

# GUIDELINES FOR ADDRESSING RISK OF REPRISALS IN COMPLAINT MANAGEMENT

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Independent Consultation and  
Investigation Mechanism  
IDB Group

These guidelines were prepared by Gastón Aín, Consultation Phase Coordinator, under the supervision of Victoria Márquez Mees, MICI Director. For its elaboration, inputs were provided by María Aranzazu Villanueva, Compliance Review Phase Coordinator; Esteban Tovar, Registration and Administration Specialist; María Camila Barriga and Mariana Clemente, Case Officers. In order to ensure the quality of the document, a peer review was conducted by Carmen Rosa Villa, former regional representative in Central America for the Office of the United Nations High Commissioner for Human Rights, and member of the UN Committee Against Enforced Disappearances for the 2019-2023 period, and Jaime Prieto, former senior staff at the Office of the United Nations High Commissioner for Human Rights in Colombia, and winner of the Robert F. Kennedy Human Rights Award in 1999.

We are grateful for the support and valuable inputs received from: Leonardo Crippa (Indian Law Resource Center), Mac Darrow (Office of the United Nations High Commissioner for Human Rights), Juan Dumas (member of MICI's Roster of Facilitation Experts), Lani Inverarity (Accountability Counsel), Mauricio Lazala (Business and Human Rights Information Center), Manolo Morales (Corporación de Gestión y Derechos Ambiental - Ecolex), Adam Shapiro (Front Line Defenders), Jaime Vidal (Inter-American Commission on Human Rights), and Carla Zendejas (Center for International Environmental Law-CIEL).

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For further information, contact:  
Independent Consultation and Investigation Mechanism (MICI)  
Inter-American Development Bank  
1300 New York Avenue, N.W.  
Washington, D.C. USA, 20577  
E- mail: [mecanismo@iadb.org](mailto:mecanismo@iadb.org)  
Phone: +1 (202) 623-3952. Fax: +1 (202) 312-4057  
Website: [www.iadb.org/mici](http://www.iadb.org/mici)

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## ABOUT THE MICI

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The Independent Consultation and Investigation Mechanism (MICI) is the accountability mechanism office of the IDB Group (IDB, IDB Invest, and IDB Lab). The MICI's objective is to serve as the mechanism and process independent of Management for the resolution of disputes and/or the investigation of complaints made by two or more Applicants alleging damage caused by the non-compliance of the IDB Group Pertinent Operational Policies in the framework of the operations financed by it.

The operation and structure of the Mechanism is regulated by two policies according to the institution that originated the operation or the operations subject to a claim: (i) the MICI-IDB Policy was approved by the IDB Board of Executive Directors on December 17, 2014 and reviewed on December 2015. The same applies to all operations financed by the IDB and the MIF. (ii) The MICI-IIC Policy was approved by the IIC Board of Executive Directors on December 15, 2015 and applies to all operations financed by the IIC, which commercial name is IDB Invest. The MICI serves IDB Invest since January of 2016.

# ACRONYMS AND ABBREVIATIONS

<b>Bank or IDB</b>	Inter-American Development Bank
<b>Board</b>	The Boards of Executive Directors of the IDB and the IIC, and the Donors' Committee of the MIF
<b>Coordinator</b>	MICI official responsible for coordinating the Consultation Phase or the Compliance Review Phase
<b>CP</b>	MICI Consultation Phase
<b>CRP</b>	MICI Compliance Review Phase
<b>Eligibility or Eligibility Stage</b>	Process that involves the analysis of a Request against the eligibility criteria to determine whether the Request is eligible or not.
<b>Executing Agency</b>	The entity designated in the relevant legal agreements to execute all or part of an IDBG-Financed Operation
<b>Executive Director</b>	A Member of the Board of Executive Directors of the IDB or the IIC, or of the Donors' Committee of the MIF
<b>IDB Invest</b>	Formerly the Inter-American Investment Corporation
<b>IDB Lab</b>	Formerly the Multilateral Investment Fund (MIF)
<b>IDBG or IDB Group</b>	The IDB Group comprises the Inter-American Development Bank, IDB Invest, and IDB Lab.
<b>IIC</b>	Inter-American Investment Corporation
<b>JPRR</b>	Joint Plan to Reduce Risk of Reprisals
<b>Management</b>	The Bank or IDB Group Manager or Managers in charge of the relevant Bank-Financed Operation or any delegate thereof.
<b>MICI Coordination Team</b>	Working group comprised by the Director of the Mechanism, the two Phase Coordinators and other members of the MICI team as relevant.
<b>MICI or Mechanism</b>	Independent Consultation and Investigation Mechanism

