

An assessment of transparency and accountability mechanisms at the European Investment Bank and the International Finance Corporation

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Summary

Development finance has changed substantially over the past decade. Private finance has replaced aid at the centre of global and national development initiatives, for both governments and international bodies. Development finance institutions (DFIs) have become the embodiment of this agenda. As public institutions with a development mandate, they have a responsibility to operate in a transparent and accountable manner.

DFIs are government-controlled institutions that support the private sector in developing countries and seek to mobilise additional private finance. This briefing focuses on the two largest multilateral DFIs: the EU's European Investment Bank (EIB) and the World Bank Group's International Finance Corporation (IFC). It examines whether they are the right institutions to hold such a dominant position in development finance by looking at their levels of transparency and accountability.

Both DFIs were assessed against the following IFI Transparency Charter criteria:

- the right to access and request information;
- automatic disclosure;
- limited exceptions for their disclosure; and
- access to decision-making.

In addition, the briefing sheds light on the effectiveness of DFIs' stakeholder engagement, independent evaluations and complaints mechanisms.

The briefing finds that both DFIs:

- Have transparency policies that include significant exceptions which effectively undermine citizens' right to access information.
- Do not indicate in a public register all the documents at their disposal. The EIB does so for environmental documents.
- Fail to explain the reasons behind classifying information as confidential.

- Do not disclose relevant information about the decision-making process within the Boards of both of the Banks, such as notes and reports prepared for clients.
- Are not transparent about the implementation of stakeholder engagement requirements for their clients.
- Have complaints mechanisms that are insufficiently accessible and have no binding decision-making powers.

In addition, the EIB's complaints mechanism has been hampered by interference by EIB staff in the past, and a lack of public disclosure of relevant information following complaints.

The briefing argues that DFIs should, among other recommendations:

- Introduce transparency clauses in contract arrangements with clients that force them to publicly disclose important data.
- Make public a register of all documents they have at their disposal, allowing citizens to know which data can be requested.
- Make available the reasons why they will not disclose certain information, and why those reasons override the public interest.
- Publicly disclose detailed information revealing the positions of different countries within the Board.
- Provide citizens with evidence of clients' implementation of stakeholder engagement requirements.
- Step up efforts to make sure their complaints mechanisms are easily accessible for affected people.
- Make recommendations by DFIs through complaint mechanisms binding.
- Increase complaints mechanisms' resources to deal with the continually growing number of complaints and their increasing complexity.

Introduction

Since the 2008 financial crisis and subsequent austerity measures, donors have increasingly focused on the use of public resources to leverage private lending and investment – a move reflected by the European Commission’s Agenda for Change in 2011¹ and its 2014 Communication on the role of the private sector in development.² This trend was also endorsed by the European Council³ and EU ministers during the Financing for Development Conference in Addis Ababa in 2015.⁴

Development Finance Institutions (DFIs) have become the embodiment of this trend, as reflected by the increase in their annual commitments. DFIs lend and invest money – taxpayers’ money or publicly guaranteed money – to private sector companies operating in developing countries.

Building on the work led by Eurodad and allies, this briefing maps the current situation in relation to transparency and accountability at the European Investment Bank (EIB) – a body of the EU, and the International Finance Corporation (IFC) – the private sector lending arm of the World Bank Group (WBG). The objective of this exercise is to deepen the debate on the kind of practices that development institutions must follow. The briefing also comes at a particularly pivotal time for the EIB as the Bank will start revising the rules and procedures of its complaints mechanism by the end of 2015.

Methodology

This briefing assesses the EIB and IFC against specific criteria in relation to transparency and accountability. In terms of transparency, both DFIs are examined on the basis of five key principles included in Global Transparency Initiative’s

‘Transparency Charter for International Financial Institutions’,⁵ most commonly known as ‘the IFI Transparency Charter’, which was the last major effort by CSOs to create a charter for IFIs. In terms of accountability, both DFIs are assessed on the basis of three criteria, each with their specific indicators (see Table 1).

The assessment will further be informed by the United Nations Guiding Principles on Business and Human Rights, which apply to all states and contain important principles to ensure that companies do not violate human rights in the course of their transactions and provide redress when infringements occur.⁶ As such, these principles are also relevant for state-backed DFIs and the companies in which they invest or go into partnership with.

Why transparency and accountability matter for DFIs

The right to access information held by public authorities is a fundamental right guaranteed under international law and recognised by, among others, the European Court of Human Rights⁷ and the United Nations Human Rights Committee.⁸ As public institutions mandated to deliver development results, DFIs should comply with these principles. To that end, Eurodad’s Responsible Finance Charter argues in favour of transparency and accountability. Specifically, DFIs should be required by their shareholder governments to automatically disclose and broadly disseminate a wide range of information about their operations. This will allow a variety of actors, including governments, parliaments and civil society organisations in both donor and partner countries to hold them to account. Accountability can only be ensured in a transparent environment.

European Investment Bank

The EIB is an EU body providing low-interest loans to private and public entities. Ten per cent of the Bank’s financed operations take place outside the EU and part of its portfolio is committed to private sector lending for development purposes. Outside the EU, the EIB works under different mandates, with most of its operations covered by the bank’s External Lending Mandate (ELM). However, in the African, Caribbean and Pacific region (ACP) the EIB operates under the Cotonou Agreement and through the European Development Fund. These mandates make the EIB responsible to act in accordance with the relevant principles of the European Consensus on Development and the principles of aid effectiveness outlined in the Paris Declaration of 2005, the Accra Agenda for Action of 2008 and the Busan Partnership Agreement of 2011, as well as with the EU Strategic Framework and Action Plan on Human Rights and Democracy. Despite its operations in developing countries, the EIB’s Board of Directors only consists of a representative of each EU member state and the European Commission.⁹ Developing countries do not have a seat at the table.

International Finance Corporation

The IFC is the private sector lending arm of the WBG and considered by many other DFIs as a standard setter through its policy work. Its mission is “to promote private sector investment in developing countries, helping to reduce poverty and improve people’s lives”.¹⁰ Its 184-member countries oversee the use and management of resources through a Board of Governors and a Board of Directors. As voting power is based on capital stock, high-income countries take up more than 70% of voting power.¹¹

Table 1: Key criteria against which EIB and IFC are measured

Transparency	Accountability		
	Independent evaluations	External participation	Complaints mechanisms
<ul style="list-style-type: none"> • Right of access to information • Automatic disclosure of information • Limited exceptions • Right to request information • Access to decision-making 	<ul style="list-style-type: none"> • Independence and budget • Stakeholder involvement • Lessons learned 	<ul style="list-style-type: none"> • Participation of external stakeholders, including affected communities and partner country parliaments 	<ul style="list-style-type: none"> • Accessibility • User-friendliness • Transparency following complaints • Independence • Daily work and implementation of complaints mechanisms conclusions

Transparency

Both the EIB and IFC have transparency policies that set out what kind of information citizens have access to, and which documents will be automatically disclosed and which will remain confidential.

The EIB adopted its latest transparency policy on 6 March 2015, replacing the previous policy from 2010. It puts forward procedures concerning requests for information and the kind of information the Bank routinely makes publicly available. As the EU's bank, the Bank needs to comply with EU regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents (see further below). The IFC, in turn, adopted its latest Access to Information Policy (AIP) in January 2012. According to the policy, institutional information and project-level information regarding investments and advisory services supported by the IFC are made available.

It is worth noting that both the EIB's and the IFC's policies are only available in a limited number of official languages. The EIB's policy is available in EU languages – which are not always the official languages

of its partner countries – while the IFC only translates its policy into the official languages of the WBG.¹²

The right of access

The IFI Transparency Charter describes the right to access information as “a fundamental and legally binding human right, grounded in the right to ‘seek, receive and impart information and ideas’, guaranteed under international law”. It therefore argues that DFIs should adopt comprehensive transparency policies giving effect to this right, based on the principle of maximum disclosure and subject to limited exceptions. In addition, the charter argues that DFIs should ensure that citizens can access all information relevant to their operations and activities, by including access to information clauses in their contracts with clients.

The EIB argues that its policy is consistent with, among others, the Treaty on the Functioning of the European Union (TFEU), which “requires Union institutions, bodies, offices, agencies, including the EIB, to conduct their work as openly as possible in order to promote good governance and ensure the participation of civil society”.¹³ Article 15(3) of the TFEU provides for the

right of public access to documents, “a fundamental right, recognised by Article 42 of the Charter of Fundamental Rights of the European Union”. However, the EIB itself can still determine “how the general principles and limits governing the right of public access should apply in relation to its specific functions as a bank”.¹⁴ The IFC, in turn, states that “transparency and accountability are fundamental to fulfilling its development mandate”¹⁵ but does not refer to any legislative document that recognises access to information as a human right.

Both the IFC and the EIB's transparency policies are based on the principle of presumption of disclosure, except when there are compelling reasons for non-disclosure. However, as will be explained in the following sections, exceptions are often so far-reaching that they effectively limit citizens' right of access to information.

Transparency clauses

The EIB requires its clients to provide the Bank with data during project appraisal. In addition, the EIB publishes on its website the standard contractual clauses on environmental information, which oblige EIB clients to “provide to EIB information which is tailor-made for the project in

Box 1: IFC and EIB investments in the financial sector

Both the IFC and EIB increasingly invest through financial intermediaries with the objective of strengthening the financial sector in partner countries and delivering development outcomes for SMEs that they cannot reach directly. Oxfam found that in the four years leading up to June 2013 the IFC invested US\$36bn in financial intermediaries.¹⁶ Financial sector lending comprises 62% of the IFC's total spending, which in turn represents half of WBG activity.¹⁷ In the case of the EIB, 39% of the operations passed through financial intermediaries in the period 2009-2012.¹⁸

Investments through financial intermediaries pose many problems in relation to transparency. A Compliance Advisor Ombudsman (CAO) audit on the IFC's intermediary lending published in 2013 found that the IFC “did not have the information on the end use of funds available” and “knows very little about potential environmental or social impacts of its financial markets lending”.¹⁹ In reaction to these findings, the IFC now discloses high-risk sub-projects funded through private equity funds. However, it still does not disclose such information

for similar sub-projects funded through other financial intermediaries, which is the vast majority of its portfolio.

