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Enhancing complaints mechanisms of European development finance institutions

By Nadia Ashraf, Karim Karaki and San Bilal

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In the dynamic landscape of development cooperation, international finance institutions (IFIs) and development finance institutions (DFIs) are playing an increasing role in supporting the implementation of policies. In doing so, they operate in challenging contexts involving sometimes significant sustainability risks and impacts. To address these risks and foster their development impacts, DFIs have put in place complaint mechanisms, which can be used notably by people affected by projects financed by DFIs. These mechanisms offer a platform to raise voices on social and/or environmental issues and obtain remediation.

This paper sets out to better understand and highlight good practices among DFI complaint mechanisms, and discuss some of the challenges linked to their operationalisation (including in the case of co-financing). It concludes by presenting a set of recommendations for European DFIs to keep improving their complaint mechanisms.

Given the importance of co-financing between European DFIs, the paper argues that there is a merit in fostering coherence and coordination between complaints mechanisms at the European level, by leveraging the association of European development finance institutions (EDFI). Such a coordinated approach should reflect EU values and principles, therefore serving the objectives of EU policies and strategies, including under the Global Gateway.

Table of Contents

Acknowledgements	iii
Acronyms	iii
Executive Summary	iv
1. Introduction	1
2. State of play and good practices	1
3. Considerations for co-financing	11
4. Challenges	14
5. Recommendations	15
1. Mandate and organisation	16
2. Information disclosure	16
3. Complaints process	17
4. Complaints handling and remedy	18
5. Monitoring and learning	19
6. Co-financing	20
References	21

List of Boxes

Box 1: Different DFIs' approaches to ensure the independence of their complaints mechanisms	3
Box 2: European DFIs introduction of a contractual clause relating to complaints mechanisms disclosure	4
Box 3: IFC and EIB's approach to complaints information disclosure	5
Box 4: Eligibility criteria for complaints and/or complainants	7
Box 5: Complaints mechanisms cooperation provisions	7
Box 6: Retaliation provisions in DFIs complaints mechanisms	8
Box 7: The challenges behind IFC CAO draft approach to remedial action	9
Box 8: Example of provision on remedy featuring a relatively strong language	10
Box 9: Monitoring practices by the ICM and EBRD IPAM	10
Box 10: The focus of the complaints mechanism on learning	11
Box 11: IAMnet	12
Box 12: EBRD IPAM approach to collaboration with other complaints mechanisms	13

List of Figures

Figure 1: The key elements of a complaints mechanism	2
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Acronyms


ADB	Asian Development Bank
CAO	Office of the Compliance Advisor/Ombudsman
CM	Complaints mechanism
CSO	Civil society organisation
DEG	Deutsche Investitions- und Entwicklungsgesellschaft mbH
DFI	Development finance institution
DIHR	Danish Institute for Human Rights
EBRD	European Bank for Reconstruction and Development
ECDPM	European Centre for Development Policy Management
EDFI	European Development Finance Institutions Association
EDFIs	European Development Finance Institutions
EIB	European Investment Bank
EFSD+	European Fund for Sustainable Development plus
E&S	Environmental and social
EU	European Union
FMO	Dutch Entrepreneurial Development Bank
ICM	Independent Complaints Mechanism
IDB	Inter-American Development Bank
IFC	International Finance Corporation
IFI	International financial institution
IPAM	Independent Project Accountability Mechanism
LIC	Low-income country
MIC	Middle-income country
MICI	Independent Consultation and Investigation Mechanism
MoU	Memorandum of understanding
OECD	Organisation for Economic Co-operation and Development
OSPF	Office of the Special Project Facilitator
PDB	Public development bank
SDG	Sustainable Development Goal
UNGP	UN Guiding Principles on Business and Human Rights

Executive Summary


International (IFIs) and development finance institutions (DFIs) are playing an increasing role in supporting the implementation of development cooperation policies. In doing so, they operate in challenging contexts involving sometimes significant sustainability risks and impacts. To address these risks and foster their development impacts, DFIs have in place policies and procedures to promote and respect the people and the environment, including complaint mechanisms. These can be used notably by people affected by projects financed by DFIs in case of negative social and/or environmental impacts - whether these are linked to e.g. human or labour rights abuse, resettlement or biodiversity degradation.

When implemented effectively, these can play a key role in ensuring DFIs' public accountability, both ex-ante by contributing to the improvements of their environmental and social (E&S) policies (through the learning component of complaints mechanisms), and ex-post by ensuring the right to be heard and the right to complain as well as facilitating remediation processes where appropriate. This paper sets out to provide a better understanding of complaint mechanisms, highlight good practices among DFI complaints mechanisms, and discuss some of the challenges linked to the operationalisation of complaints mechanisms (including in the case of co-financing); it concludes by presenting the following recommendations for European DFIs:


	1. Mandate and organisation
The mandate of EDFI's complaints mechanisms should comprehend several elements, including dispute resolution (problem-solving), compliance review, learning/advising and outreach/promoting safe access.	
DFIs complaints mechanisms should ensure that processes and outcomes are non-discriminatory and include requirements to i) monitor and report to the board on the complaints mechanism implementation; ii) propose updates/corrections if needed; and iii) continue monitoring until harms are remedied.	
When it comes to the independence of the complaints mechanism, the following aspects should be considered: staff seniority and expertise; whether there is a direct reporting line to the Board; and whether the mechanism is sufficiently staffed and resourced.	
EDFIs should systematically engage in public consultation (including to inform about the complaints mechanism, and also to review complaints mechanisms policy) and ensure information disclosure to boost transparency, accountability and trust with stakeholders.	


	2. Information disclosure
a. Information about complaints mechanisms	
EDFIs should provide a highly visible/accessible link to their complaints mechanisms' webpage on i) their homepages; ii) their projects' websites; and iii) their clients' websites. In addition, EDFIs publications - especially those referring to projects, should refer to the complaint mechanism.	

EDFIs should also consider adding contractual clauses requiring clients to i) inform local stakeholders/project-affected communities about the existence and operating procedures of the complaints mechanisms and ii) create a complaints mechanism at the project level.
b. Information about complaints
EDFIs complaints mechanism should specify clear and systematic rules on how information on complaints is handled and disclosed among the different parties, to ensure transparency and facilitate engagement of stakeholders.
EDFIs complaints mechanism should publish information about complaints received and outcomes reached in each case, to foster transparency, and build trust with the civil society.
EDFIs should indicate on the project website whether the project is subject to a complaint and is undergoing an independent assessment and review, and provide associated non-confidential documentation in the public domain.

	<h3>3. Complaint process</h3>
a. Eligibility criteria	
EDFIs complaints mechanism should accept complaints across all of the financial institution's operations, including co-financed activities, without requiring to first exhaust other avenues such as going to court.	
EDFIs complaints mechanism should allow complaints prior to project approval (or establish prevention procedures allowing allegations to be transferred to the operational services for their consideration) and a reasonable time after the project completion.	
EDFIs complaints mechanism should ensure that complaints' eligibility criteria can be objectively assessed to avoid arbitrary decisions and establish clear timelines for each stage of the complaint process.	
EDFIs complaints mechanism should also ensure non-disclosure of the complainant's identity and allow anonymous complaints to prevent the affected party from any retaliation.	
Complainants should be allowed to choose their representatives - whether local or international - as a way to foster the accessibility towards the mechanism, but also the potential results following the complaints mechanism processes.	
b. Retaliation	
EDFIs complaints mechanism should consider putting in place a dedicated process for assessing and preventing risks of and actual instances of retaliation, including collecting data. Any action by complaints mechanisms must avoid placing claimants at risk, and while doing so, be realistic and identify the limitations complaints mechanisms have in responding to retaliations.	

