



European Investment Bank Group

Annual Report on Anti-Fraud Activities - 2013



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Inspectorate General
Fraud Investigations Division

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Message from the President

The European Investment Bank (EIB) has a duty under its Statute to ensure that its funds are employed as rationally as possible in the interests of the Union. More than this, it has a moral obligation, as world's largest financier of public procurement, to ensure that funds are spent properly. The EIB Group, composed of the EIB and the European Investment Fund (EIF), is therefore strongly committed to the fight against fraud and corruption; indeed, it is an integral part of all our work. I am therefore pleased to present the 2013 Annual Report of the Inspector General's Fraud Investigations Division (IG/IN) which spearheads EIB's efforts on investigations and prevention of fraud and corruption.

This work has never been more relevant than today. A recent European Commission report cited research showing more than three out of ten companies in the EU Member States that had participated in public procurement suggested that corruption had prevented them from winning a contract. More than half of all companies reportedly believed that corruption in public procurement managed by national or regional/local authorities is widespread. As the report states: '*Corruption seriously harms the economy and society as a whole ... It impinges on good governance, sound management of public money, and competitive markets. In extreme cases, it undermines the trust of citizens in democratic institutions and processes*'.¹

The reality is that, with an annual lending in 2013 of nearly EUR 72 billion, and especially given some of the environments and sectors where the Bank invests, EIB funding will be a target for fraud and corruption. The recent capital increase for EIB inevitably leads to an increased pressure to do more and lend more. While we will do so, this pressure must never be allowed to override our commitment to good governance of public funds and zero tolerance of fraud and corruption. In 2013, the updating of EIB's Anti-Fraud Policy and the work on implementation of its Exclusion Procedures were important developments in ensuring that this does not happen and our efforts in this regard have previously been recognised by the Commission and European Parliament.

There is, however, more we can and should do. It is not sufficient to focus simply on corruption outside the Member States and to rely on national authorities within the Union to protect funds – fewer than half the Member States rank among the 30 most transparent states worldwide according to the 2013 Transparency International Corruption Perception Index.² The single most effective way of preventing fraud and corruption is a solid reporting system for those involved in the projects and an effective investigative capacity. Here at EIB, we have built a multi-disciplinary team at IG/IN with the ability to investigate corruption allegations, while helping to find ways to keep our projects on track whenever possible. To this end, staff will be expected to undertake an e-learning programme on fraud and corruption awareness as it is rolled out in the coming months.

I take this opportunity to thank all those, outside and inside the EIB Group, known and unknown, who have reported suspicions of fraud and corruption to the Bank and for their help to the EIB Group in ensuring that its funds are used for the purposes intended.

Werner Hoyer
EIB President

¹ Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report (3 February 2014).

² <http://www.transparency.org/cpi2013/results>

Executive summary

In 2013, the Fraud Investigations Division (IG/IN) received a similar number of allegations as in previous years (92). The number of cases concluded (72) was also similar. The statistics do not reveal any significant changes in the source of allegations to previous years, but one significant trend is a substantial increase in the fraudulent misuse of the names and corporate identities of EIB and EIF (almost 20% of allegations compared to 2% in 2012).

Overall, more than one-third of cases closed in 2013 resulted in a finding that the allegation was at least partly proven. This is an increase from 2012 (when 24% of cases were proven). Again, this mainly reflected cases involving the increased misuse of the EIB/EIF names. IG/IN made 17 referrals – either to national law enforcement, judicial authorities and/or administrative authorities (both inside and outside the EU), or to other parts of the Bank – to pursue appropriate follow-up. However, cooperation from some national authorities continues to be limited. IG/IN staff members conducted a total of 56 missions for investigative and other purposes during 2013.

Non-Casework: IG/IN undertook an increasingly large number of non-casework initiatives and loan-related issues in 2013 (135 in total, up from 117 in 2012 and 96 in 2011), including updating the EIB Anti-Fraud Policy and Investigation Procedures, and working on the implementation of the Exclusion Procedures. Specifically, 2013 saw the first ever voluntary exclusion of a company for fraud and corruption, following a negotiated settlement led by IG/IN.³

In 2013, IG/IN undertook further Proactive Integrity Reviews and Proactive Media Reviews to look for and identify red flags of fraud and/or corruption.

IG/IN worked closely with a number of other agencies, including OLAF and other IFIs, on investigations and policy issues. In addition, mandatory Fraud awareness training continued for EIB staff.

Looking ahead to 2014, IG/IN will focus on reducing its backlog of cases and increasing cooperation with national authorities. In addition, IG/IN has undertaken a quality control review and will focus on implementing any required updates to its practices and procedures.

As a responsible and accountable bank, the EIB has published this Annual Report on its anti-fraud activities for many years now.

Jan Willem van der Kaaij
Inspector General

³ <http://www.eib.org/infocentre/press/news/all/eib-and-siemens-settlement-agreement.htm>

1. Introduction

The report of the European Commission cited in the President's foreword to this report estimates that the cost to the EU economy of fraud and corruption was EUR 120 billion per year, just a little less than the annual budget of the European Union.⁴ The report noted that risk of fraud and corruption is particularly acute in public procurement. The report also highlighted the insufficient anti-corruption procedures and institutions of some Member States.

A recent estimate of the direct costs of corruption in public procurement in five sectors (road and rail; water and waste; urban/utility construction; training; and research and development) in eight Member States ranged from EUR 1.4 billion up to EUR 2.2 billion.⁵ The report also assessed the probability that certain types of infrastructure would be affected by fraud and corruption. The probability ranged from 11% (road construction, for which EIB provided over EUR 21 billion from 2008 – 2012) up to 27% (construction of waste water plants, where between 2008-2012 EIB had direct lending of EUR 8.8 billion).

Set against this challenging background, this report will describe the role that IG/IN played during 2013 in the area of anti-corruption work. It will provide information on its investigative activities, as well as its initiatives to prevent fraud and corruption occurring.

