

ANNEX 9

THE COMPLAINTS MECHANISM OF THE EUROPEAN INVESTMENT BANK

INTRODUCTION

This section assesses the Complaints Mechanism (CM) of the European Investment Bank (EIB). The assessment uses a standardised framework, based on the UNGPs, which is available in Annex 2. This assessment framework clarifies how each of the UNGP criteria was operationalised for the purpose of assessing individual mechanisms. The assessment draws on information made publicly available by EIB and the CM through their websites and reports, and a survey that was sent out to users of the CM (see Annex 3). One CSO has shared its experiences with the CM through that survey.

MECHANISM AT A GLANCE

The EIB CM was established in 2008. It provides both compliance review and dispute resolution functions. Its Operating Procedures were last revised in August 2013 following a consultation process. A unique feature of EIB's CM is that it provides for appeals to the European Ombudsman.

TABLE 1: CM/EIB CASE ATTRITION¹

TOTAL COMPLETED CASES	FOUND ELIGIBLE	REACHED SUBSTANTIVE PHASE	ACHIEVED RESULTS
81	52	47	9

TABLE 2: CM/EIB PERFORMANCE INDICATORS²

	RESEARCH PERIOD	TOTAL
CASES FILED	14	99 ³
CASES CLOSED WITHOUT REACHING SUBSTANTIVE PHASE ⁴	4	30
CASES ACHIEVING RESULTS	0	9

KEY FINDINGS AND RECOMMENDATIONS

The CM has one feature that no other IAM has, an appeals process. This greatly increases the potential of the system to provide remedy. However, this potential has yet to be realised. The Mechanism itself suffers from lack of transparency. The authors of this report were impeded in their ability to assess the effectiveness of the system because of the lack of information provided on a large number of CM cases. Additionally, the CM is not provided with sufficient independence from EIB Management and Board. The European Ombudsman has found the EIB to have interfered in the CM's complaint process. EIB Board and Management must demonstrate their commitment to providing remedy to those harmed by EIB-financed activities by taking actions to ensure the CM's legitimacy, including by involving external stakeholders in the selection of the next CM Director, empowering the CM to trigger their own investigations, consulting with complainants on the development of actions plans, and ensuring the disclosure of all relevant information regarding EIB-financed activities and related investigations.

Table 3 on the next page contains the recommendations derived from the UNGP assessment that follows. The recommendations describe the reforms needed to the policy and practice of each actor, the IAM and the DFI. It should be noted, however, that the power to implement some of these recommendations regarding the IAM rests with the DFI's Board of Directors.

UNGP ASSESSMENT

LEGITIMACY

IAM: The CM is part of the EIB's Inspectorate General under the functional responsibility of a Vice President.⁵ The CM was established by EIB's Board of Directors to be independent from the operational activities of the Bank in order to ensure that any complaint is dealt with objectively.⁶ Thus the CM is established within the EIB structure;

TABLE 3: RECOMMENDATIONS DERIVED FROM UNGP ASSESSMENT

	CM	EIB
LEGITIMACY	<ul style="list-style-type: none"> Introduce 'cooling off period' before Bank staff can work for the Mechanism, and prohibit Mechanism staff from returning to the Bank after their term expires. 	<ul style="list-style-type: none"> Include external stakeholders (European Parliament, CSOs, etc.) in the selection process for the CM Director. Raise awareness among the EIB (via information session and tools for internal dialogue) about the need for EIB staff to cooperate with the CM Office and the added value of a functioning CM Office for the whole organisation.
ACCESSIBILITY	<ul style="list-style-type: none"> Make the Operating Procedures available in multiple languages. Use the same procedures for all complaints regardless of when they are filed in the project cycle. Allow complaints from pre-appraisal to post-closure. 	<ul style="list-style-type: none"> EIB's clients should be required to disclose the availability of the CM.
PREDICTABILITY	<ul style="list-style-type: none"> Clarify procedures so the complaint process is easier to understand. Adhere to deadlines. Provide complainants with regular updates on the status of their complaints. Monitor implementation of agreements reached through problem-solving and findings of non-compliance until remedied. 	<ul style="list-style-type: none"> EIB should report publicly on the steps it takes to implement recommendations made by the CM.
EQUITABILITY	<ul style="list-style-type: none"> Allow simultaneous review of draft report by complainants and EIB. Disclose final report to complainants at the same time it is sent to the Board. Include complainants' comments in final report to the Board. 	<ul style="list-style-type: none"> Consult with complainants on development of Management Action Plans. Provide the CM Office with sufficient resources so that it can fully implement its mandate.