<b>MICI-IDB Policy</b>	The policy approved by the Board of Executive Directors of the IDB in December 2014 and revised in December 2015, which governs MICI's operation for Requests related to IDB or IDB Lab-financed operations (Document MI-47-6)
<b>MICI-IIC Policy</b>	The policy approved by the Board of Executive Directors of the IIC on 15 December 2015, which governs MICI's operation for Requests related to IDB Invest-financed operations (Document CI/MI-1-1)
<b>Parties or Stakeholders</b>	The Requesters, Management, the Borrower, the Client and/or the Executing Agency, if applicable
<b>Policies</b>	The MICI-IDB and MICI-IIC Policies
<b>Registration or Registration Stage</b>	Stage at which MICI verifies that a Request contains all the required information and that it is not clearly linked to any of the exclusions set out in the MICI-IDB and MICI-IIC Policies
<b>Request</b>	A communication submitted by the Requesters or their representative that alleges that they have suffered or may suffer harm due to the failure of the IDB Group to comply with one or more of its Relevant Operational Policies within the context of said operation.
<b>Requesters</b>	Two or more people residing in the country where an IDB Group-Financed Operation is implemented who have submitted a Request to MICI.
<b>Rosters of Experts</b>	Pre-approved lists of ad hoc expert facilitators or technical experts that support Consultation Phase processes or integrate the panel responsible for carrying out a Compliance Review, respectively.
<b>RRA</b>	Risk of Reprisals Assessment
<b>UNGP</b>	United Nations Guiding Principles on Business and Human Rights

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## LINKS

1. Policy of the Independent Consultation and Investigation Mechanism of the IDB (MI-47-6)  
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40792853>
2. Policy of the Independent Consultation and Investigation Mechanism of the IIC (CI/MI-1-1)  
<http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=40151002>



# 1. BACKGROUND

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- 1.1 Accountability mechanisms like MICI have been created by our institutions to ensure that individuals and communities have access to grievance processes related to harm potentially caused by investments made by these institutions, and where the environmental, social, and transparency standards under which they operate have not been met. The general characteristics of this type of mechanisms have been captured in the United Nations Guiding Principles on Business and Human Rights (UNGPs), particularly its third pillar on access to redress mechanisms. The UNGPs provide some criteria to be considered for their effectiveness. Amongst them are those of legitimacy, accessibility, predictability, fairness, and transparency. Similarly, they state the need for mechanisms to be compatible with internationally recognized rights, to be a source of continuous learning, and for them to be based on participation and dialogue.
- 1.2 Accessibility to mechanisms is challenged when Requesters, their families, or associates face reprisals just because they file a complaint with MICI. Reprisals may be faced as a result of filing a complaint, expressing opinions and dissent in consultation processes, or due to other actions that may run counter to the interests of a third party. They can take various forms, but in all cases, they affect the sustainability of the work of international financial institutions and their model of financing sustainable development.
- 1.3 Since 2018, MICI has seen a rise in cases where confidentiality was requested due to fear of reprisals or acts of intimidation in communities opposed to development initiatives. In response to this sensitive situation, MICI commissioned the preparation of a practical guide for accountability mechanisms to assess the potential risk level of a mechanism's intervention, as well as the multiple ways to prevent, mitigate, reduce, or address this risk. This learning tool provides guidance to mechanisms and their parent institutions on how to deal with such situations.

