



European Investment Bank

Complaints Mechanism Principles, Terms of Reference and Rules of Procedure



THE EIB COMPLAINTS MECHANISM

Principles

Terms of Reference

and

Rules of Procedure

Adopted in February 2010

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I – BACKGROUND INFORMATION

1. Introduction

1.1 In order to strengthen and formalise its complaints mechanism, the European Investment Bank (EIB) publishes relevant existing principles, organisational setup and rules of procedures regarding the handling of complaints from members of the public who are, or feel, affected by its decisions. EIB's policies in the field of Transparency, Corporate Responsibility and accountability, including the Complaints Mechanism, apply to the EIB Group as a whole.

1.2 The EIB Complaints Mechanism provides the public with a tool enabling alternative and pre-emptive resolution of disputes between the latter and the EIB. Meanwhile, the Complaints Mechanism assists the EIB, for the common sake of good administration, by contributing to the identification of possible improvements to the implementation of the EIB Group's activities. The present document shall not be deemed to confer any additional rights of access to justice to the persons lodging a complaint under the procedure set forth therein.

2. The institutional framework

2.1 The EIB Group consists of the EIB and the European Investment Fund (EIF). Established in 2000, the EIB Group aims at giving financial support to the policy objectives of the European Union. Within the Group, the EIB provides long and medium term bank loans, whilst the EIF specialises in venture capital operations and providing guarantees for small and medium sized enterprises (SMEs).

2.2 The EIB, with its headquarters situated in Luxembourg, is the financing body of the European Union (EU). The capital of the EIB is subscribed by the EU Member States. While the EIB enjoys its own legal personality and financial autonomy within the Community system, it operates within the EU institutional framework and its mission is to ensure that its various activities support Community policies on a non-profit-making basis.

2.3 The EIB's Statute is a Protocol attached to the Treaty on European Union and the Treaty on the Functioning of the European Union. It defines the role, the scope of activities and the governance structures of the EIB. The Statute establishes the EU Member States as the EIB's shareholders. The Member States nominate members for the EIB's principal decision-making bodies: the Board of Governors, Board of Directors and the Management Committee. The EIB is accountable to the EU citizens and to its stakeholders, including people affected by financed projects, independent of origin and/or location.

2.4 The EIB has an extensive control and accounting structure with an independent Audit Committee appointed by and reporting directly to the Board of Governors, as well as international external auditors, internal audit and evaluation functions under its Inspector General. The EIB Group's Chief Compliance Officer monitors the internal observance of the EIB's statutory provisions, applicable rules, Codes of Conduct and professional standards, to prevent compliance risks that might arise through failures by the EIB, its decision-making bodies or members of staff, in the discharge of their obligations.

2.5 The EIB is policy-driven. The European Council and the EU Council of Ministers frequently call on the EIB to support new EU policies and initiatives. The EIB's Board of Governors gives the general orientations and the EIB's Board of Directors adapts EIB lending policies through new credit directives, opening up new areas of activities to enable the EIB to promote EU policies.

2.6 The EIB has close institutional and operational links with the European Commission. Under the terms of the EIB Statute, the Commission nominates a Member to the EIB's Board of Directors. All applications for loans are submitted to the Commission for an opinion on the investment's conformity with EU policies, before financing approval by the EIB's Board of Directors.

2.7 The EIB also has close relationships with other EU institutions. It maintains a regular dialogue with the European Parliament on its activities in support of EU objectives. This dialogue ranges from addressing plenary sessions to briefings for committees and individual Members of Parliament.

2.8 In addition, the EIB is forging closer links with the Economic and Social Committee of the EU, which acts as an interface between the EU institutions and civil society. As part of the EU institutional framework, the EIB is subject to the jurisdiction of the Court of Justice of the European Union, while the European Court of Auditors examines the use of EU funds managed by the EIB. Moreover, the EIB's activities fall within the mandate of the European Anti-Fraud Office (OLAF), as set by EC Regulations 1073/1999 and 1074/1999, and are subject to the remit of the European Ombudsman (EO).

2.9 The Treaties establishing the European Community and the EIB's Statute provide the EIB with operational and financial autonomy to enable it to perform effectively as a financial institution. The EIB is an important partner in the financial sector, especially when borrowing on the capital markets and financing projects. The EIB also works closely with other International Financing Institutions (IFIs), Multilateral Development Banks (MDBs) and Bi-lateral Development Banks (BDBs), in particular when it operates in the framework of the development aid and external co-operation policies of the EU.

2.10 The EIB ensures that its activities respect EU policies and laws. In countries where these are not applicable, the EIB uses EU policies and laws as the best reference when carrying out its activities. In its day-to-day operations the EIB also takes into account standards and practices applied by the banking and financial community, particularly in areas not covered directly by EU law.

2.11 The EIF is the European Union's specialised financial institution for small businesses (small or medium-sized enterprises, known as SMEs). It finances venture capital funds investing in enterprises undergoing rapid expansion or operating in the new technologies sector. The EIF's majority shareholder is the EIB (62%), alongside the European Commission (29%) and 26 European banks and financial institutions (9%).

2.12 The EIF was established under Article 30 of Protocol 11 to the Treaty establishing the European Community with legal personality and financial autonomy and disposes of a governance framework of its own, consisting of a Board of Directors appointed by the EIF shareholders and a Chief Executive and Deputy Chief Executive who are responsible for the day-to-day management of the EIF.

2.13 The EIF has an extensive control and accounting structure with an independent Audit Board appointed by and reporting directly to the General Meeting of Shareholders in EIF, as well as international external auditors, internal audit and evaluation functions under the Inspector General of EIB Group. The office of EIF Compliance and Operational Risk monitors the internal observance of the EIF's statutory provisions, applicable rules, Codes of Conduct and professional standards, to prevent compliance risks that might arise through failures by the EIF, its decision-making bodies or members of staff, in the discharge of their obligations.