EDFIs should require clients as part of the contractual clauses to avoid any retaliation against persons/organisations using the complaints mechanism.

	4. Complaint handling and remedy
a. Complaint handling process	
EDFIs' complaints mechanism should allow complainants to express their preference for a compliance review or a dispute resolution.	
As for compliance review, EDFIs should ensure that the complaints mechanism can independently start and manage a compliance investigation without the DFI management approval, but with their inputs in terms of information and perspective on the complaint.	
As for the dispute resolution process, it is important to highlight that the EDFIs' complaints mechanisms should not provide solutions in a prescriptive manner but rather involve and engage the affected communities in the design of a collective solution, to ensure maximum impact.	
b. Remedy	
In cases of a dispute resolution process, EDFIs should exercise leverage over their clients to encourage them to provide remedies to project-affected people in case of breach with DFIs E&S policies and procedures.	
EDFIs' complaints mechanisms should provide for an appeal mechanism in cases where the complainant is not satisfied with the process and results delivered by the complaints mechanism, following the model of the EIB Group Complaints mechanism (appeal to the European Ombudsman).	
To ensure a level playing field among DFIs, common approaches to remedy should be adopted among European DFIs.	

	5. Monitoring and learning
On monitoring, EDFIs should consider developing a publicly available management tracking system that documents how they responded to complaints mechanisms' findings and recommendations, to foster transparency and accountability.	
EDFIs should more systematically seek feedback from complainants and track patterns and trends with respect to the causes of complaints and the effectiveness of the actions proposed.	



6. Co-financing

European DFIs should continue exchanging information, knowledge and learning relating to complaints mechanisms processes.

On the basis of the dialogue and experience accumulated by DFIs, EDFIs should establish a framework of cooperation building on the principles of cooperation for the IAMNetwork, allowing their complaints mechanisms to work together in a way that is efficient and effective, and that does not increase the potential for reputational damages.

In parallel to maximising complaints mechanisms cooperation in co-financing, European DFIs should make efforts in harmonising their complaints mechanisms' policies and practices to facilitate better cooperation in case of co-financed projects (incentivising the use of one instead of several complaint mechanisms).

In the longer-term, European DFIs should consider creating a common framework and mechanism open to all EDFIs, which could go a long way in reducing duplication efforts and ensuring accessibility for communities.

1. Introduction

International financial institutions (IFIs) and development finance institutions (DFIs) are playing an increasing role in supporting the implementation of development cooperation policies. In doing so, they operate in challenging contexts involving sometimes significant sustainability risks and impacts.

To address these risks and foster their development impacts, DFIs have in place policies and procedures to protect the people and the environment. Independent accountability mechanisms, when implemented effectively, can play a key role in ensuring DFIs' public accountability, both ex-ante by contributing to the improvements of their environmental and social (E&S) policies, and ex-post by ensuring the right to be heard and the right to complain as well as facilitating remediation processes where appropriate.

Approaches and processes are quite diverse among DFIs in this regard. This partly reflects the diversity of DFIs. There is no one-size-fits-all when it comes to the design and implementation of complaints mechanisms. Yet, common basic principles such as the UN Guiding Principles on Business and Human Rights (UNGPs) principles for the effectiveness of complaints mechanisms could usefully guide their approach. These principles, which focus on a set of key dimensions - legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning, based on engagement and dialogue - should guide DFIs' complaints mechanisms.

In order to move forward with DFIs' complaints mechanisms, this paper sets out to provide a better understanding of complaints mechanisms, highlight good practices among DFIs' complaints mechanisms, and discuss some of the challenges linked to the operationalisation of complaints mechanisms (including in the case of co-financing); it concludes by presenting a set of recommendations for European DFIs.

This study is based on a literature review and semi-structured interviews with a wide range of actors, including multilateral IFIs and European DFIs, as well as civil society organisations (CSOs) and hence builds on insights from practitioners, in order to shape recommendations that are not only theoretical and nice-to-have, but rather pragmatic and anchored within the realities of financial institutions for development. In addition, the report was enriched with the written feedback and comments received by IFIs and DFIs, as well as CSOs.

2. State of play and good practices

This section focuses on the five key elements characterising the functioning of complaints mechanisms, highlighting for each some of the good practices identified (Figure 1). These good practices should not be blindly replicated by DFIs, but rather serve as aspirations that could help them further sophisticate their approach to complaints mechanisms.

Figure 1: The key elements of a complaints mechanism



Source: From the authors

 **1. Mandate and organisation**

The core purposes of a complaints mechanism are to i) ensure the right to be heard and the right to complain - thus contributing to the public accountability of DFIs; ii) achieve ongoing improvement to the financial institution’s policies and processes to prevent future harm; and in some cases iii) help remediate negative impacts on project affected people and/or the environment.

To achieve these objectives, the complaints mechanisms perform the following three functions: i) Compliance Review, ii) Dispute Resolution and, in some cases, iii) Advisory. To do so properly, complaints mechanisms need to be structured in a way that protects and maintains **independence** from the DFI operational/management side. Independence can only be achieved if complaints mechanisms are allocated sufficient resources to thoroughly address each complaint and deal with the continually growing number of complaints and their increasing complexity (Vervynckt 2015). In turn, this allows DFIs to build the necessary legitimacy and transparency of their complaints mechanisms, and contribute in an objective and independent way to improving the standards, policies and processes of the DFIs.

In this context, DFIs have adopted different approaches, with some i) having a complaints mechanism operated by an independent secretariat, outside of the DFIs’ organisation; ii) having a complaints mechanism within their organisations, that is fully independent of the management team and has a direct line of reporting with the board of DFIs; and iii) providing a twofold approach with an independent internal complaints mechanism, completed by an external appeal mechanism.

Box 1: Different DFIs' approaches to ensure the independence of their complaints mechanisms

- A complaint mechanism fully externalised

The Independent Complaints Mechanism (ICM) is the joint complaints mechanism of Dutch Entrepreneurial Development Bank (FMO), Deutsche Investitions- und Entwicklungsgesellschaft mbH (DEG), and Proparco. It operates completely independently of the management of the Dutch, German and French DFIs (ICM 2019). It is managed by an independent secretariat and includes a three-member expert panel, which provides oversight of the mechanism's operations and decisions.

- A complaints mechanism internalised in a way that maintains its independence

BIO's complaints mechanism is managed by the Internal Auditor, thus entrusting the overall accountability and the decision-making responsibility to the Audit Committee, as part of its oversight role on the Company's internal control and risk management systems (BIO 2022). The Internal Auditor has a direct line of reporting with BIO's board.

- A twofold approach to complaints mechanisms

The European Investment Bank (EIB) Group Complaints mechanism consists of two parts: i) an internal, operationally independent complaints mechanism provided with technical/legal expertise to assess the merit of complaints and ii) an external, fully independent mechanism - the European Ombudsman - providing the possibility to escalate complaints and review the legitimacy of the EIB's response to the complaint (EIB, 2018). The Ombudsman will not substitute EIB's professional judgement but rather focus on whether a manifest error or a procedural breach has led to harm. BIO's complaints mechanism also includes an appeal mechanism through the Organisation for Economic Co-operation and Development (OECD) national contact points.