	CM	EIB
TRANSPARENCY	<ul style="list-style-type: none"> Provide comprehensive information in the case registry, including relevant reports. Include information about the budgetary allocation for the CM in the CM annual reports. 	<ul style="list-style-type: none"> Publish more information on EIB-financed activities- especially for financial intermediaries, including the clients' names. The EIB should disclose to the public on a case-by-case basis any documents related to internal investigations, reports and audits if they concern matters of public interest and even once investigations are closed. Consistent with the Aarhus Convention and EU regulation 1367/2006, the EIB should adopt and publish a publication scheme setting out the type of environmental information it intends to record in its Public Register.
RIGHTS COMPATIBILITY	<ul style="list-style-type: none"> Interim reports by CM to Management should be made public, including those that involve recommendations to suspend a project. Develop protocols to prevent and address reprisals against complainants. 	<ul style="list-style-type: none"> Develop a fully-fledged Human Rights Policy, in addition to the current standards, that commits not to fund activities that cause, contribute to or exacerbate human rights violations. Require clients to assess the human rights impacts of their operations. Develop protocols to address reprisals against complainants.
LESSONS LEARNED	<ul style="list-style-type: none"> Undertake regional consultations in upcoming CM policy review to solicit information from project-affected communities. Publish advisory reports on trends and lessons learned from cases. 	<ul style="list-style-type: none"> Systematically include the CM Office's experiences and findings into the current evaluation procedures. Report regularly to the Board of Directors and to the public on implementation of commitments or recommendations. Commit not to provide additional financing for similar activities to clients found to be in non-compliance until the non-compliance has been remedied.

however, it is a separate division from the other divisions in the bank such as the Projects Directorate. The CM reports to the Management Committee of the EIB and, on cases related to the European Investment Fund, to the Chief Executives.⁷

The CM policy does not require any 'cooling off period' before Bank staff can work for the Mechanism and does not include any restrictions preventing Mechanism staff from returning to the Bank after their term expires. The policy includes rules of conduct for Mechanism staff, which require independence, objectivity, confidentiality and professional competence.⁸ The CM does not have the benefit of an external stakeholder advisory group to provide it with guidance and feedback on its activities. The survey respondent reported that he trusts the CM to deal with cases in a fair manner. However, he disagreed with the statement that the Mechanism was sufficiently independent from the Bank's staff.

DFI: There is no information regarding how CM staff are selected. The survey respondent expressed his concern that Bank staff interfere in the CM's handling of the complainants' cases. This was evidenced by the European Ombudsman (EO)'s ruling on the case of the Bujagali dam filed in December 2009. In the Bujagali case,⁹ the EO found that the significant delay of the issuance of the report by the CM was the result of EIB's internal dynamics and non-cooperation of the EIB staff with the CM Office. In May 2013, the EIB President sent a letter to all bank staff directing them to fully cooperate with the CM Office,¹⁰ affirming 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"*. That this letter was needed illustrates the difficult position of the CM Office within the Bank.

ACCESSIBILITY

IAM: Although the CM's Operating Procedures (OPs) are only available in English,¹¹ the CM has produced a flyer available in 24 languages.¹² There is an online complaint form,¹³ also available in 24 languages, but it is difficult to find the link to it on the CM's website. Some of the CM's eligibility requirements, such as allowing an individual to file a complaint, also enhance its accessibility. The CM has participated and organised outreach events with civil society in an effort to raise awareness about its availability.