This lack of transparency has in some cases led to severe human rights violations and fraudulent behaviour:

- In 2002, the IFC invested in the private equity fund Dragon Capital Group, which subsequently lent money to two of Vietnam's largest companies, Hoang Anh Gia Lai (HAGL) and the Vietnam Rubber Group. According to UK NGO Global Witness, these companies grabbed more than 200,000 hectares of land through a series of obscure deals with the Laos and Cambodian governments.²⁰ In February 2014, local members of 17 villages and five Cambodian NGOs filed a complaint to the CAO, raising environmental and social concerns and claiming that these acquisitions have been harmful to their standard of living and the environment.²¹
- In 2011 the IFC invested in Ficohsa, Honduras' third largest bank, which on-lent to Dinant Corporation, a palm oil and food company which already received a US\$15m direct loan from the IFC in 2009. In response to allegations

of violence against farmers on and around Dinant oil palm plantations in Honduras' Aguán Valley, the CAO initiated a compliance audit of the Dinant investment in August 2012, finding significant failures in the IFC's assessment of risk and implementation of its environmental and social policies. During an audit in 2013 the CAO became aware that Dinant was one of Ficohsa's largest borrowers (this became the subject of the Oxfam report *The Suffering of Others*) and as a result the IFC had a significant exposure to Dinant through its investment in Ficohsa.²²

- In its briefing paper on Emerging Capital Partners, Counter Balance and partners reported that in 2006 the EIB supported a private equity firm – Emerging Capital Partners (ECP) – which subsequently invested in three Nigerian companies that served as ‘fronts’ for laundering money, said to have been obtained by James Ibori, the former Governor of Nigeria's Delta state. According to Counter Balance, the EIB remained unaware of these malpractices and failed to conduct proper due diligence to identify the real end-beneficiaries of its intermediary loan to ECP.²³

question, throughout the life of the loan and with a pre-set regularity” and “any information or further document concerning environmental matters of the project as EIB may reasonably require”.²⁴ However, contract clauses regarding public disclosure of these documents could not be found. This indicates that the EIB does not go as far as legally obliging clients not only to share this information with the DFI, but more importantly, also with the general public – and before project approval.

Similarly, the IFC has reporting and disclosure requirements for its clients, including financial intermediaries such as banks and private equity funds. However, although intermediary banks report to the IFC (in aggregate terms) the number of small- and medium-sized enterprise (SME) loans they make, only domestic regulation can legally require these banks to disclose every SME loan made to the public. The IFC admits that this is unlikely to happen. In addition, if the intermediary bank finances a project specifically with IFC money, public disclosure of key information is restricted due to

bank-client privacy regulations. Banks or clients can easily ignore IFC demands to publicly disclose key information about the sub-project. Furthermore, in the case of intermediary banks, the IFC is generally not aware of cases of non-compliance in sub-projects. In the event the IFC finds out that the intermediary’s management system is inadequate and its sub-projects non-compliant, it can only undertake methods such as technical assistance or pressure to ensure that the intermediary client operates in compliance again with agreed requirements.

For private equity funds, the IFC includes a provision that requires the funds to disclose to the IFC the sub-projects in which they invested. The IFC subsequently discloses this information to the public. However, this information does not include pivotal data such as the beneficial owners of actual sub-projects.

The case study in Box 1 demonstrates why transparency clauses are essential in the case of investments made through financial intermediaries.

Automatic disclosure

Automatic disclosure is important to enable citizens to participate effectively in decision-making processes. According to the IFI Transparency Charter, IFIs “should automatically disclose and broadly disseminate, for free, a wide range of information about their structures, finances, policies and procedures, decision-making processes, and country and project work”. In addition, in the case of the EIB, the Aarhus convention²⁵ obliges the Bank to indicate what kind of information it holds in the register even if it does not intend to disclose it.

It is worth noting that – in an attempt to give effect to the aforementioned convention – the EIB set up a public register of environmental documents on 2 January 2014.²⁶ This register includes, among other documents, environmental and social data sheets (ESDS), which summarise the EIB’s environmental and social appraisal of individual projects; and environmental and social completion sheets (ESCS), which summarise the Bank’s assessment of

Table 2: Automatic disclosure of information at EIB and IFC

Categories of information	EIB ²⁷	IFC ²⁸
Organisational procedures, rules and directives	Yes	Yes
Institutional policies and guidelines	Yes	Yes
Budgetary and financial information	The EIB’s three-year Operational Plan for FY15-17 is public and outlines the envisaged financing volumes and the high-level operational priorities applicable to financing activities in the neighbouring and partner countries.	A breakdown of the total financial commitments to each activity throughout the project lifecycle is provided through the World Bank database. The IFC also publishes its three-year strategy and budget paper, which is updated annually. However, disbursements for individual investments are not disclosed, as this is one of the exceptions outlined in the Access to Information Policy.
Country framework agreements or strategies	Country strategy papers are produced by the EC and the European External Action Service, and published on their respective websites. ²⁹ The EIB is acting on the basis of these papers, but does not publish them on its website.	The WBG uses and publishes Country Partnership Frameworks that are developed jointly between the World Bank, IFC and MIGA. ³⁰
Detailed project information	The EIB publishes project summary sheets. These sheets include information on, among others, the objectives, environmental aspects and financing instruments used. Summarised information on contracts awarded is published on the EIB’s procurement site.	The IFC publishes investment information, including on the objectives, environmental aspects and financing instruments used. Individual contracts signed with clients remain unavailable. In general, the IFC publishes most project information before approval. The IFC’s policy includes provisions for disclosure of information after approval.
Evaluations, audits	Evaluations are published on the EIB’s website. Independent auditor reports and audited financial statements are available as part of the EIB’s Annual Financial Report.	Evaluations are published on the IEG’s website.
Environmental and social (E&S) implications	In case an Environmental Impact Assessment (EIA) is required, the EIA is published. The EIB also publishes for all its projects its own assessment of the environmental and social impact via its public register.	The IFC discloses its Environmental and Social Impact Assessments (ESIAs), although this does not necessarily entail that all documents cited in the ESIs are made public. ³¹
Beneficial ownership and country-by-country data of companies in which the DFI invests and partners with	No	No

Source: Aid Transparency Index 2014



The right to request and receive information should be a central component of any DFI's transparency policy.

environmental and social issues at project completion stage.³² However, as of July 2015 the register does not contain all the documents the EIB holds, despite the fact that some of these documents might include useful environmental information. This information is only available on request.³³

Table 2 further lists specific categories of information put forward by the IFI Transparency Charter and analyses the extent to which they are subject to automatic disclosure at both DFIs. The data included in the table are based on the Aid Transparency Index 2014 compiled by Publish What You Fund.³⁴ This index is the only independent measure of transparency among leading aid organisations.

Limited exceptions of disclosure

The right to access information is not absolute. According to the IFI Transparency Charter, some arguments in favour of confidentiality can be considered legitimate, for example if “the international financial institutions can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) the harm to this interest outweighs the public interest in disclosure”.

However, both DFIs' transparency policies contain broad regimes of exceptions that are grounded on confidentiality or commercial interest arguments that are often not clearly defined. For example, the EIB's Transparency Policy states that “access to information/documents shall (...) be refused where disclosure would undermine the protection of

(...) commercial interests of a natural or legal person”.³⁵ The EIB also refuses disclosure of information and documents collected and generated during inspections, investigations and audits, as they “shall be presumed to undermine the protection of the purpose of the inspections, investigations and audits even after these have been closed”.³⁶ The EIB's policy states that the bank may disclose a summary of this information.

By doing this, the EIB fails to comply with Article 4(2) of Regulation 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents. This article stipulates that the EIB may only refuse access to information if it can demonstrate that there is no overriding public interest.³⁷ However, Christian Aid argued that in the Mopani Copper Mines case, the EIB failed to give effect to this obligation³⁸ (see Box 4). In addition, the Aarhus Convention indicates that any information on emissions that is relevant for the protection of the environment shall be disclosed.³⁹

The IFC does not allow disclosure of “commercially sensitive” information, which includes “financial, business, proprietary or other non-public information about its clients, its member countries or other third parties”. It also does not make public “board documents or papers relating to specific investments or advisory service projects or platforms”.⁴⁰ This exception sets a very problematic precedent since the IFC fails to put the public interest first and only bases this judgement on who produced or provided the information. In the case of intermediary lending, the IFC argues that the

domestic regulatory and privacy rules in its partner countries can prevent the financial intermediaries it invests in from publicly disclosing the names of sub-clients. However, the IFC does not provide sufficient evidence supporting this argument. Furthermore, the IFC's policy does not allow for the disclosure of “deliberative information” in order to maintain the confidential nature of discussions within the IFC and with clients before decisions are made.

The right to request information

Any person is entitled to request and receive information from a public body. Therefore, the right to request and receive information should be a central component of any DFI's transparency policy. The IFI Charter stipulates in this regard that DFIs “should set out in some detail the manner in which requests for information shall be processed, which should be simple, rapid and free or low-cost”, adding that “requesters should be able to submit requests orally or in writing (...) and in local languages”. The charter further states that a response to a request should be provided in no more than 15 days.

In the case of the EIB, the procedures to request information are explained in detail in the Bank's transparency policy. However, this policy is only available online and not translated in the official languages of all countries where the EIB has investments. It remains unclear if the EIB undertakes any pro-active outreach efforts to raise awareness at the level of local stakeholders about their right to request information or if it requires project promoters to do this and follows up appropriately.