- 1.4 MICI subsequently embarked on an internal reflection process to develop a set of specific Guidelines detailing how to handle cases in which Requesters, their family members, associates, or third parties involved in the management of a case face risk of reprisals. The Guidelines will also seek to prevent and avoid aggravating risk for participants in outreach activities organized by the Mechanism.
- 1.5 The preparation and revision of these Guidelines, undertaken by MICI Consultation Phase Coordinator Gastón Aín, involved interviewing several specialists in the field, as well as individuals who have developed specific experience on the subject due to their area of practice, as well as the entire MICI team. We are grateful for the support and valuable inputs received from: Leonardo Crippa (Indian Law Resource Center), Mac Darrow (Office of the United Nations High Commissioner for Human Rights), Juan Dumas (member of MICI's Roster of Facilitation Experts), Lani Inverarity (Accountability Counsel), Manolo Morales (Corporación de Gestión y Derechos Ambiental - Ecolex), Mauricio Lazala (Business and Human Rights Information Center), Adam Shapiro (Front Line Defenders), Jaime Vidal (Inter-American Commission on Human Rights), and Carla Zendejas (Center for International Environmental Law-CIEL).
- 1.6 Finally, the draft version of this document was peer reviewed by Carmen Rosa Villa, former regional representative in Central America for the Office of the United Nations High Commissioner for Human Rights, and member of the UN Committee Against Enforced Disappearances for the 2019-2023 period, and Jaime Prieto, former senior staff at the Office of the United Nations High Commissioner for Human Rights in Colombia, and winner of the Robert F. Kennedy Human Rights Award in 1999.

## 2. INTRODUCTION

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### A. Policies

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- 2.1 The Guidelines contained in this document are consistent with and complementary to the MICI-IDB Policy and the MICI-IIC Policy, as well as other Operational Policies of the IDBG where appropriate.

### B. Objective

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- 2.2 The Guidelines for addressing risk of reprisals are intended to facilitate the effective application of the MICI-IDB and MICI-IIC Policies in cases where Requesters, their relatives, associates, or case management support staff express that there is risk of reprisals for having resorted to the Mechanism, or because there is pre-existing risk that may be aggravated by the fact that they chose to do so.
- 2.3 The Guidelines will be applicable to outreach and training activities organized by MICI in regions or areas where attendees may face risk of reprisals. In these cases, the context and risk analyses will be carried out during the planning stage, together with the partner organizations with whom the Mechanism conducts outreach activities in different countries.

### C. Continuous Risk Analysis Approach and Joint Plan to Reduce Risk of Reprisals

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- 2.4 These Guidelines operationalize an approach based on an analysis of the factors that create, increase, or aggravate risk of reprisals against Requesters who use the Mechanism, as well as the development, along with Requesters, of a plan designed to reduce and address identified risk factors.
- 2.5 At every processing stage of a Request, MICI will seek to prevent, reduce, or mitigate risk to Requesters, their families, and associates,

by integrating and periodically updating Risk of Reprisals Assessment (RRA) throughout the case management cycle, as well as designing and implementing a Joint Plan to Reduce Risk of Reprisals (JPRR) with Requesters.

## D. Definition of Reprisals

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- 2.6** For the implementation of these Guidelines, reprisals will be understood as actions targeting Requesters, their family members, associates, or case management support personnel, with the purpose of:
- a. Direct or indirect intimidation, threats, or harassment, through physical, electronic, or digital means.
  - b. Smear campaigns through local, regional, and/or national media or other means of public exposure.
  - c. The revocation of permits or licenses from professionals or organizations that have cooperated or may cooperate with Requesters or the Mechanism.
  - d. Dismissal from current employment, taking steps to secure voluntary resignations, or taking actions to undermine an employee's chances of obtaining other jobs.
  - e. Judicial harassment that forces defendants to incur costs in proceedings meant to intimidate them, or to influence their conduct in relation to a Request filed to the Mechanism.
  - f. Irregular surveillance and movement restrictions within the country and abroad.
  - g. Causing any kind of personal or physical harm and/or property damage.
  - h. Any other act not expressly described in this paragraph but aimed at conditioning actions before the Mechanism or seeking the abandonment of a Request.<sup>1</sup>

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<sup>1</sup> Definition consistent with relevant international and national instruments.