2. Background

The Fraud Investigations Division (IG/IN) is one of four Divisions making up the Inspectorate General (IG) of the European Investment Bank (EIB) Group, along with Internal Audit, Evaluations and the Complaints Mechanism. IG/IN investigates allegations of suspected fraud, corruption, coercion and collusion from any source (inside or outside the EIB Group) in EIB and EIF operations and activities and reports through the Inspector General directly to the President. These allegations could include for example:

- allegations of collusion among bidders in an EIB-financed procurement process;
- corruption in the award of a contract by a bidder, government officials and/or intermediaries;
- fraud perpetrated by sub-contractors in the implementation of a contract; and
- misconduct by fund managers and/or staff members of the EIB Group.

The following definitions, harmonised with the IFIs, have been incorporated into EIB's Anti-Fraud Policy and/or Exclusion Procedures:

- a **corrupt** practice: the offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- a **fraudulent** practice: any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;⁶
- a **coercive** practice: impairing or harming, or threatening to impair or harm, directly or indirectly, any part or the property of the party to influence the actions of a party;
- a **collusive** practice: an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.⁷

⁴ Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report (3 February 2014). The report notes that 'The cited figure is based on estimates by specialised institutions and bodies, such as the International Chamber of Commerce, Transparency International, UN Global Compact, World Economic Forum, Clean Business is Good Business, 2009, which suggest that corruption amounts to 5% of GDP at world level. See also the Commission Communication on Fighting Corruption in the EU of 6 June 2011.

⁵ 'Identifying and Reducing Corruption in Public Procurement in the EU – Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption', 30 June 2013, PricewaterhouseCoopers and ECORYS, p.29.

⁶ This could include tax fraud.

- an **obstructive** practice: (a) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (b) acts intended to materially impede the exercise of the EIB's contractual rights of audit or access to information or the rights that any banking, regulatory or examining authority or other equivalent body of the European Union or of its Member States may have in accordance with any law, regulation or treaty or pursuant to any agreement into which the EIB has entered in order to implement such law, regulation or treaty.⁸

In addition, EIB's Anti-Fraud Policy also includes provisions against **money laundering** and **terrorist financing**.

IG/IN Investigation Procedures are also based on guidelines harmonised with the IFIs.⁹ Investigations by IG/IN are carried out in cooperation with the European Anti-Fraud Office (OLAF) – this includes the exchange of information, regular contacts between the two offices, meetings and, in appropriate cases, joint missions and investigations.

The EIB also works in cooperation with counterparts from the investigation, integrity and compliance departments in other IFIs (the World Bank, European Bank for Reconstruction and Development (EBRD), African Development Bank, Asian Development Bank and Inter-American Development Bank), other international organisations and bi-lateral agencies (e.g. Agence Française de Développement, KfW Banking Group, FMO and DfID), as well as national audit, law enforcement and judicial agencies.

Most of IG/IN's investigative activity relates to external cases, in other words cases of alleged fraud, corruption, collusion or coercion involving projects where EIB has provided finance or other assistance.

Reports on IG/IN's findings on EIB-financed projects are made through the Inspector General to the President and, at the same time, to the Audit Committee. In the case of the European Investment Fund (EIF), the reports go to the Chief Executive, the Deputy Chief Executive, the Chairman of the Board of Directors and the Audit Board of EIF. In both institutions, the External Auditors are also informed of developments. In addition, IG/IN also contributes to the Bank's annual Sustainability Report.

The President and the Management Committee are regularly informed of developments, investigative findings and recommendations in IG/IN investigations in accordance with the Anti-Fraud Policy and Procedures. Moreover, the Head of Division and the Inspector General brief the Audit Committee of the Bank (as well as the Audit Board of the Fund) on a quarterly basis. These briefings focus on cases with a high likely impact on the Bank's activities and on prevention and deterrence.

⁷ These first four definitions were harmonised in the Uniform Framework for Preventing and Combating Fraud and Corruption created by the IFI Anti-Corruption Task Force and signed on September 20, 2006 during the IBRD/IMF annual meeting in Singapore. As well as harmonisation of definitions, the Framework agreed: common principles and guidelines for investigations; the strengthening of the exchange of information; and to explore cross-recognition of debarment actions. This document can be found on EIB's website at: www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm

⁸ The concept of obstruction of investigation was introduced in the EIB's Exclusion Procedures.

⁹ A copy of the Investigation Procedures can be found on the EIB website: <http://www.eib.org/about/publications/anti-fraud-procedures.htm>

3. Investigations

Upon receipt of an allegation, IG/IN initiates a screening process, which identifies whether the allegation falls within its mandate and is credible and verifiable. At the conclusion of the screening, the Head of Division of IG/IN decides whether the allegation warrants further investigation. If not, the matter will either be closed, or, if appropriate, referred to another department within the EIB Group. Some examples of cases investigated are listed in Annex 1.

