



REVISION OF THE COMPLAINTS AND APPEALS PROCEDURES - PUBLIC CONSULTATION MATERIALS

FSC-PRO-01-005
FSC-PRO-01-008



Public consultation: 02 October – 30 November 2023

CONTENTS

A. Introduction	3
What is this revision process all about?	3
Why the revision is necessary?.....	4
How to participate in the consultation?.....	4
B. Participant information	5
C. Consultation Topics	7
1 Clarifying what may be complained about and appealed	7
2 Assessing the governance of the dispute resolution system	9
3 Establishing the rights of the parties	12
4 Systematic improvement	13
THANK YOU	15

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A. Introduction

The purpose of this document is to provide an overview on public consultation materials. Please provide your feedback through the FSC online public consultation platform **HERE ONLY**.

Welcome to the public consultation on the revision of FSC Complaints and appeals procedures!

What is this revision process all about?

FSC-PRO-01-008 V2-0 (Processing Complaints in the FSC Certification Scheme)

Anybody can submit complaints about:

- FSC's normative framework
- FSC International's performance
- FSC's network partners, regional teams and national country representatives
- Performance of Assurance Services International (ASI)

NOTE: Policy for Association complaints are managed through procedure FSC-PRO-01-009.

FSC-PRO-01-005 V3-0 (Processing Appeals)

Only **those** who were **affected** by an adverse decision can **appeal** about:

- Decisions taken on complaints
- Any other decision made by FSC (e.g. approval of National Standards)

NOTE: Decisions taken on Policy for Association complaints, accreditation decisions and ASI's decisions and measures to address a complaint **cannot be appealed**.

FSC is revising procedures FSC-PRO-01-005 V3-0 Processing Appeals and FSC-PRO-01-008 V2-0 Processing Complaints in the FSC Certification Scheme. The procedures deal with complaints and appeals regarding the FSC normative framework, the performance of FSC International, the FSC Network as well as the performance of Assurance Services International (ASI). These procedures ensure a timely, independent and effective resolution of complaints and appeals submitted by FSC stakeholders.

NOTE: These procedures do not deal with complaints under the Policy for Association for which a specific procedure is available (FSC-PRO-01-009).

FSC is opening a joint revision of procedures FSC-PRO-01-005 and FSC-PRO-01-008 to:

- Develop a simplified, easily accessible and effective complaints and appeals procedure;
- Ensure an appropriate balance between the lowest level principle and independence;
- Align with FSC's regulatory requirements; and
- Update the procedures in line with international best practices on non-state-based complaint mechanisms.

Topics that are being consulted as part of this conceptual phase consultation include:

- 1) Scope of applicability
- 2) Governance
- 3) Rights of the parties
- 4) Systematic improvement

Why the revision is necessary?

The last revision of procedures FSC-PRO-01-005 and FSC-PRO-01-008 was completed in 2014. Since then, FSC has evolved rapidly, broadening the scope of its activities beyond the certification of forest management and the production of forest products, to include the recognition of environmental services, the contribution of forests to the fight against climate change and the need to ensure social and environmental remediation. The evolution of FSC has contributed to the increasing complexity of the certification scheme and its features through the diversification of policies, standards and procedures that enable the institution to fulfil its mission. The complaints and appeals procedures have not yet been updated to reflect the current situation.

The revision process was initiated in 2020 as part of a general review of the FSC Dispute Resolution System and included the preparation of two review reports. The need for a revision was also supported by stakeholders during an earlier consultation on these reports.

How to participate in the consultation?

It is not required to respond to all the questions included in this consultation. You can respond to the questions of the sections that are most relevant to your knowledge, experience or interest.

We welcome participation in this consultation from all stakeholders interested in FSC and those who want to join the conversation to shape a new procedure on complaints and appeals – forest managers, traders and producers, manufacturers, sponsors, civil society organizations, scientists, investors, and forest communities, Indigenous Peoples from North, South, East and West. We have much to learn from you – and from one another.

This public consultation includes two webinars where we will present the main topics of the revision and there will be plenty of time for discussion and questions. There will be translation into Spanish and French. All are cordially invited to attend!

You can choose the date and time to participate in the webinars by registering through the provided links below.

Wednesday 8 November 2023 at 9 am (CET): [Click here to register](#).

Thursday 9 November 2023 at 4 pm (CET): [Click here to register](#).

