



Sprendimas byloje 1339/2012/FOR - Tvirtinimas, kad ECB pirmininko narystė Trisdešimties grupėje yra nesuderinama su ECB nepriklausomumu, reputacija ir principingumu.

Sprendimas

Byla 1339/2012/FOR - **Atidaryta** 24/07/2012 - **Sprendimas** 01/02/2013 - **Atitinkama institucija** Europos centrinis bankas (Netinkamo administravimo faktas nenustatytas) |

Skundo pateikėja, NVO Korporatyvinės Europos stebėsenos tarnyba, tvirtino, kad ECB pirmininko narystė Trisdešimties grupėje yra nesuderinama su ECB nepriklausomumu, reputacija ir principingumu. Ji teigė, kad ECB turėtų pareikalauti, kad jo pirmininkas iš šios grupės pasitrauktų.

Ombudsmenas suprato, kad skundo pateikėja teigia, jog Trisdešimties grupė yra interesų grupė, atstovaujanti privatiems finansų interesams, ir veikia kaip tokius interesus remianti lobistinė grupė. Skundo pateikėja taip pat mano, kad ši grupė privatiems interesams yra kaip platforma, kurioje ji savo lobistine veikla daro įtaką ECB. Kaip įrodymus skundo pateikėja nurodė, kad: (i) kai kurie Trisdešimties grupės nariai šiuo metu dirba arba yra dirbę privačiuose bankuose ir investicinėse bendrovėse; (ii) finansavimą grupė gauna daugiausia iš privačių bankų, ir (iii) grupės tikslai orientuoti į privačius interesus.

Atidžiai išanalizavęs skundo pateikėjos argumentus ir ECB nuomonę, ombudsmenas pažymėjo, kad iš tikrųjų daugelis grupės narių atstovauja valstybinėms institucijoms, kaip antai, kitiems centriniam bankams. Be to, jos veikla finansuojama iš įvairių šaltinių, tarp kurių yra ir valstybinių institucijų. Dėl grupės tikslų ombudsmenas nustatė, kad turimi faktai rodo, jog grupė yra diskusijų forumas, o ne interesų ar lobistinė grupė. Ombudsmenas taip pat nurodė, jog ECB pirmininkui dalyvauti atitinkamuose diskusijų forumuose yra iš principo tinkama ir būtina.

Todėl ombudsmenas atmetė teiginius, kad ECB pirmininko narystė grupėje yra nesuderinama su ECB nepriklausomumu, reputacija ir principingumu, ir nenustatė jokio ECB netinkamo administravimo atvejo.

Ombudsmenas taip pat pažymėjo, kad skundo pateikėja, gavusi iš pradžių netinkamus ECB atsakymus, buvo teisi išreiškdamą susirūpinimą šiuo klausimu. Galiausiai, ombudsmenas pateikė du pasiūlymus. Pirma, siekdamas skaidrumo, ECB savo interneto svetainėje turėtų pateikti informaciją apie tai, kad jo pirmininkas yra Trisdešimties grupės narys. Antra, atsižvelgdamas į savo matomumą ir atsakomybę, ECB turėtų toliau gerinti bendravimo su visuomene kokybę.



The background to the complaint

1. The complainant, Corporate Europe Observatory (CEO) [1], contacted the European Central Bank (ECB) in 2011 and 2012 in relation to the ECB President's membership of the "Group of Thirty" [2]. In light of these contacts, the complainant took the view that the ECB President's membership of the Group of Thirty compromised the independence of the ECB. It called on the ECB to ask its President to withdraw from the Group of Thirty. As it was not satisfied with the responses it obtained from the ECB, the complainant turned to the Ombudsman. After examining the arguments put forward by the complainant, and the responses provided to the complainant by the ECB, the Ombudsman opened an inquiry and asked the ECB to submit its opinion to the Ombudsman.

The subject matter of the inquiry

2. The complainant alleges that the ECB President's membership of the Group of Thirty is incompatible with the independence, reputation and integrity of the ECB. The complainant claimed that the ECB should ask its President to withdraw from the Group of Thirty.

The inquiry

3. The complaint was submitted to the Ombudsman on 27 June 2012. The Ombudsman opened an inquiry on 24 July 2012. The ECB submitted its opinion on 30 August 2012. The complainant submitted its observations on 29 September 2012.

The Ombudsman's analysis and conclusions

A. Allegation that the ECB President's membership of the Group of Thirty is incompatible with the independence, reputation and integrity of the ECB

Arguments presented to the Ombudsman

4. The complainant argues that the Group of Thirty is a "lobbying vehicle", aimed at promoting private financial interests. It argues that the aim of the Group of Thirty is to influence the debate on the regulation of the financial sector worldwide, by delivering actionable recommendations to private and public sector policy-making communities. It concludes, therefore, that membership of the Group of Thirty is incompatible with the position of President of the ECB.

5. According to the complainant, the Group of Thirty constitutes an important interface between private banks and central banks, and that such an arrangement allows some of the biggest private banks in the world to exert influence on the top executives of the most important central banks in the world, including the ECB. The complainant points out that members of the Group of Thirty include executives and advisors from major private financial bodies, such as Morgan Stanley, JP Morgan Chase and BNP Paribas.

6. It adds that the Group of Thirty has supported the objectives of "the banking lobby" on various issues.



7. It goes on to argue that the Group of Thirty's activities and membership are opaque. There is no way, the complainant argues, for the public to know the details of the ECB President's involvement in the Group of Thirty, since the meetings of the Group of Thirty are confidential.

8. The complainant argues that any President of the ECB must ensure that he/she is not under the influence of a financial lobby, and is not attached to any forum or process that could jeopardise his/her independence or give rise to a conflict of interest. It adds that it is the ECB's responsibility to ensure that its President is independent and not burdened by a conflict of interest.

9. The complainant notes that requirements of independence, and of the absence of conflict of interest, are set out in the:

- Code of Conduct for the Members of the Governing Council ("the Code of Conduct");
- The Supplementary Code of Ethics Criteria for the Members of the Executive Board; and
- The ECB Staff Rules, which contain the Ethics Framework.

10. It adds that the requirement that the ECB remain independent is set out in Article 130 of the Treaty on the Functioning of the European Union (TFEU), which reads as follows:

"When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB [3] and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body . The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks." (Emphasis added)

11. The complainant argues that, if this article is to have any meaning, safeguards must be applied, including safeguards relating to relationships with representatives of private banks.

12. The complainant adds that Article 3.5 of the Code of Conduct states that Governing Council members' relations with interest groups shall be based on an approach which is compatible with their independence as members of the Governing Council and with the principle of integrity. The complainant goes on to note that the ECB has appointed an Ethics Officer to uphold the Code of Conduct. However, the ECB informed the complainant that the participation of the President of the ECB in the Group of Thirty does not involve any advice from the Ethics Officer, nor any consultation with the Governing Council. The ECB added that the ECB President's participation in the Group of Thirty is compatible with the Code of Conduct given that "dialogue and exchange of views with third parties is compatible with the duties as member of the Governing Council and the principle of independence set out in



Article 130 TFEU". The complainant concludes that the ECB did not provide an analysis of the Group of Thirty, or of the ECB President's role therein.

