Public participation, the World Bank Inspection Panel and the international decision-making process

The World Bank Inspection Panel¹ (hereinafter “the Panel”) was established by the Board of Executive Directors (hereinafter “the Board”) of the World Bank² (hereinafter “the Bank”) in September 1993. It is an unprecedented mechanism in the world of international organisations insofar as it provides a means of supervising the Bank’s operations. It enables institutional and non-institutional actors to bring complaints against the Bank through an investigatory mechanism.


² The “World Bank Group” is made of five institutions: the International Bank for Reconstruction and Development (IBRD), established in 1944; the International Finance Corporation (IFC) and the International Development Association (IDA), established in 1956 and in 1960, respectively; the International Center for the Settlement of Investment-Related Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA), set up in 1965 (Washington Convention) and 1985 (Seoul Convention), respectively.
Borrower States are obviously privileged partners of the Bank, as the vast majority of loan operations are made with them or with related entities.\(^3\) Notwithstanding this, within the context of the preparation and implementation of operational activities, other actors may even if they are not a party to the transnational operations wish to intervene in order to put forward their point of view in relation to the development of Bank-financed operations. Such is the case for non-governmental organisations (NGOs), be they local, national or international, or groups of people that have an interest in a project financed by the Bank.

The concept of public participation is at the heart of the Panel procedure. In particular, it aims at taking due account of the interests of local populations in borrowing countries and ensuring means for access to justice. This principle, which blossomed at the end of the 1980s, has become a key concept in efforts to ensure that projects are effectively implemented and that they produce expected results. In this context, the possibility of having requests brought by groups of persons living in borrowing countries who allege that they are affected by a project financed by the Bank was conceived as a means of placing under scrutiny the Bank’s compliance with its own operational policies.\(^4\) This process is innovative since it gives civil society a place at the core of the international decision-makers’ considerations, and paves the way for ensuring accountability for the Bank’s decisions. This procedure also acts as an institutional bridge between the Bank’s executive organ, i.e. the Board, and the ultimate beneficiaries of the financed project. Thus, the Panel makes contact possible between the Board and affected individuals.

### The Panel: a *sui generis* dispute settlement procedure

The Panel is a subsidiary body of the Board. Established by the Board and entrusted with the task of examining the Bank’s activities in light of the policies elaborated by the former, the Panel is an autonomous body whose independence is guaranteed in various ways.\(^5\)

It has been established to ensure better quality in the projects financed by the Bank through an investigation procedure. It has jurisdiction over the operational activities of two of its affiliates: the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) (the two affiliates are hereinafter included in the term “the Bank”). The Panel’s jurisdiction only extends to the Bank’s activities. The borrower States’ behaviour does not fall within its jurisdiction. Admittedly, the distinction between Bank’s behaviour and that of the borrower is likely to raise

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3 However, there are some World Bank grant-programmes that provide funds to non-States entities, such as foundations or associations.


5 On the guarantees securing the Panel’s independence, see paras. 2–10 of the resolution establishing the Panel.