### 3. CASE MANAGEMENT PRINCIPLES FOR CASES IN WHICH RISK OF REPRISALS IS DETECTED

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- 3.7 In accordance with MICI's guiding principles (Section C paragraph 6 of the MICI-IDB and MICI-IIC Policies) and in order to ensure the ethical, transparent, and effective management of cases where there is risk of reprisals, the Mechanism's officials should observe the following principles:
- 3.8 **Zero tolerance for reprisals:** The Mechanism will not tolerate any form of reprisals against Requesters, their relatives, or people close to them whilst a Request is being processed, and will conduct, along with them, periodic analyses to detect risks and identify the best way to address them.
- 3.9 **Participatory and continuous risk assessment:** The Risk of Reprisals Assessment (RRA), as well as the Joint Plan to Reduce Risk of Reprisals (JPRR) and the different updates they may undergo throughout the MICI process will be prepared using the Requesters' views, preferences, and context knowledge as the main input, always taking account of their opinions, fears, and priorities.
- 3.10 **Do no harm:** Although the Mechanism cannot guarantee the physical safety of the people with whom it comes into contact, it must ensure that Request management does not create risk of reprisals or heightened existing risk as a consequence of the Requesters' complaint submission.
- 3.11 **Attention to asymmetries:** MICI Request management where there is risk of reprisals must be particularly sensitive to the existence of considerable asymmetries between the Parties, particularly with regards to understanding risk associated with a Request's initiation, the analysis of vulnerabilities, and the Requesters' abilities to reduce the risks detected. MICI officials may propose activities and exercises to strengthen Requesters' capacities to reduce identified risks.

- 3.12 Honesty and transparency about MICI's mandate with regards to reprisals:** MICI officials responsible of Request management should not make promises that they cannot keep and should always be aware of what the Mechanism can and cannot do in order to avoid putting Requesters at risk. Consistent with the principle of transparency, MICI officials will inform Requesters that the Mechanism has neither the mandate nor the effective capacity to protect the safety of individuals in the event of reprisals.
- 3.13 Shared duty to prevent and reduce risk:** MICI will seek collaboration and coordination of efforts by Management and all those involved in the handling of a Request, including the Requesters themselves, to prevent, reduce, and/or mitigate any risk of reprisals against the Requesters that may arise from having resorted to the Mechanism.

## 4. GENERAL CONSIDERATIONS

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### A. Risk of Reprisals Management Training

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- 4.1 As part of the Mechanism's onboarding program, new officials will receive training on reduction of risk of reprisals in case management, as well as on the application of these Guidelines. In addition, an annual refresher course will be held for all MICI officials, aimed at the effective application of these Guidelines, including idiosyncrasies and dynamics specific to the Latin American and Caribbean region.
- 4.2 Additionally, before beginning to process cases in which the initial AAR has detected risk of reprisals, the team in charge of handling a Request may receive customized training, bearing in mind the complexity of the case and the type of identified risk.

### B. Dissemination of the Guidelines

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- 4.3 The Guidelines for Addressing Risk of Reprisals in MICI Case Management will be published on the Mechanism's website in the IDB Group's four official languages. During initial discussions at a Request's Registration Stage, the responsible officials will be able to share the Guidelines with the Requesters and IDBG officials to discuss their objective and implementation.
- 4.4 MICI may provide guidance on risk of reprisals reduction to other IDB Group units whenever there is a formal request to that effect.
- 4.5 Other institutions may use these Guidelines as long as they cite the source and do not alter their content.

## C. Coordination with Other Mechanisms

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- 4.6 In cases where MICI is processing a Request with identified risk of reprisals and the project in question is subject to proceedings before another accountability mechanism because of a co-financed operation, efforts will be made to determine, along with the other mechanism and the Requesters, the most effective way to deal with risk of reprisals.

## D. Support Staff

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- 4.7 Service contracts that link local support staff to the Mechanism, in particular members of the Rosters of Experts, interpreters, and others who may come into contact with the Requesters or be exposed to information on their whereabouts, place and date of meetings linked to the process, or any other information that may create or increase risk of reprisals, may include confidentiality clauses if deemed appropriate. These people, specially members of both Rosters of Experts, will receive information and guidance on the proper observance of these Guidelines.
- 4.8 MICI will take preventive measures to ensure that the participation of local support staff in the Mechanism's activities, especially drivers, interpreters, and others, does not create additional risks of reprisals to the Requesters or to the support staff themselves. Both instruments foreseen in these Guidelines, the RRA and the JPRR, may include measures or actions to prevent risk, or prevent the aggravation of existing risk involving local support staff.

## E. Public Reports

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4.9 MICI reports may disclose security concerns or incidents that substantiate risk of reprisals if agreed with the Requesters. Such provisions will be part of the JPRR.