Despite these efforts to improve accessibility, the procedures of the CM remain extremely difficult to understand. The CM's Terms of Reference (ToR) and the OP seem to conflict in places, and the procedures vary considerably depending on the type of complaint and when it is filed. Complaints filed after the activity is approved for financing by the Management Committee are admissible.¹⁴ Complaints filed during the appraisal period are admissible, but the Management's appraisal team is first given the opportunity to address the concerns raised by the complainants. If complainants are unsatisfied with Management's response, the CM will proceed with the complaint process.¹⁵ Complaints

filed during pre-appraisal are not admissible, but the concerns raised in the complaint are forwarded to Bank staff.¹⁶ The CM's ToR require that complaints must be lodged within one year of the date on which the facts upon which the allegation is grounded could be acknowledged by the complainant.¹⁷ Because the complainant may not know that the activity is financed by the EIB or that they have recourse to the CM, this provision may severely limit the accessibility of the Mechanism. However, the OP does not include this restriction, so it is unclear if this restriction is applied in practice.

DFI: The CM's website is one click away from the EIB's homepage. Neither the CM policy nor any other EIB policy (including the EIB Transparency Policy) requires the Bank's clients to disclose information about the availability of the EIB grievance mechanism to project stakeholders. The survey respondent reported that it is easy for some CSOs to contact the mechanism with questions or ask for advice on a case. However, the existence of the mechanism is not well known among those directly affected by EIB financing.

PREDICTABILITY

IAM: To the extent that the CM procedures are difficult to follow, complainants may not know what to expect from the process. That was confirmed by survey respondents. The Mechanism policy establishes deadlines for the complaint process. However, respondents report that the Mechanism does not always meet its deadlines. The Mechanism has a monitoring mandate, but seemingly only regarding the implementation of corrective actions and recommendations agreed to by EIB. It is not allowed to undertake monitoring visits unless that was proposed in the CM's Conclusion Report and approved by EIB.¹⁸

DFI: The CM policy identifies some of the responsibilities of Bank Management during the complaint process. However, there appears to be no separate policy detailing the procedure followed by Bank Management. Survey respondents reported that Bank staff had interfered in complaint processes, causing significant delays. Respondents also raised concerns that the EIB disregards the CM's recommendations. As a result, the complainant may find it difficult to know what to expect from management throughout the complaint process.

EQUITABILITY

IAM: The CM's policy does not allow the complainant an equal opportunity to provide input on the CM's Conclusion Report. Following the conclusion of an investigation, the CM first shares a draft of its Conclusions Report with the EIB, and subsequently, with the complainants.¹⁹ That is the last time the complainant will see the Conclusions Report until after the final Conclusions Report and Response are issued. Following the receipt of the comments, the CM finalises the Conclusions Report and again shares it with the EIB, which must prepare a response. After receiving the EIB's response, the CM may be asked to reconsider its Conclusions Report. The Management Committee does not have the

benefit of the complainant's comments when considering the final Conclusions Report and Response. The EIB's Secretary General will communicate the final Conclusions Report and the EIB's position to the complainant, and 'may' attach the EIB's formal response. However, after that decision, the complainant may lodge a 'confirmatory complaint' if they are not satisfied with response or if the corrective actions are not implemented adequately.²⁰ One positive aspect is that users report that the Mechanism respects the role of complainants' advisors and representatives.

DFI: There is limited information on whether the EIB provides the CM Office with sufficient resources to support the complainants to meaningfully engage in the complaint process. Information about staffing is provided in the CM's activity reports,²¹ but the number of FTEs is not specified. The budget is not made public. The EIB does not consult with the complainants in developing its response and corrective actions. The result is that the actions may not respond to the needs and interests of complainants, ultimately leaving the case unresolved.

TRANSPARENCY

IAM: Although the CM policy requires that the CM should publish initial assessments and conclusion reports, the case registry maintained by the CM does not contain any relevant documents for most cases.²² The publicly available information for many EIB CM cases is limited to a few words describing the complaint and the process it went through. Where a longer case summary is provided, in many cases it contradicts information given elsewhere on the case page. Contradictory information often relates to the stages in the EIB CM process to which the complaint progressed, making it particularly difficult for external stakeholders to learn the status or outcome of CM cases from the registry. It should be noted in this context that major updates to the case registry on the CM website began during the research period for this report. These updates were incomplete at the time of writing. In its comments on the draft of this report,²³ the CM clarified that additional case documents and information will be added, subject to confidentiality and disclosure of information requirements. The CM indicated that delays in disclosing case documents are at least partly due to on-going questions on the interpretation of the EU's Data Protection Regulation. The CM intends to clarify the effect of this regulation on CM information disclosure in its upcoming policy review.