3. The policy framework

3.1 When performing its activities, the EIB is bound by European Treaties and its Statute as well as by the relevant legislative and regulatory framework of the European Union. The EIB, thus, shall operate in order to ensure that its various activities support and implement EU policies. In addition, the EIB periodically reviews its internal policies and procedures with a view to further refining the policy framework in which its activities are performed.

3.2 A non-exhaustive and flexible list of the EIB and EIF policy documents is provided in Annex I to the Complaints Mechanism.

II - PRINCIPLES

1. Definitions

1.1 Complaints are different in nature and are to be lodged with specific Institutions / functions depending on the subject of the complaint.

1.2 The EIB Complaints Mechanism Principles, Terms of Reference and Rules of Procedures apply to complaints regarding maladministration.

Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights¹. Some examples of failure to respect the principles of good administration, as set by the European Ombudsman, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal of information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of the EIB Group activities and to project cycle related policies and other applicable policies of the EIB.

1.3 The EIB Anti-Fraud Policy applies to complaints concerning fraud and corruption. Further information on how to report allegations of fraud or corruption regarding the activities of the EIB is available on the EIB's website².

1.4 The lodging of a complaint under the EIB Complaints Mechanism is without prejudice to the rules under which the complainant may be allowed to institute court proceedings before the Court of Justice of the EU, in accordance with and under the conditions laid down in the Treaty on the Functioning of the European Union.

1.5. Moreover, as set by Article 27 of the EIB Statute, disputes between the EIB on the one hand and its creditors, debtors or any other person on the other, are decided by the competent national courts, save where jurisdiction has been conferred on the Court of Justice of the EU.

2. Guiding Principles

2.1 Subject to any applicable legal constraint, the EIB Complaints Mechanism shall be *transparent* in its operations and outputs.

2.2 The EIB Complaints Mechanism shall be *independent* of the services, which are responsible for the activities challenged by the complainant.

2.3 The EIB Complaints Mechanism shall be *effective* in responding in a *timely* manner to concerns expressed by people being or feeling affected by EIB decisions.

2.4 The EIB Complaints Mechanism shall be part of the *institutional* context of the European Union.

2.5 The EIB Complaints Mechanism shall be *accessible* to affected people, their representatives and/or interested organisations or individuals.

2.6 In the light of these principles, the development of the EIB Complaints Mechanism shall be the result of an open *consultative process* with EIB's various stakeholders.

¹ For the projects it finances, the EIB follows a rights based approach reflecting the principles of the Charter of Fundamental Rights of the European Union, and the UN Universal Declaration of Human Rights.

²http://www.eib.org/attachments/strategies/conduct_of_investigations_en.pdf;
<http://www.eib.org/news/News.asp?news=91&cat=193>

3. Purpose

3.1 The EIB Complaints Mechanism serves the following functions:

- Assess occurrence(s) of maladministration;
- Evaluate and report compliance with the EIB Group's policy framework for each admissible complaint;
- Attempt to, resolve concerns raised by the complainant through a consensual process whilst acting as a problem solving or pre-emptive dispute resolution function;
- Provide advice and recommendations to the EIB Management; and
- Follow-up and report on efforts to take corrective actions whenever applicable.

3.2 Therefore, in order to ensure proper corporate responsibility and accountability of EIB Group towards all its stakeholders, EIB Complaints Mechanism is predominantly *compliance focussed*. Over and above such compliance review and whenever applicable the EIB Complaints Mechanism also has a *remit for problem solving and/or mediation*.

3.3 Maladministration, including non-compliance, always refers to the Institution (a member of the EIB Group) and does not refer to individual staff members of the Institution.

4. Scope

4.1 The EIB Complaints Mechanism applies to all complaints of alleged maladministration lodged against the EIB Group. Decisions concerning the investment mandate of the EIB, its credit policy guidelines or the EIB's participation in financing operations fall outside the scope of the present Mechanism. All references to EIB concern the EIB Group except if stated otherwise.

4.2 The EIB Complaints Mechanism concerns any of the Group's activities with the exclusion of complaints concerning allegations of fraud or corruption, which fall within the mandate of the EIB Inspectorate General – Fraud Investigation Division as well as of complaints lodged by the EIB Group's staff.

5. Consultation

5.1 The EIB Complaints Mechanism Principles, Terms of Reference and Rules of Procedure formalise the practice of the EIB Complaints Office. The EIB Complaints Mechanism Principles, Terms of Reference and Rules of Procedure have been subject to a process of review including consultation with the concerned services of the EIB as well as with the competent services of the European Ombudsman.

5.2 Concerns expressed by civil society organisations as well as suggestions of internationally-reputed consultancies specialised in the field of accountability have been duly taken into account and the EIB complaints mechanism has been adapted accordingly with a view to incorporating the appropriate inputs.

5.3 The current Principles, Terms of Reference and Rules of Procedure underwent a formal public consultation in 2009. The EIB endeavours to periodically review its Complaints Mechanism.

6. Publication and Awareness

6.1 The EIB Complaints Mechanism Principles, Terms of Reference and Rules of Procedure was approved by the EIB Board of Directors on 2nd February 2010 and published in the Official Journal of the European Union. The Complaints Mechanism Principles, Terms of Reference and Rules of Procedure are available in all official languages of the European Union, both on the EIB's website and as a paper copy.

6.2 For members of the public who do not have access to the internet, a flyer with an attached complaint form is published and distributed through the EIB's external offices to be distributed to local CSOs and to other members of the public.

6.3 Further information on the complaints mechanism of the EIB is available through informative tools that are distributed through the official delegations of the EIB within and outside the EU.

6.4 The EIB is committed to raise awareness of the Complaints Mechanism in all areas of activity of the EIB. As one of the means to achieve this, the EIB Complaints Mechanism is committed to organise awareness session with civil society organisations and public in general in the regions where the EIB operates.