Source: From the authors

All of these options need to be carefully considered by DFIs, which may opt for one or the other depending on their own strategic interests and capacities. In this regard, it is important to highlight the following considerations:

- While the ICM offers complete independence and significant capacities in a way that is cost-effective when compared to complaints mechanisms from DFIs with similar turnover and capacities, it can be relatively costly to organise and operate from the perspective of smaller DFIs, which dedicate less than two full-time-equivalent. Additional costs related to coordination and some fixed costs¹ partly explained this state of play. Naturally, when considering costs, it is important to keep in mind the costs relating to reputational risks of having no complaints mechanism, or one that is underperforming, which should not be neglected either.
- In addition to the issue of costs, some DFIs' complaints mechanisms also share their concerns in relying on external expertise from, for instance, a roster of consultants for each different project, arguing that this can i) lead to increased unpredictability linked to the process and result of the complaints (because views, approaches and methodologies may vary from one expert to another), and ii) limit the potential for learning and building capacity as the information flow is not as efficient and systematic as if this was done internally. That said, all DFIs recognise that using external consultants can be relevant to dive into specific issues requiring additional technical expertise and is sometimes necessary given that some of the DFIs' complaints mechanisms are relatively new, so there are few experts and a high demand for trained personnel.
- While maintaining the independence of internalised complaints mechanisms may be more challenging than for externalised ones, what matters is that the structure adopted ensures its independence and legitimacy, and there is sufficient capacity (given the number and nature of complaints). The complaints mechanism,

¹ For instance, each DFI has their own ICM secretariat and website. This may be further streamlined as further integration takes place as part of the ICM. Importantly, a review of the ICM is organised on a regular basis to keep improving the ICM's processes' effectiveness and efficiency.

including its budget, must be independent of the operational side of the DFI and the DFI's management, and should not be limited in terms of budget.



2. Information disclosure

a) Information about complaints mechanisms

General public awareness of a DFI's complaints mechanism is key to its effectiveness. In this regard, complaints mechanisms of the DFIs and project-level grievance mechanisms (as well as disclosure at the project site of the DFI's involvement in sub-projects) should be clearly visible and understandable by the communities (Office of the United Nations High Commissioner for Human Rights 2023). While the visibility of complaints mechanisms by DFIs has improved over the years, the insufficient awareness of these mechanisms of project-affected people is still considered one of the biggest challenges to the effectiveness of complaints mechanisms.

More DFIs' complaints mechanisms are publishing information about the complaints mechanism on their websites. However, there is limited assurance of community disclosure. More importantly, most DFIs typically do not systematically require their clients to disclose information about the mechanism. While disclosure at the client level is key, including this as a contractual clause is often avoided due to fears of losing clients, given that other DFIs do not have that requirement. Here, harmonisation among DFIs can encourage best practices and help ensure a common level playing field - at least at the European level.

Box 2: European DFIs introduction of a contractual clause relating to complaints mechanisms disclosure

BIO has introduced contractual requirements on disclosure: BIO introduced a requirement for their clients to communicate to their relevant internal and external stakeholders about BIO's Grievance Mechanism (interviews). This will be part of all new contracts signed by BIO (i.e. those signed after the revision of BIO complaints mechanism in 2022). Likewise, the EIB 2022 Environmental and Social Sustainability Framework (Standard 2, Section 33) introduces the requirement for promoters to inform project-affected people about the project-level grievance mechanism and the EIB Group Complaints Mechanism and how stakeholders can access them (EIB 2022a). In addition, links to the EIB Group Transparency Policy and the EIB Group Complaints Mechanism Policies are always available on the EIB Projects Web Summaries.

Source: From the authors

b) Information about complaints

Providing information on complaints (both cases handled and ineligible) through a complaint registry is important to make the mechanism more transparent and the DFIs accountable, enabling stakeholders to engage in the process, according to the stage of the complaints-handling process. This contributes to both the independence and effectiveness of complaints mechanisms. While this is not a consistent practice, several DFIs complaints mechanisms do publish full lists of cases.

DFIs' complaints mechanisms should put in place procedures to determine (in conjunction with complainants) what information can be disclosed in a way that protects the complainants from potential retaliation (see example of the retaliation guidelines of the IBD and EIB on this matter). This process (and retaliation risks) should be

followed/assessed on a case-by-case basis. There are also sufficient safeguards which can be put in place in order to minimise this risk without jeopardising procedural transparency and accountability. Last but not least, while complaints mechanisms have no power to enforce their decisions, the publication of its findings may push DFIs and their clients to address any issues that are uncovered by complaints processes.

Box 3: IFC and EIB’s approach to complaints information disclosure

In line with its complaints mechanisms’ policy, the International Finance Corporation (IFC)’s Office of the Compliance Advisor/Ombudsman (CAO) publishes substantial information on eligible and non-eligible complaints through its complaints registry, available on its website (IFC CAO 2023). The CAO does not post the complaint itself at the eligibility stage, though a brief summary of eligible complaints is posted. At the European level, the EIB Group complaints mechanism also provides substantial information on complaints and includes the calendar of milestones in the complaints handling cycle (see example below) (EIB 2023).

Admissibility*	Assessment*	Investigation*	Dispute Resolution*	Consultation*	Closed*
2/03/2023		22/03/2023			23/03/2023

Source: From the authors

A few considerations should be taken into account by DFIs’ complaints mechanisms to ensure that their complaints registry does not lead to potential negative impacts on the project, project-affected people, project promoters and DFIs themselves:

- First, maintaining a complaint registry, which means inter alia checking the relevancy and accuracy of the information, (and regularly updating it), demands additional resources, which may not necessarily be within the reach of smaller DFIs.
- Second, there is a concern that immediately publishing details about a case may complicate the proceedings and possibly harm the confidentiality of the complainant, which may increase the risk of retaliation. In turn, this may lead to the fear from project promoters and DFIs of potential reputational damages.

3. Complaint process

a) Eligibility criteria

It is estimated that over half of the complaints filed with these mechanisms are deemed ineligible (Office of the United Nations High Commissioner for Human Rights 2022, Daniel, C. Genovese, K., van Huijstee, M. & Singh, S. 2016). While this may be due to frivolous complaints, simple contacts or early remediation to the DFIs through the complaints mechanism (without being a complaint), another likely reason for this high level of ineligible complaints can be traced back to the strictness of the eligibility criteria (Office of the United Nations High Commissioner for Human Rights 2022). In addition, it is important to note that in cases where DFIs complaints mechanisms are visible and easily accessible, several types of complaints going beyond the realm of a DFI complaint mechanism are submitted (including issues such as procurement or contractual matters).