13. The complainant goes on to point out that the Supplementary Code, which addresses the issue of invitations to meetings, states in Article 3 that members of the Board should observe particular prudence with regard to "individual invitations". The Supplementary Code states that members of the Board should consult the Ethics Officer in case of doubt. The complainant states that the President of the ECB did not, apparently, make any such consultation.

14. The complainant also considers it relevant to add that the President of the ECB once worked for Goldman Sachs (an investment bank).

15. Finally, the complainant points out that while the ECB is aware of its President's membership of the Group of Thirty, it does not disclose this information to the public in the President's CV on its website.

Opinion of the ECB

16. In its opinion submitted to the Ombudsman, the ECB argues that the ECB President's membership of the Group of Thirty is fully compatible with the independence, reputation and integrity of the ECB and, most importantly, does not entail any conflict of interest. The ECB summarised its position as follows. First, it argued, the Group of Thirty is not a "lobby" or an "interest group". Rather, according to the ECB, the Group of Thirty is a forum for exchanging views on global economic and financial issues. Second, the ECB argued that it is essential for the ECB President to have regular meetings and exchange views with high-level representatives of the public and private sectors. Such contacts are indispensable for the proper execution of the ECB's mandate, as they provide a highly valuable source of first-hand information about developments in the global economic and financial environment in which the ECB operates. They thus allow the ECB to develop an informed view of that environment. Such contacts also provide the ECB with a channel for communicating its policy measures. Third, it argued that the ECB President's membership of the Group of Thirty is entirely in line with the stringent ethics standards applicable to the members of the ECB's decision-making bodies. In light of the above three reasons, the ECB concluded that the complainant's allegations are unfounded.

17. The ECB then explains its position in detail. It describes what it considers to be the nature of the Group of Thirty. It provides a detailed explanation of the Group of Thirty's role and function, its purpose and membership.

18. First, as regards purpose, structure and governance, the ECB states that the Group of Thirty is a private, non-profit, publicly known international body founded in 1978, which aims to deepen understanding of international economic and financial issues, to explore the international repercussions of decisions taken in the public and private sectors, and to examine the choices available to market practitioners and policy-makers. It is composed of high-level representatives of the private and public sectors, including several current or



former central bank governors, as well as academics. The Group is currently chaired by Jean-Claude Trichet (a former President of the ECB). The full list of members of the Group of Thirty is made public on the Group of Thirty's website.

19. Formally, the Group of Thirty is a committee of a legal entity called the "The Consultative Group on International Economic and Monetary Affairs, Incorporated", which is registered in the United States as a non-profit, tax-exempt organisation. Day-to-day decisions regarding the operations of the Group of Thirty are taken by the Executive Director in consultation with the Officers of the Group of Thirty, as appropriate. Decisions regarding leadership, membership, and policy are taken by the Board of Trustees. Currently, the Trustees consist of the Chairman of the Trustees and the Officers of the Group of Thirty. All important matters affecting the membership and policies of the Group of Thirty are reviewed at biannual plenary meetings of the Group. The Group is supported by various sources: banks, non-bank corporations, central banks, individuals and, for specific projects, foundations. The current list of contributors is presented in an annex to the Group of Thirty's annual report [4].

20. The ECB goes on to note that the Group of Thirty issues publicly available reports and organises regular meetings and seminars that reach out to a wider audience. Its key events are the two annual plenary meetings and the International Banking Seminars. Most of the members attend the plenary meetings. A small number of distinguished guests also participate in the discussions at the plenary meetings. Certain subjects are a regular focus of the Group of Thirty's attention. There is usually a discussion of the international economic outlook over the next 12 to 24 months. The evolution of financial markets, particularly in times of uncertainty, has also become a focal point. In 2010 and 2011 the plenary debates focused on repairing economies following the financial crisis. The plenary meetings debated the causes and implications of the crisis, the lessons to be learned, the remaining challenges, and the impact of financial and regulatory reforms on the banking sector. The plenary meetings also touched on developments in emerging market economies, issues confronting the international monetary system, geo-political risks, and other relevant and timely subjects. The International Banking Seminars are held at the same time as the IMF and World Bank annual meetings. These Seminars are attended by members as well as non-members, including, *inter alia*, many central bank governors, finance ministers and chairmen of the financial sector. Each seminar features presentations by high-level representatives of the private and public sectors across the globe. Relevant information on the Group of Thirty's activities, including the topics discussed, as well as speakers at seminars and participants at plenary meetings, can be found in the Group of Thirty's annual report [5].

21. It is clear from the above, the ECB argues, that the Group of Thirty is not a lobby or interest group that would aim to influence any decision-making process in such a way as to defend private interests. It is, rather, a forum for enlightened and forthright reflection and debate on issues of relevance for the economic and financial world, with the aim of deepening understanding of international economic and financial issues.

22. The ECB goes on to underline that the ECB President is neither a Trustee nor an Officer of the Group of Thirty (as described above, paragraph 19).



23. The ECB also states that, as a member of the Group of Thirty, the ECB President may decide, upon invitation and without remuneration, to attend events organised by the Group. These events allow for an exchange of views on global economic and financial issues. Information concerning these events, such as the participants and presentations at plenary meetings, seminars and study groups, are made publicly available on the website of the Group of Thirty. Such dialogues provide, the ECB states, a useful opportunity not only to understand better the views and perceptions of international policy-makers, market participants and academics, but also to explain ECB policy measures to a wider audience. To ensure the proper execution of the ECB's mandate, ECB policy-makers need to be informed about and understand developments in the global economic and financial environment. It is thus not in conflict with his institutional role for the ECB President to meet representatives of that "surrounding environment", from either the public sector or the private sector, for dialogues and exchanges of views. In the same vein, the ECB (co)-organises annually several conferences which bring together people from the public and private sector, as well as academia. This shows that the ECB President's membership of the Group of Thirty is not incompatible with the independence of the ECB but, on the contrary, falls squarely within the requisites of his position. The ECB also states that its President is bound by the principle of independence and the duty of professional secrecy when taking part in such exchanges of views or debates.

24. The ECB argues that its President's membership of the Group of Thirty does not give rise to a conflict of interest. It neither creates the appearance of such a conflict of interest nor violates the provisions of the ECB's ethics framework. The members of the ECB's decision-making bodies are bound by a comprehensive ethics framework specifying the standards of integrity and conduct. These standards take into account the special responsibility of the members of the ECB's decision-making bodies to maintain the integrity and reputation of the ECB and the ESCB as a whole. They notably contain rules on attendance of conferences, receptions and cultural events and on conflict of interest and rules on their disclosure, which are in line with the standards laid down by the Council of Europe's Recommendation on codes of conduct for public officers and the OECD's Recommendation on Guidelines for managing conflict of interest in the public service. First, as already explained, it is necessary for the proper execution of the ECB's mandate that the ECB President has regular exchanges of views with representatives of the global economic and financial environment in which the ECB operates. Second, as mentioned above, the Group of Thirty is not an interest group in the sense of Article 3.7 of the Code of Conduct for the members of the Governing Council, but a non-partisan discussion forum. Third, the ECB President's membership of the Group of Thirty does not provide him with "any potential advantage for himself, his family, his other relatives or circle of friends and acquaintances". Such membership is therefore, by definition, not liable to give rise to any private or personal interest, and even less to any conflict, or appearance of conflict, of interest.

