on the expert panel. Panel members are appointed by representatives of ZUG and the BMU. Representatives of external institutions with their own complaint mechanism as well as civil society representatives may be consulted in an advisory capacity.

Panel members are appointed for a term of five (5) years. To preserve the independence of panel members, re-appointment to the panel is not recommended. Appointments of the initial panel members should be staggered throughout the contractual term to ensure panel changes are gradual.

Expert panel members are independent. This means that they cannot have been involved in activities relating to projects financed by IKI for at least five (5) consecutive years, and are not permitted to seek employment with ZUG or the BMU for three (3) years after their term of appointment expires. If a panel member was previously involved in the planning, review, implementation or evaluation of a project submitted to the IKI complaint mechanism, this person will recuse themselves from handling that case and will inform the other panel members, the complaint mechanism coordinator and the supervisory body. Only the supervisory body may remove a member of the expert panel, and only for good cause.

The expert panel is authorised to commission specialists. In doing so, it will receive support from the complaints office and the ZUG contracting authority. Formally, such a specialist is commissioned by ZUG, with substantive performance provided to the expert panel.

The expert panel has an annual budget for travel, translations and specialists to ensure its work is conducted effectively and independently. The budget may be increased to adequately cover the caseload. To do so, the expert panel submits a budget plan for each complaint case, including TOR, for approval by the supervisory body.

⁹ Last updated December 2021. Reorganisations undertaken in Germany's federal ministries after the 2021 Bundestag elections means this document is subject to change.

2.7 Cooperating with complaints procedures in place at IOs

Implementing organisations acknowledge this Complaint Mechanism Policy and agree to cooperate in case of a complaint. This will be agreed in the contract documents for relevant IKI project starting in 2022.¹⁰ Implementing organisations (IOs) are required to inform the project's target groups about the IKI complaint mechanism as part of its project implementations. IOs must report on the measures they implement in this regard.

a) General obligations in complaint cases

The IKI complaint mechanism will cooperate and collaborate with implementing organisations' accountability and/or organisations mechanisms in performing its functions as follows:

i) The IKI CM on the one hand and the IO accountability and/or complaint mechanism on the other will each meet their obligations and exercise their powers and functions in accordance with the policies and procedures applicable to them. To this end, IOs and IKI will foster cooperation between the IKI CM and each IO's accountability and/or complaint mechanisms, and they will provide appropriate support in discharging their duties.

ii) complainant impacted by an IKI-funded project or programme may file a complaint or grievance with the IKI complaint mechanism and/or an implementing organisation's accountability and/or complaint mechanism. In this case, the IKI complaint mechanism and the implementing organisation's accountability and/or complaint mechanism will handle the complaint as follows:

- the IKI CM will process a complaint or grievance relating to action or inaction by IKI and/or alleged failures by the BMU/ZUG or implementing organisations to comply with IKI operational policies and procedures;
- implementing organisations' accountability and/or complaint mechanisms will address a complaint or grievance regarding non-compliance with their operational policies and procedures; and
- in the event that a similar complaint is filed with the IKI CM and one or more IO accountability or complaint mechanisms by the same or different complainants, the IKI CM and the IO accountability or complaint mechanism may enter into arrangements on how to deal with such complaints quickly and efficiently with the least possible burden on those involved, in a cost-effective manner.¹¹

b) Procedure for complaints involving an IKI-financed project submitted only to the IO

Implementing organisations are required to promptly (within 72 hours at most) forward complaints and/or evidence relating to IKI projects first filed with them to the IKI complaint mechanism.

The IKI CM may decide at any stage to take action itself, if necessary in addition to investigations by the IO. If the complainant's identity is known, then IKI Complaint Mechanism will reach out to them to explain the IKI Complaint Mechanisms's process and inquire whether the complainant would like the IKI Complaint Mechanism to begin a

¹⁰ Including provisions on providing information about complaints within 72 hours, transparency of investigation findings, cooperating with the mechanism.

¹¹ See also: Principles for Cooperation among Independent Accountability Mechanisms (IAMS), [http://independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful_materials_on_accountability/principles_for_cooperation_among_independent_accountability_mechanisms_\(iams\)?openDocument](http://independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful_materials_on_accountability/principles_for_cooperation_among_independent_accountability_mechanisms_(iams)?openDocument)

complaint process. If the complainant's identity is not known, the IKI Complaint Mechanism will consider whether to initiate an investigation proprio suo motu, per Section 5.