6.5 Other communication initiatives may complement these measures with a view to ensuring the greatest outreach of the EIB Group's policies in the field of accountability.

7. Resources

7.1 Adequate budgetary support will be provided to the EIB-CM so that the accountability mechanism can be effective and independent in carrying out various activities in a timely manner.

III – TERMS OF REFERENCE

1. Mission

1.1 The EIB Complaints Mechanism is a vital tool of horizontal accountability of the EIB Group vis-à-vis its stakeholders as regards the handling of complaints concerning its activities. It aims at providing the public with procedures enabling the alternative and pre-emptive resolution of disputes between the latter and the EIB Group.

1.2 When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure, one internal – the **Complaints Mechanism Division** - and one external – the **European Ombudsman**.

1.3 To ensure that stakeholders dispose of appropriate means with a view to voicing their concerns in case of disputes under the EIB Complaints Mechanism, the EIB established a Complaints Mechanism Division (EIB-CM) that handles its internal complaints mechanism whilst dealing with complaints lodged against the EIB Group with the European Ombudsman or any other non-judicial complaint lodged with international institutions or bodies and which (directly or indirectly) concern the EIB Group.

1.4 The mission of the EIB-CM as an internal mechanism is to centrally and objectively deal with all complaints concerning alleged maladministration by the EIB from the public.

2. Status

2.1 The EIB-CM is independent from operational activities and thus ensures that each complaint is dealt with by the highest standards of objectiveness whilst safeguarding the interest of all the internal and external stakeholders of the EIB Group.

2.2 All EIB-CM Conclusions Reports are submitted to the Management Committee or to the EIF Chief Executive for EIF related complaints. The EIB-CM annual activity reports are submitted to the Board of Directors.

2.3 The EIB-CM is part of the EIB Inspectorate General under a functional responsibility of a Vice President.

2.4 The Head of the EIB-CM is the Principal of the EIB Complaints Mechanism and responsible for the development, implementation and monitoring of the Complaints Mechanism.

2.5 The EIB-CM shall be heard on all issues related to its remit and can disclose its findings in accordance with the rules and standards applying to the EIB Group.

3. Authority

3.1 In carrying out its responsibilities, the EIB-CM has the right to obtain access to any and all information necessary for the performance of its duties. The EIB Group's staff has the duty to co-operate with the EIB-CM promptly, fully and efficiently following the EIB-CM Principles, Terms of Reference and Rules of Procedure, especially with a view to respecting the deadlines as well as to adhering to the standards and policies of the EIB Group.

4. Responsibilities

4.1 Reviews the admissibility of each complaint and decides which procedures to follow. It shall for each admissible complaint review the EIB's compliance with its policies and regulatory obligations. Furthermore the EIB-CM shall determine for each admissible complaint if beyond the compliance review there is room for problem solving and/or mediation.

4.2 In the context of the handling of admissible complaint, and in accordance with the EIB Complaints Mechanism Rules of Procedure, the EIB-CM:

- a) Acknowledges the receipt of complaints lodged with the EIB Secretary General, received by other services of the EIB Group or via the Complaints Inbox as well as those submitted through the EIB Complaint form;
- b) Gathers and reviews existing information on the subject under complaint;
- c) Conducts appropriate inquiries with a view to assessing whether the EIB Group's policies and procedures have been followed;
- d) Coordinates different services involved in order to obtain all possible internal information and opinions on the complaint;
- e) Ensures appropriate stakeholder engagement through fact-finding, mediation, conciliation and dialogue facilitation whenever appropriate;
- f) Coordinates with other European Institutions (Commission, European Ombudsman, OLAF) and international organisations (Aarhus Convention Compliance Committee) whenever appropriate;
- g) Reports on findings, makes recommendations regarding corrective actions and/or possible improvements of existing procedures and issues the Conclusions Report.
- h) Drafts appropriate replies to the complainants or, when dealing with complaints lodged by with other institutions/bodies, to the relevant institution;
- i) Ensures that imposed and/or agreed delays and notices are respected;
- j) Fosters the adherence to the EIB Group's policies, in particular those regarding good administration, disclosure and transparency;
- k) Endeavours to resolve the issues giving rise to complaints;

4.3 The EIB-CM regularly reports on its activities by issuing quarterly reports on the status of complaints and issues an annual activity report.

4.4 In addition to the handling of complaints, when administrating the EIB-CM, the EIB-CM contributes to the establishment, implementation and communication of strategies, policies, procedures relating to the handling of complaints.

4.5 The EIB-CM assists the EIB Group, for the common sake of good administration, by contributing to the identification of possible improvements to the implementation of its activities.

4.6 In order to raise the awareness of possible future complaints, the EIB-CM reviews internal documents and follows the activities of external stakeholders which are active with regard to the operations of the EIB Group.

4.7 Due to the nature of the complaints mechanism, the EIB-CM deals with all the services of the EIB Group. Any suspicion or allegation of fraud, corruption, collusion and coercion will be referred to the EIB's Inspector General – Fraud Investigation Division.

4.8 Whilst maintaining its operational independency in terms of opinion and expression, for issues pertaining to civil society and external communication the EIB-CM closely co-operates with the EIB's Communications Department, and particularly with the Civil Society Unit.

4.9 The EIB-CM endeavours to foster the awareness of all the staff of the EIB Group as regards the strategy of the latter in the field of horizontal accountability by publishing the EIB Complaints Mechanism Division's Operating Procedures, which clearly set out the procedures to be followed and provide information on the life cycle of a complaint.

5. Rules of Conduct

5.1 In order to enhance the operational independence of EIB-CM all staff working as part of the Complaints Mechanism is expected to apply and uphold specific Rules of Conduct. This Rules of Conduct are an integral part of the Complaints Mechanism and are published in the Bank's Website.

