



Ms Marjut Santoni
Secretary General

Mr Jan Willem van der Kaaij
Inspector General

Cc: Ms Sonja Derkum
Head of Division - Complaints Mechanism

Strasbourg, 09/07/2018

Subject: European Ombudsman second contribution to the revision of the EIB Group Complaints Mechanism Policy and Procedures

Dear Ms Santoni,

Dear Mr van der Kaaij,

Thank you for your letter of 18 May 2018, addressed to the Ombudsman, enclosing a copy of the draft revised EIB Group Complaints Mechanism Policy and Procedures as well as the relevant annexes, and asking for the Ombudsman's comments on these two texts.

You will find our detailed comments in the attached annex.

We have had the opportunity to meet with representatives from the EIB and in particular the EIB Complaints Mechanism (EIB-CM). As you know, our concerns have related to a number of issues that could potentially, if not addressed correctly, have a negative impact on the EIB-CM's independence and effectiveness. This could call into question the Memorandum of Understanding signed between the EIB and the European Ombudsman, with the support of the European Parliament.

It is of paramount importance that any rules put in place by the EIB regarding the structure, functioning and operations of the EIB-CM ensure its independence and its credibility in the eyes of European citizens. The EIB-CM should have the means and resources to be able to fulfil its remit in an efficient and a timely manner. Ultimately, the EIB-CM can only work effectively if it



enjoys the support from the leadership of the Bank and the unfailing cooperation of the Bank's operational services.

We are therefore happy to note that the EIB has made significant changes to the draft revised Policy and Procedures, in order to address some of the main concerns already expressed by the European Ombudsman and the civil society during the public consultation.

1. Admissibility

In particular, we welcome the changes made regarding the admissibility process. The current wording of the relevant provisions are capable of safeguarding the independent and efficient functioning of the EIB-CM, by ensuring that it is the Head of the EIB-CM only who can decide whether a complaint is admissible. Previous proposals whereby that assessment would have been carried out with the involvement of the services themselves were seriously undermining the independence of the EIB-CM.

2. Internal consultation

One of the lessons drawn from complaints submitted to the Ombudsman is that significant delays in the complaint-handling process by the EIB-CM arose because of the way the internal consultations were conducted within the EIB. Therefore, to safeguard the independent, efficient and timely functioning of the EIB-CM, the new rules should make it clear that, in case of disagreement between the EIB-CM and the EIB's operational services on the findings made and conclusions reached by the EIB-CM, the number of internal consultations are kept to the absolute minimum. Such consultations must be subject to strict deadlines. The key issue here is to avoid protracted inter-service consultations until an agreement or consensus between the EIB-CM and the services is reached.

We therefore suggest that the draft revised Procedures clarify the roles of both the Inspector General and the Management Committee during the internal consultation process and set out clear responsibilities and deadlines for all the actors involved. Detailed drafting comments are made in the Annex to this letter.

We believe that the proposed changes of the EIB Group Complaints Mechanism Policy and Procedures will further enhance the ability of the EIB-CM to deal with complaints independently, efficiently and in a timely manner.

We hope that these comments and the constructive dialogue we have engaged in will help the EIB to take this important piece of work forward.



Yours sincerely,



Graham Smith
Advisor to the European Ombudsman

Enclosure:

- Annex containing suggested changes to the draft Policy and Procedures