The policy stipulates that requesters will receive a response within 15 working days. The costs of producing and sending copies may be charged to the requesters. While both oral and written requests are allowed, requesters may be asked to formulate the request in writing “if an oral request for information is too complicated or complex to process”.⁴¹ In cases where requests are

Box 2: Unsuccessful requests for information from the IFC

Requests for information from the IFC have not always been successful. In April 2015, the Global Justice Clinic at the NYU School of Law submitted a request to the IFC to obtain further information about a metal exploration project in Haiti, in which the IFC is an investor.⁴² The request referred to documents listed in the IFC's Environmental and Social Review Summary for the project, as well as in the Social and Environmental Action Plan

and Health, Safety, Environmental, and Community/Labour Policy developed by the IFC's client, Eurasian Minerals Inc. (EMX). However, the IFC argued that such information had to be requested from EMX and urged the requester to follow up directly with the company.

This decision contrasts with the IFC's Disclosure of Information Policy from 2006, under which the project was disclosed. This Policy states that the IFC is required to disclose “project-level information regarding investments

and advisory services supported by IFC” and “any relevant social and environmental impact assessment documents prepared by or on behalf of the client”. Furthermore, while it may be that some of the documents requested are legitimately confidential, the IFC still failed to provide legitimate reasons for the denial for each document requested. According to its policy, the IFC must “either provide all or part of the requested information or give reasons why the request has been delayed or denied, in whole or in part”.⁴³

written in an official language of an EIB partner country outside the EU and which is not an official EU language (e.g. Swahili), the policy does not clarify whether or not the Bank will respond in the same language.

Unlike the EIB, the IFC will only endeavour to respond to requests within 30 calendar days. This might take even longer if the IFC argues that the information requested is too complex or broad in scope. It may charge a standard fee for hard-copy documents or for documents on electronic discs or drives. Enquiries can be submitted through the IFC's disclosure portal, which can be found on the IFC's website, or by telephone, fax or email. However, requests for information must identify the specific information requested despite the fact that the IFC does not list in a public register all the information it has at its disposal. While requests can be submitted in any language, the IFC will only "endeavor to be responsive in the relevant language"⁴⁴ – otherwise it will respond in English. Such a language barrier could jeopardise people's chances to access pivotal information.⁴⁵

Access to decision-making

According to the IFI Charter, DFIs "should disseminate information which facilitates informed participation in decision-making in a timely fashion, including draft documents, and in a manner that ensures that those affected and interested stakeholders can effectively access and understand it". In addition, "all formal meetings with decision-making powers, such as Board meetings, should be open for attendance by members of the public".

Generally, decisions at the EIB and IFC are made behind closed doors. Information that reaches the public is limited. The IFC argues that it "needs space to consider and debate, away from public scrutiny".⁴⁶ This means that the IFC does not make publicly available certain decisions, results, and agreements to "preserve the integrity of its deliberative processes".⁴⁷ While the IFC publishes minutes of formal meetings of the Board of Directors or Annual Reports of Board Committees, it does not disclose the notes and reports prepared for or exchanged with clients and member countries, or statements of Executive Directors in the Board. Apart from exchanges with Board members during World Bank Annual and Spring meetings,⁴⁸ it thus remains difficult for citizens to be aware of the different country positions within the Board. As a result, citizens face difficulties in holding their respective governments accountable.⁴⁹ Also, at the EIB, decisions are ultimately made behind closed doors.

Finally, while both DFIs have shared draft documents with CSOs in the past – for example during the review of their transparency policies – there is often a language barrier for interested stakeholders.



Independent evaluations are important accountability tools as they provide objective assessments of DFIs' work.

Accountability

According to the World Bank, accountability can be conceptualised by reference to two opposing forms: horizontal and vertical accountability. Horizontal accountability "is the capacity of state institutions to check abuses by other public agencies and branches of government, or the requirement for agencies to report sideways", whereas vertical accountability "is the means through which citizens, mass media and civil society seek to enforce standards of good performance on officials".⁵⁰ This means that independent evaluations by internal evaluation groups can be seen as tools of horizontal accountability, whereas participation of external stakeholders and the development and implementation of complaints mechanisms are practices of vertical accountability. This briefing examines the EIB and IFC precisely against these three dimensions: independent evaluations, external participation and complaints mechanisms.

Independent evaluations

Independent evaluations are important accountability tools as they provide objective assessments of DFIs' work and can identify the extent to which DFIs are operating in line with their mandates and policies. Independent evaluation groups serve as internal watchdogs to disseminate lessons learned and encourage DFIs to lend more responsibly.

However, a big part of evaluations' effectiveness depends on how independently they are conducted from the DFIs that are subject to evaluation and who determines the budget for the evaluation team to work efficiently and regularly. Equally important are the extent to which stakeholders are involved during the evaluation process, and DFIs' willingness to take on board lessons learned.

Both the EIB and IFC have their own way of carrying out independent evaluations. The EIB carries out independent ex-post evaluations through its Operations Evaluation (EV), which evaluates both public and private sector operations.⁵¹ The EV carries out thematic evaluations, for example by sector or financial product, and mainly on operations in the EU. Only one out of five evaluations focuses on EIB operations taking place outside the EU.⁵² At the level of

the IFC, the Independent Evaluation Group (IEG) operates as the World Bank's internal watchdog and conducts ex-post evaluations of a random sample of completed projects. On top of project-rating validation, the IEG also undertakes sector-wide, portfolio-wide and thematic evaluations.

Independence and budget

The EV falls under the responsibility of the Inspector General, which is independently performing its tasks and is accountable to the President and the Management Committee. The EV's budget is approved by the Board of Directors under a separate budget line⁵³ – and not by the management – to uphold the EV's independence.

The IEG operates independently from WBG management. It falls under the responsibility of the Director-General, which reports directly to the WBG's Board of Directors. The managements of the World Bank, IFC, and Multilateral Investment Guarantee Agency (MIGA) cannot change the evaluations' findings or prevent their release.⁵⁴ The IEG's budget is prepared independently from the Bank's budget, under the oversight of the Director-General and subject to endorsement by the Board's Committee on Development Effectiveness (CODE) and approval by the Executive Directors.⁵⁵

Stakeholder involvement

There is limited information available on the EIB's website about stakeholder consultation as part of the evaluation process. The IEG on the other hand appears to be more explicit about its engagement with stakeholders. In 2013, the IEG commissioned an assessment of stakeholders to review how it is perceived, the effectiveness of its communications and how stakeholders interact with its products. The IEG subsequently developed an action plan to enhance communications and position itself better as the premier source of evaluation knowledge on development issues. This plan is currently being implemented.⁵⁶

The EV's evaluation reports are generally published on the EIB website and are therefore accessible to a wide group of stakeholders, except when the transparency policy stipulates that public disclosure would undermine the commercial interests of third parties. However, beyond online disclosure, the EV does little to make sure the findings and recommendations actually reach the

final beneficiaries and affected communities, partly because of a lack of resources but mostly because the EV does not carry out project-specific evaluations.

Likewise, the IEG remains bound by the IFC's Access to Information Policy when publicly disclosing its reports to reach stakeholders. The policy can only be overruled by the Board of Directors, although the Board can also decide "not to disclose any report that would otherwise be disclosed under this policy, if it determines that such disclosure is likely to cause harm that outweighs the benefits of disclosure".⁵⁷

It is worth noting that both the EV and the IEG are members of the Evaluation Cooperation Group (ECG). The ECG promotes the harmonisation of evaluation methodology among different IFIs.⁵⁸ The group provides a forum for members to share experiences and adopt good practice standards on all aspects of evaluations, including interaction with stakeholders and transparency in the reporting of evaluation findings.⁵⁹ However, it remains unclear whether harmonised standards have been developed with regard to engagement with local communities in the evaluation process.

Lessons learned

One of the fundamental questions remains whether or not the DFIs are taking on board the findings and recommendations of the evaluation reports. This is particularly important considering that recent reports have demonstrated flawed performances. For example, an IEG report on the results and performance of the WBG in 2014



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stated that "the declining performance of [the World Bank Group's] portfolio raises questions about the effectiveness of its support" and "performance of Bank-financed operations and IFC investments deteriorated further when comparing projects evaluated in FY11-13 with those in FY08-10". The report also found that "the success rate for IFC investment projects dropped by 13 percentage points between 2008-10 and 2011-13, to only 60% for the 232 evaluated projects".⁶⁰

According to the IEG, the WBG is implementing its recommendations, but only over time. In its 2014 report on the results and performance of the WBG, the IEG rated 35% of recommendations made in evaluations completed between FY10 and FY13 as "substantially adopted or better" in the first year of follow-up, improving to 83% by the fourth year.⁶¹ Comparative analysis with the EIB is not possible since the EV does not make public annual reports on the results and performance of the EIB and similar data on the implementation of recommendations could not be found. The EV has a quarterly monitoring system to engage with EIB services and follow up on the implementation of its recommendations.

External participation

Participation of external stakeholders is pivotal to hold institutions accountable and rectify malpractices. In that regard, the UN Guiding Principles argue that "in order to gauge human rights risks, business enterprises should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships. This process should (...) involve meaningful consultation with potentially affected groups and other relevant stakeholders."