3.1 Casework statistics

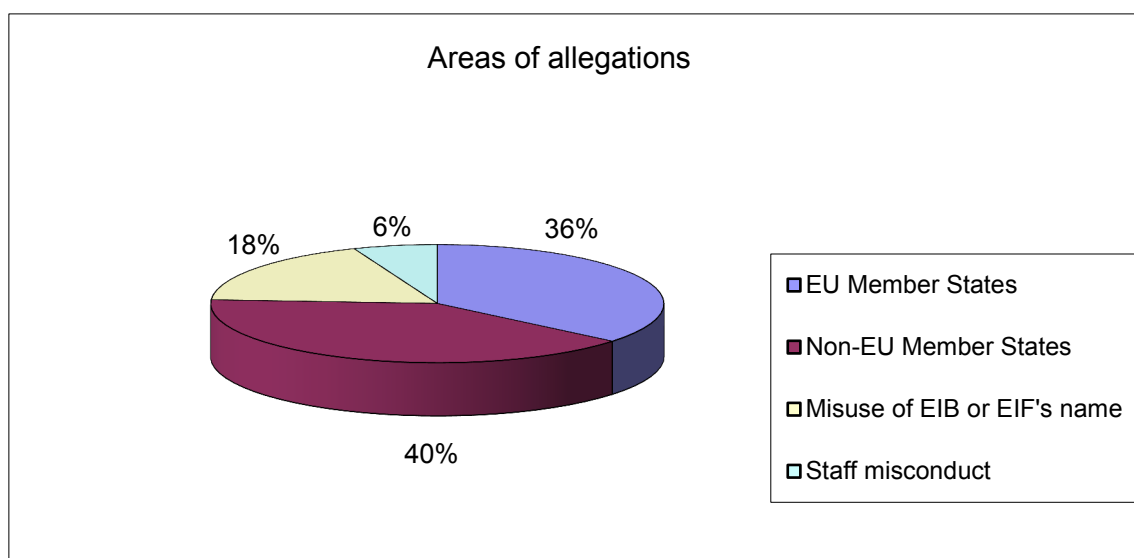
IG/IN received a total of 92 new allegations during 2013. This figure is similar to previous years (93 in 2012 and 95 in 2011). The table below summarises the case activity during 2013:

Statistics on case-load IG/IN 2011-2013

EIB + EIF	2011	2012	2013
New cases opened during the year	95	93	92
Cases closed during the year	73	74	72
Cases remaining open at 31/12/13	87	106	126

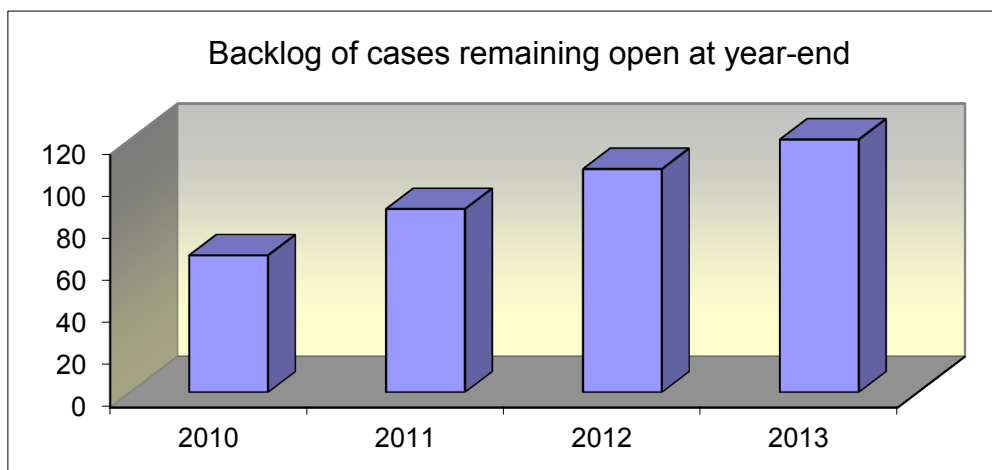
Of the 92 new allegations recorded in 2013:

- There were 87 new reports in total for EIB and 5 for EIF;
- 33 allegations (36%) emanate from or are primarily connected with the 28 EU member states (compared to 49% in 2012);
- 37 allegations (40%) emanate from or are primarily connected with non-EU member states (for example, the Balkans and Eastern Europe, the Middle East, African Caribbean and Pacific States (ACP), Asia and Central America (ALA) (compared to 39% in 2012);
- 17 allegations (18%) involved misuse of EIB or EIF's name (compared to 2% in 2012); and
- 5 allegations (6%) related to staff misconduct cases (compared to 10% in 2012).



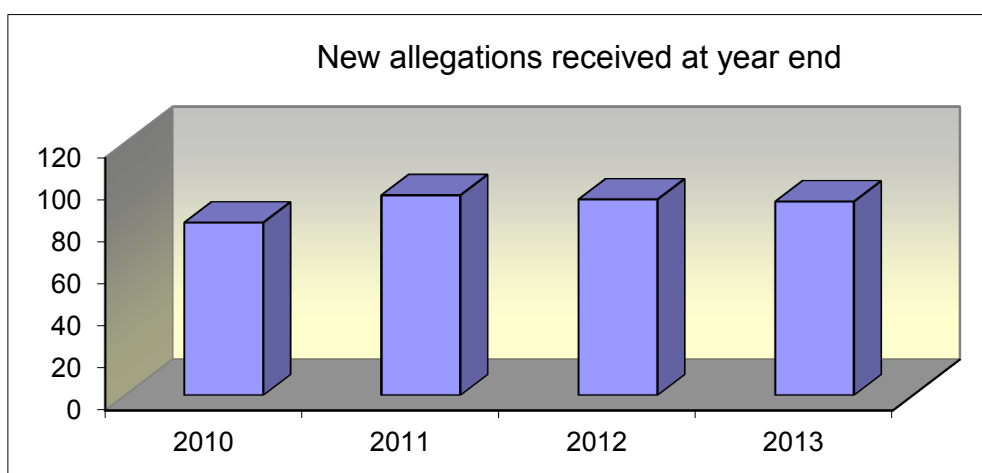
3.1.1 Casework backlog

As with previous years, the backlog of open cases at year-end rose – from 87 in 2011, 106 in 2012 to 126 in 2013. This does not reflect significantly fewer cases being closed - the number of cases closed in 2013 (72) was about the same as in 2012 (74). The reason is that the term 'open cases' includes: (i) those cases under current active investigation; and (ii) cases where the IG/IN investigation has been completed but the matter has been referred to another agency, such as a prosecuting authority or another division of EIB, for action and the situation is being monitored.



To reflect more accurately the true status of IG/IN's caseload, the number of cases under active investigation at the end of 2013 was 75 with a further 51 cases being monitored, hence the total number of cases open as at 31 December 2013 was 126.

