

Independent Accountability Mechanism

FAQs



CEDR Services Limited

100 St. Paul's Churchyard

London

EC4M 8BU

What is the purpose of the CEDR Independent Accountability Mechanism ('ESG Resolve')?

Like many others, CEDR is mindful of the increasing need to focus on the health of our planet, and of the people and natural resources that inhabit it. CEDR decided to draw on its particular expertise and experience of working to facilitate difficult dialogue in legal and business disputes, but with a special focus on stakeholder engagement and concerns about Environmental, Social and Governance ('ESG') claims or conduct.

The CEDR IAM is designed to offer flexibility alongside cost-effective independent facilitation of dialogue in an area that we anticipate will be increasingly subject to legal regulation and certified standards. Where communities, consumers, employees or external stakeholders want to raise concerns about the ESG practices of a major private or public organisation, the IAM provides a route to proactive and better management of sensitive conversations with the organisation involved, for better understanding, but also as a route to better outcomes, and guided in a skilled, cost-effective way building on CEDR's 30+ years of leading edge negotiation support.

Just as CEDR has assisted mediation to become a global tool for commercial disputes, we aim for the IAM to become the choice for proactive management of ESG by organisations globally.

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1. Who can bring a Complaint under the Mechanism?

Any person, stakeholder group or organization can bring a Complaint under the Mechanism. It is designed to capture grievances which stem from environmental, social or governance damage – whether the damage has happened or is reasonably expected to happen.

It is also open for stakeholders to bring their Complaint through a Representative (such as a lawyer or trade union representative). Where an organization is a corporate subscriber to the Mechanism, then that organization is likely to ask Complainants to invoke the Mechanism, if their Complaint is of an ESG nature.

2. How do I bring a Complaint under the Mechanism?

Complaints must be in writing and can be sent by email to CEDR [provide contact email]. At present CEDR is only able to accept Complaints in English, but it is hoped that further languages may be added in the future.

A Complaint should be specific as to damage and backed up with clear evidence of alleged behaviour causing harm. Complaints will only be accepted where the identity of the Respondent is clear and that the Respondent is either a member of the CEDR Independent Accountability Scheme, or has otherwise agreed to refer the Complaint to the Mechanism.

3. What process does the Mechanism follow?

The Mechanism focuses on independently led dialogue, including mediation and facilitation, to help parties in conflict find a resolution. Other, voluntary, dispute resolution processes may also be drawn on such as Neutral Evaluation, or Joint Fact Finding. The Mechanism is designed to provide a pragmatic, fair and accessible pathway to remedying ESG type grievances.

If successfully invoked, the Mechanism envisages working with all relevant parties to design a process which is best suited to helping the parties resolve differences and find creative outcomes to deal with ESG type concerns.

4. What Complaints are “in scope”, to invoke the Mechanism?

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The Mechanism sets out eligibility criteria for Complaints to be vetted as suitable for review. These include: evidence of harm caused to persons or their property, caused by breach of international conventions such as the UN Guiding Principles, or as reported in the public domain, by the Respondent(s).

It is important for a Complaint to be sufficiently articulated and to include some evidence of harm or damage, for the Mechanism to be invoked. It is also necessary that one or more Respondent organizations be identified and agree to engage in the Mechanism.

5. What Complaints are “out of scope”?

Complaints which are anonymous, cannot be particularized or are not of an ESG nature, will generally not be eligible to be administered under the Mechanism. Complaints which are considered vexatious, or without justification, will also not be eligible.

If the Respondent(s) does not accept that the Complaint should be administered under the Mechanism, or refuses to contribute funding, then the Mechanism cannot compel them to join. In those cases an arbitral or judicial process may be required to administer the Complaint.

6. What timelines are involved? (See Annex 1)

Complaints must be brought within 2 years from the cause of action arising. CEDR aims to respond to the Complainant within 20 working days, and then seek an initial response from the Respondent(s) within a further 20 working days. Timelines to resolution or remedy will depend on complexity of the case but CEDR will work with the parties to craft a process which is best suited to the underlying facts and in consultation with the parties.

Because the Mechanism seeks to deliver pragmatic, commercially realistic outcomes in collaboration with the parties, it is likely that the Mechanism will offer a faster and cheaper means of resolution than seeking judicial remedy.

7. How much does it cost?

The Mechanism is funded partly through membership of the scheme, and partly by the parties, as part of the design process phase. It is likely that the Respondent(s) will fund the process itself and it may be necessary to fund the process in stages, where a project.

The Mechanism is independent and does not receive public funding, but can be sponsored by supporters or members. Mediators or facilitators administering the Mechanism dispute resolution process will generally be remunerated and all fee structures will be agreed with any Respondent(s) funding the process.

8. What if the Mechanism does not produce a resolution?

The Mechanism is voluntary in nature, CEDR will not impose a decision on the parties if they are unable to settle the Grievance. However, even if no settlement agreement is reached over all matters comprising the Complaint, certain aspects may be capable of resolution and the parties should be able to build on the conversations held.

The Mechanism will look at past and current damage, but is fundamentally forward-looking and will look to improve the lives of Complainants as far as possible and within the remit of the agreed process scope. However, there is no appeal process or arbitral route to escalate a dispute which the Mechanism has not successfully resolved, at this stage.

Annex 1

