

A group of women are gathered in a community meeting or workshop. They are seated at tables, some looking towards the camera and others engaged in conversation. The women are wearing colorful saris in shades of green, red, yellow, and white. The setting appears to be an indoor space with large windows in the background, suggesting a community center or a meeting room. The overall atmosphere is one of active participation and community engagement.

# Known, Available, and Safe: Best Practices for Promoting Accessibility for Local Communities and Addressing Retaliation Risks

GRAM Partnership Webinar - July 14, 2021

# Welcome & Agenda

## What do we mean by accessibility? 8:15-8:35 (ET)

Using case studies, this session will provide concrete examples of the challenges that communities can face when trying to access grievance mechanisms, including a lack of knowledge of the mechanism, language and technology barriers, and burdensome requirements.

*Stephanie Amoako, Accountability Counsel*

*Robi Chacha Mosenda, Accountability Counsel*

## Addressing reprisal risks against complainants 8:35-8:45 (ET)

Communities attempting to access or use grievance processes can face reprisals for raising their voices. This session will discuss a case study from Nicaragua and provide lessons for grievance mechanisms in addressing these challenges.

*Sarah Dorman, Center for International Environmental Law (CIEL)*

## First Q&A with panelists 8:45-9:00 (ET)

## Practical solutions for grievance mechanisms - Lessons from Independent Accountability Mechanisms 9:00-9:25 (ET)

This session will offer practical guidance to grievance mechanisms on addressing common accessibility challenges and developing protocols to ensure that complainants can navigate the process safely. This session will also discuss how COVID-19 has impacted accessibility to grievance mechanisms and measures taken to continue mechanism processes during the pandemic.

*Victoria Marquez-Mees, European Bank for Reconstruction and Development's Independent Project Accountability Mechanism (IPAM)*

## Design recommendations for grievance mechanisms 9:25-9:35 (ET)

Drawing lessons from the previous sessions, this session will provide guidance on how the design of grievance mechanism policies and practices directly relates to accessibility and safety.

*Margaux Day, Accountability Counsel*

## Second Q&A with panelists 9:35-9:55 (ET)

## Closing remarks 9:55-10:00 (ET)

# Who we are and how we work

We assist **communities** to effectively use accountability mechanisms to defend their rights and remedy harm caused by internationally financed projects.

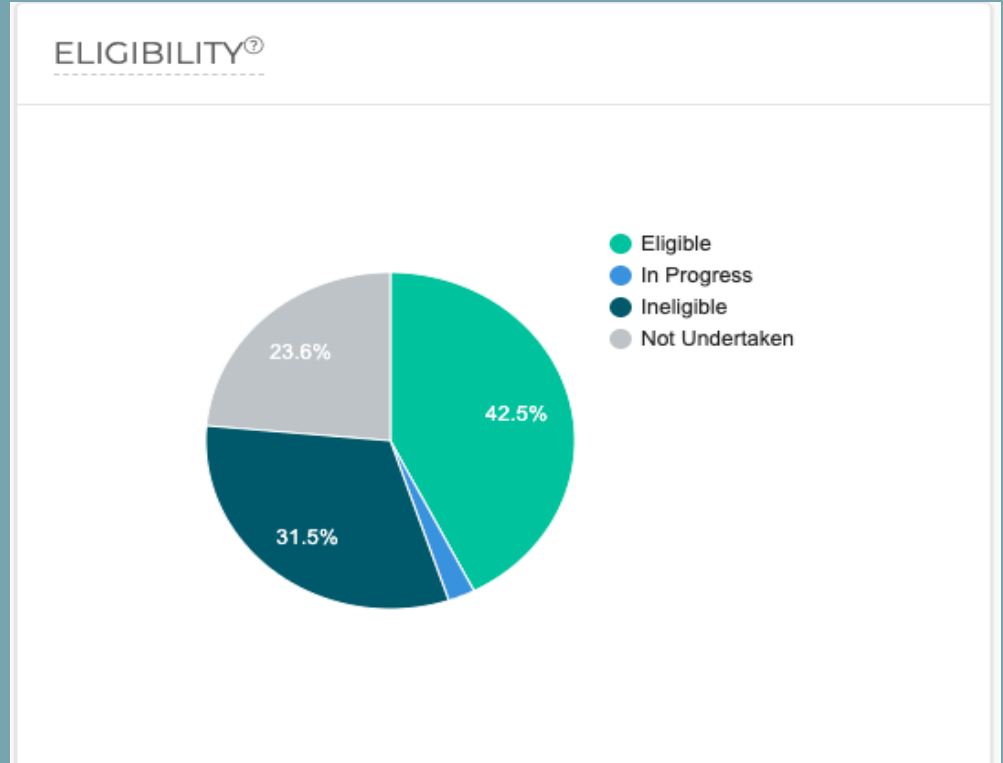
We also conduct **policy** advocacy aimed at strengthening the accountability ecosystem and **research** to inform the movement.



