



**EUROPEAN CENTRAL BANK**  
BANKING SUPERVISION

**Andrea ENRIA**

Chair of the Supervisory Board

*COURTESY TRANSLATION*

Mr Nuno Melo  
Member of the European Parliament  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

Frankfurt am Main, 6 October 2020

**Re: Your letter (QZ-054)**

Honourable Member of the European Parliament, dear Mr Melo,

Thank you for your letter on the appointment of the Governor of the Banco de Portugal, which was passed on to me by Ms Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 4 September 2020.

With regard to your questions, I would like to stress that it is the primary responsibility of EU Member States to interpret and apply their own rules regarding the governance of national central banks (NCBs), including the rules on the appointment of NCB governors. However, such interpretation and application shall be compatible with the EU Treaties and the Statute of the European System of Central Banks and of the European Central Bank (ECB).

Moreover, following their appointment, NCB governors are subject to the principle of independence<sup>1</sup> and are expected to act honestly, impartially, with discretion, and without regard to self-interest, in line with the single Code of Conduct.<sup>2</sup> The ECB is continuously vigilant in ensuring that these principles are upheld.<sup>3</sup>

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<sup>1</sup> According to Article 7 of the Statute of the European System of Central Banks and of the European Central Bank: “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”. See also Article 19 of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63), which is applicable to national competent authorities.

<sup>2</sup> See Article 3.2 of the Code of Conduct for high-level European Central Bank Officials (2019/C 89/03) (OJ C 89, 8.3.2019, p. 2).

<sup>3</sup> See also the judgement of the Court of Justice of the European Union (Grand Chamber) of 26 February 2019 – *Ilmārs Rimšēvičs (C-202/18), European Central Bank (ECB) (C-238/18) v Republic of Latvia*, joined cases C-202/18 and C-238/18, ECLI:EU:C:2019:139.

It is not within the competences of the ECB to engage in discussions about potential national rules regarding the appointment of the governors of the NCBs before these potential rules have taken the form of draft legislation. However, in line with its competences, the ECB provides its opinion on concrete draft legislative provisions.<sup>4</sup> On this basis, it recently published an Opinion on the envisaged amendment of the appointment criteria of the Banco de Portugal's Governor and other members of the Management Board. As noted in this Opinion, Member States are free to set the conditions required for the appointment of the members of the decision-making bodies of their NCBs, provided that these conditions do not conflict with the features of central bank independence enshrined in the Treaties.<sup>5</sup>

Yours sincerely,

[signed]

Andrea Enria

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<sup>4</sup> See Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union.

<sup>5</sup> See Opinion of the European Central Bank of 21 July 2020 on the amendment of the appointment criteria of Banco de Portugal's Governor and other members of the Management Board (CON/2020/19), paragraph 2.1. See also the Opinion of the European Central Bank of 21 May 2019 on the revision of the legal framework of the Portuguese financial supervisory system (CON/2019/19).