## F. Protecting Sensitive Information

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4.10 Identity and location, as well as all sensitive information related to Requesters in a Request with identified risk of reprisals, must be protected in secure information management systems.

4.11 Documentation associated with a case with identified risk of reprisals will be stored in restricted access archives. All information concerning the identity of Requesters must be encrypted and protected with an additional access code, and an alias must be used during the Request's management. MICI will manage the respective permissions on the digital data storage platforms to restrict access to sensitive information to external actors.

4.12 Documentation linked to a case involving risk of reprisals cannot be handled on non-secure digital platforms. MICI officials will pay special attention to metadata that may be contained in files or documents that are shared via email with Requesters, preventing the exposure of location, date or time.

4.13 Exclusive access to case-related files and documentation will be granted to MICI officials who must use them for appropriate Request management.

4.14 Any photographic, audio, or video records will be treated as restricted information and may only be used with the express consent of the Requesters after a joint discussion and evaluation of the type of disclosure and the risks it may pose.

## G. Secure Communications

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- 4.15 Once determined that there is risk of reprisals, MICI officials will seek to establish a secure communication system with the Requesters and, lack thereof, alternative lines of communication in case they are temporarily *incomunicado* due to their geographical location or movements. Requesters may designate family members, advisors, or associated personnel to maintain communication with MICI during the Request's processing.
- 4.16 MICI officials involved in a Request's management will be flexible in their availability and schedule to communicate with Requesters if this appropriately reduces identified risk. The use of encrypted communication systems will be promoted, considering the Requesters' preference and available technology.
- 4.17 MICI officials will make every effort to maintain sustained dialogue with Requesters who are suffering risk of reprisals, minimizing the rotation of MICI officials in charge of communicating with them, and striving to ensure continuity in the relationship established.

## H. Cultural Relevance

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- 4.18 In accordance with regular MICI Request management, when Requesters facing risk of reprisals are indigenous, tribal, or rural communities, MICI officials will strive to respect local decision-making structures, gender aspects, historical issues, customary practices, traditions, language preferences, existing laws, and the needs of these people during the RRA's development process, as well as during the preparation of the JPRR.

## I. Gender and Diversity Approach

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**4.19** When risk of reprisals is detected in Requests whose Requesters are a group of women or LGBTTQIA populations, MICI officials will strive to identify gender gaps during the RRA and JPRR development process and will adopt a gender-sensitive approach, including the identification of risk directed at these groups because of their status.

## J. Other Activities

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**4.20** When outreach activities are planned in a country or region where risk of reprisals could exist, or there have been recent threats or reprisals incidents, the benefits of having the activity should be carefully weighed against the potential risk of aggravating the circumstances or the physical safety of the attendees, their families, or people close to them.

**4.21** In all outreach or training activities organized by MICI, the context of the country where an event will take place will be assessed, and any necessary precautionary measures will be taken to ensure that people can participate safely. When invitations for a MICI organized (or co-organized) event are handed out, those attending the event should be asked whether their names can appear publicly in any records, brochures or event photographs.

## 5. MICI PROCESS

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- 5.1 As stated in paragraph 15 of the MICI-IDB and MICI-IIC Policies, Requesters' identities will be kept confidential when risk of reprisals exist, regardless of any measures that may be taken later in the process as part of the Joint Plan to Reduce Risk of Reprisals.
- 5.2 In cases in which Requesters fear being subject to reprisals for contacting Management in order to address matters raised in a Request, they may access MICI directly, specifying the reasons why they believe it's not feasible to establish prior contact with Management as required by paragraph 22(d) of the MICI Policy.
- 5.3 As part of initial discussions with Requesters during the Registration Stage, the responsible official should share these Guidelines and inquire about risk of reprisals even if it's not mentioned in the Request. In cases where Requesters report that there is risk of reprisals, the official will inform them of the procedure to be followed and its limitations.