- c) Procedure for complaints involving an IKI-funded project submitted only through the IKI CM

Consideration will be given on a case-by-case basis as to whether forwarding the complaint to the IO is pertinent and conducive to the investigation.

IOs provide members of the IKI complaint mechanism with access to relevant information and staff in the event of a complaint involving one of their IKI-funded projects.

- d) Procedure for complaints involving old projects

If the complaint concerns a project agreed before the IKI Complaint Mechanism Policy entered into force and a corresponding contractual clause is therefore not included in the agreement, this may be agreed contractually at a later date. Otherwise, the IKI complaint mechanism will act within the framework of the existing contractual agreements. Depending on the agreement reached, this may restrict the process stipulated in this policy.

3 General rules of procedure

3.1 Submitting a complaint

Any person, group of persons or community that may be/may have been negatively impacted by or during the course of an IKI project and/or would like to report significant adverse environmental impacts caused directly by the IKI project and/or that would like to provide evidence of economic crime or violations of budgetary or grant law by or in the course of an IKI project may file a complaint. The IKI complaint mechanism will provide a complaint form template on its website. Before filing a complaint, potential complainants can contact the IKI complaint mechanism to learn more about the requirements for filing a complaint.

Complainants may elect any individual(s) or organisation(s) to represent them throughout the complaint process.

Throughout the procedure, the complaint mechanism will consider whether and to what extent appropriate anonymisation is required to protect the complainant. See also Section 9.

The IKI complaint mechanism bears the cost of problem-solving processes, compliance reviews and monitoring, and the cost of ensuring complainants, witnesses and stakeholders are meaningfully involved in these processes.

3.2 Language

The complaint may be filed in any language spoken by the complainant(s). Communication thereafter is in English or German, with translation into an official German language of the complainant's country, where appropriate.

If a complaint was submitted in a language other than English or German and the complainant is unable to provide a translation, the complaint mechanism will commission a translation. It may take additional time to process complaints in languages other than English.

The IKI complain mechanism publishes documentation in English, including case reports, advisory reports and annual reports. All public casework reports are translated into the

complainant's local language. Where deemed necessary, the IKI complaint mechanism will translate its reports into other local languages and present them in a culturally appropriate manner.

3.3 Method of submission

A complaint may be submitted to complaint mechanism in text form using the online form, email, messenger services or post, or sent by audio or video recording.

3.4 Required information

Complaints should include the following information:

- a. Name, location and type of IKI project subject to complaint;
- b. Description of the complaint and the harm caused or expected to be caused;
- c. Description of how the harm caused or expected to be caused relates to IKI project activities.
- d. For complaints related to safeguards: name, address and other contact details, and information on the level of confidentiality to be maintained. See also Section 3.5.

If possible, the following information should also be provided:

- e. Relevant information relating to the complaint or relevant to the complaint (e.g. copies of documents, media reports, photos, video recordings, voice recordings);
- f. Overview of measures (e.g. legal steps, access to other complaint mechanisms and/or dispute resolution procedures, contact with the implementing organisation) planned or already taken to resolve the issue, in particular prior recourse or attempts to contact project officials locally or use project-based complaint mechanisms;
- g. Name of the ZUG employee(s) in the implementing organisation with whom the complainant(s) had contact (where applicable);

3.5 Transparency, confidentiality and anonymity

The complaint mechanism is committed to providing third parties with the greatest possible transparency to inform the public on the use of taxpayers' money and the impacts of this use. In conducting its work, the IKI CM will employ a presumption in favour of disclosing environmental and social information while maintaining confidentiality for sensitive personal information.

1. As stated in Sections 4 to 7, it will publish decisions on the admissibility, processing and outcome of complaints on the complaint mechanism website (complaint register) within the timeframes specified in each case. Information is redacted in accordance with the legal requirements and confidentiality agreements concluded with the complainant(s) and other parties involved.
2. The mechanism will publish an annual activity report on the IKI website.
3. As a rule, any complaint can be submitted anonymously. An anonymous communication system is set up to ensure this, allowing for continued, anonymous communication with the complainant(s). If, following an anonymous complaint, it is necessary to provide contact details to further process the complaint, in particular in case of a breach of social or environmental safeguards

or to implement a problem-solving process, this will be clarified with the complainant(s) using the anonymous communication system.

