

# Climate finance institutions and human rights

Input of the Independent Complaint Mechanism of  
Germany's International Climate Initiative to the UN  
Human Rights Council Working Group's report on  
development finance institutions and human rights

Andrea Kämpf, IKI ICM Complaints Office, 3.3.2023

Contact details:

IKI Independent Complaint Mechanism (IKI ICM), Complaints Office  
@ Zukunft – Umwelt – Gesellschaft (ZUG) gGmbH  
Stresemannstraße 69 - 71 | 10963 Berlin | Germany

T +49 30 700 181 108

[IKI-complaints@z-u-g.org](mailto:IKI-complaints@z-u-g.org)

<https://www.international-climate-initiative.com/en/about-iki/values-responsibility/independent-complaint-mechanism/>

<https://www.z-u-g.org/en/>

## Table of contents

1	Introduction .....	1
1.1	Germany's International Climate Initiative (IKI).....	1
1.2	The IKI Independent Complaint Mechanism (IKI ICM).....	1
2	The questions (selection) .....	2
2.1	Section „DFIs' responsibility to respect human rights“ .....	2
2.1.1	Question 1: Are you aware of any DFIs that have existing human rights, sustainability, or environmental and social (E&S) policies? If so, how effectively do they integrate a commitment to respect human rights, as per the UNGPs?.....	2
2.2	Section “Access to remedy” .....	2
2.2.1	Question 3: What measures and/or mechanisms exist to ensure access to effective remedy when DFI-supported projects are associated with adverse impacts on communities and the environment? What measures and/or mechanisms should be in place? 3	3
2.2.2	Question 4: Are you aware of any operational-level grievance mechanisms established by DFIs to address human rights concerns related to their investment? If so, are these mechanisms effective in terms of process and remedial outcomes? .....	4
2.2.3	Question 5: What are the most significant challenges observed with regard to ensuring access to effective remedy for victims of human rights abuses affected by DFI-funded projects?.....	5

# 1 Introduction

## 1.1 Germany's International Climate Initiative (IKI)

The International Climate Initiative (IKI) is an important part of the German government's international climate finance commitment. Since 2022 the IKI is implemented by the Federal Ministry for Economic Affairs and Climate Action (BMWK) in close cooperation with the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection (BMUV) and the Federal Foreign Office (AA). Through the IKI, the ministries jointly support approaches in developing and emerging countries to implement and ambitiously develop the Nationally Determined Contributions (NDCs) anchored in the Paris Agreement. The IKI also supports its partner countries in achieving the goals of the Convention on Biological Diversity (CBD).<sup>1</sup> To date, IKI has approved more than 800 climate and biodiversity projects in over 150 countries worldwide with a total funding volume of 5 billion euros (2008-2021).<sup>2</sup>

The activities from IKI projects range, for example, from advising policy makers on capacity building and technology partnerships to risk hedging through innovative financial instruments. It also includes studies, project preparation advice for infrastructure development, and investment instruments for climate change mitigation or biodiversity conservation.

## 1.2 The IKI Independent Complaint Mechanism (IKI ICM)

The IKI Independent Complaint Mechanism (IKI ICM) is intended to enable people who suffer (potential) negative social and/or environmental consequences from IKI projects, or who wish to report the improper use of funds, to voice their complaints and seek redress. In doing so, it should also contribute to:

- monitor and improve the environmental and social outcomes of projects,
- avoid unintended negative impacts of projects that go unnoticed by ZUG and BMWK, BMUV and AA,
- support the appropriate use of public funds, and
- comply with international good practice.

The complaints mechanism is based at Zukunft - Umwelt - Gesellschaft (ZUG) gGmbH, the Federal Government's project management agency for the IKI funding programme, based in Berlin, Germany.<sup>3</sup> Its policy entered into force in January 2022.