According to the EIB's Environmental and Social Handbook, stakeholder engagement should be planned for and carried out by the private sector company and verified by the Bank as part of its due diligence requirements.⁶² In addition, the Handbook states that "literacy (...) and access to dissemination media constitute factors to be carefully considered by the promoter when pursuing an effective disclosure and information dissemination campaign".⁶³ This highlights that the effectiveness of stakeholder engagement fully depends on how strict the EIB performs its due diligence procedures. It is worth noting that the EIB

Box 3: External participation in IFC direct investments

On many occasions the IFC and its clients have failed to meet performance standards when investing directly. This has resulted in several complaints submitted to the CAO, many of them citing a lack of participation of local communities or workers. The Accountability Counsel has conducted research on the following cases, among others:

- In January 2010, 16 community and environmental organisations based in Chiriqui province in Panama submitted a complaint to the CAO citing a number of concerns with the Pando Monte Lirio project, which consists of two hydroelectric power plants developed by IFC client Electron Investment. The complaint included concerns about a lack of participative

consultation with communities. In 2012, the CAO's appraisal report argued that the IFC "identified and assessed all the major concerns raised by the complainants".⁶⁴

- In April 2010, local community members of two indigenous villages, Canaán de Cachiyacu and Nuevo Sucre in Peru, submitted a complaint to the CAO regarding human rights and environmental violations caused by IFC client Maple Energy Plc, a privately held integrated energy company.⁶⁵ The complainants argued that the company "did not sufficiently consult with the communities of Nuevo Sucre and Canaán about their initial operations on our lands" and "failed to adequately disclose information to either community".⁶⁶ The complaint also cites several social and environmental concerns, among them negative impacts to the communities'

health and to the environment. The CAO completed a compliance appraisal in May 2012, which found that the IFC improved its information disclosure, community participation, and environmental and social protections.⁶⁷

- In February 2013, three Indian NGOs filed a complaint on behalf of tea workers working and living in the plantation areas of IFC client Amalgamated Plantations Private Limited (APPL).⁶⁸ The complaint raised concerns about labour and working conditions at the different plantations, but also about APPL's share-buying programme that was forced upon workers. This programme was not preceded by proper consultations explaining the risks of such investments. The case led to a CAO appraisal report that is currently under audit.⁶⁹

improved its engagement with external stakeholders over the years. The Bank organises public consultations, as in the case of the revision of its transparency policy and complaints mechanism. It also signed up to the International Aid Transparency Initiative – a voluntary, multi-stakeholder initiative that seeks to make information about aid and development finance easier to access, use and understand.⁷⁰

In the case of the IFC, the Performance Standards on Environmental and Social Sustainability prescribe that IFC clients should conduct environmental and social assessments that incorporate, among others, stakeholder engagement.⁷¹ The Performance Standards set out that IFC clients will, among others:

- “develop and implement a Stakeholder Engagement Plan that is scaled to the project risks and impacts and development stage, and be tailored to the characteristics and interests of the Affected Communities”;
- “prepare a Stakeholder Engagement Framework (...) in cases where the exact location of the project is not known, but it is reasonably expected to have significant impacts on local communities”;
- “provide Affected Communities with access to relevant information on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; and (v) the grievance mechanism”;
- “undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them.”

CSOs are concerned about the extent to which IFC clients are actually implementing these standards. Several cases have been submitted to the IFC’s CAO, which point to the lack of information sharing and culturally appropriate consultations with external stakeholders throughout the project cycle. Oxfam’s report *The Suffering of Others* shows that poor implementation of these Performance Standards when lending through financial intermediaries has led to detrimental human costs at the community level.⁷² But also in the case of the IFC’s direct investments, proper participation of external stakeholders, particularly local communities, has often been overlooked (see Box 3).

The involvement of parliaments in borrower or host countries is another important element to consider. Eurodad’s Responsible Finance Charter states in this regard that



Complaints mechanisms have limited use if potentially affected communities are insufficiently aware of their existence and operational guidelines.

“parliaments (...) in the borrower or host country must be given adequate time and information to debate the loan or investment, including purpose, terms and conditions of the relevant contracts”.⁷³ While parliaments in partner countries usually ratify framework agreements, they are not actively involved on a project-by-project basis or at policy level. In addition, parliaments in partner countries are often not given adequate time and information to properly hold DFIs accountable over these decisions due to the fact that DFIs primarily consider their private sector clients as their main stakeholders. Partner countries are only formal counterparts when negotiating and agreeing upon more general bilateral and multilateral agreements, such as the Cotonou Agreement, or EU country strategies.

Complaints mechanisms

Complaints mechanisms are crucial to ensure individuals, communities and other parties have the right to be heard and complain in cases where they believe they are adversely affected by a project financed or planned by DFIs. According to the UN Guiding Principles, “states should consider ways to facilitate access to effective non-State-based grievance mechanisms dealing with business-related human rights harms”. While complaints mechanisms are not a

substitute for legal action such as court cases, they allow citizens to seek remedy in the event they have fallen victim to human rights abuses and other violations.

The EIB established its EIB Complaints Mechanisms (EIB-CM) in 2008. The functioning of the EIB-CM is detailed in two documents: the ‘Complaints Mechanism Principles, Terms of Reference and Operating Procedures’, adopted in February 2010, and the ‘Complaints Mechanism Operating Procedures’, adopted in August 2013. What makes the EIB-CM unique is that any member of the public (whether from the EU or not) has access to a two-tier procedure: the internal Complaints Mechanism Office (CMO) and the external European Ombudsman (EO), a fully independent EU body. To this effect, the EIB and the EO signed a Memorandum of Understanding in 2008.⁷⁴ The memorandum sets the scene for the two-stage complaints process and establishes that citizens (even outside the EU if the Ombudsman finds their complaint justified) can turn to the EO on issues related to ‘maladministration’, which includes failure to comply with human rights, with the applicable law, or with the principles of good administration.⁷⁵ The EO provides EU and non-EU citizens with an opportunity to seek remedy externally should the CMO fail to find a satisfactory response or should the EIB refuse to implement the CMO’s



In January 2010, 16 community and environmental organisations based in the Chiriqui province in Panama submitted a complaint to the CAO citing a number of concerns with the IFC-funded Monte Lirio hydroelectric dam project.

Source: Accountability Counsel

recommendations. In case the EIB also fails to take on board recommendations of the EO, the EO may issue a special report to the European Parliament.⁷⁶

In the case of the IFC, the CAO is the main mechanism by which communities impacted by its projects can hold the Bank accountable. The CAO was established in 1999 and reports directly to the president of the WBG. The CAO has three roles: Ombudsman, Compliance auditor, and Advisor.⁷⁷ Unlike the EIB, the IFC is not subject to an appeals mechanism similar to the EU Ombudsman. Citizens are therefore fully dependent on the CAO to seek redress.

Accessibility

A big part of a mechanism's effectiveness depends on its level of accessibility. Complaints mechanisms have limited use if potentially affected communities are insufficiently aware of their existence and operational guidelines. Effective communication with potentially affected people is therefore critical. This means, among others, that mechanisms should be made easily accessible beyond online information-sharing and available in the official languages of partner countries. The critical question, then, is who should be ultimately responsible for doing this: the DFI, its clients or the mechanism?

In the case of the EIB, the level of accessibility to the EIB-CM is limited for several reasons:

- The EIB's social and environmental handbook does not require EIB clients to inform local stakeholders about the EIB-CM;
- The EIB-CM can be accessed through the EIB's website, but there is no explicit reference, for example in the form of a dedicated space on the EIB's homepage, explaining how to submit a complaint;
- While the EIB states that "the Complaints Mechanism Principles, Terms of Reference and Rules of Procedure are available in all official languages of the European Union", in practice, the Bank's website only makes these documents available in English;⁷⁸
- For members of the public who do not have internet access, a flyer with an attached complaint form for the EIB-CM is published and distributed through the EIB's external offices. These offices subsequently disseminate the relevant documents to local CSOs and other members of the public. However, flyers are only available in official EU languages, Arabic and Russian, which means that the population of some partner countries is not reached. In addition, the EIB-CM's Activity Report 2013 does not report on

the effectiveness of flyer distribution in practice;

- The EIB-CM regularly organises outreach events in the EU (Luxembourg and Brussels) and co-organises outreach events with other independent accountability mechanisms of IFIs or CSOs outside the EU. However, these outreach events are mostly directed towards CSOs, not local communities which could be impacted by its projects;
- The EIB does not have an explicit way to overcome problems of illiteracy in affected communities in partner countries.

The CAO has repeatedly admitted publicly that one of its key challenges is to make the mechanism accessible for affected people. To that end, the CAO has developed a separate website available in 16 languages – including languages spoken in possibly affected countries such as Arabic, Bengali, Chinese, Hindi, Lao and Swahili – and a homepage providing explicit guidance on how to file a complaint.

Yet, a prior condition to access the CAO should also be that affected people are aware of the IFC's existence or involvement in a project. A CAO advisory report from 2010 found that "the level of awareness about IFC in its member countries is very low" and that "across five select projects, very few community stakeholders knew of the existence of the IFC and even less about the E&S standards committed to by each specific client company".⁷⁹ Another fundamental flaw is that as a result of a lack of transparency, citizens are generally unaware of IFC loans to financial intermediaries, except to private equity funds. In addition, even if affected people are aware of the IFC's involvement in a direct or intermediary project, they might not have knowledge of the CAO's existence as the IFC's own homepage only includes a small reference to the mechanism and neither the IFC nor its clients are required to disseminate information about the CAO. This means that the burden falls on the shoulders of the CAO.

According to its operational guidelines the CAO tries to raise awareness among stakeholders in the following ways, among others:

- Publication of Operational Guidelines, Terms of Reference, information brochures and more material in the official languages of the WBG and additional languages when deemed necessary. These documents are available in hard copy, online, and "by other culturally appropriate means", for example by using local translators and illustrations.
- Meetings with potentially affected people and their representatives when requested.

- Dissemination of information about CAO in the markets where the IFC does business through CSOs, WBG offices, accountability mechanisms from partners, the business community, academia, and other organisations.
- Outreach to local, national and international CSOs and other stakeholders.
- Seeking advice from experts with in-country and/or regional knowledge.

User-friendliness

Once complainants have access to the complaints mechanisms, it is essential that the procedure for submitting a complaint is as straightforward as possible. This often comes back to how strict the mechanism is in deeming complaints eligible as well as how long it takes a mechanism to process a complaint.