4. If complainants provide their names, the complaint mechanism should ask whether the complainants would like confidentiality maintained (in terms of public disclosure) as to their identity. The complaint mechanism complies with data protection requirements for any publication and is required to maintain confidentiality regarding the complainant(s) or their representative(s) should this be requested by the complainant(s).
5. If a third person or entity is representing one or more complainants, this third person or entity must clarify their authority to represent the complainant(s). In this regard, the complaint mechanism will make additional efforts to involve and facilitate the involvement of the complainant(s) during the complaint process.

Please see also Section 9.

3.6 Free choice of complaint mechanism

As a rule, it is at the complainants' discretion to decide which complaint mechanism to file a complaint with. If a complaint is made to an implementing organisation or its partners about an IKI-funded project, implementing organisations are required to proactively and promptly inform the IKI complaint mechanism by forwarding the complaint. The IKI complaint mechanism decides the extent to which it will take action itself (see above).

In principle, the cumulative use of different complaint mechanisms is permitted. The IKI complaint mechanism may notify the other complaint mechanisms of receipt of the complaint, and may communicate and cooperate with them to avoid duplication and/or disruption, provided this is permitted under the relevant legal and contractual requirements. Cooperation agreements may be concluded with these complaint mechanisms on a case-by-case basis, covering issues such as confidentiality and the exchange of information.

3.7 Exclusions

Complaints aimed at gaining a competitive economic advantage or those that are considered abusive (excessive, repetitive, clearly unreasonable, malicious) are deemed ineligible.

Furthermore, complaints that have already been processed by the complaint mechanism will not be eligible for consideration unless the complainant provides new evidence or information that was not available when the complaint was previously processed.

The complaint mechanism will consider identical claims already being processed by comparable accountability mechanisms or courts (members of the Independent Accountability Mechanisms Network) on a case-by-case basis so as not to duplicate work already done or impede ongoing proceedings. This will not affect eligibility.

Complaints must be lodged no more than three (3) years as of completed implementation of the IKI project (i.e. after the project term ends).

4 Complaint review

4.1 Eligibility

4.1.1 Eligibility criteria

The following eligibility criteria apply to complaints:

- a. Required information was provided to the IKI complaint mechanism (see Sections 3.4 and 3.5 in particular);
- b. IKI must have a funding relationship with the project (whether past, present or future);
- c. A link must be indicated between the IKI-funded project and the subject of the complaint;
- d. There must be no grounds for exclusion (Section 3.7).
- e. There must be at least one (1) complainant.¹²

Safeguard complaints are subject to the following criteria in addition to a to e:

- f. Complainants must be able to credibly demonstrate that either they themselves or third parties are impacted or are likely to be impacted by an IKI project.
Exception: in case of negative environmental impacts, this criterion of individual concern may be waived if the environmental impacts are direct, are significant, and are directly caused by the IKI project.
- g. The complaint must include information about (potentially) significant (not) indirect adverse effects or risks to complainants or third parties;

Complaints regarding economic crime or violations of budgetary or grant law are subject to the following criteria in addition to a to e.

- h. Evidence of criminal acts or violations of German budgetary law must be provided.

Complaints based on reprisals and threats against complainants

- i. Specific incidents of reprisals or threats must be included in any complaint submitted on this basis.

The decision as to eligibility is published along with information on the content of the complaint on the IKI complaint mechanism website, taking into account the data protection requirements.

If at any point while the complaint is being process the complaint mechanism believes that serious, irreparable harm may result from continuing to implement the project, the complaint mechanism may recommend that the IKI take immediate action.

4.1.2 Eligibility review

- a. 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

¹² The plural will be used (complainants) from this point forward for the sake of readability.

is forwarded to the expert panel for a decision as to eligibility, and recorded in the IKI CM complaint register.

- b. The expert panel decides within 30 business days as to the eligibility of the complaint on the basis of Section 4.1.
- c. At this stage, the complaint mechanism may request additional information from complainants, the implementing organisation involved and ZUG staff involved in order to clarify the complaint's eligibility. In particular, ZUG and any IOs involved are given the opportunity to comment.
- d. The complaint mechanism promptly informs the complainants of the eligibility decision, including the justification behind the decision. If a complaint is deemed ineligible, in whole or in part, the complaint mechanism endeavours to advise complainants on what action could be taken and/or the institution(s) to which such concerns could be directed. If the complaint is eligible, complainants will receive a statement of eligibility with information on the next steps involved.
- e. The complaint mechanism informs the other parties involved that a complaint has been accepted.
- f. The complaint mechanism informs the supervisory body that a complaint has been accepted or excluded.
- g. A decision as to the eligibility of a complaint does not constitute a judgement on the complaint's merits.
- h. The decision as to eligibility is published on the IKI complaint mechanism website, along with the complaint and the statements issued by ZUG, the BMU and IOs.