25. In light of the above, the ECB states that it trusts that the preceding information about the Group of Thirty constitutes sufficient evidence that the ECB President's membership of the Group of Thirty presents neither an apparent nor an actual conflict of interest, and does not compromise the independence of the ECB President.



Observations of the complainant

26. The complainant made the following observations in relation to the ECB's opinion.

27. As regards the composition of the Group of Thirty, the complainant observes that, while the ECB maintains that the Group of Thirty is “not a lobby or an interest group but a forum for exchanging views on global economic and financial issues”, it acknowledges that the Group of Thirty is composed of high-level representatives of the private and public sectors and academics. Of the 32 current regular members, 12 work for private financial institutions. Other members, it states, passed through “the revolving door”, working for the private sector and then the public sector, or vice versa.

28. The complainant also emphasises that major decisions regarding leadership, membership and policy of the Group of Thirty are taken by the Board of Trustees and the “officers” of the Group of Thirty. Inside this select group, five of the eight members work for the private financial sector.

29. As regards the funding of the Group of Thirty, the complainant notes that while the ECB opinion mentions the question, it fails to address the reason why this might constitute a problem. Although the amounts given to the Group of Thirty are not disclosed, 45 of the 79 financial contributors to the Group of Thirty are financial firms or banking lobby groups. The complainant believes that the fact that the Group of Thirty depends for funding on these sources demonstrates that the Group of Thirty is an initiative promoted by the private financial sector.

30. As regards the activities of the Group of Thirty, the complainant notes that the Group of Thirty produces major studies through working groups chaired by a steering committee. The complainant argues these studies produce political advice.

31. In the past four years, the Group of Thirty has published four major studies on key issues regarding international financial regulation, namely:

“The structure of financial supervision” (2008) by Paul Volcker (Group of Thirty), Roger Ferguson (TIAA-CREF), Jacob Frenkel (AIG), Richard Debs (Morgan Stanley), Geoffrey Bell (Geoffrey Bell & co.), Arminio Fraga-Neto (Gavea Investimentos), E. Gerald Corrigan (Goldman Sachs), Gerd Häusler (Lazard International), Andrew Crockett (JPMorgan Chase), John Heimann (Financial Stability Institute), Jacques de Larosière (BNP Paribas), Stuart Mackintosh (Group of Thirty).

“Reform of the International Monetary Fund” (2009). Chairman: Jacob Frenkel (AIG). Regular members: Stanley Fischer (Bank of Israel), Arminio Fraga Neto (Gavesa Investimentos), Peter B. Kenen (professor), Guillermo Ortíz (Banco de México), Stuart Mackintosh (Group of Thirty).

“Financial reform: a framework for financial stability” (2009) by Paul Volcker (Group of Thirty), Arminio Fraga Neto (Gavesa Investimentos), Tommaso Padoa-Schioppa (Promontory



Financial Group), Stephen Thieke (RiskMetrics)

"Enhancing financial stability and resilience" (2010). Chair: Roger Ferguson (TIAA-CREF), members: the whole membership of Group of Thirty

The complainant puts emphasis on the fact that certain members endorsed most of these studies in their capacity as "representatives" of the private sector.

32. The complainant then poses a question as regards the role of central bankers in the Group of Thirty. Can they, the complainant asks, really be associated with what is "political advice" signed off by some of the biggest financial corporations in the world?

33. In the above context, the complainant notes, most central bankers put their name on key studies produced by the Group of Thirty "in their individual capacities". For example, when the Group of Thirty issued its report on the IMF in 2009 the then President of the ECB, Jean-Claude Trichet, signed the study in his individual capacity. In the complainant's view, being President of the ECB cannot be combined with the endorsement of "policy documents" that are mainly written by representatives of large financial corporations, even if the study contains a formal disclaimer. In practice, large sections of the press fail to notice the reservations made by central bankers. When the report on the IMF was published, it was clearly received by the press as a "Group of Thirty" publication, and as such as a document supported by all Group of Thirty members.

34. The complainant maintains that, in key political debates on financial regulation over the past two decades, including debates on the clearing and settlement of securities, on over-the-counter-derivatives, and on the use of risk assessment in international banking regulation, the Group of Thirty has had a policy of supporting self-regulation and self-supervision.

35. By way of example, the complainant states that the Group of Thirty published a major report, written by representatives of JPMorgan, BNP Paribas, Morgan Stanley and the association of derivatives traders ISDA, rejecting public supervision or regulation, and supporting a system of self-regulation in the area of derivatives. The complainant states that the Group of Thirty report, which provided arguments on why governments should not regulate this sector, was promoted as the definitive report on derivatives. The complainant adds that, while some scepticism was voiced in the internal debate in the Group of Thirty (Paul Volcker (Federal Reserve) and Brian Quinn (Bank of England) were wary about the lack of consideration of systemic risk), a compromise was found within the group. Many Group of Thirty members then made a concerted effort to make the proposals a reality. JPMorgan made its own risk assessment model freely available in a surprise move to indicate strong private sector commitment to internal risk management and lobbyists from the private sector, such as the American Bankers Association, embraced the Group of Thirty's proposals. The Group of Thirty's report assumed greater importance when several US regulatory agencies started using it as an authoritative source. After a couple of years, the complainant states, the Group of Thirty's self-regulation and self-supervision approach had won over its critics.



36. The complainant states that the Group of Thirty's influence over banking regulation is, in many ways, similar to its influence over the regulation of derivatives. According to the complainant, the Group of Thirty set the terms of the debate on how to deal with systemic risk in the framework of international banking regulation. According to the complainant, the Group of Thirty proposed that self-regulation and self-supervision be used to assess risk. According to the complainant, the Group of Thirty's work helped the private sector to find common ground in the debate on the so called Basel II agreements. Unlike the process on over-the-counter derivatives, the battle over internal risk assessment was not an open political battle, but took place in the framework of international negotiations, with little public debate. However, to the extent there was a public debate, the Group of Thirty played a part in it.

37. According to the complainant, these two examples prove that the Group of Thirty is far more than a think-tank. It has, the complainant argues, displayed a political preference for self-regulation and self-supervision, and has worked to establish them as the norm in global financial governance. The complainant, in effect, believes the ECB's opinion puts forward a picture that is based on partial/incomplete information about the very nature of the Group of Thirty. According to the complainant, the ECB tends to depict the Group as a neutral body in which wise men exchange abstract theories. According to the complainant, this is not true. Rather, according to the complainant, the Group of Thirty is a club with ambitions to frame the debate on financial regulation globally in order to influence outcomes.

38. In sum, in the complainant's view, the Group of Thirty displays all the characteristics of a "lobby group": it is funded by private financial corporations, it is dominated by representatives of largely the same corporations (its public figures are mostly people representing financial corporations), its objective is to formulate policy and influence financial regulation, and historically it is known to have taken positions close to the positions of financial corporations. It states that it could also be considered an "interest group" or "elite club". According to the complainant, it is certainly not a "neutral think tank".

39. The complainant argues that, had the ECB provided a description of the President's activities in the Group of Thirty, this might have shed light on the matter in a way that a search of publicly available information cannot do (assuming that the ECB has access or can get access to this detailed information). However, the complainant states that the information the ECB provides in its opinion to the Ombudsman is of limited value. The complainant underlines that the Group of Thirty meetings are closed to the public. As a consequence, little information on the internal workings of the group can be found in the public domain. However, the opinion of the ECB gives no additional details as regards what occurs in the Group of Thirty seminars and meetings.