A different measure of IG/IN's activity is to look at the total number of cases worked-on. During 2013 this figure was 198, comprising: cases opened prior to 2013 which were still under active investigation; cases opened in 2013; cases in follow-up/monitoring (where for example, the outcome of on-going criminal proceedings are connected to an EIB-financed project) and non-2013 cases which were closed.

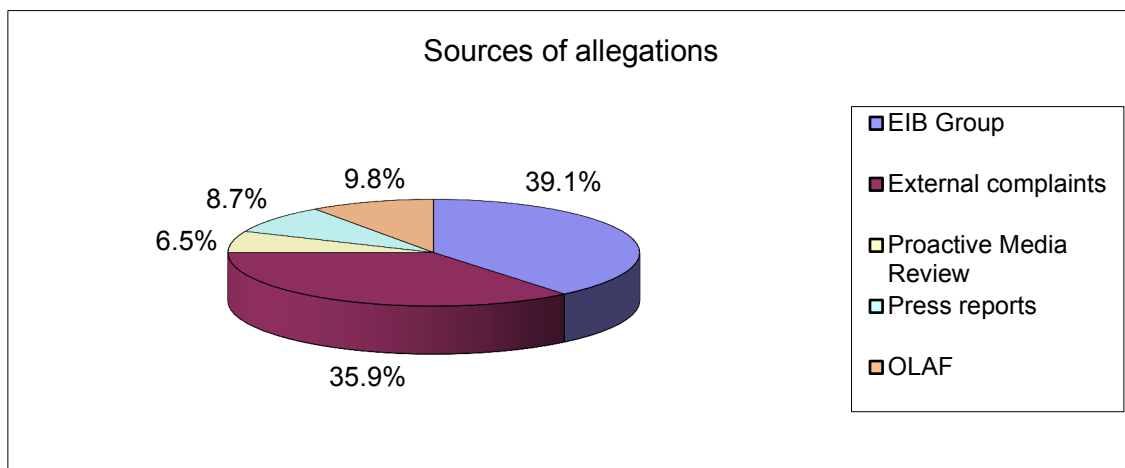


3.1.2 Sources of allegations

As may be expected, IG/IN receives allegations from a wide variety of sources. For the purposes of this report, IG/IN classifies the sources into five different types, namely: Internal (in other words EIB/EIF staff), External (for example, a supplier or project official), IG/IN's Proactive Media Reviews (PMRs), other press reports and OLAF.

Of the allegations reported to IG/IN in 2013:

- 36 (39.1%) were from an internal EIB Group source, compared to 48 (51.6%) for 2012;
- 33 (35.9%) were from an external source, compared to 28 (30.1%) for 2012;
- 6 (6.5%) were derived from Proactive Media Reviews (there were none in 2012);
- 8 (8.7%) were based on other press reports compared to 12 (13%) for 2012; and
- 9 (9.8%) were received from OLAF compared to 5 (5.4%) for 2012.



The number of reports received from an “internal” source has decreased. There is no reason to believe this reflects a decreased level of reporting, but rather a return to the average following a spike of cases reported in recent years emanating from the Arab Spring.

As is the case with other IFIs, IG/IN maintains a dedicated ‘Investigations’ e-mail address and a confidential fax to receive allegations from outside the Bank. During 2012, IG/IN added a “How to Report Fraud and Corruption” link to the home page of EIB’s website.¹⁰ This has not resulted in many substantive reports however, nor has the confidential fax number. As such, IG/IN will give consideration during the coming year to broadening its communication channels through use of technology. This may include the use of social media to make it easier in the future for external parties to report appropriate issues to IG/IN in a timely and efficient manner.

3.1.3 Types of allegations

In 2013, the types of allegations received by IG/IN can be broken down into the following categories:

Category	EIB	EIF	GROUP
Fraud	22	1	23
Other misuse of funds	16	2	18
Scam using EIB’s name	16	0	16
Corruption	15	0	15
Internal misconduct	5	0	5
Collusion	3	0	3
Other criminal offences	9	2	11
Money laundering	1	0	1

¹⁰ At the following link: <http://www.eib.org/about/cr/anti-fraud/reporting/index.htm>

3.2 Trends

2013 saw a significant increase in reports of abuse of the EIB and EIF names for fraudulent purposes (almost 20% of the total allegations received, compared to 2% in 2012). In recent years, this has involved mainly spam e-mails purporting to be from EIB offering loans but then requiring 'administration fees' to process them.

In recent years, however, the scams have become more sophisticated, with organisations and individuals falsely claiming to be formally associated with EIB, usually with criminal intent. In one case, this involved the effective cloning of the EIB website. On another occasion, an individual claimed to be an agent who could secure loans with EIB. In addition, fake profiles for senior management (the President and a Vice-President) appeared on corporate networking sites.

IG/IN acts as quickly as possible to request domain providers to close down fake websites and email addresses, but this will likely be an ongoing issue for EIB, as it is for other international organisations. It is envisaged that the development of new communication channels for IG/IN in the future could provide more opportunities for the public to check the *bona fides* of entities and report wrongdoing.

3.3 Results of investigations

Proven cases: In 2013, out of the 72 cases closed, 27 were classed as 'proven' (a percentage figure of 37.7 %), in other words the evidence showed that it was more probable than not that the allegation was true. This compares with a figure of 18 cases proven out of 74 closed cases in 2012 (or 24.3%). (This increase was mainly related to the increase of proven incidences of misuse of the EIB or EIF name.)

The other 45 cases that were closed in 2013 were either: (i) cases that were closed because EIB funds were not involved in the scope of the allegation; (ii) cases which were investigated, but insufficient evidence was found to substantiate the allegation or (iii) in some cases evidence was found to disprove the allegation. (This in itself may not mean the allegation was malicious, but simply that the complainant was mistaken.)

Proven Staff Cases: Of the 72 cases closed in 2013, there were 4 cases of proven staff misconduct which were referred to the Personnel Directorate for disciplinary follow-up. For data protection and privacy reasons, no further details can be provided.