4.2 Justification

4.2.1 Preliminary investigation

- a. If complainants have not provided any information in this regard, the panel will conduct a preliminary investigation within 30 business days of accepting the complaint where possible to determine whether a problem-solving or compliance review should be conducted. However, the duration of the preliminary examination may vary depending on the complexity of the case. Any discrepancies are communicated to all parties involved.
- b. In principle, problem-solving processes are preferred to compliance processes. All the parties involved must agree to opt for a problem-solving process. The decision between a problem-solving and compliance review is made in consultation with all parties involved. To this end, additional information on problem-solving processes and compliance reviews is forwarded to complainants and other relevant parties to facilitate informed decision-making.
- c. The complaint mechanism contacts other stakeholders at this stage to gain better understanding of the issues and context. This generally includes ZUG staff, implementing organisations and their implementing partners. Additional information may also be sought, with guaranteed data protection, e.g. from government ministries or authorities, as to whether steps have already been taken elsewhere to resolve the complaint.

- d. If other people similarly impacted are interested in joining the complaint at this stage and the original complainants have no objections, the complaint mechanism can then add them as complainants. If the original complainants object, the other parties may file a separate complaint.
- e. After completing the preliminary investigation, all parties involved are informed about the next steps and the timeframe the process will likely involve.
- f. The complaint mechanism submits a preliminary budget along with a timetable and planned measures to the supervisory body no later than upon completion of the preliminary investigation.
- g. The tools and rights are available to the complaint mechanism in conducting its investigation include, but are not limited to:
 - a. Viewing IKI documents relevant to the project at the BMU, ZUG, implementing organisations and implementing partners
 - b. Investigations in Germany and project regions
 - c. Discussion groups
 - d. Measures to foster equitable treatment of all parties involved, in particular during problem-solving processes¹³
 - e. Use of specialists, e.g. auditors, mediators
 - f. Commissioning experts
 - g. Drafting expert reports
- h. The complaint mechanism allows for flexibility in conducting a compliance review after a problem-solving process, and vice versa.

4.2.2 Problem-solving processes

- a. Problem solving is a participatory, flexible approach aimed at assisting the parties in finding and/or developing an effective solution to the concerns raised by complainants. Problem solving focuses on addressing concerns raised in a manner that considers the interests of complainants as well as the other parties involved, with the aim of finding a solution that is satisfactory for all parties.
- b. Problem solving is a voluntary process, and is only conducted by the complaint mechanism with the approval of complainants and the other parties involved.
- c. Problem-solving processes vary in duration, depending on the type, complexity and scope of the concern and any additional factors. The complaint mechanism works with all parties to establish a reasonable timeline for the process, and seeks to assist the parties in finding solutions to the concerns raised efficiently and expeditiously. The timeline may be extended by agreement between the parties and the complaint mechanism. Problem solving should be completed within one (1) year of the parties agreeing to it.
- d. The complaint mechanism may terminate the problem-solving process early if it concludes that the problem-solving process will not result in any progress being

¹³ In particular, see the IFC Compliance Advisor Ombudsman's publication, starting on page 12: <https://www.cao-ombudsman.org/resources/reflections-practice-series-1-getting-started-dispute-resolution> (Leveling the Playing Field through Capacity Building and Other Interventions)

made. The complaint mechanism must consult with all parties involved in this regard, and must communicate its decision in writing to all parties.