DFIs complaints mechanisms should have open and clear eligibility criteria, designed to ensure the accessibility of the mechanisms. Put in practice, this means that:

- Complaints mechanisms should accept complaints from any natural or legal person who alleges a case of maladministration by DFIs in its decisions, actions and/or omissions. Thus far, a few DFIs' complaints mechanisms still only accept complaints from project-affected people.
- Complaints mechanisms should assess complaints based on measurable and objective criteria, to not leave any space for arbitrary decisions. Several DFIs' complaints mechanisms currently consider ineligible complaints, those that are filed to e.g. gain a competitive advantage, unduly obtain compensation or damage the reputation of project promoters. Whilst this may act as dissuasion for ill-intended complaints/complainants, it cannot be assessed with adequate indicators and undermine the objectivity of the complaint mechanism.
- Complaints mechanisms should accept complaints at the pre-investment phase or alternatively have procedures in place allowing allegations to be transferred to operation services for their consideration as in the case of e.g. EIB Group (Box 4). They should also accept complaints throughout the investment cycle, and post-investment phase to foster the accessibility of the complaints mechanism. While it may be argued that DFIs have much less leverage on project promoters at the post-investment phase, hence affecting the complaints mechanism's effectiveness, it is important to highlight that some DFIs clients are "repeat clients", particularly in the case of sovereign operations. This leaves DFIs with some degree of bargaining power. In addition, harm can be identified after a project is closed, and therefore, it is important to leave a window for complainants to bring grievances also after the project's closure for a certain period of time.
- Complaints mechanisms should accept complaints from any representative the complainants authorise to act on their behalf, whether it is a local or international representative. Several DFIs complaints mechanisms tend to restrict the possibility for international representation, on the fair basis that complaints mechanisms should seek to work directly with the project-affected individual(s) or community (Office of the United Nations High Commissioner for Human Rights 2022). However, DFIs complaints mechanisms should not restrict possibilities for international representation for exceptional cases and/or only when local representation is not available. International organisations often have greater experience with complaints to these mechanisms and access to institutions, and thus should be allowed to represent and/or support the complainants. Should a DFI complaints mechanism have questions about the validity of a complainant's representation, these should be dealt with through the investigation process itself rather than *ex ante* prohibitions or restrictions (Office of the United Nations High Commissioner for Human Rights 2022).

There is, however, time and cost associated with keeping the eligibility criteria very broad, which may be a reason why some complaints mechanisms introduce restrictions on the eligibility of complaints.

Box 4: Eligibility criteria for complaints and/or complainants

As in the case of the European Bank for Reconstruction and Development (EBRD) Independent Project Accountability Mechanism (IPAM), the EIB Group Complaints mechanism (CM) - European Ombudsman provides for broad eligibility criteria, being open not only to individuals but also legal persons such as CSOs and corporations, and with very limited restrictions (EIB 2018). Importantly, while other DFIs' complaints mechanisms may require complainants to outline how the alleged harm is connected to the DFIs supported activities, the EIB Group CM allows complainants who simply allege a case of maladministration by DFIs in its decision, actions and/or omission. This is important as this fosters DFIs' accountability for the Project's compliance with the standards of the DFIs financing it.

In terms of the timeline for accepting complaints, BIO's eligibility criteria allow for complaints to be filed at the pre-investment stage (in addition to throughout the project cycle), which is quite an advanced practice in comparison to other European bilateral DFIs (BIO 2022). Alternatively, DFIs can put in place specific prevention procedures to allow potential issues to be raised and dealt with directly by operational services. This is the case of the EIB Group CM Policy and Procedures, which establishes "Prevention" procedures allowing any allegations submitted prior to project approval to be transferred to the operational services for consideration. In addition, several DFIs accept complaints after projects' closure. The EBRD IPAM, for instance, accepts complaints up to two years after the Bank ceases to have a financial interest in the Project (i.e., as a result of full repayment, prepayment, disposal or otherwise) (EBRD 2019).

Source: From the authors

Requiring complainants to exhaust other avenues is also another restriction placed by some DFIs' complaints mechanisms. This undermines early resolution and/or addressing issues that are time-sensitive in terms of providing remediation or corrective action on the part of the DFIs. In fact, more than allowing parallel processes, complaints mechanisms' cooperation should be promoted amongst DFIs (more details on this aspect in the section on co-financing).

Box 5: Complaints mechanisms cooperation provisions

The ICM includes in its policy a provision allowing for complaints mechanisms to cooperate: *"If the Financed Operation at issue in the Complaint is co-financed by another institution, the Complaints Office may notify the complaints mechanism(s) of the co-financing institution(s) of the receipt of the Complaint and may communicate and cooperate with the complaints mechanism(s) of such institution(s) so as to avoid duplication of efforts and/or disruption or disturbance to common parties, provided that this is in compliance with all relevant legal and contractual requirements. Where appropriate, a cooperation agreement, addressing issues such as confidentiality and sharing of information, with the complaints mechanism(s) of the respective co-financing institution(s) will be established"* (ICM 2019:9).

Importantly, duplication of efforts can be addressed by other efficient means, such as the setup of joint investigation amongst peers (DFIs), joint fact-finding missions, etc. This enables DFIs not to fatigue stakeholders (including clients) in repetitive exercises while preserving the integrity of the review of projects with DFIs' respective E&S standards.

Source: From the authors

b) Retaliation

It is common for complainants to feel pressure and receive threats after filing a complaint, and there have been cases where neither DFI nor the complaints mechanism responded adequately to protect the communities. It is thus important for the complaints mechanisms to develop procedures to prevent and respond more effectively to reprisals against complainants. This includes, among other provisions, strictly respecting confidentiality requests, assessing retaliation risks, and requiring clients to avoid any retaliation. More generally, any action by complaints mechanisms must avoid placing claimants at risk, and while doing so, be realistic and identify the limitations complaints mechanisms have in responding to retaliations. Complaint mechanisms are not enforcement mechanisms and have limitations, and in some cases serve as a bridge between complainants and other institutions (both locally and internationally) that may be better suited to take concrete actions.

Box 6: Retaliation provisions in DFIs complaints mechanisms

Several DFIs complaints mechanisms, including that of Swedfund, state that, as part of their complaints mechanisms' policy, they do not tolerate any form of retaliation against a claimant and will take necessary steps to prevent and discipline such actions (Swedfund 2020). Others have developed specific guidelines to address the retaliation risks in complaint management. These include the Inter-American Development Bank (IDB) Independent Consultation and Investigation Mechanism (MICI) with the Guidelines for addressing risk of reprisals in complaint management (IDB - Consultation and Investigation Mechanism 2019a), its Guide for Independent Accountability Mechanisms on Measures to Address the Risks of Reprisals in Complaint Management: A practical toolkit (IDB - Consultation and Investigation Mechanism 2019b), the EIB Group CM's approach to preventing and addressing reprisals (EIB 2022a) or the ICM's Non-Retaliation Statement (ICM 2021). These could be useful materials for other DFIs to perfect their approach to retaliation.

Source: From the authors



4. Complaint handling and remedy

Understanding of local contexts, language(s), and the experience of working with vulnerable communities, as well as the ability to conduct field missions, is essential for proper investigations and dispute resolutions. However, as mentioned earlier, this requires resources and capacity, which complaints mechanisms may not always have. Involving external (local) experts for specific cases in the context of dispute resolution processes may be one way to deal with this constraint.

The issue of remedy is quite sensitive and is likely to evolve relatively fast in the short term, with the IFC currently developing an approach to remedial action (IFC 2023), which *could* set a precedent for financial institutions for development. DFIs' complaints mechanisms are often criticised by civil society for not leading to outcomes for complainants - whether financial or non-financial (as remedies do not necessarily involve financial resources). In addition, it is unclear the extent to which DFIs' country system assessment includes an analysis of the regulatory requirements pertaining to remediation and enforcement of remedial outcomes. As highlighted by the Office of the United Nations High Commissioner for Human Rights (2023), *"To the extent that DFIs are overlooking these issues, they may be foregoing potentially important opportunities to help State-based judicial and non-judicial mechanisms better deal with grievances common to DFI-supported projects within their jurisdiction"*.