**The IKI ICM is to be distinguished from operational level grievance redress mechanisms (OGRM).** These would in our understanding be established in the framework of the respective projects funded by IKI and implemented by its implementing organizations and their partners. These OGRM which might either be established as requirement of the safeguards assessment and/or upon the implementing organizations' own initiative.

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<sup>1</sup> For more information, see <https://www.international-climate-initiative.com/en/about-iki/>.

<sup>2</sup> You can access IKI's project database here: <https://www.international-climate-initiative.com/en/search-project/>.

<sup>3</sup> You can access the IKI ICM website here: <https://www.international-climate-initiative.com/en/about-iki/values-responsibility/independent-complaint-mechanism/>.

## 2 The questions (selection)

### 2.1 Section „DFIs’ responsibility to respect human rights“

#### 2.1.1 Question 1: Are you aware of any DFIs that have existing human rights, sustainability, or environmental and social (E&S) policies? If so, how effectively do they integrate a commitment to respect human rights, as per the UNGPs?

**Answer: The new IKI safeguards policy<sup>4</sup>, which entered into force in January 2023, explicitly recognizes and integrates the UNGP.**

In the words of Mac Darrow, OHCHR representative in Washington DC, in a LinkedIn blogpost from 22.11.2022:<sup>5</sup>

*“A quick shout-out to the International Climate Initiative (IKI) of the German government which has just published a new social and environmental safeguard policy, which will come into effect in January: <https://lnkd.in/dusXPv93>. Impressively, in line with the UN Guiding Principles on Business and Human Rights (UNGPs), the new policy explicitly recognizes that participating ministries in the IKI may themselves contribute to harms, for example through poor due diligence or supervision practices, and to that extent should be expected to contribute to remedy. Such a recognition shouldn’t be all that noteworthy, and there is a questionable caveat concerning financial compensation (fn 7). However few other DFIs to date have expressed their involvement with impacts and proportionate responsibility for remedy as clearly, and few others include a robust conception of “remedy” in the mitigation hierarchy rather than the “compensation/off-setting” default. Other welcome areas of UNGPs alignment include IKI’s clear human rights policy commitment, a requirement that grievance mechanisms be consistent with UNGP 31 effectiveness criteria, a requirement that projects meet international (not just national) legal standards, and requirements to build different forms of leverage and exit projects responsibly. Congrats to all involved and bon courage for the implementation phase”*

### 2.2 Section “Access to remedy”

**Overarching aspects:**

- **Recognition of the UNGP, particularly 31, should be a minimum.**

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<sup>4</sup> <https://www.international-climate-initiative.com/en/iki-media/publication/safeguards-policy-of-the-international-climate-initiative-1676/> . You can access more information on the IKI safeguards system in general here: <https://www.international-climate-initiative.com/en/about-iki/safeguards/>.

<sup>5</sup> [https://www.linkedin.com/posts/activity-7000875477695381504-eMye/?utm\\_source=share&utm\\_medium=member\\_ios](https://www.linkedin.com/posts/activity-7000875477695381504-eMye/?utm_source=share&utm_medium=member_ios) (only visible to contacts).

- Independent Accountability Mechanisms of development – as well as climate finance - organisations have established a network<sup>6</sup>, the IAMnet. **Next to multilateral actors, the IAMnet increasingly includes bilateral actors as well.** Participation is contingent upon the compliance with the “Basic Criteria for Participation in the Independent Accountability Mechanisms (IAMs) network”<sup>7</sup>. These criteria align to a large extent with the effectiveness criteria from UNGP 31. **The IKI ICM is a member of the network of Independent Accountability Mechanisms Network<sup>8</sup> since September 2022, when it also became operational.**
- **The IKI ICM policy recognizes the UNGP 31 criteria explicitly as a basis for its operation (see 2.3 of the policy).**<sup>9</sup>
- There is a rich discussion among International Accountability Mechanisms (including bilateral mechanisms) and their stakeholders about making accountability mechanisms effective and accessible. The discussion is explicitly or implicitly aligned to the criteria of UNGP 31. Some of the substance of the discussion can be accessed through “Glass Half Full? The State of Accountability in Development Finance”<sup>10</sup> from 2016 as well as the “Good Policy Paper: Guiding Practice from the Policies of Independent Accountability Mechanisms”<sup>11</sup> from 2021. **The IKI ICM policy<sup>12</sup> has introduced many of the proven good practice elements suggested by these sources. In this submission, we would like to present some measures introduced by the IKI ICM which are not (yet) common among IAMs:**