- e. Problem solving may involve (i) consultative dialogue; (ii) exchanging information; (iii) joint fact-finding; or (iv) mediation by a neutral party on which all parties agree. To level the playing field between the parties involved, the complaint mechanism may carry certain measures, such as holding informational events or the like.
- f. The outcome of successful problem-solving processes is recorded in a written agreement or several written agreements between some or all of the parties involved. An agreement may be made whereby the complaint mechanism will assist the parties in implementing the agreement. An agreement will enter into force on the day on which it is signed.
- g. The complaint mechanism will inform the supervisory body regarding the outcome of the problem-solving process within seven (7) calendar days of concluding an agreement. If the agreement requires a decision by the supervisory body regarding a project or programme, the agreement must be submitted to the supervisory body for approval.
- h. Agreements reached through problem-solving are filed in the complaint mechanism's public register, and the content of the agreement is published by the complaint mechanism.
- i. The parties to the agreement will ensure that the agreements concluded as part of a problem-solving process do not violate policies issued by the BMU or ZUG or the applicable law (in particular national laws, and international and/or bilateral agreements to which the country in question is party).
- j. If the problem-solving process does not result in an agreement as per f), or fails to succeed, in whole or in part, the part of the complaint that was not addressed, or the complaint in its entirety, may be sent to undergo the compliance process within seven (7) calendar days of concluding the problem-solving process upon request by the complainants. The supervisory body and ZUG are informed of this. This decision is updated accordingly on the complaint mechanism website within five (5) calendar days.
- k. After the problem-solving stage, the panel compiles a draft report on the outcome of the process. The panel sends the draft report to the parties involved in the problem-solving process for comment (within 15 business days). After a 30-day comment period, the panel finalises the report and publishes it on the website.

4.2.3 Compliance processes

- a. Compliance reviews focus on determining whether the IKI project failed to comply with IKI safeguards or whether it engaged in economic crime or violated budgetary or grant law. In safeguards cases, the process is used to assess whether this non-compliance has led/could lead to negative impacts on complainants; in cases of economic crime or violations of budgetary law, whether any criminal offences may have been committed.
- b. The complaint mechanism sends the complaint, including information about possible violations of IKI standards and policies, to ZUG management with a request for comment. The complaint is sent within 14 calendar days of the complaint being

referred for the compliance process. The complaint must be redacted in accordance with any confidentiality agreements to protect complainants.

- c. In consultation with the BMU, ZUG staff members involved and implementing organisations, ZUG management is required to prepare a statement in response to the allegations within 21 calendar days (management response). A copy of this response is sent to complainants. The statement should provide the following information:
- information on the factual statements and allegations included in the complaint;
 - information on steps taken by ZUG and implementing organisations to comply with the applicable BMU/IKI standards and policies, particularly those identified by complainants or the complaint mechanism;
 - information on steps being considered to prevent, mitigate or remedy any adverse effects on complainants.
- d. The complaint mechanism may decide to defer the compliance investigation for a maximum of 12 months, taking into account the following steps (*early deferral option*):
- (1) A decision to defer the process should be justified, taking into account the following criteria:
 - the degree of harm and the potential compliance violations raised by the complaint;
 - whether the management response includes specific commitments that adequately address the issues raised in the complaint and meet the requirements of the IKI Complaint Mechanism Policy;
 - the complainants' views on the impact (positive and negative) of a decision to defer; and
 - other information deemed relevant by the complaint mechanism.
 - (2) If the complaint mechanism decides to defer the compliance investigation, the complaint mechanism should compile and publish the following information:
 - a monitoring plan with reporting requirements from ZUG management regarding the implementation of any commitments made in its statement on preventing or mitigating adverse impacts, or on initiating remedial action;
 - a date by which the complaint mechanism must submit a report on implementation and the efficacy of the commitments contained in its statement;
 - criteria used by the complaint mechanism to decide whether to close the case, extend the deferral period or resume the compliance process.
 - (3) Once the deferral period has ended, a decision is made as to whether to extend the deferral, close the case or resume the compliance process.
- e. The complaint mechanism decides within 14 calendar days of receiving a statement whether there is strong evidence *prima facie* to suggest that the complainant is affected by adverse impacts from an IKI-funded project due to non-compliance with applicable BMU/IKI standards and policies.
- f. The decision is communicated to complainants and ZUG management and published on the complaint mechanism website.
- g. If there is *prima facie* evidence of non-compliance, the complaint mechanism will propose to complainants a full compliance investigation into the issue(s) raised by the

complainants, or, upon request by the complainants, a problem-solving process. See also Section 4.3.1. h).

