



Prezes
Adam Glapiński

Warsaw, 15 November 2023

Ms Christine Lagarde
President
European Central Bank

Re: measures aimed at depriving the Governor of Narodowy Bank Polski of the possibility of holding office

Dear President Lagarde,

The Management Board of Narodowy Bank Polski is writing to inform you that as a result of politically motivated actions following the parliamentary elections in the Republic of Poland on 15 October 2023, announcements have been made about the launch of procedures aimed at depriving Prof. Adam Glapiński, whose term of office ends on 21 June 2028 in accordance with the applicable law, of the possibility of holding the office of Governor of Narodowy Bank Polski.

The above actions are unprecedented and are an extremely flagrant breach of the personal independence of the governor of the central bank, which has the guarantees set out below under the provisions of the Treaty on the Functioning of the EU (TFEU) and the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

Pursuant to Art. 130 of the TFEU, "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. 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.”

It is worth noting that in accordance with Art. 14.2 of the Statute of the European System of Central Banks and of the European Central Bank (Statute, ESCB, ECB), “the statutes of national central banks shall, in particular, provide that the term of office of a Governor of a national central bank shall be no less than five years. A Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council on grounds of infringement of these Treaties or of any rule of law relating to their application. Such proceedings shall be instituted within two months of the publication of the decision or of its notification to the plaintiff or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.”

Interpretation of the principles of central bank independence is developed and specified by the European Central Bank in subsequent Convergence Reports and in the opinions on specific legislative initiatives or measures implemented in Member States of the European Union.

In the Convergence Report of 2022,¹ the following statements can be found regarding personal independence, including in reference to the grounds for dismissing the governor of the central bank:

“The Statute’s provision on security of tenure for members of NCBs’ decision-making bodies further safeguards central bank independence. NCB Governors are members of the General Council of the ECB and become members of the Governing Council upon adoption of the euro by their Member States. NCB Governors cannot be regarded as representatives of a Member State when they perform their duties as members of the Governing Council or the General Council of the ECB. Article 14.2 of the Statute provides that NCB statutes must, in particular, provide for a minimum term of office of five years for Governors. It also protects against Governors being arbitrarily relieved from their

¹ Convergence Report, June 2022 (europa.eu).



office by providing that they may only be relieved from office if they no longer fulfil the conditions required for performing their duties or if they have been found guilty of serious misconduct. In such cases, Article 14.2 of the Statute provides for the possibility of recourse to the Court of Justice of the European Union, which has the power to annul the national decision taken to relieve a Governor from office. The suspension of a Governor may effectively amount to relieving a Governor from office for the purposes of Article 14.2 of the Statute. (...)

NCB statutes must ensure that Governors may not be dismissed for reasons other than those mentioned in Article 14.2 of the Statute. The purpose of the requirement under that Article is to prevent the authorities involved in the appointment of Governors, particularly the relevant government or parliament, from arbitrarily dismissing a Governor. NCB statutes should either refer to Article 14.2 of the Statute, incorporate its provisions and refer to their provenance, delete any incompatibility with the grounds for relieving from office laid down in Article 14.2, or omit any mention of grounds for relieving from office (since Article 14.2 is directly applicable).

Once elected or appointed, Governors may not be relieved from office under conditions other than those mentioned in Article 14.2 of the Statute even if they have not yet taken up their duties. As the conditions under which a Governor may be relieved from office are autonomous concepts of Union law, their application and interpretation do not depend on national contexts.

Ultimately, it is for the Court of Justice of the European Union, in accordance with the powers conferred on it by the second subparagraph of Article 14.2 of the Statute, to verify that a decision taken to relieve a Governor of a national central bank from office is justified by sufficient indications that they have engaged in serious misconduct capable of justifying such a measure. (...)

Article 14.2 of the Statute stipulates that NCB Governors who have been dismissed from office may refer such a decision to the Court of Justice of the European Union. National legislation should either refer to the Statute or remain silent on the right to refer such a decision to the Court of Justice of the European Union (as Article 14.2 of the Statute is directly applicable). The Court of Justice of the European Union has the power to annul the national measure of dismissal if it is found to be contrary to Union law.”



It should be emphasized that pursuant to Article 227.2 of the Constitution of the Republic of Poland the organs of Narodowy Bank Polski are: the President of Narodowy Bank Polski, the Monetary Policy Council and the Management Board of Narodowy Bank Polski.

Article 9.5 of the Act of 29 August 1997 on Narodowy Bank Polski (Journal of Laws of 2022, item 2025) governs the method of dismissal of the Governor of Narodowy Bank Polski by the Sejm of the Republic of Poland in the case where:

- he/she has been unable to fulfil his/her duties due to prolonged illness,
- he/she has been convicted of committing a criminal offence under a legally binding court sentence,
- he/she has submitted a vetting statement deemed false by court in a binding ruling,
- the Tribunal of State has prohibited him/her from occupying managerial positions or holding posts of particular responsibility in state bodies.