40. The complainant notes that the ECB states that its President is bound by the principle of independence and the duty of professional secrecy when he participates in Group of Thirty meetings and seminars. This assertion is impossible to confirm, since information on the internal procedures of the Group of Thirty is not available.



41. The complainant acknowledges the need for the President of the ECB to stay informed and to be in touch with other central bankers and discuss issues of importance to banks and financial institutions. However, the choice of environment and circumstances for such an exchange of views is highly relevant. The fact that the ECB also organises conferences and seminars does not alter the significance of membership of the Group of Thirty.

42. The complainant notes that, in an earlier letter, the ECB stated that “Mr Draghi’s participation in the Group of Thirty is undertaken in his personal capacity, upon invitation.” It notes that there is no mention of this in the opinion of the ECB, which suggests that being a member of the Group of Thirty is “indispensable for the proper execution of the ECB’s mandate.”

43. As regards ethical rules, the complainant notes that the Ombudsman asked the ECB to take two separate international ethics guidelines into account. Bearing this in mind, the complainant notes that the ECB’s opinion is remarkably brief, and makes only three comments: The first comment is: “It is necessary for the proper execution of the ECB’s mandate that the ECB President has regular exchanges of view with representatives of the global economic and financial environment in which the ECB operates.” In this context, the ECB refers to article 3.4 in the Code of Conduct for the members of the Governing Council which reads: “They may, however, accept invitations to conferences, receptions or cultural events and connected entertainment, including appropriate hospitality, if their participation in the event is compatible with the fulfilment of their duties as members of the Governing Council. In this respect, they may accept the refunding by the organisers of travel and accommodation expenses commensurate with the duration of their commitment except when the organisers are institutions under their supervision. In particular, members of the Governing Council should observe particular prudence with regard to individual invitations. These rules should apply equally to their spouses or partners, if the invitations are also extended to them and if their participation is consistent with internationally accepted custom.” The ECB also refers to article 3 of the Supplementary Code of ethics Criteria for the Members of the ECB’s Executive Board. This article on ‘Acceptance of invitations’ reads: “Members of the Executive Board, while keeping in mind their obligation to respect the principle of independence and avoid conflict of interest, may accept invitations to conferences, receptions or cultural events and connected entertainment, including appropriate hospitality, if their participation in the event is compatible with the fulfilment of their duties or is in the ECB’s interest. In this respect, they may accept the payment by the organisers of travel and accommodation cost commensurate with the duration of their commitment. In particular, members of the Executive Board may accept invitations to widely attended events, while they should observe particular prudence with regard to individual invitations. Any fees which may be accepted by the members of the Executive Board for lectures and speeches undertaken in their official capacity shall be used by the ECB for charitable purposes”. The complainant states that, while the two articles stress that members of the ECB Executive Board may accept invitations, this does not imply that participation in the Group of Thirty is compatible with the President’s duties or with the ECB’s interest, nor does it imply that due caution has been taken with respect to the principle of independence and the need to avoid conflict of interest. In this respect, the complainant argues that the ECB has never thoroughly assessed the Group of Thirty.



44. The complainant states that a conflict of interest can very well be based on "assumed loyalty" to an organisation.

45. The complainant also notes that, despite the present complaint to the Ombudsman, and the quite widespread coverage in the press, the ECB President's membership of the Group of Thirty is still not displayed on his CV on the ECB website.

46. By way of concluding remarks, the complainant states that it is absolutely vital that the leadership of the ECB, in general, and the President, in particular, cannot even be suspected of being under undue influence from financial lobbies. The complainant is of the view that the ECB President's membership of the Group of Thirty is a cause for alarm. It considers that core principles of the EU Treaties, as well as the ethics rules, have not been taken seriously by the ECB. The independence of the ECB can be called into question if, for instance, questions of policy are settled within a setting like the Group of Thirty. The reputation of the ECB can be damaged if, for instance, the Group of Thirty's spokespersons directly or indirectly suggest the ECB President supports proposals favoured by the private sector. The complainant adds that conflict of interest (apparent or potential) – a concept which forms part of the overall principle of securing independence – can also be a threat if, for instance, the President takes a position that is interpreted as loyalty to an organisation such as the Group of Thirty, or if the President were to advocate policies that would be particularly favourable to the corporations represented in the organisation. The complainant does not consider that the ECB's opinion in any way addresses the concerns raised in its complaint. Also, the complainant consider that the ECB's opinion confirms its fears that the ECB has not at any point taken the matter seriously, either before or after the complainant filed its complaint. There is no trace, it underlines, that the matter has been dealt with by the Ethics Officer. This leads the complainant to stress that, besides the demand that the President leave the Group of Thirty, there is a need to improve drastically the internal procedures of the ECB.

The Ombudsman's assessment

47. Article 130 TFEU [6] and the Statute of the ECB [7] require members of the decision-making bodies of the ECB to act independently. The Ombudsman notes that this obligation serves two purposes. First, it helps ensure that the members endeavour to carry out the tasks and to achieve the objectives of the ECB correctly and fully, thereby contributing to the ECB's effectiveness. Second, the obligation on members of the ECB's decision-making bodies to act independently also helps ensure the legitimacy of the ECB in the eyes of EU citizens.

48. In addition to their obligation to act independently, members of decision-making bodies of the ECB must also avoid conflict of interest. The Ombudsman underlines that the legitimacy of the ECB and of the EU in the eyes of citizens depends not only on avoiding **real** conflicts of interest but also **apparent** conflicts of interest [8] .

49. The Ombudsman understands the complainant to argue that the Group of Thirty is an



"interest group" representing private financial interests and a "lobby" to further these private financial interests. The complainant also suggests that, if the Group of Thirty is not a lobby itself, it gives private interests a platform to lobby the top decision-makers of the most important central banks in the world, including the ECB. The complainant thus concludes that membership of the Group of Thirty is incompatible with the role of President of the ECB and with his obligation to remain independent.

50. After analysing carefully all of the arguments put forward by the complainant, the Ombudsman understands that the complainant bases its view that the Group of Thirty is an interest group and a lobbying organisation on the following three main grounds: (i) the composition of the Group of Thirty, in particular the fact that certain members of the Group of Thirty currently work, or have worked, for private banks and investment companies; (ii) the funding of the Group of Thirty, which the complainant states comes mainly from private banking and investment companies, and (iii) the aims of the Group of Thirty, which the complainant states favour private interests and are reflected in the issues debated and in the reports produced by the Group of Thirty in the area of financial and economic policy.

51. The ECB argues that the Group of Thirty is a forum for exchanging views on global economic and financial issues, with the aim of deepening understanding of international economic and financial issues. It argues that the Group of Thirty is not a "lobby" or "interest group" that would aim to influence any decision-making process in such a way as to defend private interests.

52. An "interest group" is, the Ombudsman understands, a group of physical and or legal persons sharing a common interest as regards a substantive issue and seeking to promote that common interest through various means. A "lobby" can be understood to be an interest group that seeks to promote its common interest through directly influencing third parties, including public officials.

53. The Ombudsman will hereafter examine the complainant's arguments concerning the composition, funding and aims of the Group of Thirty. In doing so, the Ombudsman will take into account not only the submissions of the complainant and of the ECB, but also the published information about the Group of Thirty that is available on the latter's website.