The rights and obligations established by these Rules must be exercised in accordance with principles, rules and procedures set out in the EIB Staff Code of Conduct and in other policies and regulations applicable to the Bank's staff.

6. Relation with European Ombudsman

6.1 The exhaustion of the internal complaints mechanism procedure, with the exception of the confirmatory complaint stage, is a necessary requisite for any complaint to be entitled to escalate to the European Ombudsman. The confirmatory complaint remains an operational feature.

6.2 The European Ombudsman (external and independent mechanism) was established in 1992 by the Maastricht Treaty to deal with complaints about alleged maladministration by the institutions and bodies of the European Community. Therefore, European nationals and/or EU residents may lodge a complaint concerning alleged maladministration against the EIB with the European Ombudsman, should they consider the EIB's reply to be unsatisfactory.

6.3 In order to strengthen the EIB's Complaints Mechanism in relation to complaints of maladministration lodged by non-EU citizens or residents, the EIB and the European Ombudsman have signed a Memorandum of Understanding (MoU) <http://www.ombudsman.europa.eu/cooperation/en/20080709-1.htm> according to which, should a complaint be inadmissible on the sole basis of article 195 of the EC Treaty³, the European Ombudsman will commit to using its own initiative power systematically in order to handle complaints lodged by non-EU complainants.

6.4 Furthermore, the MoU sets work arrangements as regards the starting point of the EO's inquiry, the scope of the EO's review and the recognition of the EIB's internal mechanism as the prior administrative approaches required by Article 2.4 of the EO's Statute of the Ombudsman⁴.

³ The complainant is not a citizen/resident of (or, in case of legal person, it has not a registered office in) one of the Member States of the European Union.

⁴ European Parliament decision 94/262 of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties, PJ 1994, L 113 p. 15

7. Other external relations

7.1 Whenever a complaint concerns an EIB project that involves other international financing institutions that have an independent accountability mechanism the EIB Complaints Mechanism Division will inform that other co-financing institution's complaints mechanism of the admissibility of the complainant and shall endeavour to collaborate with that mechanism. Collaboration opportunities include sharing of information and need to take into account differences between the mechanisms in terms of mandate, procedures and timing of complaints handling. Notwithstanding the findings and conclusions of the EIB CM will be independent.

7.2 The EIB-CM participates in the annual meetings of the independent accountability mechanisms peer group.

7.3 The EIB-CM holds pro-active and co-operative contacts with all the relevant external institutions, bodies and non-state actors including but not limited to the European Ombudsman, other complaint mechanism functions, external experts or CSOs.

IV – RULES OF PROCEDURE

The present Rules of Procedure are supplemented by the EIB-CM Operating Procedures, which set out the detailed procedures to be followed in terms of complaints handling and provides comprehensive information on the life cycle of a complaint and related working flows.

1. The Complaint

1.1 A complaint is defined as a written communication addressed to the EIB, concerning alleged maladministration by the EIB Group which might lead to an action by the EIB Group with a view to restoring compliance and adopting a good administrative behaviour.

2. Admissibility

2.1 Any person or group, including civil society organisations⁵, who allege there may be a case of maladministration within the EIB Group, can lodge a complaint. (see II PRINCIPLES, § 1.2, p. 6 for a definition of maladministration).

2.2 Members of the public who feel affected by the activities of the EIB Group but who are not aware of the rules, regulations, policies or procedures applying to the Group may also submit complaints.

2.3 The EIB Complaints Mechanism Division is not competent to investigate complaints concerning International organisations, Community institutions and bodies, national, regional or local authorities (e.g. government departments, state agencies and local councils).

2.4 The EIB CM cannot investigate complaints concerning the working relations between the Group and its staff.

2.5 The EIB CM cannot deal with complaints which have already been lodged with other administrative or judicial review mechanisms or which have already been settled by the latter.

2.6 Complaints from anonymous parties are inadmissible. Nevertheless, without prejudice to the provisions of the EIB's Transparency Policy, a complainant has the right that her/his complaint shall be dealt with confidentially (see also Publication and Reporting of complaints below).

2.7 Complaints with the objective to gain a competitive economic advantage or that are excessive, repetitive, clearly frivolous or malicious in nature are inadmissible.

3. How to complain

3.1 A complaint can be lodged via a written communication addressed to the Secretary General of the EIB, via email to the dedicated email address complaints@eib.org, by completing the online complaint form available at the following address: <http://www.eib.org/complaints/form>, via fax or delivered directly to the EIB Complaints Mechanism Division, any EIB local representation office or any EIB staff.

3.2 Complainants can write in one of the official languages of the European Union and have the right to receive a reply in the same language. For complaints, which are not lodged in one of the official languages, the complainant shall be informed of this provision and requested to provide a copy of the complaint in one of the official languages of the EU. For complaints relating to lending operations outside of the EU, the EIB-CM will endeavour to process complaints and documents in the official national language of the country of the project.

⁵ This includes anybody or any group that is or feels affected by alleged environmental, developmental or social impacts of the EIB Group's activities.

4. Subject of the complaint

4.1 A complaint may concern **any** alleged maladministration of the EIB Group in its actions and/or omissions (see II PRINCIPLES, § 1.2, p. 6 for a definition of maladministration).

4.2 Whenever appropriate, complainants may expressly request for problem solving and/or mediation.

5. Time limit to complain

5.1 Complaints must be lodged within one year from the date on which the facts upon which the allegation is grounded could be reasonably known by the complainant.

6. Required information

6.1 The object of the complaint (preferably including the allegations of maladministration) must be clearly stated as well as the complainant's claims, i.e. what the complainant expects to concretely achieve with the complaint. All pertinent documentation should be provided with the complaint, or, upon request of the EIB Complaints Mechanism Division, through further correspondence.