### 2.2.1 Question 3: What measures and/or mechanisms exist to ensure access to effective remedy when DFI-supported projects are associated with adverse impacts on communities and the environment? What measures and/or mechanisms should be in place?

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<sup>6</sup> You can access their website here: <https://lnadbg5.adb.org/ocrp002p.nsf> (membership is not yet updated).

<sup>7</sup>

[http://independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful\\_materials\\_on\\_accountability/basic\\_criteria\\_for\\_participation\\_in\\_the\\_independent\\_accountability\\_mechanisms\\_\(iams\)\\_network?openDocument](http://independentaccountabilitymechanism.net/ocrp002p.nsf/content/root/useful_materials_on_accountability/basic_criteria_for_participation_in_the_independent_accountability_mechanisms_(iams)_network?openDocument)

<sup>8</sup> You can access their website here: <https://lnadbg5.adb.org/ocrp002p.nsf> (membership is not yet updated).

<sup>9</sup> IKI ICM policy: [https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI\\_ICM\\_policy\\_EN\\_202202.docx](https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI_ICM_policy_EN_202202.docx)

<sup>10</sup> <https://www.somo.nl/glass-half-full-2/> with further annexes

<sup>11</sup> <https://accountabilitycounsel.org/wp-content/uploads/2021/12/good-policy-paper-final.pdf>

<sup>12</sup> IKI ICM policy: [https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI\\_ICM\\_policy\\_EN\\_202202.docx](https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Beschwerdemechanismus/IKI_ICM_policy_EN_202202.docx)

- **The IKI ICM accepts both complaints regarding violations of environmental and social safeguards, as well as complaints related to (project-related) misuse of funds, corruption and integrity issues.** It thus provides an integrated framework for all project-related complaints, and recognizes at an institutional level, that reasons for complaints might be interlinked.  
 >>> *See 2.2 of the IKI ICM policy, Scope of applicability: The complaint mechanism applies to all projects financed from IKI funds. The complaint mechanism handles complaints and evidence ('complaints') arising from breaches of environmental or social safeguards (IKI safeguards), budgetary and grant law and incidents of economic crime. It also handles complaints involving threats or reprisals carried out by implementing organisations or their implementing partners experienced by complainants as a result of their complaint to the IKI complaint mechanism.*
- IAMs usually accept social or environmental safeguards violations-related complaints, when complainants can prove they have been harmed. **The IKI ICM also accepts complaints regarding negative environmental impact without individual harm under certain conditions.** This is a reflection of the developments in European and German environmental law, in particular the expansion of the possibilities for environmental claims even without subjective rights in public law : If environmental damage as such can be a cause of action, it is not obvious why those affected have to prove that they are individually affected. In order to control complaints somewhat from the outset, these complaints are explicitly limited to severe impacts on a not insignificant scale of a project. This wording is inspired by the European Commission's recently published guidelines on the definition of environmental damage.<sup>13</sup>  
 >>> *See Nr. 4.1.1.f): Safeguard complaints are subject to the following criteria in addition to a to e: Complainants must be able to credibly demonstrate that either they themselves or third parties are impacted or are likely to be impacted by an IKI project. Exception: in case of negative environmental impacts, this criterion of individual concern may be waived if the environmental impacts are direct, are significant, and are directly caused by the IKI project.*

## 2.2.2 Question 4: Are you aware of any operational-level grievance mechanisms established by DFIs to address human rights concerns related to their investment? If so, are these mechanisms effective in terms of process and remedial outcomes?