The composition of the Group of Thirty

54. The Ombudsman notes that the Group of Thirty is composed of prominent academics specialising in the fields of economics and finance; high ranking politicians with experience in the area of economics and finance; acting and former high-ranking members of central banks and international financial organisations; and high level figures from private banks and investment companies. The current membership of the Group of Thirty is as follows [9] :

Paul A. Volcker (Former Chairman, US Federal Reserve System)

Jacob A. Frenkel (Chairman, JPMorgan Chase International)



Jean-Claude Trichet (Former President of the ECB; Honorary Governor, Banque de France)

Geoffrey L. Bell (Executive Secretary of the Group of Thirty; President, Geoffrey Bell and Associates; Former Advisor, Bank of Venezuela)

Leszek Balcerowicz (Professor, Warsaw School of Economics; Former President, Bank of Poland)

Mark J. Carney (Governor and Chairman, Bank of Canada; Chairman, Financial Stability Board; Board of Directors, BIS)

Jaime Caruana (General Manager, Bank for International Settlements; Former Governor, Banco de España)

Domingo Cavallo (Chairman and CEO, DFC Associates, LLC; Former Minister of Economy, Argentina)

E. Gerald Corrigan (Managing Director, Goldman Sachs Group, Inc.; Former President, Federal Reserve Bank of New York)

Guillermo de la Dehesa Romero (Director, Grupo Santander; Former Deputy Director, Banco de España)

Mario Draghi, President of the ECB

William C. Dudley (President, Federal Reserve Bank of New York; Former Partner and Managing Director, Goldman Sachs)

Martin Feldstein (Professor of Economics, Harvard University)

Roger W. Ferguson, Jr. (President and CEO, TIAA-CREF; Former Chairman, Swiss Re America Holding Corporation)

Stanley Fischer (Governor, Bank of Israel; Former First Managing Director, International Monetary Fund)

Arminio Fraga Neto (Founding Partner, Gavea Investimentos; Former Governor, Banco Central do Brasil)

Gerd Häusler (CEO, Bayerische Landesbank; Former Managing Director and Member of the Advisory Board, Lazard and Company)

Philipp Hildebrand (Senior Visiting Fellow, Blavatnik School of Government, Oxford University; Former Chairman of the Governing Board, Swiss National Bank)

Mervyn King (Governor, Bank of England)



Paul Krugman (Professor of Economics, Princeton University)

Guillermo Ortiz (President and Chairman, Grupo Financiero Banorte; Former Governor, Banco de Mexico; Chairman of the Board, Bank for International Settlements)

Raghuram G. Rajan (Professor of Economics, Chicago Booth School of Business; Economic Advisor to the Prime Minister of India)

Kenneth Rogoff (Professor of Public Policy and Economics, Harvard; Former Chief Economist, International Monetary Fund)

Tharman Shanmugaratnam (Deputy Prime Minister and Minister for Finance and Manpower, Singapore; Chairman, Monetary Authority of Singapore)

Masaaki Shirakawa (Governor, Bank of Japan; Former Professor, Kyoto University School of Government)

Lawrence Summers (Professor at Harvard University; Former Director, National Economic Council; Former President, Harvard University; Former US Treasury Secretary)

Lord Adair Turner (Chairman, Financial Services Authority; Member of the House of Lords, United Kingdom)

David Walker (Senior Advisor, Morgan Stanley International, Inc.; Former Chairman, Securities and Investments Board)

Axel A. Weber (Chairman, UBS)

Yutaka Yamaguchi (Former Deputy Governor, Bank of Japan)

Ernesto Zedillo (Director, Yale Center for the Study of Globalization, Yale University; Former President of Mexico)

Zhou Xiaochuan (Governor, People's Bank of China; Former President, Chinese Construction Bank; Former Assistant Minister of Trade)

Abdlatif Al-Hamad (Senior Member) (Chairman, Arab Fund for Economic Development; Former Minister of Finance and Planning, Kuwait).

55. An examination shows that more than half of the 38 members are current or former high ranking officers of public institutions, namely, central banks, financial supervisory authorities and international public financial bodies, while fewer than one third are currently working for private companies.

56. In light of the great diversity of the membership of the Group of Thirty, the Ombudsman



considers that it is not possible to conclude, from its composition alone, that the Group of Thirty is a lobby or an interest group sharing a "common interest" which could compromise the independence of the ECB.

The financing of the Group of Thirty

57. The complainant argues that the manner in which the Group of Thirty is financed demonstrates that the Group is an initiative promoted by the private financial sector. The complainant places emphasis on the fact that 45 of the 79 financial contributors to the Group are financial firms or banking lobby groups.

58. The Ombudsman has examined the Annual Report of the Group of Thirty (available on its website) and notes the following: the Group is supported by banks, non-bank corporations, central banks, individuals, and, for specific projects, foundations. Its total revenue was USD 646 965 in the 2010 Financial Year and USD 618 509 in the 2011 Financial Year. Of this revenue, USD 619 547 came from contributions in 2010 and USD 597 501 came from contributions in 2011. It also obtains modest amounts from the sale of hard copies of the study papers it produces (electronic copies are available free of charge on the Group of Thirty website [10]).

59. The contributors to the Group of Thirty during the 2010 and 2011 fiscal years were the following:

Absa Group Ltd

Gavea Investimentos

ALG, Inc.

Goldman Sachs and Co.

Arab Fund for Economic and Social Development

Gulf International Bank

Asociación Española de Banca

Toyoo Gyohden

Austrian National Bank

Hong Kong Monetary Authority

Banca d'Italia

HSBC Holdings Plc.



Banco Central de Chile

Indian Banks' Association

Banco de Galicia

Itau Unibanco

Banco de Portugal

Japan Credit Rating Agency

Banco Mercantil

JPMorgan Chase International

Banco Sabadell

Kaufman Foundation

Banco Santander

LCH Clearnet Group Limited

Bank Hapoalim

Mizuho Financial Group Inc

Bank Leumi le-Israel BM

Monetary Authority of Singapore

Bank of East Asia, Ltd.

Moore Capital Management

Bank of Nova Scotia

Morgan Stanley & Co., International

Bank of Tokyo Mitsubishi UFJ

National Bank of Hungary

BANKIA



Olayan Group

Banque Centrale du Luxembourg

Open Society Foundation

Banque de France

People's Bank of China

Barclays

Reserve Bank of Australia

BMCE Bank

Reserve Bank of India

BM&F Bovespa

Peter Roth

BNP Paribas

Royal Bank of Scotland

Brevan Howard

Thomas Russo

Brown Brothers Harriman & Co.