### A. Risk of Reprisals Assessment (RRA)

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- 5.4 Preliminary RRA. The Mechanism's Coordination Team will prepare a preliminary Risk of Reprisals Assessment within the initial 5 working days period from the date of receipt of a Request. This initial screening will be based on the information contained in the Request, the first contact with the Requesters, context information obtained from media and social networks, and the Project documents. The preliminary RRA should specify whether the Requesters have asked for confidentiality for fear of reprisals.
- 5.5 The conclusions of the preliminary RRA may be used as input at the time of transferring to Management a complaint being processed in order to avoid aggravating existing risk.
- 5.6 The preliminary RRA should be supplemented during the eligibility stage and updated periodically throughout the management of the Request, herewith constructing the Risk of Reprisals Assessment

(RRA). The MICI Coordination Team will be responsible for updating it. The person responsible for the phase or stage at which a Request is being processed must arrange a meeting with the Coordination Team to re-assess risk based on relevant information collected during the management of the Request. Adjustments to the RRA as a result of periodic analyses or changes in the Joint Plan to Reduce Risk of Reprisals (JPRR) will be made by the MICI Coordination Team after consultation with the Requesters.

- 5.7 The RRA's conclusions, which will be shared with the Requesters prior to the preparation of the Joint Plan to Reduce Risk of Reprisals, should contain a brief description of the following:
- a. **The context.** A brief description of the social, political, institutional, and security context of the area or region where the project is located.
  - b. **The stakeholders.** An overview of the main stakeholders and their interests in relation to the project.
  - c. **The Requesters.** Reference to the Requesters' potential vulnerabilities in order to address the risks that may exist. Mechanism officials should inquire about the Requesters' location or place of residence, their means of communication, their level of education, the means of transport available to them and the condition of the roads or waterways they regularly travel on, their past or present activities in defense of their territory, the environment or human rights in general, their perspective on violence levels and the presence or absence of illegal groups or activities in the area where they live, as well as their employment status and whether they are employed by the project.
  - d. **Differentiated approach.** When Requesters belong to vulnerable populations (indigenous or rural communities, women, LGTTBQIA populations, people with disabilities and elderly people, among others) it is vitally important to map specific characteristics and existing gaps that may aggravate the identified risk.
  - e. **Past incidents.** Reference to incidents of reprisals or intimidation that have occurred in the recent past in the vicinity of the project

site, patterns of recurrence, if any, as well as institutional and community reactions or those of the Requesters' to said events. If Requesters have documented assaults or acts of intimidation, these shall be included in the analysis.

- f. **Pending investigations.** Investigations in the public domain should be included in the analysis, including the authority responsible for them, the case number or reference code and status of the investigation or process against the alleged perpetrator(s).
  - g. **Capacities and vulnerabilities.** Information on the Requesters' vulnerabilities and capacity to respond to risk of reprisals or incidents that may have already occurred.
  - h. **Possible sources of threat.** Reference to possible sources of threat or reprisals according to statements made by the Requesters or the context information analyzed.
  - i. **Third party specialists.** Brief mapping of key stakeholders specialized in the relevant subject matter who could support Requesters in adopting risk reduction measures or provide channels of protection if reprisals were to occur.
  - j. **Conflict or post-conflict contexts.** Risk of reprisals is greater in conflict-ridden contexts or in regions that have experienced sustained conflict of diverse nature. The analysis will therefore refer to this context if appropriate, paying special attention to risk of reprisals against women, indigenous communities, and other vulnerable populations. In these cases, it will be important to understand the extent to which the conflict may pose risk of reprisals to the Requesters.
- 5.8** In cases where significant risk of reprisals is detected in the preliminary RRA and the Request was not registered or was registered but subsequently declared NOT eligible, MICI will make best efforts to put the Requesters in contact with local, regional, or international stakeholders and/or organizations that work to protect at-risk people, that may be able to provide specialized assistance and implement all or some of the activities described in paragraph 5.36 when risk of reprisals persists at the time a case is closed.

5.9 Based on risk levels identified in the RRA, the Coordination Team will work with the Requesters to develop a JPRR that will take effect immediately. The JPRR will be updated following periodic reviews of the RRA.

## **B. Joint Plan to Reduce Risk of Reprisals (JPRR)**

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5.10 The JPRR and its respective updates will be prepared drawing primarily on the Requesters' views, preferences and context knowledge, and taking their opinions, fears, and priorities into account at all times. The JPRR may include several preventive or mitigating measures and will be updated periodically as case management progresses. These updates will mainly fall under the responsibility of the Coordination Team. The person responsible for the phase or stage at which a Request is being processed, shall gather the contextual information and relevant elements necessary to update the JPRR, after consultation with Requesters.