Recovery: In addition, out of the 72 cases closed in 2013, there were 4 cases where it was appropriate for the Bank to recover the loan (or at least the portion tainted by fraud or corruption) or the amount over-claimed for expenses.

Referrals: IG/IN makes referrals to national law enforcement and/or judicial authorities wherever suspected criminal conduct has occurred which is not already being investigated by national authorities.¹¹ In addition, referrals can be made by IG/IN to: (i) administrative authorities inside or outside the EU; and (ii) other parts of the Bank to pursue appropriate follow-up, for example disciplinary proceedings in a case of staff misconduct. Out of the 72 cases closed in 2013, 17 were the subject of such referrals (including 13 to national authorities and 4 for internal disciplinary proceedings).

As well as referrals of suspected criminal conduct to national prosecutors, judges and law enforcement/administrative agencies, EIB investigators were also in frequent contact with them on cases already under investigation. Such contact is beneficial to both parties, in particular to establish whether the subject matter of their investigation impacts on an EIB-financed project and, if so, to facilitate an exchange of information. By way of example, during 2013, discussions

¹¹ Such referrals are made in line with the EIB's Anti-Fraud Policy and in line with the practice at other international institutions. They may be undertaken in consultation with or with assistance from OLAF.

took place with a number of national law enforcement and judicial agencies in the EU, Africa, North and South America and Eastern Europe, including:

- UK Serious Fraud Office
- Inspectorate-General of Senegal
- Brazilian Federal and State Prosecutors
- Swiss Federal Prosecutor
- UK City of London Police and Overseas Corruption Unit
- US Department of Justice
- Luxembourg Financial Intelligence Unit
- Instance Nationale de Lutte contre la Corruption, Tunisia

While every effort is made by IG/IN to pursue cases through national prosecutors, the level of cooperation in these matters varies greatly. This is not a problem unique to EIB or even the International Financial Institutions (IFIs) collectively, as was noted in the recent report from the European Commission to the Council and the European Parliament which stated:

*EU Member States have in place most of the necessary legal instruments and institutions to prevent and fight corruption. However, the results they deliver are not satisfactory across the EU. Anti-corruption rules are not always vigorously enforced, systemic problems are not tackled effectively enough, and the relevant institutions do not always have sufficient capacity to enforce the rules. Declared intentions are still too distant from concrete results, and genuine political will to eradicate corruption often appears to be missing.*¹²

Nevertheless, in December 2013, IG/IN was successful in signing a Memorandum of Understanding (MOU) with the Senegalese authorities, which may serve as a template for future cooperation elsewhere.



EIB Vice-President Jonathan Taylor, Vérificateur Général du Sénégal Francois Collin and EIB Inspector General Jan Willem van der Kaaij, 16 December 2013

3.4 Missions

IG/IN staff members conducted a total of 56 missions for investigative and other purposes during 2013, including visits to countries in the EU, Eastern Europe, Africa and the Americas. This is a slight decline on previous years (compared to 65 missions in 2012 and 72 in 2011) but recently staffing levels have increased and now that some of the larger policy issues have been tackled, IG/IN will look at ways to increase its visibility in the field.

Of the 56 missions in 2013:

- 27 were staffed by more than one IG/IN investigator
- 4 were undertaken jointly with colleagues from OLAF
- 8 were joint missions with investigators from other IFIs; and
- 6 were undertaken in pursuit of the Proactive Integrity Review.

¹² Report from the Commission to the Council and the European Parliament: EU Anti-Corruption Report (3 February 2014).

4. Proactive and preventive work

The proactive and preventive work undertaken by IG/IN in 2013 included two Proactive Integrity Reviews and three Proactive Media Reviews.

4.1 Proactive Integrity Reviews

With support from senior management and the EIB's Audit Committee for the development of the proactive and preventive aspects of its work, IG/IN has been conducting the Proactive Integrity Reviews (PIRs) since 2010. PIRs are designed to add to the Bank's current operational monitoring by selecting projects for an in-depth review by IG/IN on the basis of a risk assessment exercise. The risk assessment involves identifying projects of a complex nature or that are implemented in a difficult environment and which are therefore exposed to potentially higher risks of fraud and corruption. The process then looks for and identifies "red flags", possible indicators of fraud and/or corruption. This approach increases the preventive capability of the EIB Group and increases deterrence against fraud and corruption.

In 2013, PIRs were initiated on projects located in Europe and in Africa. Since the concept was first introduced and implemented in 2010, IG/IN has undertaken PIRs on 21 different operations with 11 different promoters, comprising:

- 6 loans in EU member states;
- 2 loans in Europe to non-EU Member States; and
- 13 loans in Africa/Caribbean/Pacific (ACP);

In planning and undertaking a PIR, IG/IN works closely with operational colleagues and national authorities, in particular with the national audit organisations, which may be invited to participate in the exercise

4.2 Proactive Media Reviews

Proactive Media Reviews (PMR), which have been carried out by IG/IN since 2010, are a useful tool to identify adverse media reports featuring EIB-financed projects and/or sectors which are major recipients of EIB funds, but which have not otherwise been drawn to the attention of IG/IN. The PMR also provides input for the risk assessment process for the identification of EIB projects that should be subject to a PIR (see above).

In 2013, IG/IN undertook a PMR covering two EU Member States. The results of this PMR have led to the opening of 6 new investigations by IG/IN.

Case Study: PIR of a road construction project in Europe

The selection of this project followed IG/IN's general PIR risk analysis as well as a number of specific criteria, including significant delays, cost overruns and numerous claims, variation orders etc. In addition, there was an upcoming project with the same Borrower, which could benefit from the findings of a PIR. The PIR identified serious indications of fraud and a series of weaknesses in the procurement procedure of the Borrower (a state owned road agency), as well as the control structure for the implementation of the project.

The PIR led to an investigation by IG/IN which proved two cases of fraud.