**Answer:**

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<sup>13</sup> EU, Guidelines on a Uniform Interpretation of the Concept of Environmental Damage within the Meaning of Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on Environmental Liability with regard to the Prevention and Remedying of Environmental Damage (2021/C 118/01), p.10f

- **We would consider this a question for the respective project in question. The IKI safeguards team does consider requiring the project implementing organisations to establish OGRM on a case-by-case base.**
- Further resources on OGRM which might be helpful:
  - Online training module on project-level grievance redress mechanism of the Independent Redress Mechanism of the Green Climate Fund (GCF IRM): <https://irm.greenclimate.fund/news/strengthening-grievance-redress-mechanisms-launch-irm-s-online-training-modules>
  - Grievance mechanism toolkit of the Compliance Adviser Ombudsman (CAO) of the International Finance Institution (IFC): <https://www.cao-grm.org/>
  - Grievance Redress and Accountability Mechanism (GRAM) partnership, a learning and knowledge platform and a meeting space to an increasing number of GRAMs that are emerging in different spheres. The GRAM partnership is open to participation from other interested grievance mechanisms, academic institutions and civil society organisations. <https://irm.greenclimate.fund/grampartnership> . Coordinated by the GCF IRM (mailto: [irm@gcfund.org](mailto:irm@gcfund.org) )

### 2.2.3 Question 5: What are the most significant challenges observed with regard to ensuring access to effective remedy for victims of human rights abuses affected by DFI-funded projects?

**Answer :**

- At the operational level, providing access – physical, linguistic, financial, technical – is the most significant challenge, particularly in remote project areas. This will likely remain a dilemma. Some aspects where IKI ICM has taken progressive steps:
  - **The IKI ICM explicitly recognizes reprisals and retaliation issues on the policy level in the context of IKI project-related complaints as a ground for complaints.** While many mechanisms nowadays have guidelines on how to handle reprisal and retaliation risks in the context of complaints<sup>14</sup>, **to our knowledge only the IADB and the IKI ICM do recognize them at the level of policy itself.** While the IADB does so in their Safeguards Policy<sup>15</sup>, **both the IKI safeguards policy as well as the IKI ICM policy enshrine this provision:**  
*>>> See above, 2.2 of the IKI ICM policy, as well as IKI ICM policy, 2.1 Nr. 3: Preventing threats and reprisals against complainants: The IKI does not tolerate retaliation, including threats, intimidation, harassment, or violence against individuals who express their opinions on or opposition to projects funded by the IKI. The IKI complaint mechanism takes any credible allegations of reprisals seriously. The IKI*

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<sup>14</sup> See eg the mechanism of Germany's private sector finance institution DEG: Independent Complaint Mechanism (ICM): Non-Retaliation Statement Independent Complaints Mechanism. Position. Statement on Addressing Risk of Reprisals related to ICM Operations, February 2021. <https://www.deginvest.de/DEG-Documents-in-English/About-us/Responsibility/ICM-Non-Retaliation-Statement.pdf>.

<sup>15</sup> IDB Invest, Environmental and Social Policy, 2020, Nr. 20. [https://idbinvest.org/sites/default/files/2020-05/idb\\_invest\\_sustainability\\_policy\\_2020\\_EN.pdf?\\_ga=2.17170041.1778103236.1607960731-55442420.1606248622](https://idbinvest.org/sites/default/files/2020-05/idb_invest_sustainability_policy_2020_EN.pdf?_ga=2.17170041.1778103236.1607960731-55442420.1606248622) .



