



EUROPEAN CENTRAL BANK

EUROSYSTEM

Directorate General Secretariat

**ECB-UNRESTRICTED**

Mr Gavin Sheridan

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LS/PvdH/14/17

### **Request for public access to ECB documents**

Dear Mr Sheridan,

On 18 February 2014, the European Central Bank (ECB) received your request for access to “(1) All letters sent by the ECB president to the Cypriot Finance Ministry; the Cypriot president; and the Cypriot Finance Minister in 2012 and 2013; (2) all letters received by the ECB from the Cypriot Finance Minister in 2012 and 2013; (3) all letters received by the ECB from the Cypriot president Dimitris Christofias in 2012 and 2013; (4) all letters received by the ECB from the Cypriot president Nicos Anastasiades in 2013 and (5) any copies of letters in the possession of the ECB from either the European Commission or the IMF, addressed to the Cypriot authorities in 2012 or 2013”. On 11 March 2014, in line with Article 7(3) of Decision ECB/2004/3 of 4 March 2004 on public access to European Central Bank documents,<sup>1</sup> the ECB extended the stipulated time limit within which it was to reply to your request by an additional 20 working days, as the request required consultation with other parties.

Having thoroughly examined your request, in which we have taken the notion of “Cypriot Finance Minister” in a broad sense to mean also the President of the ECOFIN Council (in the context of the Cypriot EU Presidency), we have identified the following correspondence as relevant with regard to point (1) of your request:

- (i) letter from the ECB’s President to the President of the Republic of Cyprus, dated 10 April 2013, on central bank independence;
- (ii) e-mail from ECB President’s office, dated 21 September 2012, conveying the ECB’s drafting proposals for the ECON report on the proposal for a regulation amending Regulation (EC) No 1060/2009 on credit rating agencies;
- (iii) letter from the ECB’s President to the Cypriot Finance Minister, dated 4 March 2013, on the latter’s resignation from the position of Finance Minister;

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<sup>1</sup> 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.

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- (iv) letter from the ECB's President to the Cypriot Finance Minister, dated 12 January 2012, accompanying the transmission of the ECB's Opinion on the salaries of civil servants (CON/2012/1) – the latter is available on the ECB's website<sup>2</sup>;
- (v) letter from the ECB's President to the Cypriot Finance Minister, dated 3 July 2012, accompanying the transmission of the ECB's Opinion on the recapitalisation of the Cyprus Popular Bank (CON/2012/50) – the latter is available via the ECB's website<sup>3</sup>;
- (vi) letter from the ECB's President to the Cypriot Finance Minister, dated 6 November 2012, accompanying the transmission of the ECB's Opinion on government guarantees for credit institutions (CON/2012/85) – the latter is available via the ECB's website<sup>4</sup>;
- (vii) letter from the ECB's President to the Cypriot Finance Minister, dated 4 February 2013, accompanying the transmission of the ECB's Opinion on a resolution framework for credit and other institutions (CON/2013/10) – the latter is available via the ECB's website<sup>5</sup>;
- (viii) letter from the ECB's President to the Cypriot Finance Minister, dated 23 July 2013, accompanying the transmission of the ECB's Opinion on the supervision of cooperative credit institutions (CON/2013/51) – the latter is available via the ECB's website<sup>6</sup>;
- (ix) letter from the ECB's President to the Cypriot Finance Minister, dated 25 July 2013, accompanying the transmission of the ECB's Opinion on the macro-prudential oversight of the national financial system (CON/2013/54) – the latter is available via the ECB's website<sup>7</sup>;
- (x) letter from the ECB's President to the Cypriot Finance Minister, dated 27 November 2013, accompanying the transmission of the ECB's Opinion on the licensing, regulation and supervision of cooperative credit institutions (CON/2013/81) – the latter is available via the ECB's website<sup>8</sup>.

Following a thorough assessment in line with the requirements of Decision ECB/2004/3, and after having duly consulted the President of the Republic of Cyprus and the Cypriot Finance Ministry, it has been decided to disclose the aforementioned letters to you (please see the attachments). Where applicable, the documents have been anonymised and personal data of staff members of the ECB, or of third parties, have been deleted, together with any information that would make the data subjects identifiable, since their personal data is protected by Article 4(1)(b) of Decision ECB/2004/3 in conjunction with Article 8 of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free

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<sup>2</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2012\\_1\\_f.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2012_1_f.pdf)

<sup>3</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2012\\_50\\_f\\_sign.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2012_50_f_sign.pdf)

<sup>4</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2012\\_85\\_f.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2012_85_f.pdf)

<sup>5</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2013\\_10\\_f\\_sign.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2013_10_f_sign.pdf)

<sup>6</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2013\\_51\\_f\\_sign.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2013_51_f_sign.pdf)

<sup>7</sup> [https://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2013\\_54\\_f\\_sign.pdf](https://www.ecb.europa.eu/ecb/legal/pdf/en_con_2013_54_f_sign.pdf)

<sup>8</sup> [http://www.ecb.europa.eu/ecb/legal/pdf/en\\_con\\_2013\\_81\\_f\\_sign.pdf](http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2013_81_f_sign.pdf)

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movement of such data<sup>9</sup>. One of the conditions stipulated by Article 8(b) of Regulation No 45/2001 for the transfer of personal data to recipients, other than European Union institutions and bodies, subject to Directive 95/46/EC, is that the necessity of having such personal data transferred is established. Given that you have not established the necessity of transferring such data to you, such personal data has been removed in line with the aforementioned provisions.