As a result of the PIR and the fraud investigation, EIB requested a partial repayment of the loan from the Borrower. The Borrower has committed to prepay the loan in the amount equivalent to the EIB portion of the value of the fraudulent procurement. EIB made detailed recommendations to the Borrower on how to enhance controls over project procurement and execution. The implementation of these recommendations was a condition for disbursing new loans to the Borrower.

5. Policy initiatives

A large number of non-casework initiatives were also undertaken by IG/IN in 2012 (135 in total, up from 117 in 2012 and 96 in 2011), including:

- updating the EIB Anti-Fraud Policy and Investigation Procedures;
- initial work on the Implementing Guidelines for the Exclusion Procedures;
- responding to questions from the European Parliament, for example, on exclusion of companies and IG/IN's prevention and investigation work;
- responding to general requests from NGOs and other outside entities;
- strengthening the anti-corruption provisions applicable to EIB financing agreements; and
- presenting the work of IG/IN to EIB's services and/or external parties.

5.1 The updating of the Anti-Fraud Policy and Investigation Procedures

Following consultation with other services in the Bank¹³, and meetings with OLAF and the Directorate General for Economic and Financial Affairs, civil society and a number of international businesses in March 2013, the EIB's updated Anti-Fraud Policy was approved by the Management Committee on 3 July 2013, adopted by the Board on 17 September 2013 and published on EIB's website on 8 November 2013.

The updated Policy contains no major changes to the existing principles, but a number of changes to the text of the policy and procedures were made to reflect anti-fraud instruments or practices available to the Bank which had been developed (and approved by the management) since the original Anti-Fraud Policy was approved in 2008. In particular, references were included to a number of developments:

- the Proactive Integrity Review process which IG/IN has used since 2010;
- the EIB Exclusion Procedures, approved in 2011;
- the EIB's Whistleblowing Policy, approved in 2009;
- the introduction of the possibility for the Bank to conclude Memoranda of Understanding with law enforcement and other national agencies (in order to access relevant information) and for the Bank to register as a *Partie Civile* in judicial proceedings;
- the updated Guide to Procurement (approved by the EIB Board in July 2011) including the extension of the Covenant of Integrity (a specific undertaking on integrity required from bidders) to subcontractors for all contracts financed by the Bank outside the EU;
- following recommendations from the European Data Protection Supervisor, the updated Policy made specific reference to the legal basis for the Policy and the conduct of investigations by IG/IN and added specific sections on data protection. The EDPS welcomed the revisions and considered they fulfilled its recommendations.
- the updated Policy also introduced a new concept under "Prohibited Conduct" of 'Obstruction of an investigation'. This is consistent with the practice of other IFIs and provides EIB with the ability to act against an entity which prevents the Bank from acquiring the evidence of fraud or corruption which would otherwise be needed for exclusion proceedings.
- the revised Policy also reflected the updating and enhancement of EIB procedures covering Anti-Money Laundering and Combatting the Financing of Terrorism.

5.2 Exclusion Procedures

Building on the work done in previous years, IG/IN collaborated with other Directorates in the Bank on implementing the exclusion system for EIB. The exclusion process provides a fair and transparent process enabling the EIB Management Committee, upon the recommendation of an

¹³ Mainly the Legal Department, Compliance Office, Operations, Projects, Finance and Personnel Directorates.

Exclusion Committee, to decide whether to sanction entities found to have engaged in fraud or corruption in EIB-financed projects, by excluding them from participation in future projects (and, if so, for how long and/or with what conditions they could be readmitted) or other measures. IG/IN's work on the implementation guidelines for the Exclusion Procedures was ongoing at the end of 2013, and they are also subject to approval by the European Data Protection Supervisor.

IG/IN worked closely with JU in negotiating the Settlement Agreement entered into by the European Investment Bank (EIB) and Siemens in March 2013. The Agreement followed an investigation carried out by IG/IN with the support of the Siemens Group and OLAF on the past conduct of a Siemens' business unit in relation to a tender process. The Settlement Agreement included a commitment by Siemens that the concerned business unit would voluntarily refrain from bidding on EIB-financed projects or enter into any relationship with the EIB as a tenderer, contractor, supplier, consultant or any other form, for a period of 18 months. As part of this Settlement Agreement, Siemens also committed to provide EUR 13.5 million to support initiatives that promote good governance and the fight against corruption. Furthermore, Siemens agreed to closely cooperate and assist the EIB going forward in its efforts to investigate alleged prohibited conduct in any EIB-financed project

5.3 Fraud awareness training

The one-day fraud awareness training course for operational staff has been running since 2009. Attendance on the course enables staff to gain the necessary tools to identify "red flags" of fraud and corruption and to ensure that newcomers are 'up-to-speed' on the provisions of the EIB's Anti-Fraud Policy, as well as reminding staff of their (and EIB counterparts') responsibility to report allegations of fraud or corruption immediately to IG/IN.¹⁴

The Management Committee decided in late 2010 to make the training mandatory for all operations staff. Including the 237 staff who attended the course in 2013, a total of 1134 current staff from across all directorates have attended since its inception. The levels of attendance from the main target audience (i.e. those staff in professional roles within areas most likely to encounter fraud and corruption issues) are high - over 88% of current staff in Ops A, more than 82% of staff in Ops B and more than 79% of staff in PJ have done so.

IG/IN also worked on the creation of a follow-up e-learning on fraud and corruption. The e-learning module is still in development and IG/IN is working to bring this into operation during the first half of 2014.

