

A black and white photograph of a woman pouring water from a bucket, overlaid on an orange-tinted background of a landscape with a wooden table and a bowl.

**Independent
Consultation and
Investigation Mechanism
(MICI)**

About the **Inter-American Development Bank and its Independent Consultation and Investigation Mechanism**

The Inter-American Development Bank (IDB) is a multilateral bank created in 1959, whose aim is to achieve development in a sustainable, climate-friendly way. It promotes a higher quality of life in Latin America and the Caribbean, and helps improve health, education and infrastructure by providing financial and technical support to countries working to reduce poverty and inequality. It represents one of the main sources of multilateral financing for economic, social and institutional development in Latin America and the Caribbean. It offers loans, donations and technical assistance to both public and private sectors.

The Independent Consultation and Investigation Mechanism (MICI) is the independent accountability mechanism of the IDB. It receives complaints filed by individuals or communities who are adversely affected by the Bank's failure to comply with its operational policies in Bank-financed operations, in the public or private sector. The MICI also provides services related to projects financed by the Multilateral Investment Fund (MIF) and by the Inter-American Investment Corporation (IIC). It was created to improve transparency, accountability and effectiveness in the institution.



Key IDB rules

The IDB has a set of operational policies applicable to all its projects. These govern its activities and are required for all actors involved, including the Bank's staff, borrowers and executing entities. These standards with which the Bank must comply are intended to identify and mitigate negative potential environmental and social impacts that could result from IDB-financed activities. In the event of non-compliance with these standards, it is possible to file a complaint with the MICI.

The following IDB operational policies (OP) are the most frequently mentioned in complaints (for further information, see: www.iadb.org/en/mici/relevant-operational-policies,8166.html):

- **Environment and Safeguards Compliance Policy (OP-703):**

This policy seeks to ensure the environmental quality of the Bank's operations. Among other requirements, it establishes the borrower's responsibility to conduct environmental assessments, develop Environmental and Social Management Plans (ESMP), and highlights the necessity to take into account trans-boundary issues related to the project. It also establishes that the Bank will assess and categorise all operations according to their potential impacts, and will not support operations that significantly degrade or affect natural habitats. Finally, for those projects with adverse environmental impact, it requires the borrower to conduct consultations with affected people and other interested parties.

- **Access to Information Policy (OP-102):** This policy establishes what information should be published and available to the public. It guarantees access to information, with clear and defined exceptions, explanations for non-disclosure decisions, and a right to appeal. It also establishes that information classified as "public" must be disclosed to the public at the time it is sent to the Board of Directors.

- **Operational Policy on Involuntary Resettlement (OP-710):** This policy establishes that every possible measure must be taken to avoid or minimise the need for involuntary resettlement. In the event that resettlement is unavoidable, it establishes the obligation to prepare and consult on a resettlement plan that ensures that people affected will receive compensation and will be rehabilitated in a fair and adequate manner.

- **Operational Policy on Indigenous Peoples (OP-765):** Among other things, this policy expressly mentions that the Bank must promote the timely diffusion of information, consultation, good-faith negotiation, and participation of indigenous peoples, taking into account the general principle of free, prior and informed consent (FPIC) of indigenous peoples as a way to exercise their rights.

- **Operational Policy on Gender Equality in Development (OP-761):** This policy establishes that the Bank will recognise, in any cultural context, the right to equality between women and men, as well as the specific rights of women, as established in the national legislation of member countries and international agreements.



How to file a complaint

The following step-by-step guide explains the process by which affected groups or their representatives can submit a complaint to the MICI. There are various tools available to complainants for assistance. Moreover, the MICI, as well as the Foundation for the Development of Sustainable Policies (FUNDEPS) and SOMO can provide additional information on submitting a complaint. More information, as well as a complaint template, is available at: <http://www.iadb.org/en/mici>.

General strategic considerations

- Consider the benefits of presenting a complaint, as well as the limitations of the mechanism. Define appropriate expectations.
- Consider whether another strategy might be more effective or efficient. Using the MICI is most effective when combined with engaging the media, seeking campaign support from other organisations, government advocacy or other strategies.
- Understand the time and resources required to complete the MICI process, which can last several years.
- Ensure the complainant has fulfilled the prerequisites for filing a complaint by first taking reasonable efforts to make their grievance known to the Bank's management.
- Considering that the Compliance Review Phase can only be requested in the first stage of the process, it is best to ask for both phases in the complaint. The complainants will have the option later to waive the Compliance Phase if their grievance is satisfied through the Consultation Phase.