However, in the light of the cyclically published Convergence Reports, the Constitution of the Republic of Poland, the Act on Narodowy Bank Polski and the Act on the Tribunal of State are not compliant with all the requirements for central bank independence, in particular with regard to the dismissal of the Governor of Narodowy Bank Polski. As is commonly emphasized, the grounds for dismissal mentioned in Article 9.5 of the Act on Narodowy Bank Polski, supplement two grounds for dismissal referred to in Article 14.2 of the Statute. Thus Article 9.5 of the Act on Narodowy Bank Polski and relevant provisions of the act on the Tribunal of State should be adapted to the provisions of Article 14.2 of the Statute.

The principle of personal independence of the governor of the central bank is clearly underscored in the jurisprudence of the Court of Justice of the European Union, e.g. in the judgment delivered on 26 February 2019 in joined cases C-202/18 and C-238/18,² where the CJEU ruled that: “By directly conferring jurisdiction on the Court to determine the lawfulness of the decision to relieve the governor of a national central bank from office,

² Judgment in the case *Rimševičs v Latvia*, EU:C:2019:139; concerning the complaint about temporary suspension of the Governor of the Central Bank of Latvia from performing his duties under suspicion of bribery and money laundering – eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62018CJ0202&from=en.



the Member States have demonstrated the importance which they attach to the independence of the holders of such positions. (paragraph 49)

(...) a temporary prohibition on a governor of a national central bank performing his or her duties is likely to constitute a form of pressure on that person. (paragraph 52)

(...) if a measure prohibiting a governor from performing his or her duties were to be excluded from any form of review by the Court under the second subparagraph of Article 14.2 of the Statute of the ESCB and of the ECB on the ground of its temporary nature, it would be easy for a Member State, by adopting a series of temporary measures, to evade such review, so that, as the Advocate General emphasised in point 75 of her Opinion, that provision could be deprived of its practical effect. (paragraph 53)."

Additionally, according to the opinion of the Advocate General at the CJEU Juliane Kokott delivered in the joined cases C-202/18 and C-238/18 on 19 December 2018:³

"Although it need not necessarily be given an exhaustive definition, the concept of relieving a governor from office within the meaning of Article 14.2 of the Statute of the ESCB and of the ECB is nonetheless an autonomous concept of EU law which, in order to be applicable, attaches not to the form of a measure and its status in national law, but to its substance and its actual effects. (point 77)

Second, as the ECB correctly states, the concept of serious misconduct designates, in the provisions of EU disciplinary law, unlawful conduct adopted by the holder of an office, which is sufficiently serious to justify the person responsible being relieved from office. (point 104)."

It should be strongly emphasized that there are no grounds whatsoever to formulate the allegation of breach of the Constitution of the Republic of Poland or of infringement of acts of law by Governor of Narodowy Bank Polski, Mr Adam Glapiński, in the performance of his duties.

³ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62018CC0202&from=en.



The accusations made already during the electoral campaign in the lead-up to the parliamentary elections of 15 October 2023 about “tearing down the independence of the post of Governor of Narodowy Bank Polski and failing to fulfil the basic task of NBP, i.e. to combat high prices” as levelled at the Governor of Narodowy Bank Polski were entirely baseless. They constituted a follow-up to similar previous actions undertaken in the public domain about which NBP had informed Madam President in its letters of 3 August 2022 and 20 September 2022.

It should be emphasized once again that during Prof. Adam Glapiński’s term in office, NBP tasks have been pursued in a most diligent and optimal manner, in particular with respect to the situation brought about by the COVID-19 pandemic and the war in Ukraine.

The tasks related to determining the monetary policy guidelines and their implementation are undertaken by the collegial bodies of Narodowy Bank Polski, by the Monetary Policy Council and the Management Board of Narodowy Bank Polski, accordingly, and not by a one-person organ – the Governor of Narodowy Bank Polski.

It should be noted that the above-mentioned actions were conducted correctly. International financial institutions such as the European Central Bank, the World Bank and the International Monetary Fund fully agree on the appropriateness of the monetary policy conducted by NBP and have expressed this in their publications on many occasions.

On the other hand, the above-mentioned politically motivated actions undertaken in order to deprive the Governor of Narodowy Bank Polski of the possibility of holding office have no precedence as a flagrant breach of the institutional independence of the central bank and the personal independence of the governor of the central bank, therefore we ask you to take all possible measures to protect them.

Yours sincerely,