It is interesting to note that there are a number of commonly asked questions by staff at the fraud awareness training sessions. These include queries on:

- *Why there is a requirement for staff to report suspicions of fraud and corruption, rather than actual knowledge of it:* Experience suggests that it is very rare for a person to be "sure" that fraud and/or corruption exists without a full investigation by professionals and, in any case, suspicions from one source may provide useful corroborating information in relation to other reports.
- Whether the requirement to report suspicions "immediately" means that staff cannot even take time to discuss the matter with colleagues and supervisors first: It does not – staff may test their perceptions and obtain views from colleagues and superiors beforehand if they wish, but it is essential that IG/IN is notified quickly as some issues are time critical and the sooner the suspicion is reported, the sooner the Bank can act and even prevent the fraud from happening.
- *Whether staff can be assured that any suspicions reported will be dealt with on a sensitive and confidential basis:* IG/IN and OLAF are acutely aware of staff concerns in this regard, especially in limited markets, and go to great lengths to ensure that confidential information, including the source of information which generated the

¹⁴ Under the Board of Governors' decision on measures to combat fraud (August 2004, PV/04/11), complainants may also inform the Secretary General or OLAF directly.

investigation, is not disclosed to clients, counterparties, other third parties and the authorities in any given country.

- *Whether IG/IN could not be more proactive, sending a team to each division and asking questions regarding disbursements, for example, rather than expecting reports to be made to it:* IG/IN does undertake proactive assessments and aims to be accessible and available for informal discussions, briefings and conversations with members of staff. However, to go to each division would be very staff resource-intensive.
- *How the obligation on staff to report fraud and corruption – with its ‘inevitable’ consequences for delay or cancellation of projects and loans – is compatible with the burden on staff to ensure that annual targets for loans and projects are met:* IG/IN understands the competing pressures on staff and there are many examples of corruption concerns being tackled with minimal impact on the broader loan or project, especially when reported early. Nevertheless, the Anti-Fraud Policy and Staff Code of Conduct are very clear on staff obligations to report these issues in line with EIB’s policy on zero tolerance of fraud and corruption – it is not discretionary.

6. External cooperation

In addition to the cooperation with national authorities described above, IG/IN maintains close links with the investigative bodies of other international organisations.

In 2013, the cooperation with OLAF manifested itself in regular meetings to discuss developments on cases under investigation, four joint missions and seven meetings at OLAF. In addition, there were several visits by OLAF to the EIB Group offices to examine bank documents.

As in previous years, IG/IN continued to work closely with counterparts in other International Financial Institutions, in line with the IFI Anti-Corruption Task Force’s Uniform Framework Agreement. In 2013, this collaboration included joint investigations of cases with colleagues from the European Bank for Reconstruction and Development (EBRD), the African Development Bank, the Inter-American Development Bank and the World Bank.

The IFI Heads of Investigation met twice in 2013. The discussions led to further work on harmonisation of common policies, including guidelines for external quality reviews.

Case Study: External cooperation

IG/IN continued to lead the collaboration by a group of international organisations on a joint investigation into an issue involving a State-owned energy utility in a Member State. The company is a longstanding customer of the EIB, having received over EUR 600 million in funding. A general contractor bidding for a contract under the loan had arranged to pay a kickback of 3.4% of their contract price, over EUR 10 million, to executives of the state-owned energy utility. In return the general contractor obtained confidential information, and used it to win the bid. In 2010, the Member State’s anti-corruption body arrested a number of senior managers and executed search warrants at a number of premises in relation to possible corruption. The general contractor had made a first payment of nearly EUR 800,000 to a representative of the state officials, but prosecutors were able to prevent further payments and seize money in other foreign bank accounts. While the criminal investigation was ongoing, IG/IN initiated a process to ensure that the financing institutions involved – including a major IFI and two others - coordinated their approach. IG/IN also took the lead role in discussions with the national authorities and the new management of the company on how best to establish the potential loss and mitigate the risks. Although the Borrower went some way to demonstrate that procurement and control processes were now functioning effectively, concerns remained for IG/IN that further independent and objective forensic auditing was required, pending the outcome of the criminal investigation, to establish the full scale of the potential losses and mitigate the reputational risk in relation to the EIB-financed projects, as no further disbursement could be made while these uncertainties remained. IG/IN worked closely with the energy utility

management to determine the terms of reference and assist in the selection of a forensic audit company. The audit resulted in recommendations and a detailed action plan to implement a Fraud Risk Management programme. On the basis of these mitigating measures, EIB was able to allow further loans to be made. Subsequently, the general contractor agreed to reduce the contract price by the amount of the bribe. In the meantime, while some of the fraudulent and corrupt activities could not be prosecuted due to the statute of limitations, the Prosecutor General prosecuted the general contractor at the beginning of 2013. The general contractor subsequently reached a settlement with the government authorities and paid a fine of over EUR 1.2 million. The overall outcome for the Borrower and EIB was positive. This was largely due to the prompt action of the Borrower in communicating immediately with EIB about the arrests (within two days), and the subsequent full cooperation of the Borrower with both EIB and the national prosecutors. Investigations into other related issues are on-going.

7. Conferences and events

The Inspector General and staff from IG/IN are regularly invited to speak at conferences and anti-corruption events on fraud/corruption and related integrity topics. Participation at such events fits well with IG/IN's commitment to raising awareness of integrity issues in as far as they impact EIB activities and operations.

During 2013, IG/IN staff participated in a number of events and meetings including:

- 14th Conference of International Investigators hosted by the AFDB in Tunis (including a meeting of the Investigation/Integrity units from the IFIs with counterparts from the Regional Development Banks;
- International Anti-Corruption Academy 2013 in Vienna;
- Conference on the creation of a European Public Prosecutor in Trier;
- Risk conference on the Arab Spring in Brussels;
- Conference on investment fraud in Utrecht;
- Conference on Fraud in the Uses of European Union Structural Funds;
- Colloquium entitled "Follow the money", Brussels;
- 'Groupe Pilote' Meeting at OLAF in Brussels of staff from Anti-Corruption Commissions and Inspectorates-General from across Africa.



16th 'Groupe Pilote' meeting, Brussels, June 2013

Staff members from IG/IN were also involved in a range of briefings to senior management and the Audit Committee on specific case-related issues, issues arising from the Anti-Fraud Policy and discussions on the Exclusion Procedures and more generally on the role and function of IG/IN.

