

**COMPLAINTS MECHANISM**

SG/E/2021/16

# **MALAWI NRW WATER EFFICIENCY (MALAWI)**

**INITIAL ASSESSMENT REPORT**

18 January 2022



# SG/E/2021/16

## Malawi NRW Water Efficiency Initial Assessment Report

**Complaint confidential:** No

### **External distribution**

Complainant  
Promoter  
Publication on the EIB website

### **Internal distribution**

Management Committee  
Secretary General  
Inspector General  
Relevant EIB services

### **Disclaimer**

This report is based on the information available to the EIB Group Complaints Mechanism up to 15 December 2021.

## The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism is a tool enabling the resolution of disputes if any member of the public feels that the European Investment Bank (EIB) might have done something wrong, i.e. if it has committed an act of maladministration. The Complaints Mechanism is not a legal enforcement mechanism and will not substitute the judgement of competent judicial authorities.

Maladministration means poor or failed administration. It occurs when the EIB fails to act in accordance with a rule or principle that is binding upon it, including its own policies, standards and procedures. The concept of maladministration includes failure by the EIB to comply with human rights, applicable law, or the principles of good administration. Maladministration may relate to the EIB Group's decisions, actions or omissions and may include the environmental or social impact of the EIB's projects and operations.

One of the main objectives of the EIB Group Complaints Mechanism is to ensure the right to be heard and the right to complain. For more information on the EIB Group Complaints Mechanism please visit: <https://www.eib.org/en/about/accountability/complaints/index.htm>.

### The initial assessment report

The initial assessment generally aims to<sup>1</sup>:

- Clarify the concerns raised by the complainant and gain a better understanding of the complainant's position as well as the views of other project stakeholders (project promoter, national authorities, etc.);
- Understand the validity of the concerns raised;
- Assess whether and how the project stakeholders (e.g. the complainant, the relevant EIB Group services and the project promoter) could seek resolution of the issues raised by the complainant;
- Determine if further work by the EIB-CM is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainant.

This initial assessment report is also intended to contribute to information sharing between the parties.

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<sup>1</sup> As outlined in article 2.2.1 of the [EIB-CM Procedures](#).

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## GLOSSARY

EIB	European Investment Bank
EIB-CM	EIB Group Complaints Mechanism Division
NRWB	Northern Region Water Board
Project	Malawi NRW Water Efficiency project
Promoter	Northern Region Water Board

# 1 COMPLAINT

- 1.1 On 9 July 2021, the EIB Group Complaints Mechanism (EIB-CM) received a complaint from members of several communities in the Mzuzu area (the complainants) regarding the Malawi NRW Water Efficiency project financed by the EIB.
- 1.2 In October 2021, the complainants provided an updated list of the community members who joined the complaint.
- 1.3 The complaint raises the following main issues, as described by the complainants:
- i. The complainants were not consulted about the project;
  - ii. The complainants were not fully involved in the assessment of individual and community compensation;
  - iii. The complainants did not receive the rates used as the basis for making the compensation;
  - iv. The results of the assessment of the compensation were not disclosed to the complainants;
  - v. Some of the complainants received compensation without being provided with documents containing the results of the assessment, the approved amounts and/or receipts for the amounts paid;
  - vi. The complainants who received compensation believe that they have been significantly underpaid;
  - vii. Some of the complainants did not receive compensation;
  - viii. Some of the complainants had their property (e.g. houses) damaged without receiving compensation or reparation;
  - ix. The complainants believe that the project is a significant deviation from the proposed one;
  - x. The contractor did not comply with the Road Act.
- 1.4 The complainants request that the EIB take action so that:
- i. The complainants receive access to all documents they are entitled to in relation to the project;
  - ii. The complainants receive payment of the compensation they are entitled to.
- 1.5 The complainants also requested that individuals that may have been involved in any wrongdoing and possible embezzlement of funds be investigated and, if appropriate, that sanctions be applied<sup>2</sup>.
- 1.6 The complainants did not request that the complaint remain confidential<sup>3</sup>.
- 1.7 A complaint has been filed on behalf of one of the communities to the Malawi Human Rights Commission over the alleged failure by the Northern Region Water Board to appropriately compensate members of community and provide them with the requested information relating to the project. One complainant also initiated court proceedings claiming compensation for damage to their house.

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<sup>2</sup> These issues fall outside the remit of the EIB-CM and are matters to be addressed by the Investigation Division of the EIB Inspectorate General and/or local authorities. The Investigation Division received from the complainants this information.

## 2 PROJECT CONCERNED BY THE COMPLAINT

- 2.1 In November 2016, the EIB Board of Directors approved financing of up to €24.6 million for the Malawi NRW Water Efficiency project<sup>4</sup>. The total estimated cost of the project is €60.4 million. The project is being developed by the Northern Region Water Board (NRWB, or the promoter).
- 2.2 The project involves optimisation of available water resources to bridge the gap in water demand for specific areas in northern Malawi in the short to medium term. The objective of the project is to ensure a reliable water supply, primarily for people living in the Mzuzu and Ekwendeni areas in the northern region of Malawi. The project's main components consist of upgrading and extending the water distribution system, upgrading water treatment works, reducing leakages, and improving network management and the water supply to low-income areas. Certain plans are also expected to be carried out in the medium to long term, including a new water supply dam on the Lambilambi river.

