

REGISTER NUMBER: 516

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 13/7/2009

Case number: 2009-459

Institution: European Investment Bank

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

European Investment Bank (EIB), 100 Boulevard Konrad Adenauer, L-2950 Luxembourg

2/ Organisational parts of the institution or body entrusted with the processing of personal data

The EIB's "Fraud Investigation division" (IG/IN) is part of the Department "Inspectorate General" (IG) of the EIB. All activities related to Fraud Investigations are performed under the overall responsibility of the Inspector General by the Fraud Investigation Team (1 Head of Division, 2 Investigators and additional 2 Investigators to be hired in 2009).

3/ Name of the processing

Fraud Investigation - Under the provisions of the Bank's Anti Fraud Policy, EIB Group members of staff and EIB's Group business partners are required to maintain the highest level of integrity and efficiency in all EIB Group activities and operations.

4/ Purpose or purposes of the processing

The Fraud Investigation Division (IG/IN) is the team in the Bank that investigates credible allegations of prohibited practices in EIB-financed operations – allegations that appear initially without basis will be filtered out at an early stage. Moreover, EIB Group has a zero tolerance of fraud, corruption, collusion and coercion (known as "prohibited practices"), money laundering or terrorist financing in its activities or operations.
(<http://www.eib.org/about/publications/anti-fraud-policy.htm?lang=-en>) (<http://www.eib.org/about/news/update-review-of-anti-fraud-policy-and-procedures.htm>).

5/ Description of the category or categories of data subjects

Fraud investigation has unrestricted access to people, documents and data within the EIB. In the course of investigations, IG/IN may process data of staff members, borrowers, promoters, contractors, suppliers and consultants, who are relevant for the investigation, as subject, whistleblower and/or informant. Concerning staff members by standard practice both the Director HR and the Bank's Data Protection Officer are notified by email prior to accessing personal data. Up-to-now this was only the case twice and only the CV was consulted.

<p>6/ Description of the data or categories of data <i>(including, if applicable, special categories of data (article 10) and/or origin of data)</i></p> <p>All EIB members of staff are obliged to cooperate with IG/IN and OLAF promptly and fully, including by answering relevant questions and complying with requests for information and records. As provided for in the applicable EIB financed-contract, IG/IN and OLAF can examine and copy the relevant books and records of project promoters, borrowers, contractors, suppliers and other involved parties – the so-called “audit and visiting rights”. Each EIB finance contract has a standard visiting and information clause, (Article 8 of attached contract), giving the Bank the right to inspect the books of the borrowers and the project financed involving EIB funds.</p> <p>In case of allegation concerning staff members of the Bank only the personal professional history (CV provided when applying to the Bank) will be checked.</p>
<p>7/ Information to be given to data subjects</p> <p>In accordance with point 39 of the Bank's Anti fraud Policy, a staff member who is the subject of an investigation shall be entitled to due process rights, in particular to be notified of that fact as early as possible, unless it is determined that to do so would be harmful to the investigation.</p> <p>Furthermore, in accordance with point 42 of the Bank's Anti Fraud Policy, a staff member who is the subject of an investigation shall be given notice of the allegations and evidence against him or her, and the opportunity to respond before any adverse action is taken. The information will be provided to the data subject, as soon as this would not negatively impact the ongoing investigation.</p>
<p>8/ Procedures to grant rights of data subjects <i>(rights of access, to rectify, to block, to erase, to object)</i></p> <p>A person under investigation or a witness has access to the relevant information and can give its personal input. Procedures are in line with the Whistleblowing Policy which has been reviewed in 2009 and circulated to the Board of Directors of the Bank. (http://www.eib.org/about/publications/eib-s-whistleblowing-policy.htm?lang=-en)</p>
<p>9/ Automated / Manual processing operation</p> <p>For Fraud Investigation both electronic and manual processing of personal data is occurring. Accesses are limited to the Fraud Investigation Team (The Inspector General, 1 Head of Division, 2 Investigators and additional 2 Investigators to be hired in 2009, as already mentioned under 2/). The-physical paper files are stored separately in specific locked archives for IG/IN.</p> <p>Electronic files are stored in the IG-IN section of the G-drive (this section of the drive is accessible only within the Directorate) protected by individual password of the Fraud Investigation staff.</p>
<p>10/ Storage media of data</p> <p>As mentioned under point 9/ the paper files are archived separately in specific locked archives for IG/IN (only accessible to Fraud Investigation staff). The paper files will be destroyed 10 years after the case has been closed.</p>
<p>11/ Legal basis and lawfulness of the processing operation</p> <p>The investigations are conducted in conformity with the Procedures for the Conduct of Investigations by the Inspectorate General of the EIB Group, which are based on principles agreed by the IFIs Anti-Corruption Task Force and laid out in the Uniform Framework agreement, signed in Singapore in September 2006. (http://www.eib.org/attachments/strategies/conduct_of_investigations_en.pdf)</p> <p>This procedures have been elaborated on the basis of the Banks' Staff Regulations (http://www.eib.org/about/publications/staff-regulations.htm?lang=-en) and Code of Conduct (http://www.eib.org/attachments/thematic/code_conduct_staff_en.pdf).</p>
<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>Reporting on cases is done with strict confidentiality and limited circulation. IG/IN provides its findings to senior management who have specific responsibility for the project and reports at the same time to OLAF and the Audit Committee of the Bank. A monthly summary of all cases is, in addition, also send to the external auditors of the Bank.</p> <p>The Management Committee is informed by the Inspector General what follow-up measures are to be taken by the Operational Departments, including loan cancellation and early repayment.</p>