With regard to point (2) of your request, we have identified the following letters as relevant:

- (i) letter from the Cypriot Finance Minister, dated 5 March 2012, on specific challenges for Cyprus' economy;
- (ii) letter from the Cypriot Finance Minister, dated 21 March 2012, on his resignation from the position of Finance Minister;
- (iii) letter from the Cypriot Finance Minister, dated 23 March 2012, on specific challenges for Cyprus' economy;
- (iv) letter from the Cypriot Finance Minister, dated 2 April 2012, requesting a meeting with the ECB's President to discuss recent economic developments in Cyprus;
- (v) letter from the Cypriot Finance Minister to the Eurogroup President (copied to the ECB's President), dated 25 June 2012, about EFSF/ESM external financial assistance;
- (vi) letter from the Cypriot Finance Minister, dated 28 February 2013, on his resignation from the position of Finance Minister;
- (vii) e-mail from the Cypriot Finance Minister, dated 19 May 2013, including – as an attachment – his letter on the liquidity position of a Cypriot bank;
- (viii) letter from the Cypriot Finance Minister, dated 29 May 2013, on activities of Cyprus-owned banks outside the euro area;
- (ix) e-mail from the Cypriot Finance Minister, dated 7 September 2013, including – as an attachment – his letter on the exercise of voting rights attached to shares in a Cypriote bank;
- (x) letter from the Cypriot Finance Minister, dated 30 May 2012, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on draft legislative provisions on the Ministerial Decree “the underwriting of Rights issue of Cyprus Popular Bank Public Co Ltd Decree of 2012”;
- (xi) letter from the Cypriot Finance Minister, dated 17 October 2012, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on draft legislative provisions that govern the granting of government guarantees for the conclusion of loans and/or the issue of bonds by credit institutions;
- (xii) letter from the Cypriot Finance Minister, dated 11 January 2013, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on draft legislative provisions on a resolution framework for credit and other institutions;

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<sup>9</sup> OJ L 8, 12 January 2001, p. 1.

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- (xiii) letter from the Cypriot Finance Minister, dated 17 June 2013, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on proposed amendments to the Central Bank of Cyprus Laws of 2002 to 2007;
- (xiv) letter from the Cypriot Finance Minister, dated 25 June 2013, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on proposed amendments to the laws on banking and on cooperative societies;
- (xv) letter from the Cypriot Finance Minister, dated 4 September 2013, consulting the ECB under Article 2(1) of Council Decision 98/451/EC on proposed amendments to the licensing, regulation and supervision of cooperative credit institutions.

Following a thorough assessment in line with the requirements of Decision ECB/2004/3, and after having duly consulted the Cypriot Finance Ministry, the following has been decided:

The documents listed under (ii), (iv), (v), (vi), (x), (xi), (xii), (xiii), (xiv) and (xv) above are disclosed to you in full (please see the attachments). Where applicable, and on grounds cited in the above response to point (1) of your request (e.g. Article 4(1)(b) of Decision ECB/2004/3 in conjunction with Article 8 of Regulation (EC) No 45/2001), the documents have been anonymised and personal data of staff members of the ECB or of third parties have been deleted, together with any information that would make the data subjects identifiable.

The document mentioned under (iii) is herewith partially disclosed to you (please see the attachments), as its full disclosure is protected under the provisions of the second indent of Article 4(1)(a) (*the financial, monetary or economic policy of the Union or a Member State*) and the seventh indent of Article 4(1)(a) of Decision ECB/2004/3 (*the stability of the financial system in a Member State*).

Access cannot be granted to the documents mentioned under (i), (vii), (viii) and (ix), as even a partial disclosure over and beyond the reference to the respective content is protected under the provisions of the second indent of Article 4(1)(a) (*the financial, monetary or economic policy of the Union or a Member State*) and the seventh indent of Article 4(1)(a) of Decision ECB/2004/3 (*the stability of the financial system in a Member State*).

The letters listed under (i), (iii), (vii), (viii) and (ix) were sent in the context of the significant financial market pressure on the Cypriot economy and the extreme uncertainty regarding its outlook, with acute and real risks of substantial spillover effects for the financial stability of the euro area as a whole. The documents discuss fiscal, structural and financial sector policy issues in the context of Cyprus' adjustment programme. In particular, they relate to measures aimed at restoring the stability of the financial sector, and at ensuring the smooth unwinding of existing macroeconomic, fiscal and financial imbalances. Restoring the health of the financial sector was and is essential to safeguard the smooth functioning of the monetary policy transmission mechanism, which, in turn, is of overriding importance for the ECB's effective conduct of its monetary policy. As the situation of the Cyprus economy continues to require close monitoring, the overall context in which the letters were sent is still considered to be relevant.