5.11 The JPRR will be a short document that will provide clear and timely guidance on actions that MICI officials will take during case management.

5.12 Measures will be consistent with MICI's mandate and the RRA's outcomes and should be gender sensitive as well as culturally relevant. The JPRR will include measures relating to possible outreach activities in the project's country or area of influence.

5.13 The JPRR should contain information or provisions on the following topics:

5.14 **Confidentiality.** Safeguard the confidentiality of personal data and case-related information, as well as the Requesters' identity if so requested

5.15 **Communication.** Determine the primary channel for communicating with Requesters, options and priorities in the temporary absence of any of them, the possibility of intermediary contacts and preference and frequency of communication.

- 5.16 Field Missions.** When planning field missions or events, MICI will pay special attention to activities directly involving Requesters, analyzing the situation and preventive measures to be taken. This analysis may include a planned itinerary, meetings structure, identified spaces and locations for meetings, participants, transfer details, means of communication during the mission, and other considerations/actions/behaviors designed to prevent the exacerbation of risk of reprisals.
- 5.17 Alternatives.** Jointly analyze the potential risk of field missions and, if a visit increases said risk, assess whether information to be gathered during the mission can be obtained in alternative locations or by means that do not require meeting face-to-face.
- 5.18 Mention in the Eligibility Memorandum.** Decide along with the Requesters at the time of preparation, whether the memorandum should mention identified risk of reprisals, and in specific the Zero Tolerance policy for reprisals and the Mechanism's Shared Duty to prevent and reduce risk.
- 5.19 Asymmetries.** Jointly detect information gaps, deficits in awareness of tools for safer digital communication or basic protocols for addressing risk of reprisals; and identify training opportunities to fill these gaps.
- 5.20 Visibility or Discretion.** Jointly examine the pertinence of visibility or discretion strategies and measures, depending on the context, identified risks, and the Requesters' preferences.
- 5.21 Fast Track.** Jointly analyze whether it's necessary and desirable, due to case specifics and in order to reduce the risks initially identified, to shorten deadlines and timeframes foreseen in the MICI-IDB and MICI-IIC Policies for eligibility analyses, assessment of conditions for dispute resolution in the CP, or the duration of an investigation in the CRP. In cases where there is high risk of reprisals or there have been acts of intimidation prior to the Mechanism's processing of the Request, the Director, after engagement with Management, may consider reducing the temporary suspension period of the eligibility determination process referred to in paragraph 23(c) of the MICI-IDB and MICI-IIC Policies.

- 5.22 Field Support Personnel.** Jointly analyze the profiles from both Rosters of Experts who may be assisting in the management of cases. In the same tenor, determine needs in terms of field support personnel during missions, which include drivers, interpreters, and security hires.
- 5.23 Civil Society Organizations.** Identify local or international organizations with a local presence that deal with cases of reprisals and that can work with the Requesters as per their needs in addressing the risk.
- 5.24 Imminent risk.** Within MICI's purview, determine precisely the measures to be taken in the event of imminent risk to the physical safety of a Requester, as well as in cases of arbitrary detention, and establish a protocol with the relevant organizations in order to access them if, and when, required. The MICI Director will determine whether it's appropriate to elevate the matter to the Board of Executive Directors.
- 5.25 Meeting with the Relevant Board Chair.** Determine the usefulness and pertinence of requesting a meeting with the Board Member from the case's country of origin, in order to jointly analyze and report on the situation.
- 5.26 Meeting with Senior Management and/or the Project Team.** Determine the usefulness and pertinence of requesting a meeting with IDBG Senior Management, the country representative, and/or the project team, in order to inform and jointly analyze the situation.
- 5.27 Postpone Request Processing.** Assess, along Requesters, whether it would be safer for them to postpone the processing of the Request until the detected risk has been reduced, mitigated, or eliminated.
- 5.28 Implementation and Monitoring of the JPRR.** Consider joint procedures for monitoring the development and implementation of the JPRR.