## 3 REGULATORY FRAMEWORK

- 3.1 The EIB-CM Policy<sup>5</sup> and Procedures<sup>6</sup> apply to complaints of alleged maladministration lodged against the EIB Group (Article 1.1 of the EIB-CM policy). Article 5.3.2 of the EIB-CM policy stipulates that the EIB-CM, in cooperation with relevant internal and external stakeholders, will attempt to resolve problems raised by complainants through a consensual process. The EIB-CM is independent from the EIB Group's operational activities to ensure that each complaint is dealt with according to the highest standards of objectiveness and the interests of all the internal and external stakeholders of the EIB Group are safeguarded, in accordance with Article 5.1.4 of the EIB-CM policy.
- 3.2 Article 6.2.4 of the EIB-CM policy stipulates that "Whenever possible, and giving due consideration to the type of complaint, the EIB-CM establishes a collaborative resolution process with a view to resolving the dispute by (i) achieving a better and common understanding; (ii) improving the degree of trust between the parties and (iii) seeking to identify a common agreed solution." As an independent and impartial entity within the EIB-CM, the dispute resolution unit is in charge of designing and carrying out this collaborative resolution process.
- 3.3 As part of its initial assessment, the EIB-CM identified the EIB policies, procedures and standards which are relevant to the present complaint. The project must comply with:
- i. the EIB Statement of Environmental and Social Principles and Standards<sup>7</sup>; and
  - ii. the EIB Environmental and Social Standards, as set out in the EIB Environmental and Social Handbook<sup>8</sup>, in particular: Standard 1 — Assessment and management of environmental and social impacts and risks; Standard 6 — Involuntary resettlement; and Standard 10 — Stakeholder engagement. Note that Standard 6 also covers the loss of assets (economic displacement).

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<sup>4</sup> <https://www.eib.org/en/projects/pipelines/all/20160106>.

<sup>5</sup> [EIB Group Complaints Mechanism Policy, November 2018](#).

<sup>6</sup> [EIB Group Complaints Mechanism Procedures, November 2018](#).

<sup>7</sup> [The EIB Statement of Environmental and Social Principles and Standards, 2009](#).

<sup>8</sup> EIB's Environmental and Social Standards 2013 contained in Volume I of the EIB Environmental and Social Handbook and published on EIB's website at the following address:

<https://www.eib.org/en/publications/environmental-and-social-standards>

## EIB Group Complaints Mechanism – Initial Assessment Report

- 3.4 The EIB-CM also reviewed the:
- i. Environmental impact assessment report for the priority rehabilitation and expansion works for the Mzuzu water supply scheme, dated November 2008;
  - ii. Environmental and social management plan for the construction of the Ekwendeni water treatment plant, the installation of the distribution system in Ekwendeni and Mzuzu, and the installation of the pumping system for Lusangazi in Mzuzu, dated March 2020.
- 3.5 From the information gathered during the initial assessment, it appears that at least some project-affected people were asked to consent to receiving compensation without being provided with sufficient explanations about how the compensation amount was determined.

## 4 WORK PERFORMED

- 4.1 Following the admissibility decision on the complaint, the EIB-CM carried out an initial assessment. The objective of the initial assessment is to clarify and understand the concerns raised by the complainants, understand the complainants' position and determine if further work by the EIB-CM is necessary and possible to address the allegations or resolve the issues raised by the complainants. The further work may include a compliance review or a collaborative dispute resolution between the complainants and the promoter. The EIB-CM had an initial meeting with the EIB staff involved, reviewed project documents such as the environmental and social management plan and spoke with the complainants and the promoter to gain a better understanding of the situation and issues raised.
- 4.2 Due to the ongoing travel restrictions caused by the COVID-19 pandemic, the EIB-CM was unfortunately not able to visit the project site and meet the stakeholders in person. In light of these limitations, the EIB-CM contracted two facilitators to conduct a field mission to Mzuzu to develop a thorough understanding of the issues, determine the stakeholders who should be involved in a possible dispute resolution process and propose a way forward. The field mission took place between 1 and 3 December 2021. After meeting the complainants, the promoter and the representatives of the Regional Commissioner for Lands, the facilitators organised a meeting between some of the representatives of the complainants and the promoter. The representatives of the complainants and the promoter discussed the issues raised by the complainants and the ways in which they could address these issues. The EIB-CM closely monitored the field mission and used the information gathered and what was said by the representatives of the parties to determine the way forward.

## 5 WAY FORWARD

- 5.1 Based on the information received and the discussions with the facilitators, the promoter and the complainants, the EIB-CM notes that the parties are open to engaging in facilitated dialogue to address the raised issues. The EIB-CM also identifies two groups of issues involving partially different stakeholders. The EIB-CM therefore proposes to proceed with two parallel collaborative dispute resolution processes. One process will address the issue of the community members in general (process A). The other process will address the issues regarding the cracks on a house that, according to its owner, were caused by the work on the project (process B). The EIB-CM will coordinate with the local facilitators and the parties to advance these processes.