6.2 Complaints without contact details such as the postal address of the complainant will not be dealt with although they will not be considered inadmissible. The EIB CM will contact the complainant with a view to requiring the necessary rectification/integration of the information already provided to the EIB.

7. Dealing with a complaint

7.1 After receipt of a complaint, the EIB CM ensures that an acknowledgment of receipt is sent to the complainant within ten working days. The acknowledgement informs the complainant of the date by which the EIB's official reply to the complaint can be expected and may include the communication of the admissibility or of the inadmissibility of the complaint. In the latter case there will be no further communications from the EIB.

7.2 In case of partial or total inadmissibility of the complaint, the EIB Complaints Mechanism Division will endeavour to provide, if possible, the complainant with an advice on which measures could be taken and/or to which institution/body her/his concerns may be addressed.

7.3 No acknowledgement of receipt shall be sent in cases where complaints are abusive because of their excessive number or because of their repetitive or pointless character.

7.4 If during the inquiry of a complaint, it appears that some allegations concern fraud and/or corruption, the relevant part of the complaint will be handed over to the EIB's Fraud Investigations Division within the EIB Inspectorate General.

7.5 When the EIB-CM has to declare a complaint inadmissible or has to consider terminate it, due to legal proceedings in progress or concluded concerning the facts which have been put forward, the outcome of any enquiries it has carried out up to that point shall be filed definitively.

7.6 Once a complaint has been declared admissible, the EIB Complaints Mechanism Division will launch a full inquiry and compliance review into the issue(s) raised by the complainant; it will review the pertinent documentation and records; ensure coordination of the different EIB Group services involved and whenever judged necessary will hold meetings with the appropriate internal and external stakeholders in order to gather all the required information.

7.7 The EIB Complaints Mechanism Division will focus on fact-finding and whenever appropriate will use dispute resolution techniques such as mediation, conciliation and dialogue facilitation, thus ensuring to give the adequate emphasis to problem solving.

7.8 When performing a problem solving or dispute resolution function the EIB Complaints Mechanism Division will endeavour to find and propose appropriate solutions whilst taking into account the interest of all its internal and external stakeholders.

7.9 The EIB-CM may propose operational corrective actions as well as improvements to existing policies and/or procedures.

7.10 Agreed corrective actions must include an implementation plan as well as a detailed timeframe.

7.11 For each admissible complaint the EIB-CM will prepare a Conclusions Report to the attention of the Management Committee or to the EIF Chief Executive for EIF related complaints and will follow-up on proposed corrective actions and recommendations whenever appropriate and in any case no later than 12 months after issuing the Conclusions Report.

7.12 An Annual Report on the EIB-CM, including decisions taken on recommendations by the EIB-CM or the EO, is submitted to the Board of Directors and to the EIF Board of Directors and published on the EIB website, taking into account the confidentiality of the complainants.

7.13 The EIB-CM prepares a reasoned opinion that includes the allegations, findings, conclusions and recommendations if any, and sends it to the concerned EIB services for opinion and comments.

7.14 The EIB-CM prepares a final Conclusions Report that takes into account the opinion/comments from the concerned EIB services and, if applicable, external stakeholders and formulates recommendations and proposed corrective actions if any.

7.15 In case of complaints regarding impacts of EIB financed projects that included stakeholder engagement, the EIB-CM will also submit the draft Conclusions Report to those stakeholders involved (complaint(s), promoter, borrower, ...) for opinion and comments.

7.16 The Conclusions Report is submitted to the Management Committee or to the EIF Chief Executive for EIF related complaints, for information or decision. The Management Committee, or to the EIF Chief Executive for EIF related complaints, takes the decision on whether or not to apply the recommendations and corrective actions if any.

7.17 The EIB-CM sends the final Conclusions report to the complainant(s) and informs about the Management Committee's/EIF Chief Executive's decision if any.

8. Methods of Inquiry

8.1 The written procedure consisting of the exchange of correspondence among the concerned parties and of the internal review constitutes the standard investigatory procedure of the EIB-CM.

8.2 Taking into account the nature of any particular complaint, the EIB-CM may, use a variety of additional investigatory methods, including but not limited to:

- Contacts with the complainant, affected people, government officials and project authorities of the country where the project is located, promoters of EIB financed projects and representatives of local and international non-governmental organizations;
- Visiting project sites;
- Requesting written or oral submissions on specific issues from the complainant, affected people, independent experts, government or project officials, promoters of EIB Group financed projects, EIB Group staff, or local or international non-governmental organizations; and
- Hiring independent experts to research specific issues relating to the complaint.

9. Stakeholders' engagement

9.1 The EIB-CM is committed to engaging with the complainant, and generally all relevant internal and external stakeholders, through structured dialogue with a view to gathering additional data and information which are relevant to the processing of the complaint.

9.2 Whilst performing its activities, the EIB-CM applies its internal procedures including, whenever necessary, stakeholder engagement on the basis of the type of the complaint and of the complainant.

9.3 In case the complaint alleges concern violation of EU legislation in the projects located within the European Union, the EIB-CM may inform the Secretary General of the European Commission about the complaint and forwards the final Conclusions Report.

10. Time delays for dealing with a complaint

10.1 The EIB-CM will ensure that imposed and/or agreed delays and notices are respected.

10.2 The final reply must be sent to the complainant by no later than 40 working days and after the date of the acknowledgement. For complex issues, or for reasons beyond the sphere of influence of the EIB-CM, the deadline for providing a final reply may be extended, after having informed the complainant thereof for an additional maximum period of 100 working days. Complainants lodging complaints in EU languages other than the working languages of the EIB (French and English) may be faced with increased deadlines due to translation delays.

10.3 In cases of problem solving the deadlines may be extended in consultation with the complainants in order to allow for comprehensive stakeholder engagement and to manage legitimate expectations.