Sella Holding Banca

Caxton Associates

Singapore Government Investment Corporation

Central Bank and Financial Services Authority of Ireland

Soros Fund Management

Central Bank of Barbados

Standard & Poor's



Central Bank of Malta

Sullivan and Cromwell

Central Bank of Jordan

Sveriges Riksbank

CIB Bank Ltd

Swiss National Bank

Citicorp

Swiss Re

Commonwealth Bank of Australia

TEMASEK

Credit Suisse

The Challenger Foundation

Danmarks National Bank

Tudor Investment

Debs Foundation

UBS

Deutsche Bank AG

UniCredito Italiano

Dubai Financial Services Authority

Whitehead Foundation

Roger Ferguson

60. The Group of Thirty also received benefits in kind (for example, accommodation, facilities for meetings ...) during 2010 and 2011 from:



Arab Fund for Economic and Social Development

Bank Al Maghrib

Davis Polk & Wardwell, LLP

Federal Reserve Bank of New York

Inter-American Development Bank

JPMorgan Chase

Morgan Stanley

Moroccan Bankers' Association

Presidency of the Swiss Confederation

Swiss Bankers' Association

Swiss National Bank

Tapestry Networks

TIAA-CREF

61. The Ombudsman first notes the great diversity of contributors to the Group of Thirty. The contributors of funds and contributors in kind are private banks and insurance companies, investment companies, non-profit foundations, individuals and public bodies, such as national central banks and international public financial bodies.

62. It is the case that of the 88 contributors (combining those making contributions of funds and those making contributions in kind), just over half are private banks or banking associations, insurance companies or investment companies. However, it is significant that almost one third are public bodies [11], including many national central banks of the Member States of the EU. The Ombudsman finds that unconvincing to suggest that so many diverse public sector bodies, including some national central banks of the EU, would consider it justified to contribute to the Group of Thirty if it were in fact "an initiative promoted by private financial sector parties, with a view to furthering their interests".

63. In light of the above, the Ombudsman does not consider that the manner in which the Group of Thirty is funded supports the complainant's argument that the Group of Thirty is an initiative promoted by private financial sector parties, with a view to furthering their interests.

The aims of the Group of Thirty



64. The complainant argues that the aims of the Group of Thirty are reflected in the issues it debates and the reports it produces in the area of financial and economic policy. It also describes the Group's reports as "partisan". In the complainant's view, the aims of the Group favour private interests.

65. According to the ECB's opinion to the Ombudsman, plenary meetings of the Group of Thirty include a discussion of the international economic outlook over the ensuing 12 to 24 months, while the evolution of financial markets has also become a focal point. In 2010 and 2011 the plenary debates focused on repairing economies following the financial crisis, the causes and implications of the crisis, the lessons to be learned, the remaining challenges, and the impact of financial and regulatory reforms on the banking sector. The plenary meetings also touched on developments in emerging market economies, issues confronting the international monetary system and geo-political risks.

66. The Ombudsman has reviewed carefully the publicly available information on the Group of Thirty website [12] . That information confirms that such issues were indeed the subject matter of the plenary meetings referred to above. It is the Ombudsman's view that such issues are manifestly relevant to the work of the ECB and that it is reasonable for the ECB to regard it as appropriate to engage in debate on these issues.

67. Furthermore, a review of the speakers at the plenary sessions that took place in 2010 and 2011 indicates that the views expressed on the above issues were very diverse. Of the 17 speakers at the Group of Thirty Plenary Meeting hosted by the Bank Al Maghrib and the Arab Fund for Economic and Social Development on 27–29 May 2010, 11 worked for public bodies [13] , four worked for private financial bodies [14] and two were academics [15] . Of the 19 speakers at the Group of Thirty Plenary Meeting hosted by the Federal Reserve Bank of New York on 2–4 December 2010, 11 worked for public bodies [16] , six worked for private financial bodies [17] and two were academics [18] : Of the 19 speakers at the Group of Thirty Plenary Meeting hosted by hosted by the Swiss National Bank on 26–28 May 2011, 12 worked for public bodies [19] , four worked for private financial bodies [20] and three were academics [21] .

68. The ECB indicated that the Group of Thirty also holds "International Banking Seminars". The Ombudsman has carefully reviewed the agendas of the International Banking Seminars for 2009 and 2010, which are publically available in the annual report of the Group of Thirty.

69. The International Banking Seminar hosted by the Central Bank of Turkey on 5 October 2009 had the following agenda and speakers:

Topic 1: Green Shoots: How Vigorous and How Sustainable?

Speakers

Global perspective, John Lipsky, First Deputy Managing Director, International Monetary Fund



Europe, Jean-Claude Trichet, (then) President of the European Central Bank

Japan, Masaaki Shirakawa Governor, Bank of Japan

Turkey, Durmu Yilmaz, Governor, Central Bank of Turkey

Topic 2: International Financial and Regulatory Policy Coordination

Perspective, Mervyn King, Governor, Bank of England

Perspective, Sheila C. Bair, Chairman, Federal Deposit Insurance Corporation

Perspective, Mario Draghi, (then) Governor, Banca D'Italia, (then) Chairman, Financial Stability Board

Perspective, Jaime Caruana, General Manager, Bank for International Settlements

Topic 3: Emerging Market Concerns

Perspective, Duvvuri Subbarao, Governor, Reserve Bank of India

Perspective, Henrique de Campos Meirelles, Governor, Bank of Brazil.

70. The International Banking Seminar hosted the Inter-American Development Bank on 10 October 2010 had the following agenda and speakers:

Topic 1. Global Economic Prospects: Still Storms Ahead?

Speakers

Ben S. Bernanke, Chairman, Federal Reserve System

Jean-Claude Trichet, (then) President of the European Central Bank

Mervyn King, Governor, Bank of England

Topic 2: Alternative Engines of Economic Growth

Speakers

Zhou Xiaochuan, Governor, People's Bank of China

Montek Ahluwalia, Deputy Planning Commissioner, India

Luis Alberto Moreno, President, Inter-American Development Bank



Robert Zoellick, President, the World Bank

Topic 3: Financial Reform: Are We There Yet?

Speakers

Paul A. Volcker, Chairman, Economic Recovery Advisory Board

Mario Draghi, (then) Governor, Banca D'Italia, (then) Chairman, Financial Stability Board

Philipp Hildebrand, Chairman, Swiss National Bank.

71. It is the Ombudsman's view that the issues discussed in both International Banking Seminars referred to above are manifestly of relevance to the work of the ECB and that the ECB could reasonably regard it as appropriate for its President to engage in debate on these issues. Furthermore, a review of the speakers at these International Banking Seminars indicates that the views taken on the above issues were very diverse. As regards the 2009 seminar, the Ombudsman takes note of the fact that of the nine speakers, eight worked for public bodies and only one worked for a private financial body. As regards the 2010 seminar, the Ombudsman observes that all 10 speakers worked for public bodies.

72. It is the Ombudsman's view that the agendas and diversity of the speakers at the plenary meetings and seminars of the Group of Thirty lead to the conclusion that the Group as such should be characterised as a discussion forum, rather than an interest group or a lobby seeking to promote private interests.

73. In light of the findings in paragraphs 56, 63 and 72 above, the Ombudsman does not consider that the complainant's arguments concerning the nature of the Group of 30 can be sustained.

74. The complainant also puts forward arguments concerning what it sees as the risk that the President, and hence the ECB, might be identified with reports published by the Group of Thirty, and that this would compromise the independence of the ECB.

75. The Ombudsman notes that reports are produced by individual members of the Group of Thirty, and published in their own names, or produced by working groups. Each report produced by an individual contains the following statement: "*The views expressed in this paper are those of the author and do not necessarily represent the views of the Group of Thirty*". Each report produced by a working group contains the following statement: "*The views expressed in this paper are those of the Working Group on [subject title of report] and do not necessarily represent the views of all of the individual members of the Group of Thirty.*" Thus, there is no requirement that other members of the Group of Thirty subscribe to the views of a particular individual or a working group. As such, reports produced by other individuals, or by working groups in which the President of the ECB has not participated, do not in any way limit the independence of the President of the ECB.