The 2013 Activity Report contains some additional information about closed and on-going cases.²⁴ Operational information, such as the CM's budget and the identities of its staff, is not available on the CM's website or in the activity report.

DFI: The EIB's Transparency Policy does not require the public disclosure of any documents related to internal investigations, reports and audits, even if they concern matters of public interest and the investigations are closed.²⁵ According to its Transparency Policy, the Bank should publish project summaries, with basic

information,²⁶ at least three weeks before the project is considered for approval by the EIB's Board of Directors. There are exceptions though for, among others, financial intermediary projects. When applicable, links should be provided for environmental information (Environmental and Social Impact Assessments and/or Non-Technical Summaries), as early as possible in the project cycle.²⁷ However, EIB's disclosure is not consistent with the Aarhus Convention and EU regulation 1367/2006, to which it is bound. Accordingly, the EIB should adopt a publication scheme setting out the type of environmental information it intends to record in its Public Register,²⁸ including reports carried out by relevant EIB departments on the environmental and social impact of the projects it finances, on-site visits, project indicators, and other relevant environmental information.

RIGHTS COMPATIBILITY

IAM: Anonymous complaints are inadmissible. However, the CM will ensure that personal data are treated confidentially. It appears that the Mechanism does not keep the complainant's information confidential from EIB staff.²⁹ That may prevent people from filing the complaint, as they may not want their identities to be disclosed to the same people who approved the activity causing them harm. The CM can recommend suspension of a project if it believes there is imminent risk of harm.³⁰ This recommendation would be made in an internal report to Management.

One option available to complainants using the CM that is not available at any other mechanism is the ability to appeal to the European Ombudsman.³¹ Any EU citizen or entity may appeal the Ombudsman to investigate an EU institution on the grounds of maladministration. 'Maladministration' was described, in a recent Ombudsman publication, as the failure to respect: "*fundamental rights, legal rules or principles, or the principles of good administration... [and] covers administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal of information, and unnecessary delay, for example*". A Memorandum of Understanding signed between the EIB and the European Ombudsman establishes that citizens (even outside of the EU if the Ombudsman finds their complaint justified) can appeal to the Ombudsman on issues related to 'maladministration' by the EIB.³²

Since the existence of the CM, the European Ombudsman has found maladministration by the EIB in three cases.³³ Nevertheless, despite this recent activity and willingness to tackle EIB-related issues, much is still to be done. Current limits to the Ombudsman mandate and capacity undermine those efforts. For example, the European Ombudsman decisions are non-binding and are limited to cases of maladministration.

DFI: The EIB is required to ensure that its activities respect EU policies and laws. In countries where these are not applicable, the EIB uses EU policies and laws as a benchmark in carrying out its activities. All Bank activity is required to be consistent with

the Charter of Fundamental Rights of the European Union.³⁴ The EU Strategic Framework and Action Plan on Human Rights and Democracy also provide importance guidance in this regard.³⁵ The EIB Statement of Environmental and Social Principles and Standards (the EIB safeguards) states: “In all other regions of EIB operations, the approach of the EIB to social matters is based on the rights-based approach mainstreaming the principles of human rights law into practices through the application of its Social Assessment Guidelines”.³⁶ The EIB Environmental and Social Handbook also requires project promoters to apply the UN Guiding Principles for Business and Human Rights.³⁷ However, these commitments are not fully operationalised.

LESSONS LEARNED

IAM: The policy states that the CM can make recommendations in its Conclusions Report for improvements to existing procedures.³⁸ Furthermore, the CM has an advisory function that allows it to undertake analysis of patterns or recurring issues in the cases it has handled.³⁹ No information is available about the frequency of reviews of the Mechanism’s policy. However, the current policy dates from 2009, and the next review is scheduled for late 2015 or early 2016. Consultations form part of policy reviews at the EIB, but it remains to be seen whether this upcoming review will include regional consultations to solicit the input from project-affected communities.

DFI: The EIB does not have a process in place for capturing the lessons learned from the Mechanism’s cases. There is no regular report to the Board on implementation of commitments or recommendations made in response to the CM’s reports.