10.4 The specific characteristics of complaints regarding access to information, namely the possible requirements for shortest processing delays, are fully recognised. Therefore, the EIB-CM will pay special attention to such characteristics and endeavour to process the inquiry and provide responses within timeframes that are, whenever possible, established in consultation with the complainant(s).

11. Confirmatory complaints

11.1 In case the complainant is not satisfied with the response, s/he may, has the right to submit a confirmatory complaint within 15 working days from the receipt of the EIB's reply. The EIB-CM will endeavour to prepare a response while following the same procedure as for the initial complaint to this confirmatory complaint.

11.2 In case the complainant deems that the agreed corrective actions are not implemented correctly or within the imposed timeframe, s/he may, within six months from the due date for the correct implementation of the action at stake, write to the EIB's Secretary General or, where the complaint relates to the EIF, to the EIF Compliance and Operational Risk division and the EIB-CM will review the case with the concerned services of the EIB/EIF with a view to identify a calendar of actions.

12. Escalation to the European Ombudsman

12.1 Complainants who are not satisfied with the outcome of the procedure before the EIB-CM and who do not wish to make use of possibility to file a confirmatory complaint procedure, can file a complaint of maladministration against the EIB with the European Ombudsman.

12.2 In its final reply, the EIB-CM will ensure that complainants are informed of the possibility to lodge a complaint of maladministration against the EIB with the European Ombudsman.

13. Publication and Reporting of complaints

13.1 In order to safeguard the interest of the complainants, complaints lodged under the EIB's internal complaints mechanism are normally dealt with confidentially unless otherwise requested by the complainant.

13.2 For each admissible complaint whereby the complainant waived his or her right to confidentiality a conclusions report will be published together with relevant correspondence by the EIB on its Website.

13.3 An Annual Report on the EIB Complaints Mechanism is published on the EIB website taking into account the confidentiality rights of the complainants.

13.4 Access to information concerning any document related to the complaint is subject to the provisions of the EIB's Transparency Policy.

14. Data Protection

14.1 Complaints may contain personal data relating to the complainant, or to a third party. The processing of personal data by the EIB is governed by Regulation (EC) N° 45/2001⁶.

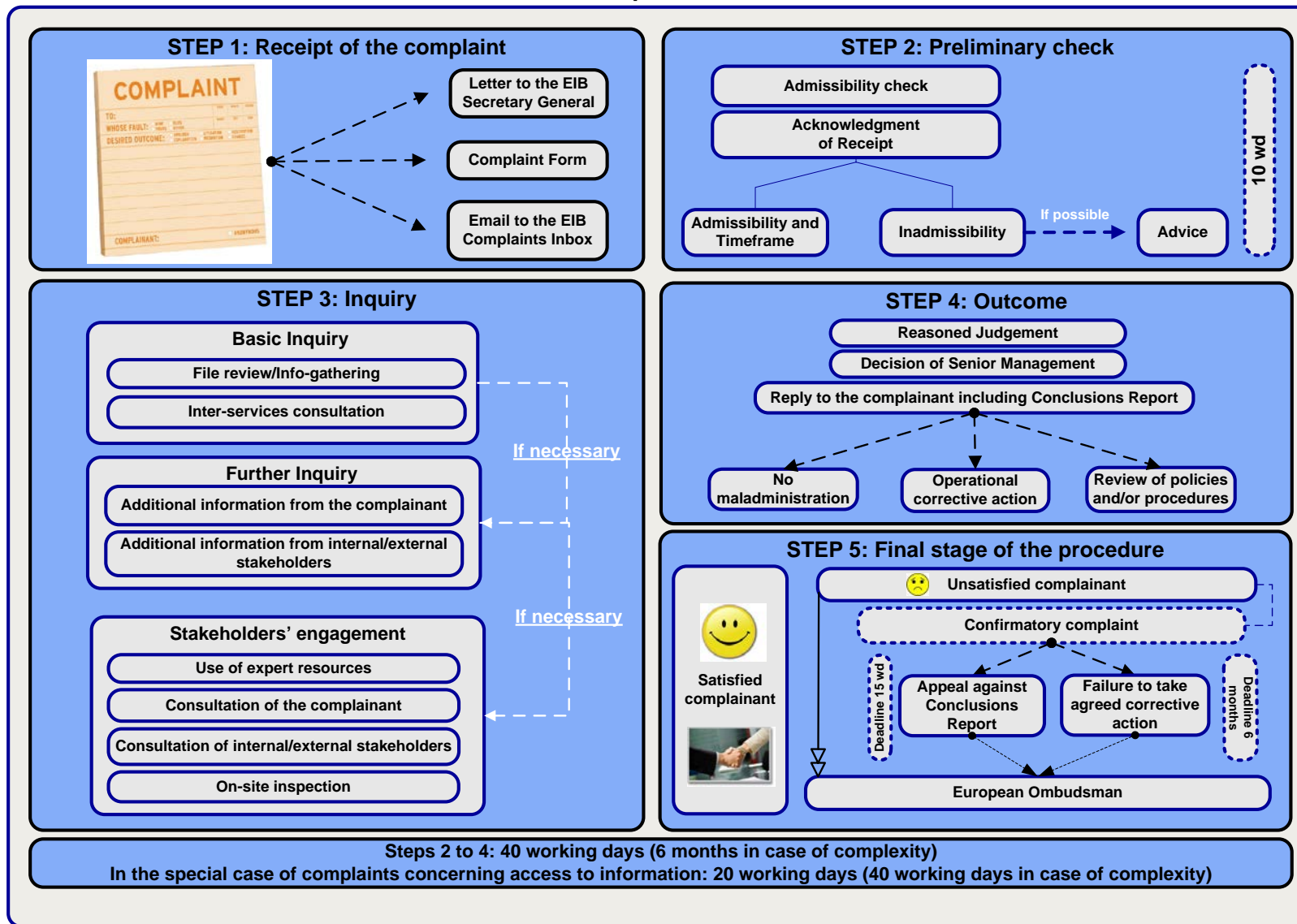
14.2 The Complaints Mechanism Division will ensure that personal data are treated confidentially in accordance with Regulation (RC) No 45/2001, in particular Article 5 (d). For those complainants that have waived their right to confidentiality the EIB will only publicly release personal data for which the complainant has given his consent.