# What do we mean by accessibility?

## UN Guiding Principles on Business and Human Rights

“Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access”



Source: Accountability Console

# Information & communication challenges

## Challenges

- Communities are not aware of the availability and processes of IAMs
- Requirements to submit complaints in specific languages
- Complaint communications require significant time and resource investment for community representatives

## Solutions

- IAMs should play an active role within their institutions to ensure complaint options are communicated to affected people
- Affirmative outreach events by IAMs
- Ensure communication between IAMs & complainants as easy as possible, including communicating in local languages & accepting complaints in any language.
- Recognize importance of working with local CSOs
- Seek out local consultants who can build trust effectively



# Challenges due to cultural contexts

## Challenges

- Societal norms may present barriers to women or minority groups within a community making their concerns heard
- Social hierarchies may create divisions or increase security challenges, especially if those raising concerns are not the most powerful groups within a community



## Solutions

- Take a flexible approach to issues that come to light after an initial complaint filing
- Be aware of the likelihood of cultural norms and gendered hierarchies within communities, and approach complaints with such knowledge.
- In cases with complicated community dynamics, be patient and make extra efforts to understand the case, including through field visits
- Consider issues that come up through the course of IAM investigations / conversations, even if they were not raised in initial complaint filing.

# Challenges with Technical Filing Requirements

## Challenges

- Representation in complaints - Anonymity of complainants in a filing
- Statutes of limitations
- Parallel Proceeding Rules

## Solutions

- Allow anonymity for security purposes
- Create eligibility rules that are easy to meet & simple to understand.
- Have a more flexible statute of limitations to account for communication challenges.



# Challenges brought by COVID -19

## Challenges

- Lack of technology access and restrictions on in - person communications
- Curfews and gathering restrictions present additional security risks
- Travel restrictions can prevent complaint processes from moving forward while projects (and impacts) are continuing

## Solutions

- Patience, flexibility and partnership in finding creative solutions
- Acknowledge the connection between covid -related challenges & security concerns for the community



# Caracol Industrial Park, Haiti

*“... The ground of the chosen site is the most fertile in the whole area, even in dry periods.*

*It is also the source of income for many occupants who have no other activity than cultivating this land. Entire families depend on these plots to feed their children and pay school fees, health care costs and reimburse debts. ... Culturally, some families have occupied this land for several generations. These occupants have developed natural ties with the land, some nutrition habits. Almost every day and all year long, they draw leaves or vegetables that contribute to their diet.”*



# Reaching a Negotiated Solution

After 18 months of dialogue with the IDB and the Haitian Government, the parties signed an agreement on 12/8/2018.

The agreement includes:

- New land and technical support for 100 farmers
- For others, a choice between: modern agricultural equipment and training; small business development support; or a vocational training scholarship
- And a job at the park for every family, including specialized roles
  - Education kits



# Accessibility Challenges

- Language and literacy
  - Ensuring interpretation/translation and use of innovative tools
- Financial challenges
  - Support for transportation expenses
- COVID and technology
  - Ensuring that the parties could continue to work on the implementation of the agreement
- Importance of respecting the right to advisors

## Contact Information:

Margaux Day -

[margaux@accountabilitycounsel.org](mailto:margaux@accountabilitycounsel.org)

Robi Chacha Mosenda -

[robi@accountabilitycounsel.org](mailto:robi@accountabilitycounsel.org)

Stephanie Amoako -

[stephanie@accountabilitycounsel.org](mailto:stephanie@accountabilitycounsel.org)

[Accountabilitycounsel.org](http://Accountabilitycounsel.org)



**CIEL**

CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW

Ensuring complainants' safety:

**Preventing &  
Responding to  
Reprisals**



Retaliation refers to any detrimental act, direct or indirect, recommended, threatened or actually taken against any person involved in the submission, processing or investigation of a complaint, grievance or reconsideration request with the IRM.