Your feedback is critical for shaping a new procedure for handling complaints and appeals within the FSC scheme and for the success of this process!

Opening date: 02 October 2023 10:00:00 CEST

Closing date: 30 November 2023 23:59:59 CEST

B. Participant information

Please help us understand more about your background and interests by answering the questions below:

1. Please select the option(s) that you identify with to help us understand more about your background and interests.

- Social NGO
- Environmental NGO
- Academic
- Smallholder
- Community member
- Government
- Certificate holder (FM)
- Certificate holder (CoC)
- Indigenous peoples
- Certification body
- FSC Network Partner
- FSC International staff member
- Assurance Services International
- Forest industry (non FSC certified)
- Other

2. Are you an FSC member?

- Yes
- No

3. If yes, please specify your membership chamber and sub-chamber.

- Social North
- Social South
- Environmental North
- Environmental South
- Economic North
- Economic South

4. Have you been involved in complaint processes in the FSC certification scheme?

- Yes
- No

5. If yes, in which role(s)?

- Complainant (party filing a complaint)
- Defendant (party against whom a complaint has been filed)
- Complaint processor (bodies that receive and process complaints)
- Investigator
- Appellant (party filing an appeal)
- Appeals Panel member
- Other (please describe your role briefly)

6. Do you give your consent for being contacted by FSC via email?

- Yes
- No

7. Do you give your consent to share your contact details with other FSC stakeholders to connect you for working together on this subject matter?

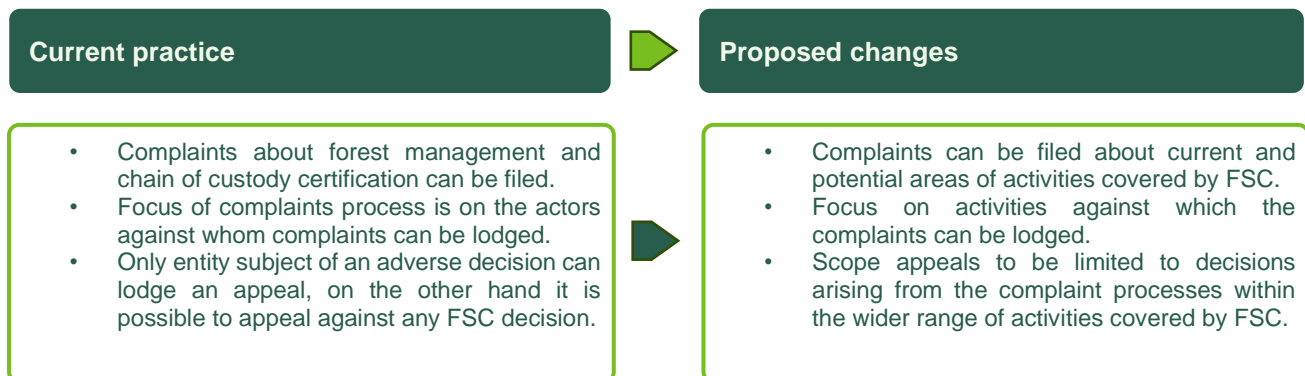
- Yes
- No

8. Do you wish to be informed about the next steps of the development of FSC's complaints and appeals procedure and receive regular updates about this process?

- Yes
- No

C. Consultation Topics

1 Clarifying what may be complained about and appealed



Since the last revision of the complaints and appeals procedures in 2014, FSC's activities have evolved rapidly. Therefore, there is an urgent need to simplify and redefine the scope of the complaints and appeals procedures in line with the different areas of activity that FSC has developed in recent years.

Simplification is related to the merging of procedures FSC-PRO-01-005 V3-0 and FSC-PRO-01-008 V2-0 into a single streamlined document. The redefinition of the scope focuses on updating the subject matter of the complaints and appeals.

The subject matter of complaints under procedure FSC-PRO-01-008 V2-0 focuses on two elements: the certification requirements of the scheme and the way in which some of the certification scheme's key actors carry out their work. These two elements are not necessarily related, which affects the understanding of what may be complained about. It is expected that a change of focus from actors to activities will provide more flexibility in the potential use of the complaints and appeals procedures.

According to the current version of the procedure FSC-PRO-01-008 V2-0, FSC stakeholders can submit complaints about:

- i. The FSC normative framework;
- ii. The performance of FSC International;
- iii. The FSC Network; or
- iv. The performance of Assurance Services International (ASI).