15. No Retaliation

15.1 Complainants to the EIB Complaint Mechanism must not be subject to any form of retaliation, abuse or any kind of discrimination based on the fact that they exercised their right to complain. This applies to the EIB Group as well as any other counterpart part of a business relation with the EIB.

⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Official Journal L 8/1, 12/01/2001.

EIB Internal Complaints Mechanism



V – THE EUROPEAN OMBUDSMAN

1. Who may complain?

1.1 If EU citizens or any natural or legal person residing or having its registered office in a EU Member State feel that the EIB has not dealt with their complaint in a timely and/or correct manner, they can, in accordance with Article 228 of the Treaty on the Functioning of the European Union and regardless of a direct concern in the alleged maladministration, lodge a complaint against the EIB with the European Ombudsman.

1.2 Moreover, following the Memorandum of Understanding signed by the EIB and the European Ombudsman, the latter commits to using its own initiative power systematically in order to handle complaints lodged against the EIB by non-eligible complainants. <http://www.ombudsman.europa.eu/cooperation/en/20080709-1.htm>.

2. How to Complain

2.1 A complaint can be lodged with the European Ombudsman in any of the official languages of the European Union, setting out clearly the identity of the complainant and the grounds of the complaint. The complaint can be lodged by mail, fax or e-mail. To ensure that all the necessary information is provided, a complaint form is available at the European Ombudsman's office or at the following website: <http://www.ombudsman.europa.eu/atyourservice/interactiveguide.faces>.

3. Subject of the complaint

3.1 Complaints against the EIB may concern alleged maladministration of the EIB in its actions and/or omissions. As the European Ombudsman practice has shown so far, the most common allegations are administrative irregularities, failure to reply, unnecessary delay, refusal of information, unfairness, discrimination and abuse of power.

4. Eligibility

4.1 The European Ombudsman cannot investigate complaints against national, regional or local administrations in the Member States of the European Union, even when the complaints refer to the EIB's field of activities. Such complaints should be addressed to national/local/special ombudsmen or committees on petitions in national/regional parliaments.

4.2 The European Ombudsman cannot deal with matters that are currently before a court or that have already been settled by a court.

4.3 Before turning to the European Ombudsman, complainants shall have recourse to the EIB internal complaints mechanism. The European Ombudsman considers that the record of how the EIB has dealt with the matters raised in the complaint through its own internal mechanism and procedures is the appropriate starting point for his own review. Complaints shall therefore include an explanation of why the complainant contests the record or the EIB's position as set therein⁷.

5. Time limit for complaints

5.1 A complaint must be lodged within two years from the date of acknowledgement of the facts on which the complaint is based.

⁷ Article 2.4 of the Statute of the European Ombudsman provides that a complaint must be "preceded by the appropriate administrative approaches to the institutions and bodies concerned". See also the Memorandum of Understanding between the European Investment Bank and the European Ombudsman, July 2008.

6. Outcome of the procedure before the European Ombudsman

6.1 If the case is not resolved satisfactorily during the course of the inquiries, the Ombudsman will try, if possible, to find a friendly solution which puts right the case of maladministration and satisfies the complainant.

6.2 If the attempt at conciliation fails, the Ombudsman can make recommendations to solve the case. Depending on the outcome of the inquiry, the recommendations can include further remarks on the administrative behaviour of the concerned institution or body, the request to take corrective action, if possible, as well as critical remarks in case the European Ombudsman deems that the institution or body complained against had committed maladministration. If the institution does not accept the recommendations of the European Ombudsman, he can make a special report to the European Parliament.

Contacts:**European Investment Bank
Secretary General**

100, boulevard Konrad Adenauer
L-2950 Luxembourg
Tel: (+352) 43 79 1
Fax: (+352) 43 77 04
complaints@eib.org
<http://www.eib.org/complaints>

European Investment Fund

96, boulevard Konrad Adenauer
L-2950 Luxembourg
Tel: (+352) 42 66 88 1
Fax : (+352) 42 66 88 232
complaints@eib.org
<http://www.eib.org/complaints>

European Ombudsman

1 Avenue du Président Robert Schuman
B.P. 403
FR- 67001 Strasbourg Cedex
Tel. +33 (0)3 88 17 23 13
Fax +33 (0)3 88 17 90 62
<http://www.ombudsman.europa.eu>

**European Investment Bank
Inspectorate General**

Fraud Investigations
European Investment Bank
100, bld. Konrad Adenauer
L-2950 Luxembourg
Fax: (+352) 43 79 64000
investigations@eib.org
<http://www.eib.org/fraud>


ANNEX I: List of EIB's Policy documents

A non-exhaustive and flexible list of the most relevant EIB policy documents is provided below. Whereas the Policy documents of the EIB are under constant review, it is strongly recommended to verify the status of a policy (i.e. if it still in force or is under review) on the EIB's website (www.eib.org):