Box 7: The challenges behind IFC CAO draft approach to remedial action

The IFC CAO approach to remedial action represents the first attempt by DFIs to dedicate a specific policy to the provision of remedies. While the policy includes several elements to support the provision of remedies, the Danish Institute for Human Rights (DIHR) highlights at least four ways in which the approach falls short. In particular, it does not:

- *“Acknowledge and address IFC/MIGA’s role in contributing to harm and therefore contributing to remedy.*
- *Commit to contributing to remedial action:*
 - when there are CAO findings of non-compliance and IFC contribution to harm, and
 - in non-CAO cases where IFC learns that it has contributed to harm.
- *Demonstrate leadership by committing to proactive steps to develop innovative financial products to support remedial action and to explore alternative methods of resolving disputes.*
- *Address how remedy can be provided in more complex situations, such as with multiple actors involved in large-scale projects, in fragile and conflict-affected situations, or post-exit from an investment”.*

Source: DIHR 2023

DFIs face a number of constraints when it comes to the provision of remedies:

- According to the UNGPs, the primary responsibility to provide remedy always remains in the hands of the main harm-doer. The main harm-doers are often project promoters.
- Thus, DFIs are not per se responsible for providing remedies and tend to rely on the goodwill of their clients/project promoters to ensure that remedies are provided. Some also argue that DFIs providing remedies would undermine their bargaining positioning vis-a-vis their clients, who would feel less inclined to provide remedies themselves (Saldinger 2023). DFIs’ management has hence been reluctant to engage directly in remediating harms (Multiple Authors 2021).
- Nonetheless, DFIs should influence project promoters to provide remedies. They do have some leverage over their clients, which may vary according to: the type of contractual and financial relationship - i.e. the disbursement stage of the project, the type of financial instruments used (loans vs. equity), whether the investment is intermediated or not, whether they are or not the main financiers, whether the client is a repeat client or not etc. In addition, in case they have not complied with their E&S policies, they should be held accountable and hence responsible for providing remedies - as per the UNGPs.
- In addition, DFIs’ direct engagement in remedies may require setting up significant resources to this effect (even though not all remedies require financial compensation), and, perhaps more importantly, establishing a precedent and about materially, acknowledging responsibility.
- The issue of remedy gets even more complex in terms of responsibilities and roles when the project promoter is a financial intermediary. This is an area where DFIs’ complaints mechanisms are particularly challenged as they have much less control and visibility and is also considered an important gap to fill if more claimants are to have access to remedy in practice (Office of the United Nations High Commissioner for Human Rights 2023).

To ensure a level playing field among DFIs, common approaches to remedy should be adopted among European DFIs. While a European approach should build on existing good practices and some of the progress introduced by

the draft IFC CAO approach to remedial action, it should go beyond to align with EU values and principles. In doing so, it should build on the recommendations put forward by the Office of the United Nations High Commissioner for Human Rights (2022), and DFIs should be accompanied in this process by their shareholders. Indeed, a more sophisticated approach to remedies involving the contribution of DFIs may have implications on DFIs management/capital costs, and/or disincentivise them to invest in challenging contexts with high human rights and environmental risks - which should be avoided. Shareholders should support their DFIs by adapting their incentives and objectives.

Box 8: Example of provision on remedy featuring a relatively strong language

BIO's grievance mechanism states that "In situations where BIO contributed (or may contribute) to an adverse impact, for instance by failing to comply with its own policies and procedures such as the environmental and social due diligence or monitoring, BIO shall use its leverage on the portfolio company to mitigate any remaining impact to the greatest extent possible [...]. In situations where BIO has caused harm, for instance, by directly violating the human rights of any individual or community, BIO's Grievance Mechanism shall take the necessary steps, appropriate to the company's size and circumstances, to ensure the provision of remedy."

Source: BIO 2022



5. Monitoring and learning

a) Monitoring

Monitoring is about ensuring that the outcomes of the process (independent of whether it is a dispute resolution or compliance review) are implemented. In this regard, it is important that complaints mechanisms have the mandate to monitor the case until all instances of non-compliance with the outcomes of the compliance review or dispute resolution have been remedied. The monitoring should not be limited to the implementation of the action plan but also focus on the actual remediation of all instances of non-compliance. This is especially the case of the compliance review, where complaints mechanisms' actions are less limited than in dispute resolutions. However, there appears to be insufficient data collection and public reporting on outcomes (Multiple authors 2021).

Box 9: Monitoring practices by the ICM and EBRD IPAM

The ICM of DEG, FMO and Proparco provides that in cases where material non-compliances are identified, the ICM will monitor the situation until actions taken by [the concerned DFI] assure the ICM that [the concerned DFI] is addressing the material non-compliance(s)" (ICM 2019). The EBRD IPAM provides further details on its monitoring activities, which include inter alia consultation with the Requesters, the Client, Bank management and other relevant stakeholders and a site visit to the Project area if deemed necessary by IPAM (EBRD 2019). In addition, the monitoring activities lead to the development of a Monitoring Reports at least bi-annually.

Source: From the authors

b) Learning

The role of the complaints mechanism goes beyond handling cases (as mentioned earlier), and can help facilitate institutional learning in a way that helps improve DFIs' policies and practices. These improvements can help complainants avoid recurrent issues relating to the complaints mechanism and beyond (Multiple Authors 2021).

Box 10: The focus of the complaints mechanism on learning

EBRD IPAM policy is quite detailed when it comes to the learning dimension of its complaints mechanism, stating that *"In order to promote institutional learning and integrate Management Action Plan commitments across EBRD projects, IPAM will routinely share lessons learned and offer guidance to Bank management based on the insights, experiences and evidence emerging from its Casework. IPAM guidance and lessons learned will identify common and crosscutting challenges, provide constructive recommendations and promote a culture of continuous learning at EBRD. Such information will be shared as an adequate body of work becomes available for systemic capture"*.

Source: EBRD 2019:26

3. Considerations for co-financing

European bilateral DFIs rarely invest alone in given projects. Instead, they often co-invest following their own policies and procedures - though these are increasingly harmonised through the efforts conducted by the Association of European Development Finance Institutions (EDFI). In this context, this section provides a better understanding of what happens in case a complaint is raised in projects co-financed by DFIs, i.e. how DFIs' complaints mechanisms are implemented in practice.

In the case of co-investments, each DFI relies on its own complaints mechanism, which is available for complainants. In fact, according to some actors, it is often the case that complainants use more than one complaints mechanism to maximise chances of getting their complaint addressed and obtaining remedy. But this current state of play is not without challenges for complainants:

- DFIs may finance different parts of a programme or project or may be involved at different points in the project cycle. The complexity of co-financing can make it hard for complainants to identify who is financing a given project and where to file complaints.
- While the complaint is the same, the result can vary depending on which complaints mechanism is used, which may affect the complaints mechanism's credibility from the perspective of the complainant.
- Last, filing a complaint in more than one DFI's complaints mechanism also means more resources, and also additional fatigue for providing the same information to different stakeholders.

For DFIs, this status quo also raises several challenges. These include:

- The lack of a harmonised approach, which results in duplication of efforts, and high transaction costs for DFIs but also for local communities who go through similar processes with different DFIs complaint mechanisms.
- The lack of clarity on division of responsibility: the respective responsibilities of DFIs for impacts, financial stakes and influence, expertise, client relationships and the specific provisions of contracts complicate the division of responsibility among DFIs' complaints mechanisms in case of a complaint.