As opposed to the complaints procedure, which allows any stakeholder to submit a complaint, appeals under the current procedure FSC-PRO-01-005 V3-0 can only be submitted by the entity that is the subject of an adverse decision taken by FSC International. A decision of general scope taken by FSC International cannot be appealed because it does not allow for the identification of the entity(ies) or person(s) subject to an adverse decision. It should be considered whether the scope of appeals should be limited to the same scope of complaints.

According to current procedure FSC-PRO-01-005 V3-0, decisions that can be appealed, include:

- i. Those taken on complaints; and
- ii. Any other decision made by FSC (e.g. approval of National Standards).

Decisions taken on Policy for Association complaints, accreditation decisions and ASI's decisions and measures to address a complaint cannot be appealed.

Proposed changes:

- Redefine the scope of complaints that can be filed within the certification scheme considering all areas of activities that FSC currently performs.
- Remove the focus on the actors against whom complaints can be lodged and give prominence to the activities against which the complaints mechanism can be accessed.
- Redefine the scope of appeals to cover all areas of FSC's current activities where it is possible to identify the affected entity(ies) or person(s).
- Assess whether the scope of appeals should be limited to decisions arising from the complaints proceedings.

Questions for feedback (for all stakeholders):

1. *Do you agree with the proposal to merge procedures FSC-PRO-01-005 V3-0 and FSC-PRO-01-008 V2-0 into a single document?*
 - Fully agree
 - Partly agree
 - Neither agree nor disagree
 - Partly disagree
 - Fully disagree

Please explain your response

2. *Do you agree with the proposal to redefine the scope of complaints by focusing on the activities that can be complained about?*
 - Fully agree
 - Partly agree
 - Neither agree nor disagree
 - Partly disagree
 - Fully disagree

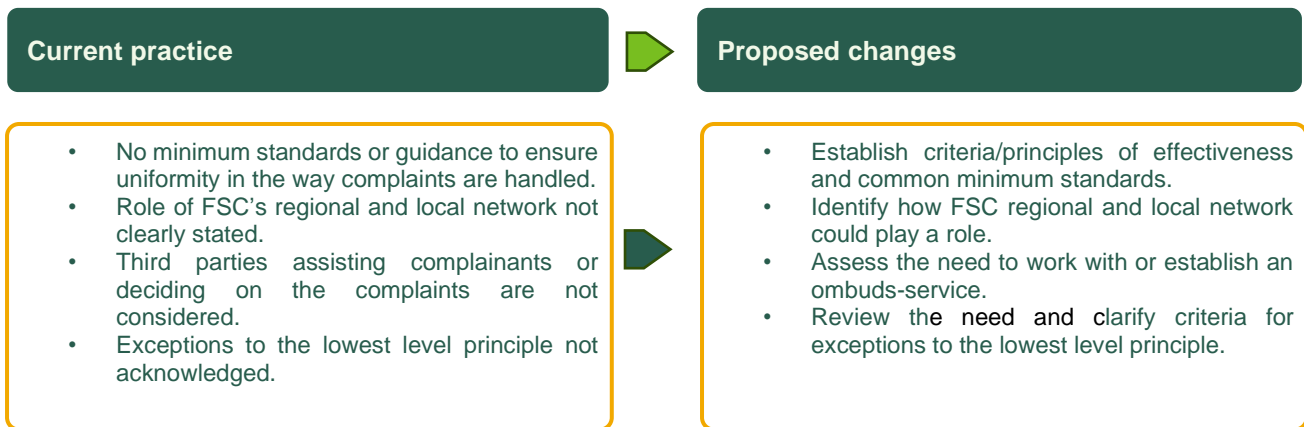
Please explain your response

3. *Do you agree that the scope of appeals should be limited to decisions arising from the complaints procedure?*
 - Fully agree
 - Partly agree
 - Neither agree nor disagree
 - Partly disagree
 - Fully disagree

Please explain your response

4. *Do you have any feedback on the activities that may be complained about or appealed?*

