



EUROPEAN CENTRAL BANK

EUROSYSTEM

Mario DRAGHI
President

ECB-UNRESTRICTED

Mr Gavin Sheridan
ask+request-205-6c39f0b2@asktheeu.org

21 November 2012

Public access request for ECB documents

Dear Mr Sheridan,

We refer to your confirmatory application of 31 October 2012 in which you ask for a review of our handling of your initial request, filed on 20 August 2012, for access to the European Central Bank's (ECB) documents, namely: *"(1) all communications between the ECB and the Irish Finance Ministry in October and November 2010 [...] at any level [...]; (2) all letters communicated to the Irish Finance Minister or his Ministry by the ECB in the years 2009, 2010 and 2011"*.

The ECB responded to your initial request on 15 October 2012 by: (i) identifying the documents falling within the scope of the request; (ii) disclosing some of these documents; and (iii) providing you with an individual assessment of the reasons for refusing access, where other documents could not be disclosed under the Decision of the European Central Bank of 4 March 2004 (ECB/2004/3) on public access to European Central Bank documents.

The Executive Board has considered your confirmatory application, as well as the assessment made and the decision taken with respect to the response to your initial application. Following this review, the Executive Board confirms the decision of the Director General Secretariat and Language Services of 15 October 2012 for the reasons specified therein.

The letter of 15 October 2010 (and not of 13 October as was erroneously stated in our previous letter – see the third point below) from the ECB's President to the Irish Finance Minister expressed the ECB's appreciation for the Irish government's commitment to developing a multi-annual economic and fiscal adjustment strategy. It also recalled the rules to which Eurosystem credit operations are subject, as well as the role of the ECB's Governing Council in monitoring the provision of emergency liquidity assistance, in particular in the case of large liquidity provisions given to some entities, as this may interfere with the objectives and tasks of the Eurosystem and the prohibition of monetary financing under the Treaty on the Functioning of the European Union (the Treaty).

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The letter of 4 November 2010 from the Irish Finance Minister to the ECB expressed the Irish government's concerns about the very adverse financial market developments at that time, in relation to the widening of the spread of Irish government bonds vis-à-vis German Bunds and its possible impact.

The letter of 19 November 2010 expressed the concerns of the ECB's Governing Council regarding the extraordinarily grave and difficult situation faced by the Irish financial sector at the time, and its impact on the stability of the Irish financial sector as a whole. The letter also invited the Irish government to take swift and bold action in order to address those concerns. In line with the messages which it has consistently delivered to the public, the ECB encouraged the Irish government to commit to taking decisive action in the areas of fiscal consolidation, structural reform and financial sector restructuring, including the recapitalisation of banks where necessary. Similarly, the ECB also asked for reassurance that the Irish government would take the necessary action to ensure that the balance sheet of the Central Bank of Ireland remained protected, in line with the principle that liquidity could only be provided against adequate collateral.

In addition to reviewing the assessment made and the decision taken in response to your initial application, the Executive Board wishes to provide you with specific explanations with regard to the points raised in your e-mail of 31 October 2012. We understand, from this e-mail, that your confirmatory application is based on the following points: (i) you consider that the ECB should not have blacked out the names of the staff members who appeared on some of the documents disclosed to you; (ii) you claim that the ECB's response failed to mention four letters exchanged between the ECB and the Irish Finance Minister and that these letters should have been disclosed. These letters comprise (i) the letter of 21 November 2010 sent by the Irish Finance Minister to the ECB and (ii) three other letters – according to your information – sent by the ECB's President to the Irish Finance Minister on 15 October, 4 November and 12 November 2010 respectively.

First, in the absence of any justification from you as to the need for this personal data to be disclosed to you and, in the absence of consent from the relevant people for the disclosure of their personal data, the decision taken by the ECB to black out the names of the ECB staff members, as well as their position and/or contact details that appeared on certain documents disclosed to you (i.e. the letters of 8 July 2010, 1 September 2010 and 26 October 2011) is in full accordance with the ECB's duty to protect personal data under Article 8 of Regulation (EC) No 45/2001,¹ in conjunction with Article 4(1)(b) of Decision ECB/2004/3. This is specified in the ECB's initial response of 15 October 2012 (see also Annex B to the response, boxes 10, 12 and 18).

Second, with regard to the letter dated 21 November 2010 sent by the Irish Finance Minister to the ECB, it is not correct to claim that the ECB failed to mention the existence of this letter in its reply to your initial request for access, as this letter is referred to at the end of the first page of the ECB's response of 15 October 2012.

¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

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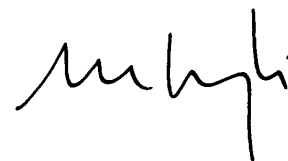
The letter of 21 November 2010 has meanwhile been released by the Irish Ministry of Finance. Since your confirmatory application contains a link to the website where this letter is published in full, we note that this letter is clearly in your possession. Therefore, as the letter of 21 November 2010 sent by the Irish Finance Minister to the ECB has been released into the public domain by the official authority that drafted it, and since this letter is available to you, the Executive Board considers that your request to be granted access to the letter of 21 November 2010 sent by the Irish Finance Minister to the ECB has already been satisfied.

Third, we realise that there was a typographical error in the ECB's initial response, for which we apologise. In the ECB's initial response, the end of the first page should read as follows: "*This concerns the letters from the ECB's President to the Irish Finance Minister dated 15 October 2010...*" (instead of 13 October). It is this letter of 15 October 2010 which was considered in the assessment that led to the decision stated in the ECB's initial response.

Fourth, we understand that a recent press article in an Irish newspaper refers to the existence of letters that are said to have been sent by the ECB's President to the Irish Finance Minister on 4 November and 12 November 2010. In this respect, we confirm that the ECB has no record of such letters. We would like to assure you that our services were specifically instructed to look for these letters upon receipt of your confirmatory application. We only have knowledge of a letter dated 4 November 2010, but this was sent by the Irish Finance Minister to the ECB's President, and not vice versa. The letter of 4 November 2010 sent by the Irish Finance Minister to the ECB's President is referred to at the end of the first page of the ECB's response, and cannot be disclosed, partially or in its entirety, for the reasons mentioned therein.

For the sake of good order, we would like to inform you that, under Article 8(1) of Decision ECB/2004/3, in the event of total or partial refusal, the applicant may have recourse to the remedies open to him/her in accordance with Articles 263 and 228 of the Treaty.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'M. H. G.', written in a cursive style.