Background to the MICI

The origin of the MICI can be traced back to 1994 when the Independent Investigation Mechanism (IIM) was created. Its poor performance (only five complaints in more than 15 years) led to a review in 2008. After an extensive and participatory consultation process, the Bank's Board finally adopted the policy creating MICI, which started operating on 9 September 2010. In 2013, the Board initiated a new review of the MICI and its operational structure. It included a public consultation process, which was widely criticised by civil society organizations. On 17 December 2014 the Board approved the new MICI policy with immediate effect.

MICI goals are to:

- provide a mechanism and process independent of management for investigating complaints, alleging harm as a result of the Bank's failure to comply with its relevant operational policies.
- provide information to the Board regarding such investigations; and
- act as a mechanism of last resort for addressing the concerns of requesters, after reasonable attempts to bring such allegations to the attention of management have been made.

The MICI has two functions: Consultation and Compliance Review.

- The Consultation Phase provides an opportunity for the stakeholders involved to address the issues raised in the request in a voluntary and collaborative way. Many different methods can be used, such as mediation, consultation and negotiation, among others.
- The Compliance Review Phase is undertaken by a panel of independent experts who investigate an operation carried out by the Bank to determine whether the institution has failed to comply with its operational policies, thereby causing harm to the complainants.

The MICI operates under the supervision of the MICI Director, who is chosen by the Board, to which he/she reports directly. The MICI Director is assisted by two coordinators, one for each phase. In addition, the office has support and operational staff, who report to the Director.

Community considerations prior to filing a complaint

- Assess whether community members fully understand and support a complaint process. If not, consider conducting trainings on the MICI process for the affected group.
- If possible, any disputes should be resolved early on so that they do not undermine the process. Complaints are most effective when the affected community speaks with one voice.
- Decide on: who will speak on behalf of the affected community during the complaint process; what will be the decision-making process; what are the desired results; whether dialogue could produce these results and how; and what issues are considered to be a priority in the process.
- Take into consideration that filing a complaint can result in retaliation against the requesters. If the complainants fear retaliation, they can request that the MICI keep their identities confidential. Consider what other measures are necessary to guarantee their protection.

Technical preparation for the complaint

- Identify which IDB policies or procedures has been violated, and whether those violations have caused, or will cause, harm.
- Make sure that the complaint includes a record of the steps that have been taken to resolve the problem with IDB management.
- If possible, the complaint should include evidence detailing the harm or expected harm (including, for example, pictures, videos, and written documents, among other materials).

The MICI Process

Initial Steps: Once a complaint is received, the Director determines whether it contains the required information (if it does not, the complainants will have 10 working days to provide the requested information) and falls under the mechanism's mandate. If so, the Director registers the complaint and sends it to management, which must respond within 21 working days. The Director will then have 21 working days to determine eligibility.

In the eligibility process, the MICI may undertake a site visit and meet with complainants. If management has proposed a plan to correct the non-compliance, the Director may suspend the process for up to 45 working days. At the end of the eligibility process, the MICI will determine whether the complaint is eligible for the Consultation Phase, the Compliance Review Phase, both or neither. If it is not eligible, the case will be closed.

Consultation Phase: This phase must be carried out within a maximum period of 12 calendar months.

Compliance Review Phase: If the MICI determines that an investigation is warranted, it will submit its recommendation to the Board with a Terms of Reference for the investigation (which is shared with management and the complainants for their comment). If approved, the MICI will establish an investigation team, who should complete the Compliance Review within a period of six calendar months, during which the MICI will carry out field visits.

Final Reports and follow up: At the conclusion of the Consultation Phase, the MICI will submit a report to the Board, which will then be sent to the complainants and published in the Public Registry. In some cases, the MICI will develop a plan, in consultation with the parties, to monitor the implementation of any agreement reached for a period of up to five years.

At the conclusion of the Compliance Review phase, the MICI will send a preliminary report, containing the findings and recommendations of the investigation, to management and the complainants for their comment. After incorporating their comments, the MICI will send it to the Board, who can request that management develop an action plan in consultation with the MICI. In some cases, the MICI will monitor the implementation of the action plan for up to five years.

Write the complaint

The complaint does not require any specific format. However, in order to be considered, it must include the following elements:

- The name, address, and other contact information of the requesters.
- When a request is made through a representative, it must clearly identify the people on whose behalf the request is made and provide written evidence of their authority to represent the complainants.
- An indication of whether the complainants would like the MICI to keep their identity confidential, and the reasons why.
- A description and location of the Bank-financed operation.
- An allegation that the Bank failed to correctly apply one or more of its operational policies.
- A clear explanation of the alleged harm and its relation to the violation of an operational policy in a Bank-financed operation, if known.
- A description of the efforts made by or on behalf of the complainants to address the issues in the request with management, and the results of those efforts.
- A statement as to whether the complainants wish to use the Consultation Phase, the Compliance Review Phase, or both, or to request further information.