## C. Types of measures

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**5.29** The JPRR may include a series of preventative or mitigating measures, as well as the suspension of the process in cases of extreme severity where the Requesters' physical well-being is endangered. In such cases, the Board will be notified that the Requesters' complaint remains valid and that the Parties will have to work on necessary measures to mitigate risk of reprisals so that the Request can be examined under safe conditions. There is no single model for dealing with reprisals, and the measures to be applied should be designed and implemented on a case-by-case basis. The JPRR's respective section contains a variety of measures that can be taken depending on the existing level of risk or in cases where instances of reprisals have been reported.

### 1. Preventive Measures

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**5.30** Prevention is essential to protect the people who cooperate with the Mechanism. Preventive measures are geared towards applying principles and working methods that allow a Request to be processed while avoiding or reducing risk of reprisals for those who resort to the Mechanism. Preventive measures should be designed in conjunction with the Requesters and should be subject to periodic reviews throughout the Request's management.

**5.31** Preventive measures will be particularly relevant in all field missions and with regards to outreach activities, due to greater exposure and risk that may be triggered by the Mechanism visits to a project site or in person meetings with Requesters.

**5.32** When planning activities to promote access to the Mechanism, special consideration will be given to preventive measures designed to ensure the safe participation of attendees.

## 2. Mitigation Measures

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- 5.33** Timely action when risk of reprisals has been detected against Requesters, their family members, or people close to them may help reduce existing risk by acting on the Requesters' capacities or on the source of the threat. Mitigation measures may be applied throughout a Request's management, always in coordination and in agreement with the Requesters, and their objective will be to reduce imminent risk of reprisals identified in the RRA. Additional mitigation measures may also be taken in the event of unforeseen instances of reprisals that occur during the processing of a Request.
- 5.34** Proactive measures to be taken by the Mechanism will include the possibility of contacting Senior Management, the project team, the Board Member representing the country where there is risk of reprisals and/or other members of the Board.

## 3. Suspension of Processing

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- 5.35** If the processing of a complaint by MICI threatens the physical safety of people and the measures included in the JPRR are inefficient or inadequate, the MICI Director will consider the possibility of suspending the process.

## D. Continued Risk of Reprisals at the Time of Case Closure

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- 5.36** In cases where the Requesters still face risk of reprisals after MICI concludes its management of a Request, MICI will ensure the following activities are carried out:
- a. Include a statement on the continued risk of reprisals in all its reports.
  - b. Notify the Board of Executive Directors of ongoing risk of reprisals at closure of the Mechanism's process, based on the latest versions of the RAA and the JPRR.

- c. Inform Senior Management of the existence of risk of reprisals at the closure of a Request's management.
- d. Communicate the existence of reprisals to the Office of the UN High Commissioner for Human Rights in the country, if there is one, or to the relevant UN human rights protection mechanisms.
- e. Communicate the existence of reprisals to the focal point at the Inter-American Commission on Human Rights.
- f. Facilitate contact between the Requesters and organizations that work addressing risk of reprisals and that can provide specialized assistance.

# DOCUMENTARY RESOURCES

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Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 2018.

Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law. Guidance and Practice. Office of the United Nations High Commissioner for Human Rights, 2015.

CAO Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations.

Guidelines against Intimidation or Reprisals, 27th Meeting of Chairpersons of United Nations Human Rights Treaty Bodies, July 2015.

Guidelines on the receipt and handling of allegations of reprisals against individuals and organizations cooperating with the Committee against Torture under articles 13, 19, 20 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, September 2015.

Guide for Independent Accountability Mechanisms on Measures to Address Risk of Reprisals in Complaint Management, MICI, 2018.

Manual on Human Rights Monitoring, Chapter 14 on the Protection of Victims, Witnesses and Other Cooperating Persons. Office of the United Nations High Commissioner for Human Rights, 2001.

Guiding Principles on Business and Human Rights (2011), United Nations Human Rights Council, resolution 17/4 of 16 June 2011.

Shared Space under pressure, business support for Civic Freedoms and Human Rights Defenders, Guidance for Companies. September 2018. Business and Human Rights Resource Center and international Service for Human Rights.

Second Report on the Situation of Human Rights Defenders in the Americas (OEA/Ser.L/V/II.Doc.66). Inter-American Commission on Human Rights. 2011. Chapter III. Especially exposed groups of human rights defenders, para. E. Defenders of the right to a healthy environment (paras. 308-324).





[www.iadb.org/mici](http://www.iadb.org/mici)