- h. Compliance processes vary in duration, depending on the type, complexity and scope of the problem and any additional factors. The complaint mechanism will endeavour to conduct the compliance investigation expeditiously. However, the compliance process is usually completed within one (1) year of the parties agreeing to it.
- i. The compliance investigation reviews the relevant documents and records and gathers additional information, where appropriate from other witnesses and stakeholders, in particular complainants, ZUG management and staff, implementing organisations and their implementing partners.
- j. Once the compliance investigation is completed, the complaint mechanism drafts a compliance report containing the following: a) a summary of the complaint, the statement issued in response by ZUG management, and the BMU/IKI standards and policies that apply; b) a description of the investigation process and the investigative methods employed; c) a summary and assessment of the relevant evidence; d) findings regarding the complaint raised; e) further recommendations and lessons learned for the specific case or for standards, policies or processes, as appropriate.
- k. The draft compliance report is sent to the complainants and ZUG management with a request for comment within 21 calendar days of receipt of the report. The draft compliance report is also shared with the relevant implementing organisations, provided the recommendations apply to them. This gives complainants, ZUG management and implementing organisations the opportunity to provide feedback on the findings and recommendations.
- l. The complaint mechanism revises the compliance report within 21 calendar days of receiving comments. The complaint mechanism is responsible for taking these comments into consideration.
- m. The final compliance report is sent to the CM supervisory body immediately upon completed revision. The supervisory body will acknowledge the compliance report within 30 days, and will make decisions based on the complaint mechanism's findings and recommendations. The supervisory body decides which recommendations from the compliance report to implement.

The complaint mechanism's compliance report and the supervisory body's decision are forwarded to complainants and published on the complaint mechanism website ten (10) days after the decision is made.
- n. There is no right of appeal against the compliance report or the decision taken by the supervisory body, neither for complainants nor for any other person.
- o. Remedial action plan: if the complaint mechanism's report includes findings of non-compliance, then the supervisory body will require a remediation plan to be developed. ZUG management will submit a draft remediation plan within 60 days of the supervisory body's decision. This draft includes comments made by all parties consulted. The draft remedial action plan must be approved by the supervisory body.
 - (1) The remedial action plan may include measures for the BMU, ZUG, implementing organisations and/or their partner organisations to bring IKI projects back into compliance with IKI safeguards and other standards and/or to make amends.

- (2) The draft remedial action plan should be consulted on and further developed with the complaint mechanism (and, through it, with complainants), the implementing organisation and, where appropriate, its partner organisations. Consulted parties have 30 calendar days to comment on the draft remedial action plan.
- (3) ZUG management works to develop a final remedial action plan within ten (10) calendar days of receiving comments, taking into account these comments and in agreement with the complaint mechanism. If no agreement can be reached between ZUG management and the complaint mechanism on the remedial action plan, the complaint mechanism may request additional guidance from the supervisory body.
- p. The BMU makes a decision regarding the remedial action plan and instructs ZUG management to implement the remedial action plan if this is within its direct control, and instructs them to ensure that implementing organisations or their partner organisations implement the measures as part of the remedial action plan that fall under their responsibility. In case of violations of budgetary law, the usual administrative procedure is initiated by transferring the case to ZUG's grant management division.
- q. The complaint mechanism will monitor the implementation of the remedial action plan and report to the supervisory body if the remedial action plan, or parts thereof, are not implemented and/or cannot be implemented, and whether implementation has resulted in bringing the project into compliance and remediating harm.
- r. The remedial action plan is published ten (10) days after its approval by the panel on the complaint mechanism website.

5 Investigations proprio suo motu

If the complaint mechanism

- i) receives information from a credible source that an IKI project is having a direct, negative impact on a person, a group of persons, communities or the environment, or if there is evidence of corruption, fraud or misappropriation of funds; and
- ii) the resulting harm is not insignificant;

it may decide, on the basis of prima facie evidence, to initiate proceedings as per this Section.

The complaint mechanism's decision must include the prima facie evidence regarding (i) and (ii) that forms the basis for the decision taken.

This kind of investigation initiated by the complaint mechanism is treated as a legitimate complaint. Proceed as described in Section 4.

The decision is published on the complaint mechanism website within ten (10) calendar days.

6 Advisory support and institutional learning

Based on case findings, its work and international good practice, the complaint mechanism advises ZUG and the BMU on systematic aspects, including policies and processes, with the aim of improving the performance and outcomes of IKI project implementation. The objective of this role is to identify lessons learned and feed them back in to the units relevant to IKI implementation to improve IKI performance and outcomes.