ANALYSIS OF COMPLAINTS CLOSED WITHOUT REACHING A SUBSTANTIVE PHASE

According to data available on the CM’s website,⁴⁰ between 1 July 2014 and 30 June 2015, four complaints concerning “environment/social/developmental impacts” (i.e. denoted with the letter “E” on the mechanism’s website), were deemed ineligible for the EIB-CM’s “internal” level of inquiry⁴¹ or otherwise closed without reaching a substantive phase of the complaint process. One of those complaints was closed because it was “dropped” or withdrawn by the complainant.⁴² In the three other cases, the CM indicated dates on which they went to “consultation” but provided no explanation for its decision to close them.⁴³

NOTES

- 1 The data in Tables 1 and 2 are drawn from the CM’s public case registry. The numbers differ somewhat from the data provided in the CM’s annual reports, but the reason for this discrepancy could not be retrieved from public information. It was thus decided to work from the public case registry. It should be noted that this registry was under construction during the research period, which implies that cases may be added to the registry that are not counted here. The report authors last checked all IAM case registries and searched for new annual reports on 8 October 2015. We made additional changes after this date only in response to IAM feedback regarding specific case information that was also publicly disclosed.
- 2 *Idem*.
- 3 This number may differ from the ‘total completed cases’ in the previous table, because it includes all cases filed, including those pending a decision of the mechanism.
- 4 This row includes cases that were not registered, were found ineligible or were closed after being found eligible, but before reaching a substantive phase.
- 5 European Inv. Bank, The EIB Complaints Mechanism – Principle, Terms of Reference and Rules of Procedures 7, ¶ 2.3 (Oct. 2012) [hereinafter EIB Complaints Mechanism], http://www.eib.org/attachments/strategies/complaints_mechanism_policy_en.pdf.
- 6 *Id.* at 7, ¶ 2.1.
- 7 *Id.* at 7, ¶ 2.2.
- 8 European Inv. Bank, The EIB Complaints Mechanism – Operating Procedures 19, ¶ 4 (Aug. 2013) [hereinafter EIB Operating Procedures], http://www.eib.org/attachments/strategies/complaints_mechanism_operating_procedures_en.pdf.
- 9 See European Ombudsman, Decision of the European Ombudsman Closing His Inquiry Into Complaint 2288/2011/MMN Against the European Investment Bank (Sept. 2013), <http://www.ombudsman.europa.eu/cases/decision.faces/en/51867/html.bookmark>.
- 10 Letter from J.W. van der Kaaij to Ian Harden, European Ombudsman Sec’y. Gen. (June 11, 2013), <http://www.counter-balance.org/wp-content/uploads/2015/04/independenceCMO.pdf>.
- 11 EIB Operating Procedures, *supra* note 8.
- 12 European Inv. Bank, EIB Complaints Mechanism–Flyer, <http://www.eib.org/infocentre/publications/all/complaints-mechanism-flyer.htm> (last visited Oct. 20, 2015).
- 13 European Inv. Bank, Complaints Form, <http://www.eib.org/infocentre/complaints-form.htm>.
- 14 EIB Operating Procedures, *supra* note 8, at 6, ¶ 5.2.
- 15 EIB Operating Procedures, *supra* note 8, at 6, ¶¶ 5.2. and 5.3.
- 16 *Id.*
- 17 EIB Complaints Mechanism, *supra* note 5, at 12, ¶ 5.1.
- 18 EIB Operating Procedures, *supra* note 8, at 14, ¶ 6.
- 19 European Inv. Bank, Consultation, <http://www.eib.org/about/accountability/complaints/consultation/index.htm>.
- 20 EIB Complaints Mechanism, *supra* note 5, at 14, ¶ 11.
- 21 See for example, European Inv. Bank, Complaints Mechanism Activity Report 2013 (2014), at 9, http://www.eib.org/attachments/general/reports/complaints_mechanism_annual_report_2013_en.pdf.