76. While the current President of the ECB does not appear to have participated in the production of any report by the Group of Thirty since his appointment as a member of the ECB, his predecessor did so. As the complainant points out (see paragraph 34 above), the report published in October 2009 concerning the reform of the International Monetary Fund was produced by a working group in which Mr Trichet, the then President of the ECB [22] , was a member. Furthermore, the opinion of the ECB explicitly states (see paragraph 23 above) that the President of the ECB might participate in study groups in the future.

77. The Ombudsman notes that it is the practice of the Group of Thirty to indicate on reports that members participate “in their individual capacities”, and that the views expressed do not necessarily reflect those of the institutions with which the members are affiliated. In the Ombudsman’s view, the ECB could not reasonably expect citizens and other stakeholders to regard such a statement as credible if the subject-matter of a report related to the areas of responsibility of the ECB [23] . In the Ombudsman’s view **all** statements by members of the decision-making bodies of the ECB relating to the ECB’s areas of responsibility, and **all** actions by members of the decision-making bodies of the ECB relating to the areas of responsibility of the ECB, will have an impact, in the eyes of EU citizens, and of other stakeholders, on how the ECB is perceived even if the author of the statement or action states that he or she is acting in a private capacity.

78. The Ombudsman has no reason to doubt that, in considering possible participation by members of its decision-making bodies in study groups and possible endorsement of reports published by the Group of Thirty, or any other entity, the ECB will take due account of the need to ensure not only that its institutional interests are protected, but also of the essential interest of the EU as a whole that the ECB should be perceived, in the eyes of citizens, as acting legitimately.

79. The complainant further expresses its concerns that the mere participation of the ECB President in Group of Thirty debates and seminars would expose him to undue influence from individual private sector interests. The complainant seems to suggest, in sum, that, even if the Group of Thirty is not a lobby itself, it gives private interests a platform to lobby the top decision-makers of the most important central banks in the world, including the ECB.

80. The ECB argues that, generally, it is an essential requisite for the ECB President to have regular meetings and to exchange views with high-level representatives of the public and private sector, since such meetings and exchanges provide a highly valuable source of first-hand information about developments in the global economic and financial environment in which the ECB operates and allow it to develop an informed view of that environment. Such meetings also provide the ECB with a channel for communicating its policy measures.

81. The Ombudsman is of the view that it is legitimate for members of the decision-making bodies of the ECB to engage in appropriate public and private debate on issues of relevance to the work of the ECB. Engaging in debate allows the ECB to explain and justify its actions to stakeholders, including to citizens. Such debate also assists the ECB in gathering and understanding information and perspectives on economic and financial issues of relevance



to its work, thus allowing it better to carry out its role and to achieve its objectives. Thus, in principle, it is correct, and indeed necessary, for the members of the decision-making bodies of the ECB to take part in appropriate discussion fora.

82. The Ombudsman notes that Article 11 of the Treaty on European Union states that

"1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

2. The institutions shall maintain an **open**, transparent and regular dialogue with representative associations and civil society." (Emphasis added)

In the Ombudsman's view, the obligation to maintain an "open" dialogue with civil society also implies that the dialogue should be balanced, affording diverse interlocutors an appropriate opportunity to debate issues of relevance to the work of the ECB. This observation does not imply that members of the decision-making bodies of the ECB should seek only to engage with those civil society groups that encompass, internally, the entire diversity of views on issues of relevance to the work of the ECB. Indeed, it is unlikely that such all-encompassing groups exist. Rather, it means that efforts should be made to discuss the work of the ECB in diverse fora, in addition to discussing the work of the ECB in the context of entities such as the Group of Thirty. The Ombudsman notes that the ECB recognises this principle and that it applies it by organising multiple seminars on issues relating to its work.

83. The Ombudsman agrees with the complainant that it is probable that some members of the Group of Thirty seek, when taking part in its debates and seminars, to promote the interests of the organisations they work for [24]. The Ombudsman notes, however, that it is an implicit characteristic of all debate engaged in by the President of the ECB that interlocutors will seek to convince him of the validity of their views. And vice versa. Indeed, there would be nothing inappropriate in the President of the ECB, when he takes part in Group of Thirty activities, promoting the interests of the ECB and the EU, by (with due regard to the need for professional secrecy [25]) imparting the ECB's views on issues relating to its role, seeking to convince other decision-makers and stakeholders as regards the merits of the views held by the ECB and obtaining information of use to the ECB. There is nothing to suggest that such debate would compromise the independence and integrity of the ECB or of its President. In taking this view, the Ombudsman takes due account of the diversity of the membership of the Group of Thirty and the subject matter of the recent plenary sessions and seminars (see paragraphs 65 to 73 above).

84. The complainant further argues that those debates are not transparent, in the sense that they are conducted behind "closed doors" and that their content is not public. It also argues that the ECB has not made public its President's membership of the Group of Thirty.

85. The Ombudsman underlines that transparency plays a vital role in promoting trust among citizens in the proper functioning of the EU and its institutions. In particular,



transparency plays an important role in promoting citizens' confidence that decision-makers act independently and without conflict of interest that could distort their judgement.

86. The Ombudsman is of the view that, when the President of the ECB participates in a meeting, the purpose of the meeting, the identities of the other participants, and the topics discussed should normally be regarded as public information, unless there exists a legitimate reason for confidentiality, such as the need to protect the public interest as regards the financial, monetary or economic policy of the EU or a Member State [26] . The Ombudsman notes in this regard that the website of the Group of Thirty appears to contain at least basic information of the kind mentioned above.

87. The Ombudsman also notes that Article 41 of the Charter of Fundamental Rights of the European Union includes the right to write to any of the institutions and to have an answer. Thus citizens have the possibility to seek from the ECB additional information as regards any specific Group of Thirty meetings in which the President of the ECB participates.

88. The Ombudsman also notes that the President's membership of the Group of Thirty was never a secret, given that it was published on the Group's website. However, the Ombudsman takes the view that it would also be in accordance with the principle of transparency for the ECB to make public, on its own website, the fact that its President is a member of the Group of Thirty. Furthermore, there seems no good reason, *prima facie* , why this could not be done by including the information in the President's CV (the current version of his CV informs citizens not only of the President's education and previous career (including his work at Goldman Sachs), but also of the fact that he is a Member of the Board of Trustees of the Princeton Institute for Advanced Study [27]). The Ombudsman will make a further remark accordingly.

89. The complainant further draws attention to the fact that the Supplementary Code of Ethics Criteria for the Members of the Executive Board of the ECB states that members of the Board should consult the Ethics Officer in case of doubt as regards invitations to attend third party events. The complainant criticises the fact that the President of the ECB did not, apparently, undertake any such consultation as regards his membership of the Group of Thirty. The Ombudsman underlines the importance of complying fully with the ethics rules of the ECB). He stresses that, if a member of the decision-making bodies of the ECB has any doubts as regards whether participation in a particular event or organisation might call into question his or her independence and integrity and the independence and integrity of the ECB, he or she should consult with the Ethics Officer. However, in the present case, in light of the evidence set out above, the Ombudsman considers that the President of the ECB did not have reason to consider that his membership of the Group of Thirty might compromise his independence and integrity, or the independence and integrity of the ECB.