- *GCF Independent Redress Mechanism, Supporting Operating Procedures on Retaliation*



Forms of Threats and Reprisals include attempts at intimidation, harassment, discriminatory treatment, withholding of entitlement, risks to livelihood or reputation, and threats of physical violence, criminalization, or incarceration.

- *IFC Compliance Advisor Ombudsman, 2021 Policy*



CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW



## CIEL denounces reprisals aimed at Nicaraguan defenders for publicly noting IFC divestment from controversial mine project

January 2020

Washington, DC – The Center for International Environmental Law (CIEL) denounces an ongoing wave of intimidation, retaliation, and criminalization targeting Nicaraguan environmental defenders and community leaders who have publicly opposed plans for a controversial gold mining project in Santa Cruz de la India, Nicaragua.



## Select Lessons Learned: Preventing & Responding to Reprisals

- Trust & consistency are key.
- Prevention is essential.
  - Allow for confidential submission and processing of complaints.
  - Analyze reprisals risks upon receipt of each complaint, including based on local and regional context.
  - Coordinate with complainants to address risks & security concerns.
  - Actively monitor the situation & revisit reprisals-related concerns with complainants throughout the process, including after visits.
  - If complainant wishes, include representatives who may be accompanying the case in communications.
- Any action to address possible or actual reprisals should be taken in close consultation with the affected complainant(s).
- Ongoing monitoring of reprisals risks is critical.
  - Reprisals risks may remain even after formal closure of a case.



# Additional Resources:

## Accountability Mechanism Approaches:

- ❑ MICI [Toolkit for IAMs](#)
- ❑ CAO [Approach to Reprisals](#)
- ❑ IRM [Supporting Operating Procedures](#)

## Civil Society Documentation & Recommendations:

- ❑ [Uncalculated Risks](#)
- ❑ [At Your Own Risk](#)

## Comparative UN Approaches:

- ❑ San José [Guidelines](#) against Intimidation or Reprisals (2015)
- ❑ UN Committee on Enforced Disappearances [Guidelines](#) (2021)
- ❑ Secretary General's [annual reports](#) on reprisals for cooperation with the UN
- ❑ Special Procedures [framework for action](#) on reprisals
- ❑ OHCHR [reprisals team](#)



### CAO Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations

#### Introduction

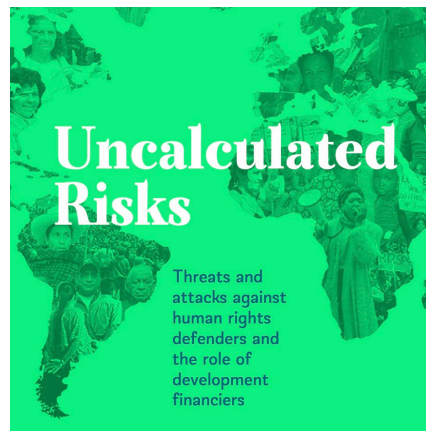
The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse and accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive, and to enhance the social and environmental outcomes of those projects.

CAO's mandate and role reflect the reality that many development projects carry social and environmental risks. In this context, an impacted person's ability to speak up about impacts of development projects freely and without fear, particularly if the person belongs to a community that is already vulnerable as a result of its status in society, is essential. People who come to CAO are often vulnerable and may fear that submitting a Complaint to CAO puts them at risk of reprisal for doing so. This Approach seeks to address these concerns and risks.

This Approach should be read together with CAO's Operational Guidelines, as well as World Bank Group policies and staff rules.

#### Applicability, Scope and Limitations

This Approach is applicable to all CAO functions and sets out how CAO staff and consultants, within CAO's mandate, are expected to handle situations that may arise in the course of CAO's work, which involve threats and incidents of reprisals targeted at individuals that have engaged or are seeking to engage in a CAO process.



|  |                |                   |
|--|----------------|-------------------|
|  | United Nations | HRL/MC/2015/      |
|  |                | Date: General     |
|  |                | 30 July 2015      |
|  |                | Original: English |

#### International Human Rights Instruments

##### Twenty-seventh meeting of chairpersons of the human rights treaty bodies

##### Guidelines against Intimidation or Reprisals ("San José Guidelines")\*

*The Chairs of the human rights treaty bodies.*

*Recognizing that the universal human rights treaties are a central pillar of the international system for the promotion and protection of human rights and that the free engagement of individuals and groups with the treaty bodies is critical to their efficiency and effectiveness,*

