

# **Independent Complaints Mechanism**

**IKI**

**Independent Complaints Mechanism of IKI**

**Complaints**

**Eligibility Determination**

**Project: (N/A: Redacted)**

**ICM Case: 2202-01**

**24 November 2022**

## Eligibility Determination

The Independent Complaints Mechanism (ICM) Policy of 1<sup>st</sup> February 2022 of the International Climate Initiative (IKI)<sup>1</sup> (hereinafter called the “ICM Policy”) sets out how the ICM deals with complaints from a person, group of persons, or community who may be/may have been negatively impacted by or during the course of an IKI project and/or would like to report significant adverse environmental impacts caused directly by the IKI project and/or that would like to provide evidence of economic crime or violations of budgetary or grant law by or in the course of an IKI project. Once a complaint is received, the ICM Policy requires the ICM to determine if the complaint meets the eligibility criteria set out in Section 4.1 of the ICM Policy. It is to be noted that this determination is procedural, and that it does not represent a judgement on the merits or the substance of the case (Section 4.1.2 (g)).

### SUMMARY OF ELIGIBILITY DETERMINATION

For reasons stated in this document, the ICM determines that this complaint is **eligible** for further processing by the ICM under the ICM Policy.<sup>2</sup>

### COMPLAINT AND PROCEDURAL HISTORY

The ICM first became aware of the complaint on 6 October 2022 when it was referred to the ICM by an official of the Foreign Office of Germany. The complainant(s) had sent the complaint to the local embassy which had forwarded the same to the German Foreign Office. The complainant(s) raised a concern that an executing partner of this project, had passed off old equipment as having been newly purchased, and diverted IKI funds to the value of roughly 100.000,00€. If established by evidence, this allegation would amount at least to a violation of budgetary or grant law by or in the course of an IKI project. The ICM acknowledged receipt of the complaint on 13 October 2022.

The ICM thereafter conducted two virtual interviews with the complainant(s), and obtained evidence in the form of documents and oral testimony about the complaint. The ICM also confirmed that the complaint directly related to an IKI project. IKI funding for the project was in the range of several million Euro and the project is in the implementation phase.

The ICM has also had the opportunity to review correspondence between the project implementer and ZUG. That correspondence shows that the project implementing organization (IO) received an anonymous complaint about this same matter and investigated the same in August 2022. The investigation had concluded that the anonymous complaint had no merit and that the equipment inspection had shown that the equipment was new. The correspondence also showed that the complainant(s) had requested a compensation pay out, but it was not clear on account of what such a payment had been requested.

The ICM's interviews with the complainant(s) *prima facie* indicated that the complainant(s) had been retaliated against by personnel of the executing partner. For this reason, the ICM carried

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<sup>1</sup> Available at: [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>2</sup> EDITING OF THE ELIGIBILITY DETERMINATION: This complaint relates to the misuse of funds. In line with the IKI ICM policy (Section 3.5 Nr. 1), this eligibility statement is therefore redacted so as not to disclose any information that could identify the person(s) and/or organizations which are the subject of the complaint. This also relates to information about the IKI project in question, particularly the country, name of the project, funding amount and the competent Ministry.

out a retaliation assessment and classified the reprisal risk as “high”. Accordingly, and upon request of the complainant, the complaint will be treated as confidential by the ICM. As set out in the ICM policy, IKI does not tolerate reprisals and retaliation against complainants.

The ICM then contacted ZUG, the relevant Ministry and IOs and requested them to comment on the complaint. For this purpose, the ICM provided ZUG, the relevant Ministry and IOs with a redacted version of the complaint, in the light of the allegation of reprisals made by the complainant(s). Both ZUG and the relevant Ministry endorse further investigation of the complaint. The IO stated that their own investigation concluded that the equipment in question was newly purchased, and that the complaint had no merit.

The material evidence presented to the ICM *prima facie* indicates that passing off old equipment as new may have been accomplished through a compromised intermediary. There is also *prima facie* evidence to suggest that other diversions of IKI funding might have been involved through the falsification of financial documentation and over-pricing of goods purchased. The investigation conducted by the IO did not fully cover all aspects of the allegations. Taking all the evidence available into account at this preliminary procedural stage, and also having carefully considered the comments of ZUG, the relevant Ministry and the IO’s, the ICM concludes that there is *prima facie* material to process this complaint further.

## ELIGIBILITY CRITERIA

The ICM examined the eligibility of the complaint against the eligibility criteria set out in Section 4.1 of the ICM Policy. The primary eligibility criteria and the ICM’s *prima facie* findings in relation to these criteria are set out in the table below.

<b>Criterion</b>	<b>Yes/No</b>	<b>Reason(s)</b>
Was required information provided to the ICM (see Sections 3.4 and 3.5 of the ICM Policy)?	Yes	The complainant(s) have provided all required information as set out in Section 3.4 and 3.5 of the ICM policy in the complaint and during interviews with the ICM.
Does IKI have a funding relationship with the project (whether past, present or future)?	Yes	
Is there a link between the IKI-funded project and the subject of the complaint?	Yes	The subject of the complaint is about the unauthorized diversion of funds in an IKI funded project.
Are there grounds for exclusion (Section 3.7) of the complaint?	No	The complaint does not fall into any of the exclusions set out in Section 3.7 of the ICM policy.
Is there at least one (1) complainant.	Yes	-
If the complaint relates to safeguards: (a) have the complainants credibly demonstrated that either they themselves or third parties are impacted or	(a) N/A (b) N/A	This eligibility criteria do not apply as the complaint does not relate to safeguards.

<p>are likely to be impacted by an IKI project?</p> <p>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.</p> <p>(b) Does the complaint include information about (potentially) significant (not) indirect adverse effects or risks to complainants or third parties?</p>		
<p>If the complaint is regarding economic crime or violations of budgetary or grant law, has the complainant provided evidence of criminal acts or violations of German budgetary law?</p>	<p>Yes</p>	<p>The complainant(s) have provided the ICM with oral testimony and documents that provide <i>prima facie</i> evidence for at least violations of German budgetary law.</p>
<p>If the complaint alleges reprisals and threats against the complainants have specific incidents of reprisals or threats been included in the complaint?.</p>	<p>Yes</p>	<p>The complainant(s) have set out specific incidents of reprisal or threats in the complaint.</p>

## ELIGIBILITY DETERMINATION

For the reasons stated above, the ICM determines that this complaint is **eligible** under the ICM policy.

This complaint will now be registered in the ICM complaints register (Section 4.1.2 (a)). The ICM will also inform the supervisory body and the complainant and other parties involved that this complaint is eligible and has been accepted for further processing (Section 4.1.2 (e) and (f)). It behooves repeating that this determination of eligibility of the complaint is procedural, and that it does not represent a judgement on the merits or the substance of the case (Section 4.1.2 (g)). This decision as to eligibility will also be published on the ICM website, along with the complaint and the statements issued by ZUG, the relevant Ministry and IOs.

## Issued by the ICM Expert Panel

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