2 Assessing the governance of the dispute resolution system

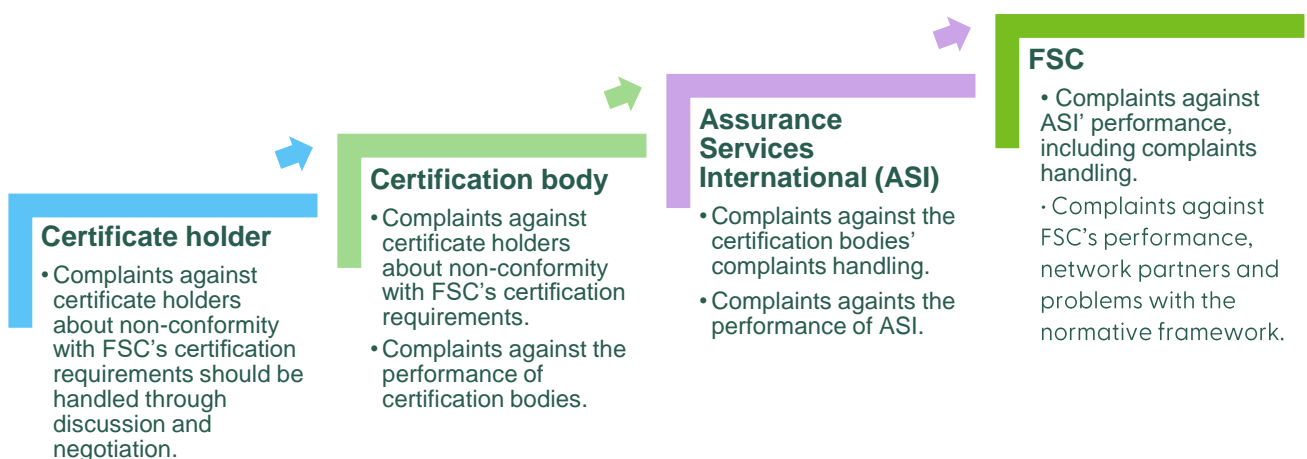


FSC's complaints system is based on the lowest level principle. This means that FSC retains overall responsibility for the management of the dispute resolution system and ensures that implementing bodies (certificate holders, certification bodies and Assurance Services International) apply the aspects of the system relevant to their responsibilities, so that complaints are raised and handled at the appropriate level.

Within this framework, the dispute resolution system is expected to ensure uniformity in the way complaints are handled, according to a set of common minimum standards. It also provides for a clear distinction between the responsibilities of the implementing bodies at the different levels, guaranteeing them a wide choice of means of handling complaints according to the specific context in which they operate.

The lowest level principle for handling complaints results in a model of escalation. Under such a model, complaints should be lodged in the following order:

- 1 The certificate holder
- 2 The certification body who issued the certificate
- 3 Assurance Services International (ASI)
- 4 FSC, if the complainant is not satisfied with the way ASI handles the complaints – it should be noted that ASI's decisions, and the measures it takes to address a complaint cannot be appealed.



At present, there are no minimum standards or guidance to ensure uniformity in the way complaints are handled in the FSC system. The minimum requirements for handling complaints are established only for certification bodies (FSC-STD-20-001 V4-0, clause 1.9). The other implementing bodies, such as certificate holders and ASI, enjoy a wide autonomy in designing and implementing their respective

complaints handling mechanisms. Such a broad autonomy has led to inconsistencies in the way complaints have been handled. It has also made it difficult for FSC (as the highest implementing body) to support the lower levels, and for the lower levels to request such support in handling complaints. A consistent approach to the handling of complaints can make it easier to resolve complaints based on past decisions, to record and monitor complaints in a central database, and generate systemic solutions to proactively solve causes for disputes and address system level issues – see section 4.

Finally, three additional topics are recommended to be addressed as part of the revision of the governance of the dispute resolution system:

- i) The role of the FSC regional and local network;
- ii) the need to work with or establish an ombuds-service; and
- iii) the consideration of exceptions to the lowest level principle, including the possibility of escalating complaints to a higher level if they are of a certain gravity and a risk to FSC's reputation and/or cannot be resolved at a lower level within a reasonable time.

