



EUROPEAN CENTRAL BANK

EUROSYSTEM

EN

ECB-PUBLIC

## OPINION OF THE EUROPEAN CENTRAL BANK

of 30 November 2020

on amendments to the Law on Parliament

(CON/2020/30)

### Introduction and legal basis

On 19 October 2020, the European Central Bank (ECB) received a request from the Swedish Parliament (hereinafter the 'Parliament') for an opinion on a draft law amending, inter alia, the Instrument of Government<sup>1</sup> (which forms part of the Swedish Constitution) and the Law on Parliament<sup>2</sup>, as far as they concern issues regarding the functioning of the Parliament which have implications for authorities such as Sveriges Riksbank, (hereinafter the 'draft law'). The draft law forms part of an inquiry report on the 2019 Overview of the Riksdag<sup>3</sup> (hereinafter the 'Report') by the Committee for the 2019 Overview of the Riksdag (hereinafter the 'Committee').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the third indent of Article 2(1) of Council Decision 98/415/EC<sup>4</sup>, as the draft law concerns Sveriges Riksbank.

### **1. Purpose of the draft law**

#### 1.1 *Composition of General Council of Sveriges Riksbank*

The draft law states that if a member of the Parliament ceases for any reason to be a member of a political party represented in the Parliament, that member of the Parliament shall also cease to be a member of the committees and other parliamentary bodies and delegations – including the General Council of Sveriges Riksbank – to which that member of the Parliament has been appointed on the basis of their membership of that political party<sup>5</sup>. According to the Committee, the main reason for this element of the draft law is to ensure that the composition of the committees and other parliamentary bodies and delegations reflects the political majority in the Parliament<sup>6</sup>. Although, under the current law, membership of a political party is required in order to become a member of the Parliament<sup>7</sup>, membership of the Parliament is a personal position which, as a

---

<sup>1</sup> *Kungörelse (1974:152) om beslutad ny regeringsform.*

<sup>2</sup> *Riksdagsordningen (2014:801).*

<sup>3</sup> 2020/21:URF1 2019 års Riksdagsöversyn. Available at [www.riksdagen.se/](http://www.riksdagen.se/).

<sup>4</sup> Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

<sup>5</sup> See Chapter 12, Section 13 second paragraph and supplementary provision 12.13.1 of the draft law.

<sup>6</sup> See Chapter 9.7 of the Report.

<sup>7</sup> See Chapter 3, Section 1 of Instrument of Government. See also pages 107 to 108 of the Report.

general rule, a person cannot be forced to give up. However, membership of a committee or other parliamentary body or delegation is not a personal position, but one to which a person is appointed on the basis of membership of a political party represented in the Parliament<sup>8</sup>.

## 1.2 *Preparatory requirements for submissions made to Parliament by General Council and Executive Board of Sveriges Riksbank*

The draft law states that parliamentary bodies and delegations – including the General Council and the Executive Board of Sveriges Riksbank – shall, before making submissions to the Parliament, obtain the necessary information and opinions<sup>9</sup>. According to the Committee, the reason for this element of the draft law is to align the preparatory requirements for submissions made to the Parliament by parliamentary bodies and delegations – such as the General Council and the Executive Board of Sveriges Riksbank – with the preparatory requirements which apply to legislative proposals made to the Parliament by the Swedish Government<sup>10</sup>. However, the draft law also states that the *Riksdagsstyrelsen* (the Riksdag Board) rather than General Council and the Executive Board of Sveriges Riksbank is required to obtain opinions from *Lagrådet* (the Swedish Council on Legislation)<sup>11</sup>. According to the Committee, another reason for not requiring the General Council and the Executive Board of Sveriges Riksbank to obtain the opinion of the Swedish Council on Legislation is that the right of the General Council and of the Executive Board of Sveriges Riksbank to put forward a submission is more limited than the right of the Riksdag Board to do so<sup>12</sup>. The General Council and the Executive Board of Sveriges Riksbank do not, as a general rule, propose legislation to the Parliament, and it is very rare that a legislative proposal made by the General Council or the Executive Board of Sveriges Riksbank is referred to the Swedish Council on Legislation for consultation. In any case, if an opinion from the Swedish Council on Legislation were needed on a submission from the General Council or the Executive Board of Sveriges Riksbank, such an opinion could be obtained during the preparation of the relevant submission<sup>13</sup>.