The IKI complaint mechanism will exchange best practices and provide guidance for supporting and consolidating the capacity of IO accountability and redress mechanisms. In performing this role, the complaint mechanism focuses on providing advice on policies and processes, rather than on providing project-specific advice. Advisory services provided by the CM may take a number of forms, such as:

- direct communication with the IKI complaint mechanism supervisory body
- workshops and other learning events
- outreach activities
- creating toolkits, handbooks or publications

7 Monitoring

The complaint mechanism will fulfil its monitoring role in implementing the following decisions:

- i) agreements concluded through problem-solving processes
- ii) final remedial action plans

The complaint mechanism sets the monitoring period. Monitoring will continue until the project is brought into compliance and harm is remediated.

Monitoring methods used may include i) consultations with complainants, ZUG management, implementing organisations and their partner organisations and other interest groups; b) viewing documents; c) expert opinions; and d) site visits.

The complaint mechanism will draft annual monitoring reports. All parties involved in the proceedings are given the opportunity to comment on the draft monitoring report within 21 calendar days. Monitoring reports are submitted to the supervisory body for informational purposes. Monitoring reports are published on the complaint mechanism website within ten (10) calendar days.

If at any time during the processing of the complaint, the complaint mechanism believes that serious, irreparable harm could be caused by further project implementation, the complaint mechanism may recommend that IKI suspend disbursements for the project.

8 Protecting complainants

Complainants must be protected as best as possible from threats and acts of retaliation. Complaints involving reprisals and/or threats against complainants who have filed or plan to file a complaint related to an IKI project may therefore also be filed.

Complainants' identities may only be disclosed internally or externally through the complaint mechanism if complainants have given prior consent for the group of people in question to

receive this information. The complaint mechanism must seek permission from the complainant to do so before communicating the complaint to other parties.

As part of the complaint process, (i) the complaint mechanism identifies and monitors potential risks of retaliation; (ii) takes preventive action to address or reduce these risks; and (iii) determines appropriate responses if retaliation is taken.

To protect complainants, the complaint mechanism may take additional measures, in particular:

- The process is coordinated with complainants.
- Documents provided confidentially are only released by the complaint mechanism with the complainant's consent.

The parties involved are informed by ZUG if efforts to reach a satisfactory solution in safeguards-related cases are hampered by the principle of confidentiality.

9 Capacity building, outreach and institutional learning

The complaint mechanism communicates directly with internal and external stakeholders. Mechanism stakeholders include ZUG, the BMU, implementing organisations and their implementing partners, diplomatic missions, non-governmental organisations, stakeholder representatives and their organisations. To this end, the mechanism is developing a programme that will include, but not be limited to

- conducting information and training sessions for stakeholders, including with other mechanisms;
- compiling and updating informational materials and media, in particular a website and an online mailbox that can be used anonymously;
- specifically targeting vulnerable groups and providing information in different languages;
- reworking learning experiences for institutional learning in writing, using audiovisual media, or in some other form, and holding relevant events;
- monitoring and reporting on the implementation of these learning opportunities;
- engaging with other mechanisms as part of the Independent Accountability Mechanisms Network (IAM Network).

10 Final provisions

- (a) After prior consultation within the BMU, additional international BMU programmes may be added to the IKI complaint mechanism.
- (b) This policy will be evaluated five (5) years after entering into force.

Annex

Relevant agreements (extract)

Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (2009)
Espoo Convention on Environmental Impact Assessment (1991)
International Covenant on Civil and Political Rights (civil pact, ICCPR) (1966)
International Covenant on Economic, Social and Cultural Rights (social pact, ICESCR) (1966)
International Convention for the Protection of All Persons from Enforced Disappearance (CPED) (2006)
International Convention on the Elimination of Racial Discrimination (ICERD) (1965)
UN Framework Convention on Climate Change (UNFCCC) (1992)
Indigenous and Tribal Peoples Convention (ILO 169) (1989)
Kyoto Protocol (1997)
The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (2010)
OECD Council Recommendation on Integrity in Public Life (2017)
The Cartagena Protocol on Biosafety (2003)
United Nations Convention against Corruption (UNCAC) (2003)
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)
UN Convention on Biological Diversity (CBD) (1992)
UN Convention on the Rights of the Child (CRC) (1989)
UN Convention on the Rights of Persons with Disabilities (CRPD) (2006)
Paris Agreement (2015)
UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979)
UN Guiding Principles on Business and Human Rights (2011)