13 November, 2009

Comments to the EIB Complaints Mechanism (revised version, October 2009)

Chapter IV, Rules of Procedures

3. How to complain

3.1 A complaint can be lodged via a written communication via email or by completing the online complaint.

Comment: This will be difficult for people who live in remote areas and do not have access to the Internet. For example, the majority of people in the countries of Central Asia do not have access to the Internet. Therefore, a complaint could be submitted in written form and sent by e-mail, regular mail, fax or delivered directly to the Compliance office of the EIB. The guidelines of the Compliance Advisor/Ombudsman (CAO) of the International Finance Corporation suggest the same (section 2.2.3).

3.2 Every person may write in one of the official languages of the European Union.

Comment: This will be difficult for people who live outside of the EU, requiring additional expenses for translation services, placing a burden on poor communities. Therefore, it should be possible to submit a complaint in any language, and future communications between the Compliance office and complainant should be translated in the same language. The guidelines of the Compliance Advisor/Ombudsman (CAO) of the International Finance Corporation suggest the same (section 1.4 and 2.2.3).

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.

Comment: Affected people should have the right to submit a complaint at any time during the life of the project, until the time when the loan is returned. Otherwise, this will pose a serious restriction for affected communities. In cases in which access to reliable and comprehensive information is a major obstacle for communities, gathering all of the facts necessary for a complaint may take more time than would seem “reasonable” from an outside perspective. For example, in May 2008, Crude Accountability filed a third complaint about the Karachaganak field to the CAO regarding the borrower’s participation in the illegal reduction of the project’s Sanitary Protection Zone. Although, Crude Accountability became aware of this fact in 2006, the CAO accepted this complaint for review in 2008([http://www.crudeaccountability.org/en/index.php?page=campaign](http://www.crudeaccountability.org/en/index.php?page=campaign)).

5.2 In the special case of complaints concerning access to information, in accordance with the EIB’s Transparency Policy, Provisions for Appeal, appeals regarding access to information must be made in writing, within 20 working days from the acknowledgment of the correspondence on which the complaint is based or, in case of omission, within 20 days from the expiration of the reasonable time for reply.

Comment: The term of 20 working days will pose a serious restriction for affected communities who wish to submit complaints to the EIB Compliance office. This term should be extended to three months. For example, according to Kazakhstani legislation, affected communities have the right to submit complaints against official bodies regarding lack of access to information within three months of receiving acknowledgment.

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