*Expressing concern over allegations received by the treaty bodies of intimidation and reprisals against individuals and groups who seek to cooperate, are cooperating or have cooperated with the treaty bodies,*

*Recalling relevant provisions in international human rights treaties, optional protocols and rules of procedure,*

*Recalling also the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,*

*Welcoming the annual report of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, which includes information on cases of intimidation and reprisals against individuals or groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights,*

*Recalling their decision to develop a policy on reprisals at their twenty-seventh meeting,*

*Stressing their common will, expressed at their twenty-seventh meeting, held in San José from 22 to 26 June 2015, to reinforce procedures related to intimidation or reprisals,*

*Noting with appreciation that the General Assembly, in its resolution 68/268 of 9 April 2014, strongly condemned all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies, and urged States to take all appropriate action to prevent and eliminate such human rights violations,*

*Welcoming the encouragement given by the General Assembly to the treaty bodies to continue to enhance the role of their Chairs, including with respect to formulating conclusions on issues related to working methods and procedural matters, promptly generalizing good practices and methodologies among all treaty bodies, ensuring coherence across the treaty bodies and standardizing working methods,*

*Recalling their decisions to include reprisals as a standing item on the agenda of their annual meetings and to engage with other bodies working to protect individuals and groups from reprisals,*

*Welcoming the appointment by most of the treaty bodies of one or more rapporteurs or a focal point on reprisals,*

*Underlining the need to enhance protection and bring coherence to treaty body responses to individuals and groups at risk of or targeted by intimidation or reprisals,*

*Recalling the competence of each treaty body to adopt its own rules of procedure,*

*Endorse the Guidelines against Intimidation or Reprisals.*

#### I. Purpose and scope

1. The present Guidelines are aimed at providing practical guidance to enhance the efficiency and effectiveness with which protection is provided by treaty bodies to individuals and groups at risk of facing intimidation or reprisals for seeking to cooperate or cooperating with United Nations human rights treaty bodies.

2. The treaty bodies strongly condemn such acts of intimidation or reprisals. By becoming party to an international human rights treaty, a State undertakes to cooperate with the treaty body in good faith and to exercise due diligence in doing so.

3. States have a duty to protect individuals and groups and to exercise due diligence in doing so. Intimidation or reprisals may be the result of acts or omissions by both State and non-State actors and all such acts fall within the scope of these Guidelines. Acts or omissions are attributable to the State when they are carried out with the consent or acquiescence of an official or other person acting in an official capacity against any individuals or groups who are seeking to cooperate, who are cooperating or who have cooperated with a treaty body.

4. The Guidelines are formulated as a common basic approach that may be adapted and developed further by each treaty body in order to best reflect in particular context, mandate and experience in order to fully realize the purposes of these Guidelines.

#### II. General principles

5. The principles underlying the present Guidelines are the following:

(a) The right for everyone to have unhindered access to and to communicate with the treaty bodies and their members for the effective implementation of the treaty body mandates;

(b) The freedom for everyone from any form of intimidation or reprisals, or fear of intimidation or reprisals, when seeking to cooperate or cooperating with the treaty bodies;

(c) The responsibility of States to avoid acts constituting intimidation or reprisals and to prevent, protect against, investigate and ensure accountability and to provide effective remedies to victims of such acts or omissions;

(d) Equality and non-discrimination;

(e) The need to respect the "do-no-harm" principle, participation, confidentiality, safety, security, and free and informed consent;

(f) The mainstreaming of a gender perspective in the work of the treaty bodies.



Thank you



CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW

Sarah Dorman  
[www.ciel.org](http://www.ciel.org)





# PRACTICAL SOLUTIONS FOR GRIEVANCE MECHANISMS

## Lessons from Independent Accountability Mechanisms

2021 Second GRAM Partnership Webinar  
14 July 2021

Victoria Marquez Mees  
Chief Accountability Officer, EBRD

# An effective Mechanism

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The **UN Guiding Principles on Business and Human Rights** rest on three pillars establish a set of effectiveness criteria for non-judicial grievance mechanisms

- **Legitimate**
- **Accessible:** being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;
- **Predictable**
- **Equitable**
- **Transparent**
- **Rights-compatible**