*complaint mechanism strives to address complaints of this nature within the scope of its mandate. In these cases, concerns will be discussed directly with the client and/or another relevant party, and follow-up measures will be taken where necessary.*  
*>>> See also the IKI safeguards policy<sup>16</sup>, 1.3 Nr. n: Prevention of threats and reprisals against complainants: there is no toleration of retaliatory measures like threats, intimidation, harassment or violence against people expressing their opinion about or resistance to a project.*

- **The IKI ICM does accept anonymous complaints. The IKI complaints mechanism currently provides for an anonymous complaints option, which is also to be implemented through a digital mailbox with an anonymous dialogue function. This enables back-and-forth communication without the complainant having to reveal his/her identity.**

Among IAMs, the identity of the complainant or at least of a representative is usually an admissibility criterion. However, complainants can at least additionally indicate that they wish to submit their complaint confidentially.<sup>17</sup>

It should be discussed whether this exclusion of anonymous complaints is still adequate: research suggests<sup>18</sup> that anonymity would add value to international complaints mechanisms as it could prove necessary and suitable to protect complainants, since many complainants are under pressure in view of the increasing persecution of environmental defenders. An anonymous reporting option could provide a remedy here. Private sector research furthermore indicates that anonymous complaints do not raise the risk of abusive complaints, at least not in the private sector.<sup>19</sup> A study (by a commercial provider) on abuse in anonymous complaints in Germany rather comes to the conclusion that the proportion of abusive complaints in Germany, although high in comparison, is still only just under 12% according to a report from 2019 and 10.7% according to a report from 2021.<sup>20</sup> Another study states that in 66% of the European companies surveyed, abusive reporting is below 2%, and in 84% of the companies surveyed, it is below 5%.<sup>21</sup> The introduction of anonymous

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<sup>16</sup> [https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Safeguards/202302\\_Safeguards\\_Policy\\_EN\\_bf.pdf](https://www.international-climate-initiative.com/fileadmin/iki/Dokumente/Safeguards/202302_Safeguards_Policy_EN_bf.pdf)

<sup>17</sup> See eg. IFC/MIGA, Independent Accountability Mechanism (CAO) Policy, 2021, No. 33c. Available online at <https://www.ifc.org/wps/wcm/connect/d3e7f1c4-fd6b-40fd-ae76-fb028916611d/IFC-MIGA-Independent-Accountability-Mechanism-CAO-Policy.pdf?MOD=AJPERES&CVID=nFDGwP2>. DEG, Independent Complaints Mechanism DEG, 2017, No. 3.1.8. Available online at [https://www.deginvest.de/DEG-Documents-in-English/About-us/Responsibility/170101\\_Independent-Complaints-Mechanism\\_DEG.pdf](https://www.deginvest.de/DEG-Documents-in-English/About-us/Responsibility/170101_Independent-Complaints-Mechanism_DEG.pdf).

<sup>18</sup> See Kämpf in: Johann | Sangi, LkSG – Lieferkettensorgfaltspflichtengesetz (supply chain due diligence law), Handkommentar (legal commentary), 2023, §8, Nr.51f; as well as LLM thesis by the author: Protection of complainants in international cooperation complaint procedures: new inspirations from the EU Whistleblower Directive?, November 2021, Viadrina University Frankfurt/Oder (Germany), Master's programme Mediation and Conflict Management, Academic year 2019/2021, not published.

<sup>19</sup> Citations in: Colneric, Ninon/Gerdemann, Simon, Die Umsetzung der Whistleblower-Richtlinie in deutsches Recht, 2020, p.136 with further references. Available online at [https://www.hugo-sinzheimer-institut.de/haust-detail.htm?sync\\_id=HBS-007814](https://www.hugo-sinzheimer-institut.de/haust-detail.htm?sync_id=HBS-007814)

<sup>20</sup> Hauser, Christian/Hergovits, Nadine/Blumer, Helene, Whistleblowing Report 2019, p.58. Available online at [https://uploads-campax.s3.eu-central-1.amazonaws.com/whistleblowing\\_report\\_2019\\_de\\_-\\_sperrfrist\\_15\\_05.pdf](https://uploads-campax.s3.eu-central-1.amazonaws.com/whistleblowing_report_2019_de_-_sperrfrist_15_05.pdf),. Hauser, Christian/Bretti-Rainalter, Jeanine/ Blumer, Helene, Whistleblowing Report 2019, cited in: Colneric, Ninon/Gerdemann, Simon, Die Umsetzung der Whistleblower-Richtlinie in deutsches Recht, 2020, p.136. Available online at [https://www.hugo-sinzheimer-institut.de/haust-detail.htm?sync\\_id=HBS-007814](https://www.hugo-sinzheimer-institut.de/haust-detail.htm?sync_id=HBS-007814).