8. Resources and staffing

During 2013, the combination of new cases and policy initiatives created heavy demands on IG/IN staff. This presented significant challenges to the small IG/IN team of 8 professional staff members. While a further investigator was recruited to start in 2014, the total number of investigation cases per investigator in IG/IN appears to be relatively high compared with other international organizations with a similar scope of work.

As in previous years, the Division also utilised the services of consultants (experts in engineering, procurement, forensic accounting, etc.) to assist and advise IG/IN staff in appropriate cases

9. Looking ahead

2014 is likely to present a number of significant challenges, including the implementation of the Bank's Exclusion Procedures.

One of the most significant limitations on IG/IN's ability to obtain concrete proof is a lack of access to bank account information, for which EIB is reliant on requests to national authorities. The European Parliament voted last year to enhance OLAF's capacity to cooperate with national authorities. IG/IN plans to explore similar possibilities.

IG/IN will also review its accessibility and communications, and consider options with the Communications Division to explore the use of social media to raise the profile of its work, but also crucially to increase the ability of complainants to bring matters to the attention of IG/IN.

More generally, IG/IN is currently benchmarking itself against investigative units of other international organisations. Following a quality control review undertaken at the end of 2013, IG/IN will also focus on implementing any required updates to its practices and procedures during the course of the year.

IG/IN will also amend the EIF Anti-Fraud Policy to reflect the changes contained in the Policy for EIB.

J.W. van der Kaaij
Inspector General

J. Vlogaert
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Fraud Investigations Division

Annex 1

Examples of cases involving EIB-Financed activities

Allegation	Investigative Findings	Case Resolution
<p>A mid-term review audit identified a number of irregularities in procurement procedures in an infrastructure project financed by EIB outside Europe.</p>	<p>Following an IG/IN investigation, which included interviews with key officials in the procurement process, it was determined that a local company who had initially been disqualified due to a lack of appropriate staff was subsequently awarded the contract, having rapidly acquired the required additional staff. A procurement expert hired to oversee the process was found to have provided no useful oversight. The Bid Evaluation Committee provided inconsistent responses to IG/IN during interview.</p>	<p>While IG/IN did not establish clear evidence of bribery and corruption, there was sufficient evidence of irregularities to lead to a decision to reallocate the portion of the loan affected to other projects within the same country.</p>
<p>IG/IN was contacted by OLAF requesting assistance for a case involving a project for school infrastructure rehabilitation in a Member State. A company had reported irregularities in a procurement process regarding a tender for the supply of educational equipment.</p>	<p>Following IG/IN's investigation, it was determined that the company which won the tender had provided false information and the items delivered were not of the quality required under the contract.</p>	<p>The contract was therefore cancelled and there was no financial impact on the EIB funding. OLAF referred the case to the relevant judicial authority.</p>
<p>A national Anti-Corruption Commission outside Europe established that considerable funds had been lent through local banks to an individual for tourist resort developments and privatisation of public companies, following support from high-level politicians. This was despite an initial refusal by these same local banks to lend the money previously, due to the high level of debt and insufficient guarantees. The privatisations were also valued below the real worth of the public companies. The case was reported to the public prosecutor.</p>	<p>IG/IN met with the Anti-Corruption Commission and confirmed the involvement of EIB funds amounting to EUR 1.3 million.</p>	<p>IG/IN recommended to EIB Legal Services that EIB join civil proceedings against the individual as a 'partie civile'.</p>

Allegation	Investigative Findings	Case Resolution
<p>A Customs Agency of a Member State requested assistance from IG/IN during searches at a financial intermediary of EIB, which was a regional development agency. This was during an investigation into alleged fraud, where companies allegedly obtained public funds illegally with the advice of managers of the financial intermediary. The allegations involving EIB funds concerned one loan for nearly EUR 3 million provided through the regional development agency to a company, to finance the implementation of a production plant. This had not been authorized by the Bank. It was alleged that the loan beneficiary falsified invoices in order to obtain the loan.</p>	<p>EIB investigators, together with OLAF, assisted the Customs Agency officers in the analysis of the seized documentation. The analysis showed that while the loan was for new machines, the machines purchased were second hand. Fraudulent invoices for supplies were issued to the beneficiary company by a supplier owned by the wife of the director of the beneficiary company.</p>	<p>Disbursements were suspended pending the final results of the national investigation.</p>
<p>IG/IN was informed about allegations in a press article of mismanagement involving a Global Loan to a bank outside Europe. It was alleged that the President of the bank in question had private interests in some of the projects financed by the bank; procedures concerning upper limits and guarantees for loans were not respected; he refused to permit on-the-spot visits before authorizing projects; monitoring and supervising missions were effectively abolished; and he used much of the travel budget for personal use.</p>	<p>IG/IN and IG/Audit staff, together with investigators from a Regional Development Bank, which was co-financing the project, conducted a joint mission to verify the reported allegations. The investigation found that the bank's project cycle was heavily influenced by the President and Vice-President of the bank, from the selection of recipients to the final approval. This created greater exposure to conflict of interest or fraud. The President also had control over appointments to the Audit Committee and the internal auditor was insufficiently qualified for the role, as were a number of managers. The Vice-President refused to provide relevant documents for the President's expenses.</p>	<p>While not all the allegations were substantiated during the mission, there was sufficient evidence of concern to lead to a decision by EIB to de facto terminate the project by refusing the extension of the disbursement deadline requested by the Borrower.</p>
<p>IG/IN received a report of an attempt by regional government officials to extort money from contracts in an EIB-funded project outside Europe, threatening to cause delays to payments. The officials also reportedly suggested modifying tender agreements to favour certain suppliers, as well as taking over future tender procedures and budget responsibility themselves.</p>	<p>EIB representatives met with Ministry officials at a national level to express concern about the attempts to influence the procurement processes of the project, while IG/IN interviewed project staff. The project staff were unwilling to provide information openly and so conclusive proof could not be obtained.</p>	<p>IG/IN recommended moving responsibility for the whole tender process from the Promoter to the local EIB office and hiring an external consultant to oversee the whole tender procedure.</p>



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