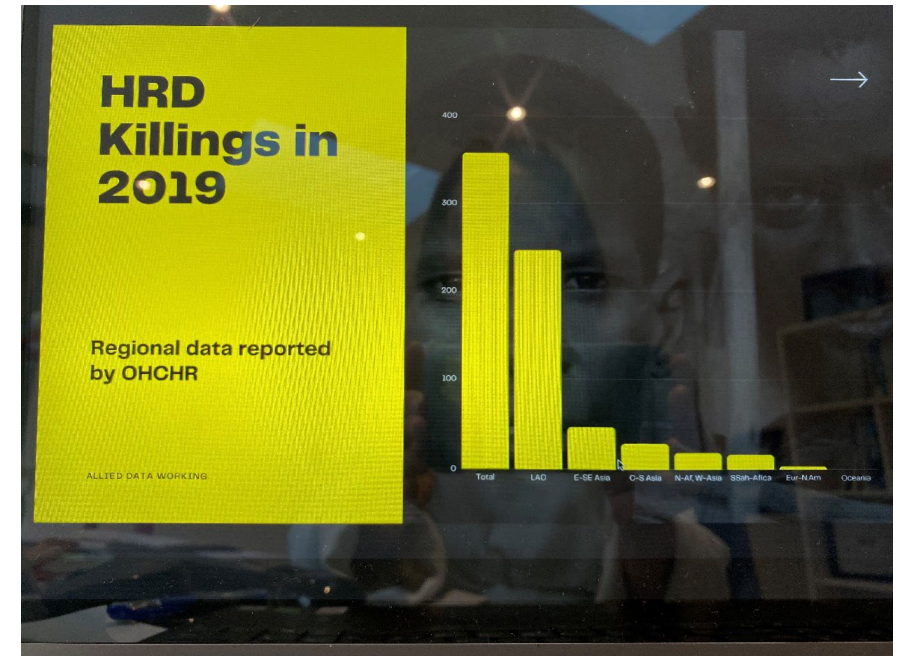
# What does accessibility mean in practise?



- Are they aware of your existence?
- Do they know how to reach you?
- Does your procedure establish numerous requirements?
- Does it require an expert to understand it?
- How do you engage with complainants?
- What language do you use?
- How would you rate your reports?
- Is it safe to approach you?

# What is happening out there

- Progressively the civic space has shrunk.
- Civil society is facing continuous harassment from the State in almost every country.
- Political divisions, economic downturn, civil unrest and Covid-19
- Human Rights and environmental defenders are being attacked for raising concerns in every country



# Protocols and practice: how to address risk of reprisals

- Understand the context you are working in
- Train every member of your team - avoid the weakest link risk
- Have a protocol
- Align it with your procedures – no sense in a protocol that is not implementable.
- Share the burden: institution/local organisations
- Engage with those at risk and make joint decisions on risk management



C5190779



# But we are no experts

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- Check on what others have done

[Guide for independent accountability mechanisms on measures to address the risk of reprisals in complaint management – A practical toolkit](#)

[MICI Guidelines for addressing risk of reprisals in complaint management](#)

[Addressing increased reprisals risk in the context of Covid-19](#)

- Engage with those that know:

Examples:

- Coalition for Human Rights in development
- Human Rights Watch
- Protection International

# Contact us

## Accessibility for IPAM means

- working to be known to individuals and groups that could use IPAM;
- ease barriers to access;
- operate in a culturally appropriate and gender responsive manner;
- and promote safe access to IPAM through confidential Case handling,
- Retaliation risk assessment and risk mitigation measures.

For advice/ technical assistance

Email: [ipam@ebrd.com](mailto:ipam@ebrd.com)







# Grievance Mechanism Design Recommendations to Increase Accessibility

GRAM Partnership Webinar July 14, 2021

Margaux Day, Policy Director





# Overview of Recommendations

- Mandate Public Outreach Strategy
- Translate Material into Local Language
- Provide a Sample Complaint
- Permit Complaints in Any Language
- Permit Complaints in Various Formats
- Permit Complaints about Closed Projects
- Don't Require Detailed Project Info
- Permit and Preserve Confidentiality
- Adopt a Zero-Tolerance Policy



## Mandate public outreach strategy

e.g., CAO, CM, ESCM, IPAM, IRM, MICI, IP, PCM, SPF CRP, SRM

## Translate material into local language

e.g., CAO, CM, ESCM, IPAM, MICI, IP, PCM, SPF CRP, GCF IRM



## Provide a sample complaint template

“On request, CAO will provide guidance on how to lodge a complaint without providing advice regarding the substance of the complaint. **The CAO website includes a model complaint letter.** Potential complainants may also contact CAO for clarification before lodging a complaint.”