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Moreover, as already mentioned to you in previous correspondence, it is of crucial importance that the ECB is in a position to hold a confidential and candid exchange of views with the national authorities of the euro area in the manner deemed most effective for serving the public interest, which, in specific situations, can only be achieved when such an exchange is not undermined by the prospect of disclosure.

With regard to point (3) of your request, we would like to inform you that the ECB's President did not correspond with the President of the Republic of Cyprus, Mr Christofias, in 2012 and 2013.

With regard to point (4) of your request, we have identified the following two letters that the ECB's President received from the President of the Republic of Cyprus, Mr Anastasiades:

The first letter, dated 16 April 2013, relates to the independence of Mr Demetriades as Governor of the Central Bank of Cyprus and reports on discussions in the House of Representatives suggesting that a procedure for dismissal of the Governor of the Central Bank of Cyprus might be initiated. Following a thorough assessment of this letter in line with the requirements of Decision ECB/2004/3, and after having duly consulted the President of the Republic of Cyprus and after having given Mr Demetriades the possibility to object in line with Regulation 45/2001, the ECB cannot grant access to this document since the disclosure of its content – over and beyond what is set out above – would undermine the protection of the privacy and the integrity of the individual, in particular the individual's legitimate interests, as protected by Article 4(1)(b) of Decision ECB/2004/3 in conjunction with Articles 8 and 18 of Regulation (EC) No 45/2001. The ECB considered Mr Demetriades' objection to the disclosure of the letter to be justified on compelling legitimate grounds in line with Article 18 of the Regulation (EC) 45/2001.

The second letter, dated 6 June 2013, is a strictly confidential communication between the ECB's President and the President of the Republic of Cyprus and concerns measures addressing the extraordinarily severe and difficult situation of the Cypriot financial sector and their repercussions on the integrity of the euro area monetary policy and the stability of the Cypriot financial sector. Following a thorough assessment of this letter in line with the requirements of Decision ECB/2004/3, and after having duly consulted the President of the Republic of Cyprus, the ECB cannot grant access to this document, as even a partial disclosure over and beyond the reference to its content is protected under the provisions of the second indent of Article 4(1)(a) (*the financial, monetary or economic policy of the Union or a Member State*) and the seventh indent of Article 4(1)(a) (*the stability of the financial system in a Member State*). Indeed, the letter was sent in the context of significant financial market pressure on the Cyprus economy and extreme uncertainty regarding its outlook, with acute and real risks of substantial spillover effects for the financial stability of the euro area as a whole. As the situation of the Cyprus economy continues to require close monitoring, the overall context in which the letter was sent is still considered to be relevant.

With regard to point (5) of your request, we would like to inform you that (i) no letters from the IMF to the Cypriot authorities in 2012 or 2013 have been identified in the possession of the ECB; and that (ii) the

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following two letters from the European Commission to the Cypriote authorities in 2012 or 2013 have been identified as relevant:

- (i) a letter from the Vice-President of the European Commission, Mr Rehn, to the Cypriot Finance Minister, dated 24 September 2013, and
- (ii) an e-mail from the European Commission to, inter alia, the Cypriote Finance Minister, dated 6 September 2013, on the exercise of voting rights attached to shares in a Cypriot bank.

Following a thorough assessment in line with the requirements of Decision ECB/2004/3, and after having duly consulted the European Commission and the Cyprus Finance Ministry, as applicable, it has been decided to disclose the letter listed under (i) above to you (please see the attachments). Where applicable and on grounds cited in the above response to point (1) (e.g. Article 4(1)(b) of Decision ECB/2004/3 in conjunction with Article 8 of Regulation (EC) No 45/2001), the document has been anonymised and personal data of staff members of the ECB and of third parties have been deleted, together with any information that would make the data subjects identifiable. Access to the document listed under (ii) above cannot be granted, as even a partial disclosure over and beyond the reference to its content is protected under the provisions of the second indent of Article 4(1)(a) (*the financial, monetary or economic policy of the Union or a Member State*) and the seventh indent of Article 4(1)(a) (*the stability of the financial system in a Member State*). Indeed, the letter was sent in the context of significant financial market pressure on the Cyprus economy and extreme uncertainty regarding its outlook, with acute and real risks of substantial spillover effects for the financial stability of the euro area as a whole. As the situation of the Cyprus economy continues to require close monitoring, the overall context in which the letter was sent is still considered to be relevant.

For the sake of good order, we should like to inform you that, in line with Article 10 of Decision ECB/2004/3, "Documents released in accordance with this Decision shall not be reproduced or exploited for commercial purposes without the ECB's prior specific authorisation. The ECB may withhold such authorisation without stating reasons."

Finally, please be informed that, in line with Article 7(2) of the above-mentioned Decision, "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



Roman Schremser  
Senior Adviser