The **Who**, **What**, **When**, **Where** and **Why** of filing a complaint

Who: Any group of two or more people residing in the country where a Bank-financed operation is located, who are – or anticipate being – affected by the operation. It can also be filed by a representative, provided that the people on behalf of whom the complainant is filed are identified. The representative must provide written proof of his or her authority to act on behalf of the complainants.

What: The MICI deals with complaints related to alleged harm to the complainants caused by an operation financed by the Bank, as a result of a breach of relevant IDB operational policies.

When: Complainants must first have undertaken reasonable efforts to make their grievance known to the bank management, seeking a resolution. The complaint must be filed after the operation has been approved by the Board and prior to 24 months after the Bank's last disbursement.

Where: Complaints must be addressed to the MICI. They must be written and sent via email, regular post or fax. Complaints can be sent to the MICI Office in Washington D.C., or to any IDB country office in the Bank's member countries (marked "To the attention of the MICI Office").

Why: Submitting a complaint may bring the problem the community is facing to the attention of the IDB Board and management, who have the power to cancel, suspend, or redesign projects, and order compensation or redress. Filing a complaint may also create a record of any violations, which may help in advocacy campaigns and prevent such violations from happening in the future.

File the complaint

- The IDB's official languages are Spanish, English, Portuguese and French. Complaints filed in another language will be accepted, but will require additional translating and processing time.
- The complaints must be addressed to the MICI. They must be written, and sent via email, regular post or fax, to:

Independent Consultation and
Investigation Mechanism
Inter-American Development Bank
1300 New York Avenue, NW
Washington, D.C. 20577
United States.

Email: mecanismo@iadb.org
Phone: +1 202-623-3952
Fax: +1 202-312-4057

Follow up on your complaint

- Cases can be followed online: <http://www.iadb.org/en/mici/follow-your-case,7631.html>
- Once the complaint has been filed, if the complainants do not hear from the MICI, they should contact the office and ask about the status.
- When a Compliance Review has been requested, it is useful to communicate with members of the Board of Directors, as they will make the final decision on the MICI Compliance Review report. The Board can ask management to prepare an action plan with corrective measures in response to a Compliance Review.
- Provide information to the MICI to inform its monitoring reports on the implementation of agreements or approved corrective measures.

Benefits and limitations of the mechanism

Submitting a complaint to the MICI could:

- Help raise awareness about what is happening, both locally and internationally, regarding projects financed by the IDB.
- Demand IDB management and staff correct any violation and harm caused by IDB-financed projects.
- Allow grievances to be heard directly by the IDB.
- Lead to a formal MICI investigation.
- Lead to a formal MICI statement on whether any IDB policies have been breached.

Submitting a complaint to the MICI cannot:

- Guarantee that the alleged harm being caused by a Bank-financed project will be stopped or prevented, nor that the project will be suspended, nor that the victims will be compensated.
- Address issues or specific matters raised in a complaint if they are being dealt with in arbitration or court proceedings in an IDB member country.
- Determine what should be done if an IDB policy has been breached. The most the MICI can do is issue a report to IDB authorities on the breach of its policies.



About this brochure

This brochure provides a brief overview of the work of the IDB Independent Consultation and Investigation Mechanism (MICI) and its procedure to file a complaint. Civil society organisations, workers, communities and groups of individuals who are harmed by a Bank project can use the MICI to address their grievance. This brochure briefly explains how.

About the Human Rights & Grievance Mechanisms Programme

This brochure is part of a series of brochures on grievance mechanisms produced within SOMO's Human Rights & Grievance Mechanisms Programme. This project aims to improve the accessibility and effectiveness of non-judicial grievance mechanisms for stakeholders who experience adverse impacts on their human rights as a result of business activities. For more information, go to www.grievancemechanisms.org.

About SOMO

SOMO is an independent, not-for-profit research and network organisation that promotes sustainable and fair global economic development and the elimination of the structural causes of poverty, environmental problems, exploitation and inequality.

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About FUNDEPS

The Foundation for the Development of Sustainable Policies (FUNDEPS) is a non-profit organisation based in Argentina, whose work is aimed at the development of a just, more equitable and inclusive society, promoting sustainable development that respects human rights, through public policy advocacy at the local, national and international levels. To achieve these goals, FUNDEPS undertakes research, training, lobbying, strategic litigation and general cooperation.

FUNDEPS

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