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- Each DFI would apply its own complaints mechanism, which refers to its own (different) policies and standards. As a result, this could lead to different outcomes on the basis of the same facts, sending inconsistent messages and recommendations to clients and government authorities involved.

Adopting common basic principles among complaints mechanisms, and ensuring some level of coordination among DFIs' complaints mechanisms involved in co-investment might help alleviate some of these challenges. In this context, European DFIs should dedicate more efforts to foster collaboration between their complaints mechanisms, by sharing information, knowledge and good practices with a view to harmonising to the maximum extent possible processes and procedures, cooperating on an ad-hoc manner at the project level, and/or developing a joint complaints mechanism at the European level, in line with EU values and principles.

a) Sharing information and knowledge and harmonising processes

Sharing information, knowledge and lessons learnt is the first step in terms of cooperation between European DFIs' complaint mechanisms. This is already taking place at the international level through the [Independent Accountability Mechanisms Network](#) (IAMnet) and at the European level through the [EDFI association](#).

The latter also plays a crucial role in helping European DFIs' complaints mechanisms harmonise their processes and procedures. This is of prime importance, as there is a need to reflect on processes promoting EU values and principles, and ensuring a common playing field, which is of prime importance for DFIs as there is a fear that imposing additional requirements linked to complaints mechanisms to their clients will make them less attractive vis-a-vis other DFIs with more loose requirements. While the EDFI has been quite active in this harmonisation agenda, it has yet to include a focus on complaints mechanism. This could be an opportunity to do more - especially in the context where the EU requirements on human rights and gender and pushing DFIs to engage in difficult contexts (through, for instance, the European Fund for Sustainable Development plus - EFSD+) are becoming more and more stringent.

b) Cooperation at project level

DFIs' complaints mechanisms already cooperate to some extent at the level of the project, on an ad-hoc basis. This should not be overlooked as it can ultimately facilitate a more sophisticated and systematised type of cooperation. As part of this effort, the IAMnet provides useful principles, aiming to foster opportunities for cooperation between DFIs' complaints mechanisms, with a view to strengthening the effectiveness and efficiency of complaints mechanisms (Box 11).

Box 11: IAMnet

The IAMnet highlights a set of actions that can be undertaken by DFIs' complaints mechanisms to strengthen their cooperation while taking account of their respective framework. Actions are divided into five main areas:

1. *Information sharing*
2. *Complaints relating to co-financed or commonly supported projects*
 - a. *Receipt of Complaint – Information Sharing*
 - b. *Cooperation among IAMS where more than one complaint is filed*
3. *Outreach and in-reach*
4. *Broader dialogue opportunities and regular meetings of the IAMS*
5. *Internet and electronic information*

Source: IAMnet 2017

In case of similar complaints coming from project-affected people, complaints mechanisms could cooperate in order to limit the burden on the communities and clients and limit their own transaction costs. In case complaints with the same issues are submitted by the same group of project-affected people to the complaints mechanisms of the co-financiers at the same time, these could cooperate in order to limit the burden on the communities and clients and limit their own transaction costs. For instance, the Asian Development Bank (ADB) - Office of the Special Project Facilitator (OSPF) and the EIB Group CM coordinated a complaint relating to one of their co-financed projects in Mongolia.

For efficiency matters, the EIB-CM and ADB-OSPF agreed on principles of cooperation with ADB's OSPF leading the problem-solving initiative while ensuring periodic communications with the EIB-CM on case progress, challenges and sharing of reports. If processes and timelines for case processing are aligned between different mechanisms, cooperation and resource sharing become possible.

Those cooperation agreements can be based on, for instance, a memorandum of understanding (MoU) or even lighter forms of engagement. In a few complaints mechanisms, collaboration with other DFIs' complaints mechanisms is included in their policy (Box 12).

Box 12: EBRD IPAM approach to collaboration with other complaints mechanisms

According to the EBRD IPAM, *"If the Project at issue in a registered Request is subject to co-financing by other institutions, IPAM will notify the accountability mechanism(s) of the co-financing institution(s) of the Registration of the Request, and will encourage them to notify their respective management teams for awareness and consideration in their own project appraisals and/or project implementation. If deemed necessary, IPAM may also notify other IAMs of registered Requests not subject to co-financing, but located in overlapping countries or territories of operation.*

When IPAM cooperates with other IAMs during joint Cases, it shall ensure that proper protocols are in place to address joint Request processing issues, including (but not limited to): Requester confidentiality; the sharing of Requester, Client and Bank information; Retaliation risk assessment and mitigation measures; and other issues as appropriate. If appropriate, IPAM will establish written cooperation agreements or Memoranda of Understanding with the accountability mechanism(s) of the co-financing institution(s) to address joint Case processing issues."

Source: EBRD 2019:20

But this type of cooperation also depends on the extent to which: a) timelines of the complaints mechanisms are aligned; b) requirements in terms of the processes relating to the complaints are equivalent; c) the reputation of DFIs is considered at stake -in which case they will want to have control over the course of actions and d) there is a need for additional capacities.

c) Developing a European joint complaints mechanism in line with EU values and principles

Creating a common independent complaints mechanism is one of the options that could be pursued so as to ensure true independent oversight while strengthening accountability in a way that is efficient and effective. In doing so, European DFIs can build on existing endeavours, including the ICM. However, developing a European complaints mechanism is not without challenges, given the individual specificities of each DFI.

First, different complaints mechanisms and E&S policies, together with separate governance and shareholding structures of DFIs, make it difficult to create a joint complaints mechanism. However, this is not impossible, as illustrated by the ICM, which applies to FMO, DEG and Proparco. The fact that these institutions collaborate extensively through co-investment also helped make the case for a joint approach to the complaints mechanism. Last, the mechanism could be seen as a living instrument evolving over time, which could accommodate some of DFIs' complaints mechanisms and policy specificities, at least at the start, before striving towards harmonising all processes and procedures.

Second, developing a common mechanism can be associated with lengthier procedures than a bilateral complaints mechanism. In this regard, a European mechanism should be designed in a way that is pragmatic and responsive, limiting bureaucratic processes and maximising coordination efficiency. In addition, in comparison to an internal complaints mechanism, a common complaints mechanism may be less flexible and responsive in, for instance, providing the required information, including the responsible staff, and may have a more limited knowledge of the DFI's specific policies and procedures.

In designing the processes, particular attention should be paid to the costs generated by the implementation of a joint mechanism. The rationale for many (smaller) DFIs' complaints mechanisms to join a common mechanism is to cut down costs whilst benefiting from an effective complaints mechanism, in line with international standards. Lessons can be drawn from the ICM, which is considered by smaller DFIs as costly, which is partly explained by i) the coordination between DFIs, which contributes to higher transaction costs; and ii) the daily rates of external lawyers, which is much higher than internal staff. That being said, larger DFIs with more capacity for the complaints mechanism may find it useful to share costs (though additional costs are likely to arise, including the resources required for the expert panel to familiarise itself with DFIs' policies and procedures), and all DFIs may gain in reducing costs related to the duplication of processes.

Last, a common mechanism should not get in the way of continuous improvement, which is a principle by which all DFIs' complaints mechanisms abide by. More specifically, a joint mechanism should not lead to concentration of authority and restrict innovation. In this regard, it is worth noting that the ICM policies and processes are regularly reviewed in order to become even more relevant, efficient and effective.