Proposed changes:

- Establish criteria/principles of effectiveness and common minimum standards for the dispute resolution system and continue to ensure that implementing bodies (certificate holders, certification bodies, ASI and FSC International) have a wide choice of means to apply these criteria and standards according to the specific context in which they operate.
- Consider the criteria for effectiveness provided in Principle 31 of the [United Nations Guiding Principles on Business and Human Rights](#) as elements to be included in the new procedure. These criteria aim to ensure access to effective remedy by establishing that grievance mechanisms should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue. They also form the basis for assessing the common minimum standards to be met by implementing bodies, including, for example, stages, timeframes for each stage, corrective actions and monitoring requirements, etc.
- Evaluate whether the FSC regional and local network could play a role in the dispute resolution system.
- Assess the need to work with or establish an ombuds-service, and define its functions regarding the dispute resolution system.
- Clarify the exceptions to the the lowest level principle.

Questions for feedback (for all stakeholders):

5. *Do you agree that criteria/principles of effectiveness and common minimum standards should be established for the handling of complaints by the different implementing bodies (certificate holders, certification bodies, ASI and FSC International)?*

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

6. *Do you agree that the United Nations Guiding Principles on Business and Human Rights should serve as the basis for establishing such criteria/principles of effectiveness and common minimum standards?*

- Fully agree
- Partly agree
- Neither agree nor disagree

- Partly disagree
- Fully disagree

Please explain your response

7. *Do you have any feedback about the common minimum standards that should be established for all levels dealing with complaints?*

8. *Do you agree that the FSC regional and local network should have a role in the complaints and appeals procedures?*

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

9. *If you agree that the FSC regional and local network should have a role in the complaints and appeals procedures, what functions should they have?*

10. *Do you agree that there should be an ombuds-service for the complaints and appeals procedures?*

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

11. *Do you agree that an ombuds-service for the complaints and appeals procedures should be limited to specific cases where special support is needed, for example in relation to individuals and groups who may be at increased risk of vulnerability and/or marginalization? Could you indicate other cases where the service should be used?*

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

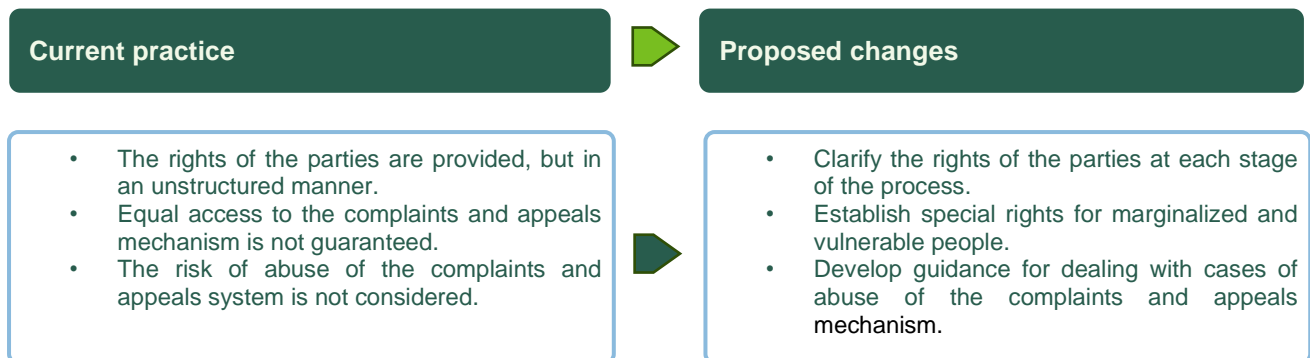
12. *Do you agree that there should be exceptions to the lowest level principle, allowing complaints to be transferred from lower to higher levels? In which cases?*

- Fully agree
- Partly agree

- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

3 Establishing the rights of the parties



In the existing complaints and appeals procedures, the rights of the parties involved in a dispute are provided in an unstructured form, but include:

- Support the complainant in filing the complaint to the correct complaint handling body
- Protect the identity of the complainant
- Resolve the dispute through discussion and negotiation or mediation
- Ask questions and contradict the evidence of the opposing party
- Withdraw the complaint
- Receive a response with the conclusion on the complaint and the rationale for the decision
- Challenge a decision.

This list of rights should be updated in line with international best practice. It is particularly important to ensure that persons and groups who may be at heightened risk of vulnerability and/or marginalization, including indigenous and local communities and human rights defenders, have access to the complaints procedure.

Abuse of the complaints and appeals is also recommended to be addressed in the revision by providing guidance on how to deal with abusive, persistent, trivial or vexatious complaints and appeals.