90. Before concluding, the Ombudsman underlines that the financial crisis has greatly increased the public visibility of the ECB and public expectations of its role. Moreover, the Ombudsman notes that further responsibilities are likely to be entrusted to the ECB in the future, in particular as regards the supervision of banks. These developments mean that not only the ECB, but the EU as whole, has a vital interest in ensuring that the ECB further raises



the quality of its communication with the public. The Ombudsman will also make a further remark in this regard.

91. In its opinion to the Ombudsman on the present complaint, the ECB provided a detailed explanation as regards the nature of the Group of Thirty and why it considers it appropriate for its President to be a member thereof. In contrast, when the complainant first contacted the ECB, its response was vague and defensive. The Ombudsman considers, therefore, that the complainant was entirely justified in not accepting the ECB's initial response and, indeed, that it performed a public service by turning to the Ombudsman and thereby giving the ECB a second opportunity to clarify the matter.

92. As regards the complainant's allegation that the ECB President's membership of the Group of Thirty is incompatible with the independence, reputation and integrity of the ECB, the Ombudsman considers, for the reasons explained above, that the allegation is not justified. There is, therefore, no basis for the Ombudsman to take a position as regards the complainant's claim. The Ombudsman thus closes the inquiry with a finding of no maladministration.

B. Conclusion

On the basis of his inquiry into this complaint, the Ombudsman closes it with the following conclusion:

The allegation that the ECB President's membership of the Group of Thirty is incompatible with the independence, reputation and integrity of the ECB is not justified. The Ombudsman therefore finds no maladministration by the ECB in this regard.

The complainant and the ECB will be informed of this decision.
Further remarks

1. The Ombudsman suggests that the ECB include on its own website the information that its President is a member of the Group of Thirty. This could be done by adding the information to the President's CV.

2. In light of its enhanced responsibilities and public visibility, the Ombudsman encourages the ECB to take steps to further raise the quality of its communication with the public.

P. Nikiforos Diamandouros



Done in Strasbourg on 1 February 2013

[1] CEO's website describes CEO as a "research and campaign group working to expose and challenge the privileged access and influence enjoyed by corporations and their lobby groups in EU policy making".

[2] The website of the "Group of Thirty" is www.group30.org

[3] European System of Central Banks.

[4] www.group30.org/images/PDF/ReportPDFs/G30AnnualReport20102011.pdf

[5] www.group30.org/images/PDF/ReportPDFs/G30AnnualReport20102011.pdf

[6] Article 130 TFEU reads as follows:

"When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body..."

[7] Article 7 of the Statute of the ECB is entitled "Independence". It states that:

"In accordance with Article 130 of the Treaty on the Functioning of the European Union, when exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and this Statute, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body ..."

[8] An apparent conflict of interest can be said to exist where it appears that a public official's private interests could improperly influence the performance of his or her duties even if this is not in fact the case.

[9] Checked on the website of the Group of 30 on 3 December 2012. There appear to be 37 "current members" and one "senior member" of the "Group of 30".

[10] In 2011, the Group of Thirty decided that all electronic copies of its publications would be distributed free of charge. The Group of Thirty states the "mission" of the Group of Thirty would be aided by this approach. It maintains that readership of Group of Thirty material will increase as a result of this policy change.

[11] 28 of the 88 contributors are public bodies.



[12] See www.group30.org/images/PDF/ReportPDFs/G30AnnualReport20102011.pdf

[13] Lorenzo Bini Smaghi, European Central Bank; Philipp Hildebrand, Swiss National Bank; Guillermo Ortiz, Bank for International Settlements; Zhu Min, International Monetary Fund; Abdlatif Al-Hamad, Arab Fund for Economic and Social Development; Stanley Fischer, Bank of Israel; Ibrahim S. Dabdoub, National Bank of Kuwait; Montek Ahluwalia, Government of India; Jaime Caruana, Bank for International Settlements; and William C. Dudley, Federal Reserve Bank of New York.

[14] Sir David Walker, Morgan Stanley International; Jacques de Larosière, BNP Paribas; Arminio Fraga Neto, Gavea Investimentos; and William R. Rhodes, Citigroup.

[15] Paul Krugman, Princeton University and Toyoo Gyohten, Institute for International Monetary Affairs.

[16] Lawrence W. Summers, White House National Economic Council; Janet Yellen, Board of Governors of the Federal Reserve; Masaaki Shirakawa, Bank of Japan; Christian Noyer, Bank of France;

Zhou Xiaochuan, People's Bank of China; Jose de Gregorio, Central Bank of Chile; Mark Carney, Bank of Canada; Philipp Hildebrand, Swiss National Bank; Paul Tucker, Bank of England; William C. Dudley, Federal Reserve Bank of New York; and Lord Adair Turner, Financial Services Authority.

[17] Tommaso Padoa-Schioppa, Promontory Europe E. Gerald Corrigan, Goldman Sachs Group, Inc.

Arminio Fraga Neto, Gavea Investimentos Jacques de Larosière, BNP Paribas, Roger W. Ferguson, Jr., TIAA-CREF and Jacob Frenkel, Group of Thirty.

[18] Kenneth Rogoff, Harvard University and Ernesto Zedillo, Yale Center for the Study of Globalization.

[19] Micheline Calmy-Rey, Swiss Confederation; Mervyn King, Bank of England; Christian Noyer, Banque de France; Tharman Shanmugaratnam, Ministry of Finance, Singapore; Zhou Xiaochuan, People's Bank of China; Jean-Claude Trichet, (then) President, European Central Bank; Klaus Regling, European Financial Stability Facility; Abdlatif Al-Hamad, Arab Fund for Economic and Social Development; Stanley Fischer, Bank of Israel; William C. Dudley, Federal Reserve Bank of New York; Jaime Caruana, Bank for International Settlements; and Gerd Häusler, Federal Reserve Bank of New York.

[20] Guillermo Ortiz, Grupo Financiero Banorte; Jacques de Larosière, BNP Paribas; William R. Rhodes, William R. Rhodes Global Advisors and Arminio Fraga, Gavea Investimentos

[21] Martin Feldstein, Harvard University; Eugene Rogan, Oxford University and Toyoo Gyohten, Institute for International Monetary Affairs.



[22] See http://www.group30.org/images/PDF/GRP30_IMF09_RPT_FNL-NEW.pdf Mr Trichet was an observer on the working group for the Report.

[23] The Ombudsman notes in this regard that the ECB's responsibilities do not include, for example, reform of the International Monetary Fund.

[24] While the complainant places particular emphasis on the role of private sector parties in the Group of Thirty, the Ombudsman notes that Article 130 TFEU requires members of the decision-making bodies of the ECB to ensure their independence from any third party, including from other public bodies. As such, it is equally important that the President of the ECB would not find himself in a situation where he would be unduly influenced by representatives of other public financial institutions.

[25] See Article 37 of the Statute of the ECB, entitled "Professional secrecy", which states that "Members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy."

[26] See, by analogy, Article 4.1(a) of Regulation 1049/2001 which states that the institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards the financial, monetary or economic policy of the Community or a Member State.

[27] See <http://www.ecb.europa.eu/ecb/orga/decisions/html/cvdraghi.en.html> (checked on 11 December 2012).