<sup>21</sup> BKMS Benchmarking Report 2019, cited in: Erlebach, Kimberley/Veljovic, Miguel, Stigma der Denunziation bei anonymen Hinweismeldungen am Beispiel des HinSchG-E – ein Trugschluss!, KriPoZ 2021, p. 170



reporting has not led to an increase in abusive reporting.<sup>22</sup> However - according to an expert in international complaints procedures in conversation - an anonymous complaint might limit the course and scope of the investigation, as an investigation of an anonymous complaint might be limited to systemic issues and cannot address individual harm.

>>> See 3.5 Nr.3 of the IKI ICM policy: *As a rule, any complaint can be submitted anonymously. An anonymous communication system is set up to ensure this, allowing for continued, anonymous communication with the complainant(s). If, following an anonymous complaint, it is necessary to provide contact details to further process the complaint, in particular in case of a breach of social or environmental safeguards or to implement a problem-solving process, this will be clarified with the complainant(s) using the anonymous communication system.*

- **The IKI ICM obliges implementing organisations to promote awareness of the complaint mechanism, including through contracting and reporting.** While contracting alone does not guarantee implementation, it is an additional element next to outreach via civil society stakeholders and other governance measures to support implementing organisations.<sup>23</sup>

>>> See 2.7 of the IKI ICM policy: *Cooperating with complaints procedures in place at IOs: Implementing organisations acknowledge this Complaint Mechanism Policy and agree to cooperate in case of a complaint. This will be agreed in the contract documents for relevant IKI project starting in 2022. Implementing organisations (IOs) are required to inform the project's target groups about the IKI complaint mechanism as part of its project implementations. IOs must report on the measures they implement in this regard.*

- Another challenge might be the implementation of the recommendations. With regards to multilateral DFIs, the former head of the Independent Redress Mechanism of the Green Climate Fund has described the possible next steps in this blogpost<sup>24</sup> as being (roughly summarized):
  - 1) IAMs should decide themselves on measures/consequences of complaints, this should not be left to the supervisory boards. This would mean giving the recommendations of IAMs some sort of binding force, similarly to that of an arbitration outcome.
  - 2) Furthermore, DFIs should take responsibility for breaches of their own due diligence and provide remedy and not leave this to the borrowers/implementing organisations.

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<sup>22</sup> Colneric, Ninon/Gerdemann, Simon, Die Umsetzung der Whistleblower-Richtlinie in deutsches Recht, 2020, p.136 with further references. Available online at [https://www.hugo-sinzheimer-institut.de/faust-detail.htm?sync\\_id=HBS-007814](https://www.hugo-sinzheimer-institut.de/faust-detail.htm?sync_id=HBS-007814).

<sup>23</sup> See also: Scheltema, Martijn, The Mismatch between Human Rights Policies and Contract Law: Improving Contractual Mechanisms to Advance Human Rights Compliance in Supply Chains, in: Accountability, International Business Operations and the Law. Providing Justice for Corporate Human Rights Violations in Global Value Chains, 2020, pp. 259-278.

<sup>24</sup> <https://www.linkedin.com/pulse/fixing-broken-accountability-system-mdbs-dfis-lalanath-de-silva%3FtrackingId=Hsupb%252FNc12Gy1YWxtljj4A%253D%253D/?trackingId=Hsupb%2FNc12Gy1YWxtljj4A%3D%3D>