Proposed changes:

- Clarify the rights of the parties at each stage of the procedure and assess the inclusion of other procedural rights identified in international best practices.
- Establish specific enhanced rights for individuals and groups who face barriers to accessing complaints mechanisms due to lack of awareness of complaints procedures, language, gender, literacy, cost, physical location, cultural context and fear of reprisals.
- Develop guidance for dealing with abusive, persistent, trivial or vexatious complaints and appeals.

Questions for feedback (for all stakeholders):

13. Do you have any feedback about the rights that should be guaranteed to the parties (complainant and defendant)?

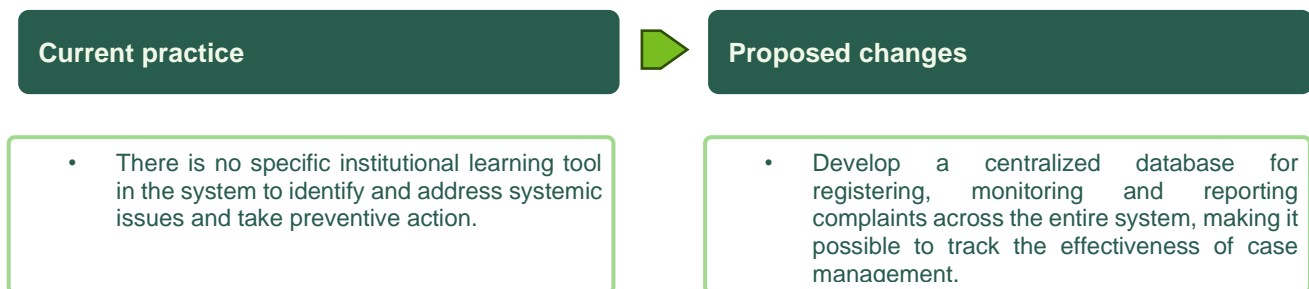
14. Do you agree that there is a need to establish specific enhanced rights for vulnerable and marginalized individuals and groups seeking access to the complaints mechanism?

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

15. Do you have any feedback about the type of enhanced rights that should be guaranteed to vulnerable and marginalized persons and groups who seek access to the complaints mechanism or who are parties to a complaint?

4 Systematic improvement



There is no specific tool in the current dispute resolution system that allows for institutional learning, such as centralized registering and monitoring of complaints and appeals received by FSC and implementing bodies (certificate holders, certification bodies and ASI). Such a tool would enable FSC to identify and address systemic issues and take preventive action on a broader scale. FSC aims to share information on sector-specific issues, systematic issues, corrective actions and good practices with implementing bodies. The data is expected to improve the dispute resolution system by supporting decision-making on reforms to the complaints and appeals procedures at the appropriate level.

Proposed changes:

- Develop a database for registering, monitoring and reporting complaints lodged under the FSC dispute resolution system. The database should allow disaggregated records to be kept on the frequency, patterns and causes of complaints, etc. It should also make it possible to track the effectiveness of case management and processes and evaluate the effectiveness of responses and corrective actions.

Questions for feedback (for all stakeholders):

16. Do you agree that there is a need to develop a database for registering, monitoring and reporting complaints lodged under the FSC dispute resolution system?

- Fully agree

- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

17. *Do you have any feedback about the type of information pertaining to complaints and appeals that should be collected in a centralized database?*

18. *Do you agree that the information collected can be used to bring about reforms in the complaints procedure at the appropriate levels?*

- Fully agree
- Partly agree
- Neither agree nor disagree
- Partly disagree
- Fully disagree

Please explain your response

THANK YOU

Thank you for your time and contributions!

On behalf of FSC, thank you very much for your participation in this consultation.

Your feedback is very valuable in helping FSC shape the new complaints and appeals procedure.

Please note, it is possible to make changes to your responses during the entire period that the consultation is open. Even if you have submitted a response, you can return and edit it until the closing time of the consultation period.

Once this public consultation closes, on the 30 November 2023, the FSC Secretariat will proceed to analyze the feedback you and other interested stakeholders submitted through the consultation platform. FSC will also host a number of webinars and other stakeholder initiatives during the public consultation. These stakeholder initiatives will continue after the consultation closes, leading up to the drafting phase and the second consultation. FSC aims to provide ample opportunities for discussion and input from all stakeholders who are interested in joining the conversation to shape a new procedure for complaints and appeals.

If you have any comments or questions, please do not hesitate to contact us at the following email address: m.aguilera@fsc.org.



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