Eligibility of complaints

Both in the case of the IFC and the EIB, any person or group that believes it is affected or potentially affected by the DFIs' projects may submit a complaint using the DFIs' complaint mechanisms. Complaints need to relate to projects in which the IFC or EIB are either participating or actively considering participating. Complainants do not need to prove that they are or may be affected by the environmental and social issues raised.⁸⁰ It is worth noting that the EIB-CM and the CAO are not mandated to deal with complaints related to fraud or corruption.⁸¹

However, there are also some key differences in the way the EIB and IFC determine whether complaints are eligible:

- The CAO accepts complaints if the issues raised are environmental and social in nature or deal with access to information, and the complainant is, or may be, affected by the issues raised. The EIB-CM deals with complaints ranging from environmental and social impacts to access to information, governance and procurement issues. Depending on adherence to other eligibility criteria, the CAO can take on complaints that have already been dealt with by another review mechanism. Outcomes of other judiciary proceedings cannot affect the IFC's activities, which means that there is no reason to stop the CAO from dealing with a complaint and follow the judicial process instead. This contrasts with the EIB-CM, which "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".⁸² The objective of this rule is to avoid cases being submitted to the EIB-CM after they have been lodged or settled in another forum which is

competent to deal with the allegations to hand. However, in practice it is unlikely that a case is declared inadmissible by the EIB-CM as this would mean that the complaint challenges the same subject – the EIB – for the same object of a case before an administrative/judicial review mechanism. Peer IFI accountability mechanisms cannot trigger such a clause as they are not mandated to investigate complaints of maladministration against the EIB.

- Whereas the CAO allows complaints to be submitted “in any language”, and always attempts “to respond in the language of the complaint”,⁸³ complainants to the EIB-CM should write in one of the official EU languages and have the right to receive a reply in the same language. If complaints are not submitted in an official EU language, for example in the case of an EIB-supported project outside of the EU, the EIB-CM has no obligation to deal with it. It will only “endeavour to process complaints and documents in the official national language of the country of the project”⁸⁴ – which is not necessarily the language of the complainant.
- While the CAO cannot deal with complaints against IFC policies as such, the EIB-CM cannot declare complaints inadmissible just because it concerns an EIB policy.

Finally, it is important to note that in the case of the EIB, a complaint to the EO is declared ineligible if the complainant did not first raise its concerns with the EIB. In accordance with article 2.4 of the Ombudsman’s Statute, “a complaint (...) must be preceded by the appropriate administrative approaches to the institutions and bodies concerned”.⁸⁵ Complainants can therefore only revert to the EO if they deem the response of the EIB unsatisfactory. According to the

environmental law organisation Client Earth, this provision prevents citizens from exercising their right to access to justice and can be read as an attempt to prevent external pressure on the Bank.⁸⁶

Timeliness

Giving timely answers to people’s claims is important, yet the processing of complaints can often take longer than expected. This can discourage complainants. In the case of the EIB-CM, an acknowledgement of receipt together with information about the complaint’s admissibility is sent within 10 working days following receipt of the complaint. A response to the complainant accompanied by the EIB-CM’s Conclusions Report is subsequently sent to complainants within 40 working days, although for complex complaints the EIB-CM’s response can take from 100 to 140 working days. This is always the case for complaints regarding environmental and social impacts, or governance aspects of operations or projects financed by the EIB.

In the case of the CAO, complaints should be determined eligible within 15 working days. The CAO will then conduct an assessment of the complaint that should be completed within 120 working days. The assessment period is used to discuss the complaint with complainants, the IFC’s client, and other relevant stakeholders. It also allows the CAO to explain the process and to determine whether the complaint should go through the dispute resolution process or proceed directly to the compliance review stage. In case of the former a mutually agreed process will be designed and implemented with no specific deadline attached. If the latter is the case, a compliance appraisal is conducted within 45 working days. If this appraisal determines that a full compliance investigation is appropriate, the CAO can

conduct the investigation without a specific deadline. If the appraisal determines that a compliance investigation is not warranted, the CAO will release an Appraisal Report and close the case.⁸⁷

Transparency following complaints

External stakeholders should have easy access to relevant documents related to specific cases such as project and complaint summaries, actions taken by the mechanism and if applicable, assessment, investigation and conclusion reports. However, both the EIB-CM and the CAO’s ability to publicly disclose information is subject to their respective transparency policies.

Still, within the parameters of these constraints both DFIs operate under very different levels of transparency. Although the EIB-CM has been in place since July 2008, it took the EIB until December 2014 to launch and publish an online register of complaints lodged with the mechanism. The register is still under construction as the EIB claims that it is currently uploading and completing relevant case-related information.

For indicative purposes, Table 4 below shows a random selection of recently closed cases and their corresponding level of information-sharing through the online register.

This level of transparency stands in stark contrast to the CAO, as the CAO publishes substantial project and complaint summaries on its website. It also sets out all the relevant actions it has taken, accompanied by key reports, such as – depending on each case – assessment reports, IFC responses, agreements, conclusions reports and compliance reports. These reports are made available both in English and the official language of the project countries. In its investigation reports the CAO also quotes

Table 4: List of closed cases registered by the EIB and level of information sharing

Project	Case description	Reports on work performed ⁸⁸	Details about outcome and commitments
NFC Forestry Project, Uganda ⁸⁹	Yes	No	No. According to the EIB-CM, the outcome of its work is “areas for improvement” and “mediated solution”, without providing further details.
Istanbul-Ankara Railway, Turkey ⁹⁰	No	No	No. According to the EIB-CM, the outcome of its work is “prevention”, without providing further details.
Peri-Urban Water and Sanitation, Malawi ⁹¹	No	No	No. The EIB-CM states that there are “no grounds”, without providing further details.
Assainissement du site Taparura, Tunisia ⁹²	No	No	No. According to the EIB-CM, the outcome of its work is “prevention”, without providing further details.
Road Rehabilitation Federation, Bosnia and Herzegovina ⁹³	No	No	No. The EIB-CM states that there are “no grounds”, without providing further details.

Source: EIB website

Box 4: Poor implementation efforts of complaint mechanisms conclusions

Both the EIB and the IFC have openly ignored their mechanisms' recommendations on many occasions, often despite significant public interest and even imminent threats to the relevant communities affected by their projects.

EIB

In November 2012, Christian Aid requested the EIB to grant access to a 2011 investigation report into allegations in relation to the Mopani Copper Mines project in Zambia, to which the EIB had granted a loan in 2005. The EIB refused. In June 2013, Christian Aid submitted a

complaint under the EIB-CM. The CMO subsequently recommended that the EIB should publish the entire report or, if not possible, a redacted version or at the very least a meaningful summary with the main findings. The EIB refused again, a decision it maintained following an appeal by the complainant at the level of the EU Ombudsman. Eventually, the EIB only published a summary of the report, which the Ombudsman did not consider as a "meaningful" output.⁹⁴

IFC

While the IFC launched an action plan in response to the critical findings of the February 2013 audit report, the CAO monitoring report (October 2014) shows that there has been some progress, but much more needs to be done. The CAO

concluded that the IFC "does not have a systematic methodology for determining whether the implementation of an E&S [environment and social] management system actually achieves IFC's objectives of doing no harm or improving E&S outcomes on the ground". The report added that "[t]his means that IFC has no quantitative or qualitative basis on which to assert that its financial intermediation investments achieve such outcomes, which are a crucial part of its strategy and central to IFC's Sustainability Framework."⁹⁵ CSOs have therefore repeatedly urged the IFC to revise the action plan before implementing and to fundamentally rethink the nature, purpose, modalities and limits of its intermediary investments.

from internal memos and documents that would otherwise not have been made publicly available by the IFC itself.

Independence

Independence and impartiality should be at the core of every complaints mechanism. In order to enjoy complete operational independence from the agencies responsible for the activities leading to complaints, interference by DFI staff should be avoided by all means. This implies that DFI staff should not interfere in the daily work of the mechanisms or decisions over recruitment, budget, and which corrective actions to take.

Recruitment

The EIB-CM, and specifically the CMO, is part of the EIB's administration and thus uses the standard recruitment procedures applied by the EIB. However, candidates for the CMO are specifically screened on their capacity to perform under the special rules of conduct applying to members of the EIB Complaints Mechanism, as laid down by its Operating Procedures (objectivity, confidentiality and professional competence). Additionally, the EO is fully independent from the Bank, which also means that its staff are neither designated nor financed by the EIB.

The CAO recruits its own staff, which are "independent of the management structure of IFC".⁹⁶ In addition, the current Vice President, Compliance Advisor Ombudsman, Osvaldo Gratacós, was appointed by WBG President, Jim Kim, following an independent selection process led by civil society, industry and academia.⁹⁷ However, it is worth noting that the employment of the CAO Ombudsman can be terminated at the discretion of the WBG's President "if the President determines that the Ombudsman

can no longer exercise the function with the required level of independence and authority".⁹⁸

Other important markers of independence are pre-employment and post-employment cooling-off periods. There are no prohibitions on internal mobility between the CMO and other directorates of the EIB. The EIB argues that internal mobility provides the mechanism with an opportunity to profit from the technical expertise of former Bank colleagues when assessing cases, and the Bank with the administrative culture of the mechanism.⁹⁹ However, flexible staff mobility could also lead to serious conflicts of interest.

The CAO on the other hand prohibits staff at specialist-level and above from obtaining employment with IFC and MIGA for two years after the end of their engagement with the mechanism. In addition, the CAO Vice President is restricted for life from obtaining employment with the WBG. However, there are no pre-employment restrictions for WBG staff to obtain employment with the CAO within a certain period.

Budget

Being part of the EIB's administration also means that the EIB-CM is dependent on the overall EIB budget, which is approved by the Board of Directors following a proposal by the Management Committee. Once the overall budget is approved, the head of the EIB-CM is expected to make a budget proposal to the Management Committee, which ultimately decides the amount of EIB resources it wants to allocate to the mechanism. This produces a structural conflict of interest between the EIB and its complaints mechanism, and significantly limits the independence of the latter.¹⁰⁰ It

contrasts substantially with the CAO, where the budget is determined by the WBG's President.¹⁰¹ The IFC's management does not interfere.