- **EIB Institutional Governance:** [EIB Statute 2010](#), [Rules of Procedure \(2010\)](#), [Charter for internal Audit \(2008\)](#), [Audit Committee Charter \(2007\)](#), [Integrity Policy and Compliance Charter \(2006\)](#); [EIF Statutes \(2012\)](#), [EIF Rules of Procedure \(2011\)](#), [EIF Charter for internal audit \(2007\)](#), [EIF Compliance Charter \(2009\)](#), [Charter of the EIF Audit Board \(2006\)](#)
- **EIB Strategy Guidelines:** [Operational Plan 2012-2014](#); [EIF Corporate Operational Plan 2012-2013](#)
- **Codes of Conduct:** [Code of Conduct for the members of the Audit Committee of the EIB \(2012\)](#); [Code of good administrative behaviour for the staff of the EIB in its relation with the public \(2001\)](#); [Code of Conduct for the members of the Board of Directors of the EIB \(2011\)](#); [Staff Code of conduct \(2006\)](#), [Management Committee Code of Conduct \(2011\)](#), [EIF Code of Conduct for the members of the Audit Board of EIF \(2006\)](#), [Code of good administrative behaviour for the staff of the EIF in its relation with the public \(1996\)](#), [Code of Conduct for the members of the Board of Directors of the EIB \(2011\)](#), [Code of Conduct for the Chief Executive and the Deputy Chief Executive \(2008\)](#), [EIF Staff Code of conduct \(2008\)](#)
- **Transparency and Corporate Responsibility:** [Transparency Policy \(2010\)](#); [Statement on Corporate Social Responsibility \(2005\)](#); [2010 annual statement on corporate governance at the EIB Group](#), [EIF Statement on Governance \(2005\)](#)
 - [Sponsoring and Subsiding Policy: Criteria for granting subsidies \(2005\)](#)
- **EIB's Anti-Fraud Policy:** [Policy on preventing and deterring Corruption, Fraud, Collusion, Coercion, Money Laundering and the Financing of Terrorism in the European Investment Bank activities \(2008\)](#)
- **Thematic Lending Policies:**
 - [Energy Policies: EIB Energy Review \(2006\)](#); [Clean Energy for Europe: A Reinforced EIB Contribution \(2007\)](#); [EIB involvement in the microfinance industry](#).
 - [Sustainable Development: Development Impact Assessment Framework of Investment Facility Projects \(2005\)](#), [Environmental and Social Practices Handbook \(2010\)](#); [Environmental and Social Principles and Standards \(2009\)](#)
 - [Transport: EIB Transport Lending Policy \(2011\)](#);
 - [Water: The EIB's Water Sector Policy \(2008\)](#);
- **Geographic policies:**
 - [Project located in the ACP countries and in the Overseas Territories of the EU Member States](#)

- **Cooperation with third parties and/or international organisations:** [Tripartite agreement between the European Commission, the EIB and the European Court of Auditors \(2012\)](#); [MoU between the EIB and the Inter-American Development Bank \(2004\)](#); [MoU – EIB-European Commission and EBRD - Joint Assistance to Support Projects in European Regions \(JASPERS\)](#); [MoU between the EIB and the European Commission - Joint European Support for Sustainable Investment in City Areas \(JESSICA\)](#); [MoU between the European Commission and the European Investment Fund – Joint European Resources for Micro to Medium Enterprises \(JEREMIE\)](#); [EIB, EBRD agree joint Carbon Credit fund Memorandum of Understanding between the EC, the EIB and the World Bank](#); [MoU between the EIB and KfW Bankengruppe The European Investment Bank and Carbon Finance](#); [MoU between the EIB and the World Conservation Union \(IUCN\) \(2006\)](#); [European Principles for the Environment \(2006\)](#); [MoU between the EIB and the European Ombudsman \(2008\)](#); [MoU for a Strategic Partnership in the Middle East and Southern Mediterranean/North African Region between the European Commission, the EIB and the International Bank for Reconstruction and Development \(2009\)](#);
- **Project cycle related policies:** [Project Cycle at the EIB \(2002\)](#); [Eligibility Guidelines](#);
- **Procurement:** [Guide to Procurement \(2011\)](#); [Guide to procurement of services, supplies and works by the EIB on its own account \(2012\)](#);

ANNEX II: EIB's Complaint Form

 <p>European Investment Bank</p>
<p>100 boulevard Konrad Adenauer L-2950 Luxembourg (+352) 43 79-1 (+352) 43 77 04 www.eib.org/complaints complaints@eib.org</p>

THE EUROPEAN INVESTMENT BANK

COMPLAINT FORM

(Please continue on a separate sheet if needed and
attach all the necessary documentation to support the complaint)

1.	From (name):	
	On behalf of:	
	Address:	
	Tel:	
	Email:	
	Fax:	

2.	What is the subject of your complaint?

3.	What are the details of your complaint?

4.	What do you expect to achieve?

5.	Did you already have prior contact with the services of the EIB's Group on the subject of your complaint?	
No <input type="checkbox"/>		Yes <input type="checkbox"/>
	If yes, with who?	
	And when?	

6.	How do you wish the EIB to treat your complaint?	
Publicly <input type="checkbox"/>		Confidentially <input type="checkbox"/>

In order to safeguard the interest of the complainants, complaints lodged under the EIB's internal complaints mechanism are dealt with confidentially unless otherwise requested by the complainant. Complaints for which the complainant has waived his/her right to confidentiality are published together with the Conclusions Report of the EIB Complaints Office on the EIB Website.

Complaints may contain personal data relating to the complainant, or to a third party. The processing of personal data by the EIB is governed by Regulation (EC) N° 45/2001⁸. For complainants who waived their right to confidentiality it is understood that he or she consent for the purposes of Article 5 (d) of Regulation (EC) N° 45/2001 to the EIB dealing publicly with any personal data which the complaint may contain.

Access to information concerning any document related to the complaint is subject to the provisions of the EIB's Transparency Policy.

Date and Signature:

⁸ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Official Journal L 8/1, 12/01/2001.



The EU Bank



Contacts

For general information:

Information Desk

Corporate Responsibility and
Communication Department

☎ (+352) 43 79 - 22000

✉ (+352) 43 79 - 62000

📧 info@eib.org

European Investment Bank

98-100, boulevard Konrad Adenauer
L-2950 Luxembourg

☎ (+352) 43 79 - 1

☎ (+352) 43 77 04

www.eib.org