Given the challenges underlying the development and implementation of a common complaints mechanism, other alternatives could be explored in the short term, including, for instance, a type of cooperation agreement between DFIs. This agreement would set out general principles to be applied in the complaints mechanisms and determine what happens if a complaint is lodged against one DFI complaints mechanism in a jointly financed transaction.

4. Challenges

Before introducing the recommendations, this chapter presents some of the key challenges and constraints that DFIs may face when implementing and/or improving their complaints mechanisms. Considering these will, in turn, help design recommendations that are not only desirable but also feasible in practice.

First, DFIs' complaints mechanisms often have **limited resources and capacities** that can prevent them from engaging in a more ambitious and sophisticated approach to complaints mechanisms. Some DFIs may have a cap on how much human resources can be provided to conduct DFIs operations and activities. Beyond a cap, some DFIs, especially the smaller ones, may not have the same space to do more on complaints mechanisms in comparison to

larger DFIs. All in all, this may limit inter alia DFIs' ability to hire sufficiently trained staff, conduct field missions, and periodically disclose information on complaints, etc.

At the same time, adopting a more ambitious approach to complaints mechanisms may also bring additional challenges. For instance, while disclosing information on complaints may foster accountability and transparency, it can potentially lead to **reputational damages** (for the DFIs and their complaints mechanisms) if not done properly. Adopting good practices comes with its own set of risks, but this should not deter DFIs' complaints mechanisms from doing better. Equally important and often overlooked, not doing better or enough also comes with the potential for reputational damages.

Second, some DFIs **fear losing a competitive edge** in adding contractual requirements relating to complaints mechanisms (e.g., on retaliation or disclosure requirements), when other DFIs do not implement such practices. In this context, the issue is about ensuring a level playing field, which is key to incentivising DFIs to do more on this agenda. In this context, though it is challenging, a harmonised approach at the European level is key. Beyond the fear of losing a competitive edge, DFIs may also fear taking too much responsibility in an area with potential legal liability.

Third, when it comes to **remedies**, several issues already mentioned in the above sections should be pointed out: first, complaints mechanisms are non-judicial mechanisms, whose outcomes are not enforceable, limiting their ability to get remedies or other types of compensation for complainants; second, DFIs (except in the case of non-compliance with their own E&S standards) rely on clients' cooperation and willingness to provide a remedy. In other words, while DFIs have the responsibility to use their influence and leverage on the client for remedy, stopping the harm and providing remedy is the responsibility of the client; and iii) remedies are a sensitive issue given the lack of precedence amongst DFIs to directly contribute to it, in addition to materially acknowledging responsibility.

Taking these issues into account, the next section provides recommendations to European DFIs on the ways forward when it comes to doing more and better with their complaints mechanisms.

5. Recommendations

The recommendations put forward should be thought of, and tailored to, the specific context in which given DFIs evolve, including inter alia their respective size, cost considerations, E&S standards and capacities. In particular, the issue of capacity (and the flexibility around it) largely determines the extent to which complaints mechanisms can be improved and achieve a certain degree of ambition and sophistication. These considerations have to be addressed not only by the DFIs and their complaints mechanism but also by their board/shareholders, so as to empower DFIs to pursue a proactive approach to improving complaints mechanisms.

The common minimum denominator should be the eight effectiveness criteria of Guiding Principle 31 of the UN Guiding Principles for Business and Human Rights (UNGPs 2011), which is now also being used to benchmark accountability mechanisms of DFIs.

1. Mandate and organisation

General recommendations to EDFIs
<p>The mandate of EDFI's complaints mechanisms should comprehend several elements, including dispute resolution (problem-solving), compliance review and learning/advising. These three elements should be seen as the key building blocks for an effective complaints mechanism, providing different but complementary alternatives to complaints resolution.</p>
<p>Additional cross-cutting elements should also be considered on a systematic basis: first, to ensure that processes and outcomes should be non-discriminatory, gender-sensitive and compatible with international human rights law; and second, to include requirements to i) monitor and report to the board on the complaints mechanism implementation; ii) propose updates/corrections if needed; and iii) continue monitoring until harms are remedied.</p>
<p>Independence is a key aspect characterising complaints mechanism. To achieve this, several elements should be in place.</p> <ul style="list-style-type: none">• First, the complaints mechanism should be headed by senior-level staff - which also helps demonstrate a certain commitment to its functioning - with the support of a team of (permanent) staff or independent external experts. The team should be suitably qualified in relation to the requisite language skills, experience working with victims, understanding of local contexts; and capacity to hire outside consultants if needed for specific cases. Last, limiting the years of appointment of those who have headed the offices, as well as limiting future jobs within the DFI, are also among the good practices often highlighted.• Second, there should be a direct reporting line with the board, in order to avoid any possible interference from the management and ensure independence, including in the processes of the complaints mechanisms. The Board should oversee the corrective actions of DFIs whenever relevant.• Third, the complaints mechanism should be sufficiently staffed and resourced, with the Board approving its budget, staffing and contracting. This is important to support a more sophisticated approach to complaints mechanisms.
<p>EDFIs' complaints mechanisms should more systematically ensure public consultation (including when reviewing complaints mechanisms policy) and information disclosure to boost transparency, accountability and trust with stakeholders, including those from civil society. Such a consultation process would allow these stakeholders to provide feedback and guidance on the design and implementation of their complaints mechanism, based on their knowledge and expertise and, in doing so, being part of the solution.</p>

2. Information disclosure

a) Information about complaints mechanisms

General recommendations to EDFIs
<p>EDFIs should provide a highly visible/accessible link to their complaints mechanisms' webpage on i) their homepages; ii) their projects' website; and iii) their clients' website. In addition, EDFIs' publications - especially those referring to projects, should refer to the complaints mechanism. Information should be published in a way that is understandable to the communities concerned.</p>

EDFIs should also consider adding contractual clauses requiring clients to i) inform local stakeholders/project-affected communities about the existence and operating procedures of the complaints mechanisms and ii) create a complaints mechanism at the project level. These contractual clauses should also require clients to disclose and communicate about the complaints mechanism as part of social and environmental due diligence.

b) Information about complaints

General recommendations to EDFIs

EDFIs complaints mechanism should specify clear and systematic rules on how information on complaints is handled and disclosed among the different parties, to ensure transparency and facilitate engagement of stakeholders. Information on complaints should be accessible and made easy to find on the complaints mechanism website.

EDFIs complaints mechanisms should publish information about complaints received and outcomes reached in each case, to foster transparency, and build trust with the civil society. These registries should ensure an appropriate level of confidentiality to prevent any potential for retaliation, which may evolve as the complaints are being processed.

EDFIs complaints mechanisms should indicate on the project website whether the project is subject to a complaint and is undergoing an independent assessment and review, and provide associated non-confidential documentation in the public domain, including documents such as management action plan and resolution agreement.

3. Complaints process

a) Eligibility criteria

General recommendations to EDFIs

EDFIs' complaints mechanisms should accept complaints across all of the financial institution's operations, including co-financed activities, without requiring to first exhaust other avenues such as going to court.