<p>IG/IN may refer a matter to the appropriate national authorities for further investigation and/or criminal prosecution. This shall be done in consultation with or with the assistance of OLAF.</p>
<p>13/ retention policy of (categories of) personal data Paper and electronic files to be destroyed / deleted 10 years after a case has been closed. Current working papers are stored in special fire-secured cupboards.</p>
<p>13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) <i>(Please, specify the time limits for every category, if applicable)</i> In case of fraud, the paper and electronic files to be destroyed / deleted 10 years after a case has been closed. (see point 13/ above).</p>
<p>14/ Historical, statistical or scientific purposes <i>If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,</i> n/a</p>
<p>15/ Proposed transfers of data to third countries or international organisations IG/IN may refer a matter to the appropriate national authorities for further investigation and/or criminal prosecution. This shall be done in consultation with or with the assistance of OLAF (Commission rules will apply). (http://www.eib.org/about/structure/control_and_evaluation/control_olaf.htm; http://www.eib.org/about/press/1999/1999106-co-operation-with-the-european-anti-fraud-office.htm) in accordance with Regulation 1073/1999 and the Judgement of the Court of Justice of 10 July 2003 in cases C-11/00 and C-15/00</p>
<p>16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>):</p> <p>AS FORESEEN IN:</p> <p><input type="checkbox"/> Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures, n/a</p> <p><input type="checkbox"/> Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject, n/a</p> <p><input type="checkbox"/> Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract, n/a</p>
<p>17/ Comments From February to September 2006, IG participated in the IFI Anti Corruption Task Force and hosted one of the meetings. The heads of the institutions represented agreed on the harmonisation of their definitions, agree on common principles and guidelines for investigations, the strengthening of the exchange of information and the exploration of cross-recognition of debarment actions.</p>

The resulting agreement was signed during the IBRD/IMF annual meeting in Singapore in September 20, 2006. The document is available on EIB's website at: www.eib.org/about/documents/ifi-anti-corruption-task-force-uniform-framework.htm

PLACE AND DATE: Luxembourg, 10 July 2009

DATA PROTECTION OFFICER: Jean-Philippe Minnaert

INSTITUTION OR BODY: European Investment Bank