A recurring question is whether both mechanisms have sufficient resources to deal with the continually growing number of complaints and their increasing complexity. In the case of the CAO, for example, CSOs sent a letter to the WBG President Jim Yong Kim in July 2014 calling on the Bank to demonstrate the institution's support for the CAO by giving the mechanism a budget appropriate for the number and complexity of the complaints it receives. The WBG responded that it "will continue to discuss with the CAO about the resources needed, including budget resources, and we will work with the CAO to explore ways to reduce the number of cases".¹⁰² However, it remains unclear whether the WBG is planning to do this by making sure projects are better implemented, or by making it harder to file cases. In the financial year 2014, the CAO had an administrative budget of US\$4.5 million.¹⁰³

The EIB-CM states that "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",¹⁰⁴ yet the amount of resources allocated in practice remains unclear. On the one hand, it is worth noting that the CMO increased its staff from 1.5 staff members since its establishment to ten permanent and three temporary staff members, resulting in faster handling of cases. On the other hand, according to the EIB-CM's Activity Report 2013, the follow-up on recommendations made in the EIB-CM's conclusions reports remains extremely limited¹⁰⁵ and the mechanism has not launched a single own-initiative investigation

yet – despite the statutory potential to do so. Also, the information shared by the CMO remains very low, especially in comparison to the European Ombudsman and the CAO (see section 4.3.3 above).

Daily work and implementation of complaints mechanisms conclusions

The CMO has been hindered in the past from completing its daily tasks in an independent manner because of interference by EIB staff and management. In the case of the Bujagali dam in Uganda,¹⁰⁶ non-cooperation of EIB staff with the CMO led to a significant delay in the issuing of the mechanism's report. In May 2013, the EIB President had to remind EIB staff through a letter that “good cooperation and support from the Bank's services is essential” and that “prompt response and exchange of necessary information with the EIB-CM will help respect the required deadlines”.¹⁰⁷ In addition, when it comes to decisions about which corrective actions to take, the findings of the CMO are mostly discussed with the EIB staff and agreed by the Management

Committee. The EIB's Board of Directors only receives an annual report that includes short summaries of the cases handled. As such, the EIB Management maintains control over which corrective actions to take.¹⁰⁸ To this end, the European Parliament called on the EIB in April 2015 to “improve the independence and effectiveness of its Complaints Mechanism Office”.¹⁰⁹

The CAO reports to the President of the WBG and informs the Board. In accordance with this reporting line, the President provides clearance for CAO compliance investigations and related IFC/MIGA responses and action plans. Executive Directors receive copies of all CAO reports, including compliance reports, for their information.

Both the EIB-CM and CAO are not mandated to make binding decisions. As such, they are wholly dependent on the willingness of the DFIs' senior management and boards to take into account their conclusions – which they may ignore. According to an examination conducted by the New York University

School of Law, complaints mechanisms can create reputational incentives for DFIs to follow high standards, despite their lack of binding powers. The CAO, for example, publicly discloses its compliance audits, incentivising the IFC to follow their own policies and self-correct when necessary. It also allows affected people to scrutinise justifications provided by the IFC and put pressure on the IFC to rely on more widely accepted international law norms which may be more protective of human rights than IFC policies.¹¹⁰ Likewise, it could be argued that the main value added by the EIB-CM is not the recommendations put forward but its internal work with EIB staff which steers cultural change.

Nonetheless, Box 4 shows that in some cases both the IFC and the EIB have refused to implement their mechanisms' recommendations or implement their findings. This demonstrates that even if the complaints mechanisms deliver good work, there is a significant chance that nothing substantially changes on the ground.



Even if complaints mechanisms deliver good work, there is a significant chance that nothing substantially changes on the ground.

Conclusion and recommendations

The right to access information is a human right guaranteed under international law. As public institutions with a development mandate and managing public resources, DFIs have a responsibility to publicly disclose and broadly disseminate a wide range of information about their activities. A high level of transparency, assisted by independent evaluations and effective stakeholder engagement and complaints mechanisms, allows governments, parliaments and CSOs worldwide to influence decisions and hold those making them accountable.

While the EIB and IFC have undertaken notable efforts to step up transparency and accountability, both DFIs generally fall short when assessed against our criteria. This briefing has shown that their transparency policies contain a wide range of exceptions for their disclosure which effectively undermine citizens' right to access information. DFIs often fail to make available the reasons why they will not disclose certain information, and why those reasons override the public interest.

Significant problems also emerge when channelling DFI money through financial intermediaries, such as banks and private equity funds. DFIs' complaints mechanisms, in turn, face difficulties in being accessible for local stakeholders or dealing with the

increasing number of complaints. Table 5 summarises the key findings and problems that emerge.

Despite the fact that access information held by public bodies is a fundamental human right, it is consistently denied by powerful global bodies that set the rules for finance, which in turn constrains the ability of stakeholders to exercise external influence. As standard setters among DFIs, the EIB and IFC should abide by transparency standards, as set out in the Transparency Charter for International Financial Institutions. They must also allow for independent evaluations and put effective and independent complaints mechanisms in place which are mandated to make binding decisions.

Table 5: Summary of main findings

Transparency	
Right of access	<p>Although both DFIs' transparency policies are based on presumptions of disclosure, due to significant exceptions it can be argued that both DFIs fail to give full effect to citizens' right of access to information.</p> <p>Both DFIs do not include transparency clauses in their contracts with clients which would require the latter to share important information with the general public. This is particularly essential for intermediary investments that are currently shrouded in secrecy.</p>
Automatic disclosure	<p>The IFC discloses more information automatically and consistently than the EIB, although some documents remain subject to client confidentiality. Both DFIs fail to indicate in a public register all the documents they have at their disposal. The EIB does so for environmental documents in accordance with the Aarhus Convention. However, some documents that might include environmental information are only available on request.</p>
Limited exceptions of disclosure	<p>Both DFIs' transparency policies contain a wide range of exceptions that are grounded in confidentiality or commercial interest arguments that are often not clearly defined. In some cases, the EIB has failed to comply with EU regulations and to make available the reasons why they will not disclose certain information, and why those reasons override the public interest.</p>
Right to request information	<p>Both DFIs explain how to request information in their respective transparency policies. While the EIB should respond to requests within 15 working days, the IFC will only endeavour to respond to requests within 30 calendar days, and may even take longer if it argues that the information requested is too complex or broad in scope. It further remains unclear if DFIs undertake pro-active outreach efforts to raise awareness at local level about the right to request information or which documents they have at their disposal. This makes it difficult for citizens to know which specific data they can request.</p>
Access to decision-making	<p>Decisions at the EIB and IFC are mostly made behind closed doors with limited information reaching the public. The IFC, for example, does not disclose the notes and reports prepared for or exchanged with clients and member countries, or statements of Executive Directors in the Board. It thus remains difficult for citizens to be aware of the different country positions within the Board.</p>

Accountability

<p>Independent evaluations</p>	<p>The EIB carries out independent ex-post evaluations through its Operations Evaluation (EV). The EV's budget is independently approved by the Board of Directors. The IFC carries out independent evaluations through the Independent Evaluation Group (IEG). The IEG falls under the responsibility of the Director-General, which reports directly to the WBG's Board of Directors.</p> <p>The EV has less personal capacity and is less explicit about stakeholder consultation during the evaluation process than the IEG. In addition, IEG data show that the IFC is implementing its recommendations over time, while similar data for the EIB could not be found.</p>
<p>External participation</p>	<p>The EIB's Environmental and Social Handbook states that stakeholder engagement should be planned for and carried out by the private sector company and verified by the Bank as part of its due diligence requirements. However, it remains unclear how strictly the Bank conducts its due diligence. Also in the case of the IFC, the implementation of the stakeholder engagement handbook is questionable as evidenced by several complaints at the CAO. In both cases parliaments in partner countries are not actively involved on a project-by-project basis or at policy level.</p>
<p>Complaints mechanisms</p>	<p>Accessibility: The level of accessibility to the EIB-CM is limited. Clients are not required to inform local stakeholders about the EIB-CM; relevant documents such as ToRs and flyers are only available in a limited number of languages; outreach events are insufficiently directed towards local communities; and the EIB does not have an explicit plan to deal with illiteracy.</p> <p>The CAO is tasked with raising awareness amongst people within a local community. But even if people know who the CAO is, which is not always the case, they may not know that the IFC is behind a particular project, as neither the IFC or its clients are required to disseminate information.</p> <p>User-friendliness: The EIB-CM deals with complaints ranging from environmental and social issues to access to information, governance and procurement. The CAO only accepts complaints related to social and environmental harms and access to information. Whereas the EIB-CM cannot deal with complaints that have already been lodged with or settled by other judicial review mechanisms. Complaints to the European Ombudsman are only eligible if the complainant first raises its concerns with the EIB.</p> <p>Transparency following complaints: The EIB's online register of complaints fails to provide useful information on a consistent basis. In contrast, the CAO publishes detailed information on the projects, complaints, actions taken, and reports conducted.</p> <p>Independence: The Complaints Mechanism Office (CMO) is treated as any other EIB department, which means that there are no prohibitions from internal mobility between the CMO and other EIB directorates and its budget is dependent on the overall EIB budget and determined by EIB management. This has also led to interference by EIB staff in the CMO's daily work.</p> <p>The CAO prohibits its specialised staff from obtaining employment with the IFC or MIGA for two years, while the CAO Vice President is restricted for life from obtaining employment with the WBG. The budget is determined by the WBG President. The latter provides clearance for CAO compliance investigations and related IFC/MIGA responses and action plans. Executive Directors receive copies of all CAO reports for their information.</p> <p>Daily work and implementation of findings and recommendations: The CMO's daily work has been hindered by EIB staff in the past, leading to the EP reminding the EIB to improve the independence and effectiveness of the CMO. Both the EIB-CM and CAO cannot make binding decisions. Several cases illustrate that the IFC and EIB have at times neglected their mechanisms' findings and recommendations.</p>

Recommendations on transparency:

- **Right of access:** DFIs must include transparency clauses in contract arrangements with clients that force them to publicly disclose important data, such as the names of sub-clients of financial intermediaries and the beneficial owners behind them.
- **Automatic disclosure:** DFIs should specify in a public register which documents they have at their disposal to allow citizens to know which data can be requested.
- **Limited exceptions:** When withholding information, DFIs must clearly demonstrate that there is no overriding public interest and explain in detail what kind of harm disclosure of certain documents would cause. In addition, the decision about whether something is of commercial or public interest must be made by DFIs' Board of Directors – not by clients or the management.
- **Request for information:** DFIs must set out in detail how affected people can request information, which should be simple, rapid and free or low cost.
- **Access to decision-making:** DFIs should disclose detailed information revealing the different country positions within the Board. This will allow citizens to hold their respective governments accountable.



