

The Ombudsman asks the ECB about Anacredit

Decision

Case 1693/2015/PD - **Opened on** 20/11/2015 - **Decision on** 20/11/2015

Mr Mario Draghi President European Central Bank Eurotower Kaiserstraße 29 60311 Frankfurt am Main GERMANY

Strasbourg, 20/11/2015

Complaint 1693/2015/PD

Dear Mr President,

I am writing to you in relation to a complaint that was lodged with my Office on 27 October 2015 by MEP Sven Giegold. The complaint concerns the ECB's intention to adopt a regulation to establish an Analytical Credit Dataset ('AnaCredit').

My understanding is that the AnaCredit project would result in the bulk of credits and loans given by banks in the EU being reported to the ECB. Given the extent of the information envisaged for inclusion in the database, one could reasonably expect AnaCredit to be one of the most extensive databases in the world.

In essence, the complainant is concerned that AnaCredit may be in breach of higher ranking EU law, notably the proportionality principle and the rules governing data protection. He also considers that the legal basis envisaged for the adoption of the regulation concerning AnaCredit is wrong. Moreover, he considers that the ECB should carry out a public consultation before adopting the regulation concerning AnaCredit.

Having reviewed your letter to the complainant of 22 September 2015, I note that the ECB is currently examining his substantive concerns. I understand that the ECB is reviewing the question of proportionality, as well as the data protection aspects. On the latter, I understand that the ECB has consulted the Union body specialised in the matter, the European Data Protection Supervisor. As concerns the legal basis of the Anacredit regulation, my initial review of the information that has been made available to me suggests that the choice of legal basis does not appear *prima facie* wrong.



Therefore I have found insufficient grounds for opening an inquiry and closed my examination of this complaint.

However, on the question of a public consultation I would appreciate clarification from your side.

I note from material published by the ECB on 11 November 2015 that the Bank ran a 'merits and costs' procedure, in which *'representatives of the banking industry were directly involved'*, mainly via the respective NCBs. It is further stated that the industry was informed on many occasions and extensively in writing. There is also mention of a possible public consultation should the ECB Governing Council consider an extension of the scope of the AnaCredit dataset in the future.

Given that it has not been possible for my services to find a published report on the 'merits and costs' procedure, it is difficult to gauge to what extent stakeholders and the wider public have been given an opportunity to provide structured input on this important initiative. The regulation to be adopted will affect millions of individuals; adopting it without ensuring the most appropriate consultation of stakeholders and the wider public may undermine the public trust of AnaCredit, irrespective of its merits. I understand there is no legal impediment to the ECB giving all stakeholders including the wider public an opportunity to voice their views.

I would therefore appreciate if you could inform me of any measures already taken or envisaged by the ECB to make sure that stakeholders and the wider public can make their views known on AnaCredit. I look forward to your response by end of December 2015.

I note also a member of the ECB Executive Board is due to appear before the Economic and Monetary Affairs Committee of the European Parliament on this issue in the coming months, which will provide another opportunity to engage with elected European representatives on this issue.

If your services need further information on this matter, they are free to contact in my Office: Ms. Rosita Agnew, Head of Strategic Inquiries Unit [rosita.agnew@ombudsman.europa.eu [\[Link\]](#)].

Enclosed, please find a copy of the complaint.

Yours sincerely,

Emily O'Reilly