- 22 European Inv. Bank, Complaints Mechanism Cases, <http://www.eib.org/about/accountability/complaints/cases/index.htm>.
- 23 CM comments on report, received 18 October 2015.
- 24 European Inv. Bank, Complaints Mechanism Activity Report 2013 (2014), http://www.eib.org/attachments/general/reports/complaints_mechanism_annual_report_2013_en.pdf.
- 25 European Inv. Bank, EIB Group Transparency Policy 9, ¶ 5.5, n. 6 (2015), <http://www.eib.org/infocentre/publications/all/eib-group-transparency-policy.htm>.
- 26 Project summaries generally include the name of the project, the project promoter or financial intermediary (for intermediated loans), the location of the project, the sector it represents, a project description, its objective(s), its environmental and, if relevant, social aspects, procurement data, proposed EIB finance, the total project cost, and the status of the project, noting whether it is 'under appraisal', 'approved' or 'signed'.
- 27 EIB Group Transparency Policy, *supra* note 25, at 6, ¶ 4.6, 4.7.
- 28 European Union, Application of the Aarhus Conventions to EU Institutions, <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:i28140&from=EN> (last updated Oct. 20, 2011).
- 29 EIB Operating Procedures, *supra* note 8, at 6, ¶ 4.4.
- 30 *Id.* at 9, ¶ 4.12.
- 31 *Id.* at 15, ¶ 12.
- 32 European Inv. Bank, Memorandum of Understanding Between the European Ombudsman and the European Investment Bank (July 9, 2008), <http://www.eib.org/infocentre/publications/all/memorandum-of-understanding-between-the-eo-and-the-eib.htm>.
- 33 Counter Balance, New Report: *Towards a Reinforced Accountability Architecture for the European Investment Bank* (July 1, 2015), <http://www.counter-balance.org/new-report-towards-a-reinforced-accountability-architecture-for-the-european-investment-bank/>.
- 34 Office of the J. of the European Communities, Charter of Fundamental Rights of the European Union (2000), http://www.europarl.europa.eu/charter/pdf/text_en.pdf.
- 35 Council of the European Union, EU Strategic Framework and Action Plan on Human Rights and Democracy (June 2012), http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/131181.pdf.
- 36 European Inv. Bank, The EIB Statement of Environmental and Social Principles and Standards 18, ¶ 49 (2009), http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf.
- 37 European Inv. Bank, Environmental and Social Practices Handbook 55, n. 9 (2013), http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf.
- 38 EIB Complaints Mechanism, *supra* note 5, at 8, ¶ 4.2(g) and 4.5.
- 39 EIB Operating Procedures, *supra* note 8, at 3, ¶ 1.
- 40 The research is based on the online registry of complaints, *Available at* <http://www.eib.org/about/accountability/complaints/cases/index.htm>, as well as the Complaints Mechanism Activity Report 2014, http://www.eib.org/attachments/general/reports/complaints_mechanism_annual_report_2014_en.pdf.
- 41 European Inv. Bank, *Complaints Mechanism Cases*, <http://www.eib.org/about/accountability/complaints/cases/index.htm>. (last visited 1 July 2015). As explained on the EIB website, a member of the public has access to "two levels of inquiry": first, internal review by the EIB-CM, and, second, if the CM fails to resolve the issue satisfactorily, external review by the European Ombudsman. The projects addressed here are those that were deemed inadmissible for the first, internal level of inquiry by the EIB-CM.

42 See Morocco: Group OCP Modernisation (closed Dec. 2014), <http://www.eib.org/about/accountability/complaints/cases/groupe-ocp-modernisation.htm>.

43 See West Bank: Electricity Network Upgrading (closed Dec. 2014), <http://www.eib.org/about/accountability/complaints/cases/electricity-network-upgrading.htm>; Serbia: Municipal and Regional Infrastructure Loan (closed April 2015), <http://www.eib.org/about/accountability/complaints/cases/municipal-and-regional-infrastructure-loan1.htm>; Serbia: Belgrade By-Pass (closed Mar. 2015), <http://www.eib.org/about/accountability/complaints/cases/belgrade-by-pass.htm>.

Note: After the close of the research period for this report, the EIB posted additional documentation regarding the Belgrade By-Pass project. That information includes the complaint, the final reply letter from the EIB Secretary General, and the CM's Conclusions Report. Although the materials *Available at* the time this report went to print indicate that the case did reach a substantive phase of the complaint process, that information post-dated the research period. The quantitative analysis discussed in this section and in Chapter 2 of the report was based on information available as of 8 October 2015.