(CAO Policy, p. 8, para. 35)

“IPAM Requests may be submitted in any written format. **While it is not required, Guidance on how to write and submit a Request is available in IPAM’s Sample Request Form, found in Annex A and available on the IPAM website.** IPAM may also be contacted for guidance on how to write and submit a Request.”

(IPAM Policy, p. 8, para. 2.1[b])

To:  
Compliance Advisor/Ombudsman  
International Finance Corporation  
2121 Pennsylvania Avenue NW  
Washington, DC 20433 USA  
Fax: (+1) (202) 522-7400  
e-mail: cao-compliance@ifc.org

I/we, \_\_\_\_\_, lodge a complaint concerning the \_\_\_\_\_ project, located in \_\_\_\_\_.

This complaint is made on behalf of \_\_\_\_\_ (ignore if not applicable).

I/we live in the area known as \_\_\_\_\_ (show on an attached map if possible). I/we can be contacted through the following address, telephone and fax numbers, and e-mail:

\_\_\_\_\_  
Street address

\_\_\_\_\_  
Mailing address (if different from street address)

\_\_\_\_\_  
Country

\_\_\_\_\_  
Postal Code

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
E-mail

I/we do not wish our identity to be disclosed (ignore if not applicable).

I/we have been, or are likely to be affected by social or environmental impacts of the project in the following way(s):

# Complaint Requirements

## Permit complaints in any language

*“...SECU will maintain a Complaint Hotline, (managed by an independent service provider), which includes multi-language, web-reporting, and toll-free telephone lines accessible from any country in the world, along with traditional email, fax and mail reporting options. Complaints shall be accepted in any language.”*

*(SECU Investigative Guidelines, p.17, para. 1.)*





# Complaint Requirements

## Permits complaints in various formats

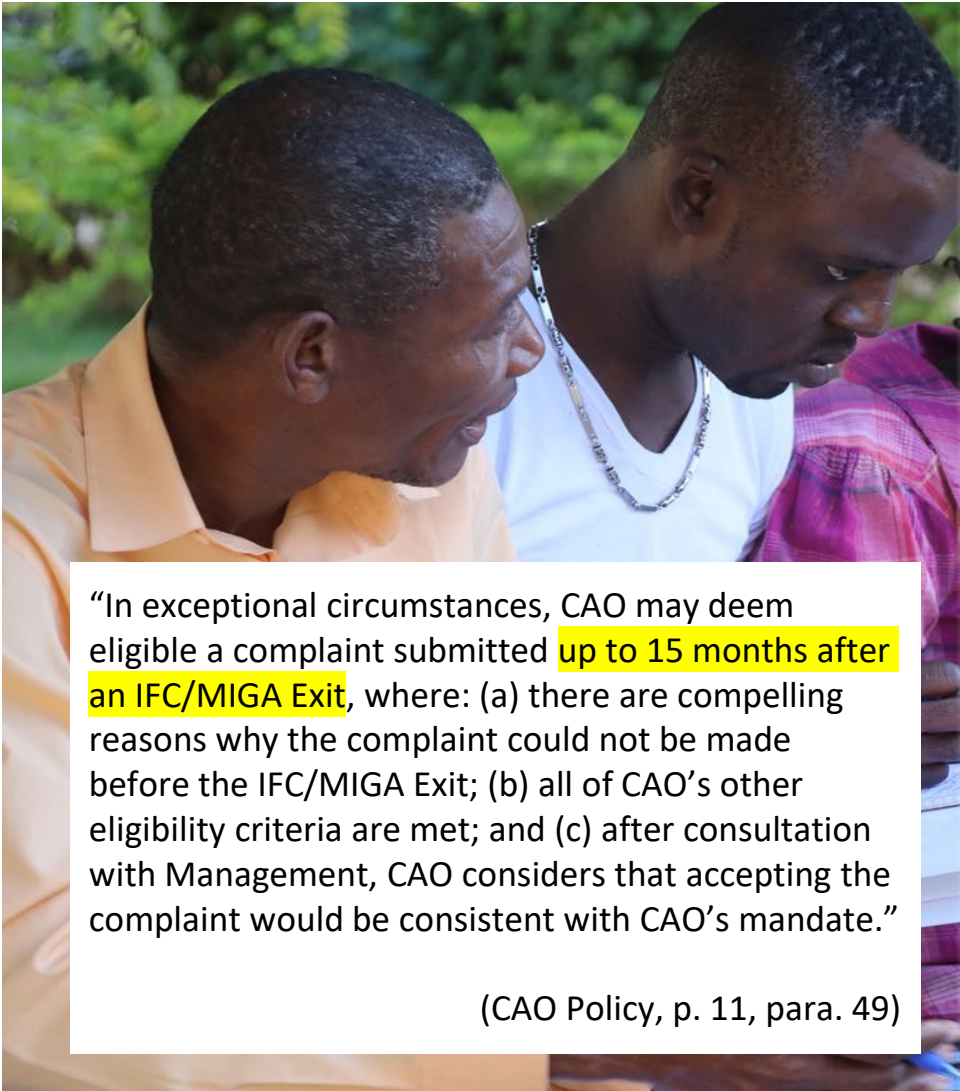
*“SECU provides UNDP, and those affected by UNDP projects, with an effective system of independently and objectively investigating alleged violations of UNDP’s social and environmental commitments. SECU seeks to protect locally-affected communities and, in particular, disadvantaged and vulnerable groups, and to ensure participation of local stakeholders. ...Complaints are accepted by email, online form, phone hotline, postal mail, and text message through SMS, Whatsapp, Viber, WeChat, etc.”*