EDFIs' complaints mechanisms should allow complaints prior to project approval (or establish prevention procedures allowing allegations to be transferred to the operational services for their consideration) and a reasonable time after the project completion. While this approach may help support project-affected people, it is important to highlight that DFIs' leverage over their clients resides in requesting early reimbursements, as the financing lines have already been disbursed. That said, given the fact that a large share of DFIs' clients are repeat, project promoters may have incentives to satisfy DFIs' demands, even after a project is completed.

EDFIs' complaints mechanisms should require complainants - whether affected or not - to outline how the alleged harm is tied to financial institution-supported activities and accept complaints in multiple languages. In this context, EDFIs should ensure that complaints' eligibility criteria can be objectively assessed to avoid arbitrary decisions and establish clear timelines for each stage of the complaint process.

EDFIs complaints mechanisms should also ensure non-disclosure of the complainant's identity and allow anonymous complaints to prevent the affected party from any retaliation. Confidentiality/anonymity should

also be ensured in case of co-financing, which may require a harmonised approach to these issues among EDFIs. In this context, it should be noted that a credible complaints mechanism should be able to identify the identity of the complainant while preserving the confidentiality of this information (the integrity of the individuals/groups concerned).

Last, complainants should be allowed to choose their representatives - whether local or international - as a way to foster the accessibility towards the mechanism, but also the potential results following the complaints mechanism processes. Should a DFI have questions about the validity of a complainant's representation, these should be dealt with through the investigation process itself rather than ex ante prohibitions or restrictions (Office of the United Nations High Commissioner for Human Rights 2022). This is especially the case of dispute resolution processes in particular, where the presence of advisors (whether international NGOs or local organisations) is welcomed and it contributes to levelling the playing field.

b) Retaliation

General recommendations to EDFIs

EDFIs complaints mechanisms should consider putting in place a dedicated process for assessing and preventing risks of and actual instances of retaliation, including collecting data. Such an assessment could be monitored and updated along the complaints mechanism' process. The guidelines developed by the EIB on assessing/preventing risk of retaliation or the IDB Guide for Independent Accountability Mechanisms on Measures to Address the Risks of Reprisals in Complaint Management: A practical toolkit could facilitate DFIs efforts in this field. More generally, any action by complaints mechanisms must avoid placing claimants at risk, and while doing so be realistic and identify the limitations complaints mechanisms have in responding to retaliations.

EDFIs should require clients as part of the contractual clauses to avoid any retaliation against persons/organisations using the complaints mechanism. Such a clause should be developed by or in collaboration with EDFI and applied across all EDFIs to preserve the level playing field.

4. Complaints handling and remedy

a) Complaints handling process

General recommendations to EDFIs

EDFIs' complaints mechanism should allow complainants to express their preference for a compliance review or a dispute resolution. This would strengthen the accountability of DFIs. However, complainants are not necessarily informed and knowledgeable about their choices and their implications. In this context, EDFIs should i) play a role in facilitating access to such information and knowledge; ii) select, taking into account complainants' (and the clients') preferences, the avenue based on clear criteria (efficiency, effectiveness and sustainability).

As for compliance review, EDFIs should ensure that the complaints mechanism can independently start and manage a compliance investigation without the DFI management approval, but with their inputs in terms of information and perspective on the complaint. This is key to ensure independence and avoid any potential conflict of interest.

As for the dispute and resolution process, it is important to highlight that EDFIs complaints mechanisms should not provide solutions in a prescriptive manner but rather involve and engage the affected communities in the design of a collective solution, to ensure maximum impact. In doing so, a clear timeline should be developed and regular updates should be provided to the complainants on their cases.

b) Remedy

General recommendations to EDFIs

In cases of a dispute resolution process, EDFIs should exercise leverage over their clients to encourage them to provide remedies to project-affected people in case of breach with DFIs E&S policies and procedures. To do so, EDFIs can use i) threat not to finance further operations with given clients - as very often these are repeat clients; ii) sanction mechanisms ranging from applying fees (step down/step up in the case of investment funds), pausing the disbursement of funds when relevant or on the other extreme stopping the financing line. It is important to highlight that these sanctions could also harm further the project-affected people - in this context, they can be used more as a dissuasion mechanism.

EDFIs' complaints mechanisms should provide for an appeal mechanism in cases where the complainant is not satisfied with the process and results delivered by the complaints mechanism, following the model of the EIB Group Complaints mechanism (appeal to the European Ombudsman).

To ensure a level playing field among DFIs, common approaches to remedy should be adopted among European DFIs. While a European approach should build on existing good practices and some of the progress introduced by the IFC CAO approach to remedial action, it should go beyond to align with EU values and principles. In doing so, it should build on the recommendations put forward by the Office of the United Nations High Commissioner for Human Rights (2022), and DFIs should be accompanied in this process by their shareholders. Indeed, a more sophisticated approach to remedies involving the contribution of DFIs may have implications on DFIs management/capital costs, and/or disincentivise them to invest in challenging contexts with high human rights and environmental risks - which should be avoided. Shareholders should support their DFIs by adapting their incentives and objectives.

5. Monitoring and learning

General recommendations to EDFIs

On monitoring, EDFIs' complaints mechanisms should consider developing a publicly available management tracking system that documents how they responded to complaints mechanisms' findings and recommendations, to foster transparency and accountability.

A strong dimension associated with the monitoring mechanism is learning. This feature is key in order to continuously improve the complaints mechanism, by addressing any gaps and strengthening the different pillars of the complaints mechanism. In this context, EDFIs' complaints mechanisms should more systematically seek feedback from complainants and track patterns and trends with respect to the causes of complaints and the effectiveness of the actions proposed. This could lead to a regular assessment and review of the complaints mechanism policy to ensure that any lessons learnt translate into a concrete action/initiative/change.

6. Co-financing

General recommendations to EDFIs
European DFIs' complaints mechanisms should continue exchanging information, knowledge and learning relating to complaints mechanisms processes. This dialogue should focus on challenges, including DFIs' complaints mechanisms role when finance is intermediated, but also on instances of collaboration between complaints mechanisms - highlighting some of the opportunities and challenges. As part of this, identifying practical ways in which complaints mechanisms can work together would help systematise joint approaches.
On the basis of the dialogue and experience accumulated by DFIs, these should consider establishing a framework of cooperation, allowing their complaints mechanisms to work together in a way that is efficient and effective, and that does not increase the potential for reputational damages. In this regard, European DFIs could develop a standardised memorandum of understanding specifying how collaboration on complaints should work, in order to ensure streamlined processes, avoid unnecessary duplication (e.g. fact finding' missions) and minimise burdens on complainants.
In parallel to maximising complaints mechanisms cooperation in co-financing, European DFIs should make efforts to harmonise their complaints mechanisms' policies and practices to facilitate better cooperation in case of co-financed projects (incentivising the use of one instead of several complaints mechanisms.) The harmonisation process is also key to encouraging DFIs to introduce relevant contractual obligations for their clients, as it ensures a levelled playing field between EDFIs.
Last, and more in the long term, European DFIs should consider creating a common framework and mechanism open to all EDFIs, which could go a long way in reducing duplication efforts and ensuring accessibility for communities. It should be structured in a way to reduce costs for smaller DFIs, compared to running a stand-alone mechanism, enhance access for stakeholders, and allow collective learning and improvement. Such a common EDFI framework and mechanism could build on the ICM insights and experience and draw on better practices by DFIs. In addition, integrating an appeal mechanism, as done in the case of the EIB Group with the European Ombudsman, should also be considered as a way to strengthen independence.

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