

COMPLAINTS MECHANISM

SG/E/2021/16A KAZANDO

**MALAWI NRWB WATER EFFICIENCY
(MALAWI)**

DISPUTE RESOLUTION REPORT

26 JULY 2022



SG/E/2021/16A Kazando Malawi NRW Water Efficiency (Malawi) Dispute Resolution Report

Complaint confidential: No

External distribution

Complainants
Promoter

Internal distribution

Management Committee
Secretary General
Inspector General
Relevant EIB project team

Disclaimers

The conclusions presented in this report are based on the information available to the EIB Group Complaints Mechanism up to 13 July 2022.

In case of discrepancies between language versions, the English version prevails.

The EIB Group Complaints Mechanism

The EIB Group Complaints Mechanism (the 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 this may include the environmental or social impact of the EIB's projects and operations.

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

Please note: complainants that are not satisfied with the dispute resolution report may file a complaint of maladministration against the EIB Group with the European Ombudsman.¹

¹ Available at: <https://www.ombudsman.europa.eu/en/home>. For more information see [EIB Group Complaints Mechanism policy](#), section 4.5.

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1 COMPLAINT

- 1.1 On 9 July 2021, the EIB Group Complaints Mechanism (the Complaints Mechanism) 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. The Complaints Mechanism divided the complaint into two parts (A and B).²
- 1.2 Part A of the complaint concerns the issues raised by members of three communities — Kazando, Chipambo and Geisha — mainly regarding stakeholder engagement, compensation and damage to properties. Despite the similarity of the issues, the communities decided to split into two groups during the last phase of the facilitated dialogue. To ease comprehension, this dispute resolution report concerns the members of Kazando community only.
- 1.3 Part B of the complaint concerns cracks in the walls and ceilings of an individual house. On 3 May 2022, the Complaints Mechanism issued a dispute resolution report that closed part B of the complaint.³

2 PROJECT

- 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.⁴ 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 the optimisation of available water resources to bridge the gap in water demand and aims 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 in 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 INITIAL ASSESSMENT

- 3.1 The Complaints Mechanism carried out an initial assessment to clarify and understand the concerns raised by the complainants and determine if further work by the Complaints Mechanism was necessary and possible to address the allegations and resolve the issues raised by the complainants. Due to the ongoing travel restrictions caused by the coronavirus pandemic, the Complaints Mechanism was unfortunately not able to visit the project site and meet the stakeholders in person. In light of these limitations, the Complaints Mechanism contracted two facilitators to conduct a field mission 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. After meeting the complainants and the promoter (the parties), the facilitators organised a joint meeting between them.
- 3.2 Considering the parties' openness to engage in facilitated dialogue to address the issues raised, the Complaints Mechanism proposed proceeding with collaborative dispute resolution in its initial assessment report.⁵

² [Initial assessment report dated 18 January 2022](#), paragraph 5.1.

³ [Dispute resolution report for part B of the complaint dated 3 May 2022](#).

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

⁵ [Initial assessment report dated 18 January 2022](#), paragraph 5.1.

4 DISPUTE RESOLUTION PROCESS

- 4.1 Following the field mission of the facilitators appointed by the Complaints Mechanism, the complainants and the promoter agreed to resolve the issues raised amicably and an agreement on the way forward was signed at the end of December 2021.
- 4.2 Regarding the compensation, the promoter agreed to provide each concerned member of the community with the details of the assessments and valuation made by the officials from the Regional Commissioner for Lands North. The promoter further agreed to pay compensation to those who have already been assessed by 31 January 2022 at the latest.⁶ Regarding the damage to structures, the parties agreed that the promoter shall assess the structures concerned individually and discuss the way forward.
- 4.3 Despite some progress with the implementation of the agreement on the way forward, it quickly became apparent that full and timely implementation of a number of issues was challenging. In March 2022, due to some disagreements between the representatives of the communities, the communities decided to split into two groups: (i) Kazando and (ii) Chipambo and Geisha. Each group progressed with the implementation of the agreement on the way forward at a different pace. Furthermore, the complainants brought up some additional issues that had been previously discussed with the promoter. The Complaints Mechanism therefore continued to facilitate the dialogue between the parties beyond the initial agreement on the way forward reached in December 2021.
- 4.4 Between 3 and 5 July 2022, the Complaints Mechanism convened a final round of dialogue between the parties with the Regional Commissioner of Lands North present as an observer. Two members of the Dispute Resolution Unit of the Complaints Mechanism joined the team of local facilitators to moderate the dialogue. Before the dialogue session on Monday 4 July 2022, the team had preparatory calls and met the representatives of Kazando community and the promoter separately. Furthermore, the team met with the Regional Commissioner of Lands North and the Mzuzu City Council ahead of the dialogue session. As part of these preparatory efforts, the team explained the purpose and structure of the facilitated dialogue and the role of the parties and observers.
- 4.5 The parties agreed on five items to be discussed during the facilitated dialogue:
- i. Communal water points
 - ii. Compensation
 - iii. Rehabilitation of a hall to be used as a health centre
 - iv. Maintenance of the roads
 - v. Damage to structures
- 4.6 The parties reached an agreement on all five items:
- i. Installation of three communal water points in Kazando by 31 August 2022 with the potential to install an additional two communal water points
 - ii. Assessment and valuation of 13 households that were not valued in 2021 and payment of the respective compensation by 31 July 2022
 - iii. Rehabilitation of a hall to-be-used as a health centre in Kazando as part of the promoter's corporate social responsibility efforts in coordination with the local health authorities
 - iv. Maintenance of the main road to Kazando and other smaller roads around the Kazando water tanks by 30 September 2022

⁶ Both parties confirmed that all affected households from Kazando that had their properties valued in 2021 had already received their payment in January 2022. See [settlement agreement between the concerned members of Kazando community and the Northern Region Water Board dated 5 July 2022](#), paragraph 6.

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- v. Assessment of the damage to structures concerning 17 households, evaluation of the cost and payments by 31 August 2022
- 4.7 Furthermore, the parties also discussed and agreed on how to improve communication in the event of delays with the implementation. They agreed that the community should receive advance notice of one week indicating the reason for the delay. In the event of an emergency leading to last-minute delays in the implementation of any agreed action, the promoter should call the representatives of the complainants and inform them accordingly.
- 4.8 On 5 July 2022, the parties signed the settlement agreement reached during the facilitated dialogue meeting. The full settlement agreement between the members of Kazando community concerned and the NRWB can be found on the website of the Complaints Mechanism.⁷

5 OUTCOME

- 5.1 The Complaints Mechanism welcomes the active and constructive participation of the parties in the dispute resolution process.
- 5.2 Taking the above into account, the Complaints Mechanism closes this process in line with Article 2.5.6 of the Complaints Mechanism procedures. As agreed with the parties, the Complaints Mechanism will monitor the implementation of the settlement agreement.

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⁷ Settlement agreement between the members of Kazando community concerned and the Northern Region Water Board dated 5 July 2022 available at: <https://www.eib.org/attachments/complaints/sg-e-2021-16-settlement-agreement-kazando-nrwb-05-07-2022.pdf>.