



EUROPEAN CENTRAL BANK

EUROSYSTEM

Directorate General Secretariat

ECB-UNRESTRICTED

Mr Paul O'Donoghue
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LS/PvdH/13/40

Public access request for ECB documents

Dear Mr O'Donoghue,

On 11 November 2013, the European Central Bank (ECB) received your request for access to “*All communications between the ECB and the Irish Finance Ministry from October to November 2013. This should include any communications from the Irish ministry in any capacity to or from the European Central Bank in that time period.*” On 9 December 2013, in line with Article 7.3 of the Decision ECB/2004/3 on public access to ECB documents (hereinafter Decision ECB/2004/3)¹, the ECB extended the stipulated time limit by which it was to reply to your request by an additional 20 working days, as the request required third-party consultation.

Having thoroughly examined your request, we would like to inform you that the ECB did not correspond on an institutional level with the Irish Department of Finance in the period 1 October to 11 November 2013. We have, however, identified a number of e-mails at expert level which were exchanged during this period.

Having carefully assessed this exchange of e-mails, in line with the requirements established by Decision ECB/2004/3 and having also duly consulted the owners of third party documents, we would like to inform you that these e-mails cannot be disclosed, -even partially- beyond the below reference to their content, as they are protected under the second indent of Article 4(1)(a) (*the monetary policy of the Union*) and the seventh indent of Article 4(1)(a) (*the stability of the financial system in a Member State, e.g. Ireland*) of the Decision ECB/2004/3. These confidential e-mails discuss fiscal, structural and financial sector policy issues in the context of Ireland's adjustment programme. In particular, they relate to measures aimed at ensuring the smooth unwinding of existing macroeconomic, fiscal and financial imbalances, which should foster an environment that ultimately contributes to restoring investors' confidence in the sustainability of public finances, the stability of the financial sector and the overall growth outlook for the

¹ OJ L 80, 18.3.2004, p. 42, as amended by Decision ECB/2011/6 of 9 May 2011, L 158, 16.6.2011, p. 37.

Irish economy. These measures are also essential to contribute to the smooth functioning of the monetary policy transmission mechanism, which is, in turn, of overriding importance for the effective conduct of monetary policy.

We should like to note that all such confidential e-mails between the ECB and the Irish Department of Finance are preparatory documents containing various specific drafting suggestions and preliminary views or advice on issues pertaining to the progress of the adjustment programme in its multi-faceted dimensions. Indeed, it is of crucial importance for the ECB to be in a position to convey pertinent and candid views to European and national authorities of the euro area in the manner judged to be the most effective for serving the public interest. If it is required, and in the best interests of the public, an effective, informal and confidential exchange of views must be possible and should not be undermined by the prospect of disclosure. Otherwise, the ECB's ability to effectively discharge its monetary policy mandate would be jeopardised and its capacity to contribute effectively to financial stability would be undermined. Such preparatory documents are protected under Article 4(3) of Decision ECB/2004/3 (*"Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the ECB or with NCBs"*). Since their disclosure, even in part, would undermine the protected interests stated under the second and seventh indent of Article 4(1)(a), there is no overriding public interest in their disclosure.

Moreover, the ECB considers that disclosing these confidential documents would undermine the possibility for ECB staff to freely submit uncensored advice to the ECB's decision-making bodies and that it would thus limit the ECB's "space to think". It is therefore in the public interest to protect internal consultations and deliberations. On the basis of the content of these documents, the ECB notes that there is no overriding public interest that could justify their disclosure, and it is not possible to grant partial access to them without again undermining the interest protected under Article 4(3) of Decision ECB/2004/3.

However, some of the e-mails in question contain publicly available documents which are accessible via the links below (see *Irish Finance Bill 2014*²; *Report on the impact of the patent cliff on pharma-chem output in Ireland*³; *Exit references by Taoiseach at the weekend – extracts from communication; and the Irish NTMA statement dated 1 October 2013*⁴). These are disclosed to you partially, as the names of the ECB staff members, their positions and/or contact details contained in the letters constitute personal data protected by Article 4(1)(b) of Decision ECB/2004/3 and Article 8 of Regulation (EC) No 45/2001. Therefore, they have been deleted from the relevant documents.

You will find the detailed list of all e-mails, together with their respective assessments, in the Annex.

² <http://www.finance.gov.ie/viewdoc.asp?DocID=7878>

³ <http://www.finance.gov.ie/documents/publications/reports/2013/pharma2013.pdf>

⁴ <http://www.ntma.ie/news/ntma-funding-programme/>

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As a final point, and for the sake of completeness, our records also contain communications exchanged between ECB staff and staff at the Irish Department of Finance which are of a purely organisational and bureaucratic nature. As these communications do not relate in any way to ECB policies, activities or decisions, they do not fall under the scope of Decision ECB/2004/3 (see Article 3(a) of the Decision).

Finally, and for the sake of good order, we would like to inform you that, in line with Article 7(2) of Decision ECB/2004/3, "in the event of total or partial refusal, the applicant may, within 20 working days of receiving the ECB's reply, make a confirmatory application asking the ECB's Executive Board to reconsider its position".

Yours sincerely,



Pierre van der Haegen
Director General
Secretariat



Roman Schremser
Senior Adviser
Secretariat

Enclosures