Complaints mechanisms must be allocated sufficient resources to deal with the continually growing number of complaints and their increasing complexity.

Recommendations on accountability:

- **DFIs must provide citizens with evidence of clients' implementation of stakeholder engagement requirements.**
- **DFIs should step up efforts to make sure their complaints mechanisms are easily accessible for affected people.** This should include requiring clients to inform local stakeholders about the existence and operating procedures of the mechanism. DFIs' complaints mechanisms should also reach out to the public themselves – not just by organising annual outreach events with CSOs, but also through regular project-level outreach activities.
- **Recommendations by DFIs' complaints mechanisms should be made binding.** The mechanisms should have access to a fund or other financial instrument to provide compensation or financing for other remedial actions. In addition, recommendations of the complaints mechanisms should be linked to a system in which DFIs' managements and Boards of Directors can exclude or delay disbursements to poor-performing companies.
- **To ensure independence, there is a need for pre-employment and post-employment cooling-off periods between DFIs and their complaints mechanisms,** and a recruitment procedure in which the DFIs' Board of Directors pre-select candidates for the position of head of the complaints mechanism. Likewise, the Board – and not the DFIs' management – should determine the complaints mechanism's budget and oversee the corrective actions taken by the DFI.
- **Complaints mechanisms must be allocated sufficient resources to deal with the continually growing number of complaints and their increasing complexity.** They must also be encouraged to undertake own-initiative investigations.
- DFIs should scale up efforts to **ensure that people impacted by their projects are aware of the DFIs' existence and involvement in a particular project, its E&S standards and how to submit complaints to its complaints mechanism in a pro-active manner.** This means that DFI clients must be required to inform local stakeholders about the involvement of the DFIs in a particular project and the available complaints mechanisms – if needed in local languages.

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- 2 European Commission. (2013). *Communication on "Strengthening the Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries"*. September 2013. See: http://ec.europa.eu/smart-regulation/impact/planned_ia/docs/2014_devco_001_private_sector_communication_en.pdf
- 3 Council of the European Union. (2014). *Council conclusions on a stronger role of the private sector in development cooperation: An action oriented perspective*. 12 December 2014. See: <http://www.consilium.europa.eu/en/workarea/downloadasset.aspx?id=40802190955>
- 4 United Nations. (2015). *Outcome document of the Third International Conference on Financing for Development: Addis Ababa Action Agenda*. 15 July 2015. See: http://www.un.org/ga/search/view_doc.asp?symbol=A/CONF.227/L.1
- 5 Global Transparency Initiative. (2006). *Transparency Charter for International Financial Institutions: Claiming our Right to Know*. 17 September 2006. See: http://www.ifitransparency.org/doc/charter_en.pdf
- 6 UN News Centre. (2011). *UN Human Rights Council endorses principles to ensure businesses respect human rights*. 16 June 2011. See: http://www.un.org/apps/news/story.asp?NewsID=38742#VYKFc_ntmko
- 7 European Court of Human Rights. (2009). *Társaság A Szabadságjogokért v. Hungary*, 14 April 2009, Application No. 37374/05.
- 8 United Nations Human Rights Committee, General comment No. 34 (2011), Article 19: Freedoms of opinion and expression, para. 18.
- 9 In addition to member states and the European Commission approving the EIB's projects, the EIB is also subject to a larger multi-lateral governance structure, which includes the European Parliament, Commission and several review mechanisms.
- 10 IFC. (2015). *IFC Careers*. See: http://www.ifc.org/wps/wcm/connect/Careers_Ext_Content/IFC_External_Corporate_Site/IFC+Careers
- 11 Calculations made on the basis of IFC subscriptions and voting power of member countries as of 26 June 2015 and consulted on 22 July 2015 (see: <http://siteresources.worldbank.org/BODINT/Resources/278027-1215524804501/IFCCountryVotingTable.pdf>); and World Bank High-Income Economies as of 22 July 2015 (see: <http://data.worldbank.org/about/country-and-lending-groups>).
- 12 Arabic, Chinese, Russian, French, Spanish, Portuguese and Turkish.
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- 15 IFC. (2015). *Transparency and Accountability*. See: http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/IFC+Sustainability/Our+Approach/Transparency+and+Accountability/
- 16 Oxfam. (2015). *The Suffering of Others: the human cost of the International Finance Corporation's lending through financial intermediaries*. See: https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/ib-suffering-of-others-international-finance-corporation-020415-en.pdf
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- 21 CAO. (2014). *Cambodia / Cambodia: VEIL II-01/ Ratanakiri Province*. See: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=212
- 22 Oxfam. (2015). See 16 above.
- 23 Oloko, Dotun. (2014). *Briefing paper on Emerging Capital Partners case and review of European law on money laundering*. See: <http://www.eurodad.org/files/pdf/52eb71ebc2a0c.pdf>
- 24 Another standard contract clause states that clients must "provide information on (i) any action or protest initiated or any objection raised by any third party or any genuine complaint received by the borrower or any [material] Environmental Claim that is to its knowledge commenced, pending or threatened against it with regard to environmental or other matters affecting the project, (ii) any noncompliance by it with any applicable Environmental Law (iii) any suspension, revocation or modification of any Environmental Approval, and to and set out the action to be taken with respect to such matters." See: http://www.eib.org/attachments/documents/eib_standard_contractual_clauses_on_environmental_information_en.pdf
- 25 The Aarhus convention was adopted by the United Nations Economic Commission for Europe (UNECE) in 1998 and provides for the right of everyone to receive environmental information that is held by public authorities, including information on policies or measures taken, and the right to participate in environmental decision-making. (See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:264:0013:0019:EN:PDF>)
- 26 The EIB only took concrete measures to establish a public register of environmental documents following a complaint by the Ukrainian NGO National Ecological Centre of Ukraine (NECU) to the EIB's CM office regarding the bank's loan for the Rivne-Kyiv High Voltage Line signed in October 2008. According to the NECU, the EIB failed to comply with the provisions of the Aarhus Convention and with its own Environmental Statement in force at the time of project approval.
- 27 Publish What You Fund. (2015). *European Investment Bank*. See: <http://ati.publishwhatyoufund.org/donor/eib/>; Publish What You Fund. (2015). *Aid Transparency Tracker*. See: <http://tracker.publishwhatyoufund.org/publish/>
- 28 Publish What You Fund. (2015). *World Bank - International Finance Corporation*. See: <http://ati.publishwhatyoufund.org/donor/world-bankifc/>
- 29 For example: http://eeas.europa.eu/enp/pdf/pdf/country/enpi_csp_nip_tunisia_summary_en.pdf
- 30 World Bank. (2015). *Country Strategies*. See: <http://www.worldbank.org/en/projects-operations/country-strategies>
- 31 For example, in the case of the Oyu Tolgoi mine project in Mongolia, where several important studies cited in the publicly available ESAs as a rationale for certain categorisations/mitigation measures were not available. The IFC refuses to disclose these documents, even following a request for disclosure. See: <http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/651aeb16abd09c1f8525797d006976ba/d8a67e4647784ed335257a62005d32e1?opendocument>
- 32 European Investment Bank. (2015). *Guide to accessing environmental and social information/documents held by the EIB*. 31 March 2015. See: http://www.eib.org/attachments/access_to_information_en.pdf
- 33 The EIB argues that the public register is still a work in progress and data included in the register will be extended in the future.
- 34 Except the information on beneficial ownership and country-by-country reporting.
- 35 If a client argues that certain information should remain confidential, the relevant EIB departments will consult with the client and assess whether the client's claim is justified in accordance with the transparency policy and European Court of Justice requirements.
- 36 EIB. (2015). See 32 above.
- 37 Official Journal of the European Communities. (2001). *Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents*. 30 May 2001. See: http://www.europarl.europa.eu/RegData/PDF/r1049_en.pdf
- 38 The Guardian. (2014). *Glencore report: European Investment Bank must drag its secrets into the light*. 20 August 2014. See: <http://www.theguardian.com/global-development/poverty-matters/2014/aug/20/glencore-report-european-investment-bank-secrets>
- 39 UNECE. (1998). *Convention on access to information, public participation in decision-making and access to justice in environmental matters*. 25 June 1998. See: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- 40 IFC. (2012). *Access to Information Policy*. 1 January 2012. See: <http://www.ifc.org/wps/wcm/connect/98d8ae004997936f9b7bfb2b4b33c15/IFCPolicyDisclosureInformation.pdf?MOD=AJPERES>
- 41 EIB. (2015). See 32 above.
- 42 IFC. (2010). *Eurasian Minerals Inc. Summary of Proposed Investment*. See: http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/ProjectDisplay/SPL_DP27409
- 43 IFC. (2006). *Disclosure of Information Policy*. 30 April 2006. See: <http://www.ifc.org/wps/wcm/connect/b8faf60046a4ac3ab061f6911d74ae7/ProjectDisclosurePolicyEnglish2006.pdf?MOD=AJPERES>
- 44 IFC. (2012). See 40 above.
- 45 Both DFIs allow requesters to appeal if they believe that the DFI has unreasonably denied access to information. In the case of the IFC, a complaint may be submitted to the IFC's Access to Information Policy Advisor, who reports to the IFC's Executive Vice President. Due to the nature of the EIB, requesters can make complaints to the EIB-CM but also initiate court proceedings before the Court of Justice of the European Union.
- 46 IFC. (2012). See 40 above.
- 47 Ibid.
- 48 European CSOs also have meetings with Board representatives in addition to the World Bank's Annual and Spring meetings.
- 49 Also at the level of the World Bank's public arm, citizens are mostly left in the dark about the position of their respective countries. To this end, civil society organisations have been pressuring member states to disclose their position, most recently during the review of the Bank's safeguards policy.
- 50 World Bank. *Accountability in Governance*. <http://siteresources.worldbank.org/>

- PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf
- 51 EIB. (2009). *Operations Evaluation Terms of Reference*. September 2009. See: http://www.eib.org/attachments/thematic/ev_terms_of_reference_2009_en.pdf
- 52 Interview with Operations Evaluation staff, 3 July 2015.
- 53 EIB. (2009). See 54 above.
- 54 IEG. (2015). *IEG Brochure*. See: http://ieg.worldbankgroup.org/Data/ieg_brochure.pdf
- 55 IEG. *Revised Mandate of the Director General, Evaluation*. See: http://ieg.worldbankgroup.org/Data/dge_mandate_tor.pdf
- 56 IEG. (2014). *Work Program and Budget (FY15) and Indicative Plan (FY16-17)*. 2 June 2014. See: http://ieg.worldbankgroup.org/Data/fy15_budget_updated.pdf
- 57 World Bank. (2011). *Access to Information Policy Statement for the Independent Evaluation Group*. 1 July 2011. See: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/10/17/000333037_20131017111830/Rendered/INDEX/812610WPOIEG0A00Box379835B00PUBLIC0.txt
- 58 Including also the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the World Bank.
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- 60 IEG. (2014). *Results and Performance of the World Bank Group: an independent evaluation*. See: <https://ieg.worldbankgroup.org/Data/reports/chapters/rap2014.pdf>
- 61 Ibid.
- 62 EIB. (2013). *Environmental and Social Handbook*. 2 December 2013. See: http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf
- 63 Ibid.
- 64 CAO. *Panama/Pando Montelirio-01/Chiriqui*. See: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=156
- 65 CAO. *Peru/Maple Energy-01/Nuevo Sucre and Canaan*. See: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=157
- 66 Accountability Counsel. (2010). See: <http://www.accountabilitycounsel.org/wp-content/uploads/2011/12/Maple-CAO-Complaint-Ing1%C3%A9s.pdf>
- 67 CAO. (2012). *Operational Guidelines*. May 2012. See: http://www.cao-ombudsman.org/howwework/documents/OG_ConsultationDraft_May2012.pdf
- 68 Accountability Counsel. (2013). *Complaint on behalf of tea workers working and living in the plantation areas of IFC client Amalgamated Plantations Private Limited*. See: <http://www.accountabilitycounsel.org/wp-content/uploads/2013/07/APPL-complaint.pdf>
- 69 CAO. (2015). See: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=195
- 70 International Aid Transparency Initiative. (2015). See: <http://iatistandard.org/>
- 71 IFC. (2012). *IFC Performance Standards on Environmental and Social Sustainability*. 1 January 2012. See: http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd1998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES
- 72 Ibid.
- 73 Eurodad. (2011). *Responsible Finance Charter*. See: http://eurodad.org/files/const/responsible_finance.pdf
- 74 Eurodad. (2014). See 18 above.
- 75 EIB. (2008). *Memorandum of Understanding between the European Ombudsman and the European Investment Bank concerning information on the Bank's policies, standards and procedures and the handling of complaints, including complaints from non-citizens and non-residents of the European Union*. 9 July 2008. See: http://www.eib.org/attachments/strategies/complaints_mou_eo_eib_en.pdf
- 76 It should be noted that unlike most IFIs, the EIB operates in a complex matrix of multilateral governance. As a result, the EIB is horizontally accountable to a variety of institutions which are beyond the scope of this briefing. Generally, the EIB is accountable to the European Commission and the Parliament. For cases of fraud, citizens should hold the EIB accountable through the European Anti-Fraud Office (OLAF), whereas the European Data Protection Supervisor deals with people's right to privacy when processing their personal data and the Aarhus Convention Compliance Committee, in turn, deals with the Aarhus convention. The EIB is also subject to the European Court of Justice, which, contrary to the EIB-CM and EO, has binding decision-making powers.
- 77 CAO. *About the CAO: Our Roles*. See: <http://www.cao-ombudsman.org/about/ourroles/index.html>
- 78 EIB. (2012). *Publications – The EIB Complaints Mechanism – Principles, Terms of Reference and Rules of Procedure*. 14 November 2012. See: <http://www.eib.org/infocentre/publications/all/complaints-mechanism-policy.htm>
- 79 CAO. (2012). *Review of IFC's Policy and Performance Standards on Social and Environmental Sustainability and Policy on Disclosure of Information*. May 2010. See: http://www.cao-ombudsman.org/documents/CAOAdvisoryNoteforIFCPolicyReview_May2010.pdf
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- 81 For the EIB, the European Anti-Fraud Office (OLAF) is mandated to deal with complaints related to fraud or corruption. At the World Bank Group, the Vice Presidency for Integrity (INT) investigates allegations of fraud, corruption, coercion, collusion, and obstructive practices related World Bank Group-financed projects.
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- 83 CAO. (2012). See 67 above.
- 84 EIB. (2012). See 82 above.
- 85 European Ombudsman. (2001). *Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties (1)*. 31 May 2001. See: http://www.ombudsman.europa.eu/en/resources/statute_faces
- 86 Client Earth. (2014). *Review of the EIB Transparency Policy*. September 2014. See: <http://www.clientearth.org/reports/141027-review-of-the-eib-transparency-policy.pdf>
- 87 CAO. (2013). *Operational Guidelines*. See: http://www.cao-ombudsman.org/howwework/documents/CAOOperationalGuidelines2013_ENGLISH.pdf
- 88 For example assessment or investigation reports.
- 89 EIB. (2015). *NFC Forestry Project, Uganda*. See: <http://www.eib.org/about/accountability/complaints/cases/nfc-forestry-project.htm>
- 90 EIB. (2015). *Istanbul-Ankara Railway, Turkey*. See: <http://www.eib.org/about/accountability/complaints/cases/istanbul-ankara-railway.htm>
- 91 EIB. (2015). *Peri-Urban Water and Sanitation, Malawi*. See: <http://www.eib.org/about/accountability/complaints/cases/malawi-peri-urban-water-and-sanitation.htm>
- 92 EIB. (2015). *Assainissement du site Taparura, Tunisia*. See: <http://www.eib.org/about/accountability/complaints/cases/assainissement-du-site-taparura.htm>
- 93 EIB. (2015). *Road Rehabilitation Federation, Bosnia and Herzegovina*. See: <http://www.eib.org/about/accountability/complaints/cases/road-rehabilitation-federation-bih.htm>
- 94 European Ombudsman. (2015). *Decision of the European Ombudsman closing the inquiry into complaint 349/2014/OV against the European Investment Bank*. See: <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/59317/html.bookmark>
- 95 Bretton Woods Project. (2015). *IFC ignores concerns about investments in financial intermediaries*. 2 February 2015. See: <http://www.brettonwoodsproject.org/2015/02/things-change-ifc-ignores-central-concern-investments-financial-intermediaries/>
- 96 CAO. (2015). *About the CAO: Governance*. See: <http://www.cao-ombudsman.org/about/governance/>
- 97 CAO. (2015). *About the CAO: Staff*. See: <http://www.cao-ombudsman.org/about/staff/>
- 98 CAO. (2015). *Office of the Compliance Advisor/Ombudsman Terms of Reference*. See: http://www.cao-ombudsman.org/about/whowere/documents/TOR_CAO.pdf
- 99 Email from EIB. 19 March 2015.
- 100 Since the European Ombudsman is not an EIB-specific institution, its budget is not dependent on decisions by the EIB Management Committee. In addition, the EO's budget is an independent section of the EU budget. In 2014, budgeted appropriations amounted to EUR 9,857,002.
- 101 CAO. (2015). See 94 above.
- 102 WBG response 5 August 2014
- 103 CAO. (2014). *Compliance Advisor Ombudsman 2014 Annual Report*. See: http://www.cao-ombudsman.org/documents/CAOANNUALREPORT2014_000.pdf
- 104 EIB. (2012). See 82 above.
- 105 EIB. (2014). *European Investment Bank Complaints Mechanism Activity Report 2013*. November 2014. See: http://www.eib.org/attachments/general/reports/complaints_mechanism_annual_report_2013_en.pdf
- 106 CEE Bank Watch Network. (2014). *European Ombudsman: EIB weakens EU efforts to strengthen rule of law*. 30 October 2014. See: <http://bankwatch.org/news-media/for-journalists/press-releases/european-ombudsman-eib-weakens-eu-efforts-strengthen-rule->
- 107 <http://www.counter-balance.org/wp-content/uploads/2015/04/independenceCMO.pdf>
- 108 Counter Balance/BankWatch report on EIB-CM
- 109 European Parliament. (2015). *Report on the European Investment Bank – Annual Report 2013*. 20 March 2015. See: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2015-0057+0+DOC+XML+V0//EN>
- 110 Saper, Benjamin. (2012). *The International Finance Corporation's Compliance Advisor/Ombudsman (CAO): an examination of accountability and effectiveness from a global administrative law perspective*. *NYU International Journal of Law and Politics*. See: <http://nyujilp.org/wp-content/uploads/2012/04/44.4-Saper.pdf>

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Eurodad

The European Network on Debt and Development is a specialist network analysing and advocating on official development finance policies. It has 46 member groups in 20 countries. Its roles are to:

- research complex development finance policy issues
- synthesise and exchange NGO and official information and intelligence
- facilitate meetings and processes which improve concerted advocacy action by NGOs across Europe and in the South.

Eurodad pushes for policies that support pro-poor and democratically-defined sustainable development strategies. We support the empowerment of Southern people to chart their own path towards development and ending poverty. We seek appropriate development financing, a lasting and sustainable solution to the debt crisis and a stable international financial system conducive to development.

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