(UNDP’s SECU paras. 14, 25)





# Complaint Requirements



“In exceptional circumstances, CAO may deem eligible a complaint submitted **up to 15 months after an IFC/MIGA Exit**, where: (a) there are compelling reasons why the complaint could not be made before the IFC/MIGA Exit; (b) all of CAO’s other eligibility criteria are met; and (c) after consultation with Management, CAO considers that accepting the complaint would be consistent with CAO’s mandate.”

(CAO Policy, p. 11, para. 49)

**Permit complaints about completed projects**

e.g., AfDB IRM, SECU, CAO, EIB CM

**No requirement to provide detailed project information**

e.g., CAO, DEG/FMO/Proparco ICM, EBRD IPAM



# Complaint Process

## Permit and preserve confidentiality

*“Wherever feasible, CAO will use encrypted mediums for communication and seek to adopt other technology best practices to help safeguard confidentiality online and in communications.”*

(IFC’s CAO Protocol on Retaliation)

“Basic principles that should be applied in protecting confidential information include limiting access to those who “need to know”; documenting who has access; labelling and storing documents appropriately; and planning for scenarios in which the information is accidentally disclosed.”

(GCF IRM Standard Operating Procedures on Retaliation)







## Zero-tolerance policy

*“IPAM does not tolerate Retaliation against Requesters or any other individuals involved in an IPAM process or outreach activity, and rejects any form of threat, intimidation, harassment, violence, or discrimination based on the fact that they have exercised their right to raise concerns.”*

(EBRD’s IPAM para. 3.1[k])

*“... the IRM does not countenance retaliation against a complainant, requester or any other person involved in an IRM process.”*

(GCF IRM Standard Operating Procedures on Retaliation)



## ACCOUNTABILITY CONSOLE

### A Database of Human Rights & Environmental Grievances

The world's most comprehensive database of community complaints filed with independent accountability mechanisms about the impact

#### BROWSE COMPLAINTS

[EXPLORE](#)[Feedback](#)

#### Public Access to the IAM/Outreach

- Does the IAM issue its own press releases and media communications?
- Is information about the mechanism available at the institution's national or local offices?
- Does the IAM have an official website?
- Are documents on the website available in multiple languages?
- Are annual reports published on the website?
- Does the website provide documents related to the IAM's operations?
- Does the website provide updates on ongoing cases?
- Does the policy require that information be distributed to project sponsors re the IAM?
- Does the IAM publish guides for how it may be used?
- Are guides published in multiple languages?
- Are guides or information about the IAM distributed in the institution's areas of project operation?
- Is the IAM able to hold public meetings to inform people about the existence of the IAM?

# Questions?

**Accountability Counsel**  
[www.accountabilitycounsel.org](http://www.accountabilitycounsel.org)

**Twitter**

[@AccountCounsel](https://twitter.com/AccountCounsel)

**Instagram**  
[@accountabilitycounsel](https://www.instagram.com/accountabilitycounsel)

**LinkedIn & Facebook**  
Accountability  
Counsel

Margaux Day, [margaux@accountabilitycounsel.org](mailto:margaux@accountabilitycounsel.org)

**accountability**  
counsel