## 2. **General observations**

### 2.1 *Composition of General Council of Sveriges Riksbank*

2.1.1 The ECB understands that the Executive Board of Sveriges Riksbank is responsible for the operations of Sveriges Riksbank<sup>14</sup>, and that it is the decision-making body of Sveriges Riksbank responsible for the performance of Sveriges Riksbank's ESCB-related tasks. The General Council is responsible for, inter alia, the appointment of the Executive Board and the Governor and Deputy Governors of Sveriges Riksbank<sup>15</sup>, the determination of the remuneration of the members of the

---

<sup>8</sup> See Chapter 9.7 of the Report.

<sup>9</sup> See Chapter 9, Section 17a of the draft law.

<sup>10</sup> See Chapter 19.9.2 of the Report.

<sup>11</sup> See Chapter 9, Section 17b first paragraph of the draft law.

<sup>12</sup> See Chapter 19.9.2 of the Report.

<sup>13</sup> See Chapter 19.9.2 of the Report.

<sup>14</sup> See Chapter 9, Section 1a of the Law on Sveriges Riksbank (*Lag (1988:1385) om Sveriges Riksbank*).

<sup>15</sup> See Chapter 1, Section 4 of the Law on Sveriges Riksbank.

Executive Board<sup>16</sup>, the removal of the members of the Executive Board on specified grounds<sup>17</sup>, the supervision of the Executive Board's work<sup>18</sup>, the audit function in relation to the review of the Executive Board's work<sup>19</sup>, proposals in relation to Sveriges Riksbank's distributions from the profit and loss account<sup>20</sup>, and the design of banknotes and coins issued by Sveriges Riksbank<sup>21</sup>. While the distribution of competences between the Executive Board and the General Council of Sveriges Riksbank lies beyond the scope of this opinion, the ECB wishes to reiterate that, having regard both to the structure of the General Council, as a constituent part of Sveriges Riksbank, and to its tasks, the General Council may not seek to influence the Executive Board in its capacity as Sveriges Riksbank's decision-making body responsible for the performance of Sveriges Riksbank's ESCB-related tasks<sup>22</sup>.

2.1.2 The ECB understands that the General Council of Sveriges Riksbank consists of 11 members appointed by the Parliament<sup>23</sup>. The members of the General Council are appointed by the *Riksdagens valberedning* (Nominations Committee of the Parliament)<sup>24</sup> for the same term of office as the members of the Parliament; such appointment occurs as soon as possible after the relevant general election has been held<sup>25</sup>. As a general rule, the Nominations Committee of the Parliament provides a proposed list of members of the General Council, based on the proportional representation of the political parties represented in the Parliament, for the Parliament to decide on<sup>26</sup>. The ECB understands that currently, six of the 11 members of the General Council of Sveriges Riksbank are members of the Parliament and all 11 are members of political parties that are represented in the Parliament<sup>27</sup>. However, there is no requirement that a member of the General Council of Sveriges Riksbank must be a member of the Parliament or of a political party represented in the Parliament<sup>28</sup>.

2.1.3 The ECB understands that under the existing law, if a person ceases to be a member of the Parliament, they also cease to be a member of the committees and other parliamentary bodies and delegations of which they are a member on the basis of their membership of the Parliament<sup>29</sup>. Further, if a person ceases to be a member of a committee or other parliamentary body or

---

16 See Chapter 4, Section 5 of the Law on Sveriges Riksbank.

17 See Chapter 9, Section 13 of the Instrument of Government.

18 This is the case although it is not expressly stated in the Law on Sverige Riksbank (see, e.g., pages 1370 to 1371 of the Swedish Government Official Report 2019:46: A new Law on Sveriges Riksbank).

19 See Chapter 9, Section 2 and 2a of the Law on Sveriges Riksbank.

20 See Chapter 10, Section 3 of the Law on Sveriges Riksbank.

21 See Chapter 5, Section 1 of the Law on Sveriges Riksbank.

22 See paragraph 14.2.4 of Opinion CON/2020/13. See also paragraph 6 of Opinion CON/2002/16, paragraph 2.3 of Opinion CON/2019/12 and paragraph 2.1 of Opinion CON/2020/7.

23 See Chapter 9, Section 13 of the Instrument of Government.

24 See Chapter 12, Section 2 of the Law on Parliament.

25 See Chapter 13, Section 21 and Chapter 12, Section 5 of the Law on Parliament.

26 See Chapter 12, Sections 7 to 8 of the Law on Parliament and Chapter 9.3.1. of the Report.

27 The Estonian central bank (Eesti Pank) is an example of another national central bank in the European System of Central Banks which has a supervisory board with functions comparable to the General Council of Sveriges Riksbank, whose membership is partly composed of members of the national parliament representing political factions in the parliament. See paragraphs 1.6 and 2.1 of Opinion CON/2020/7.

28 See supplementary provision (*tilläggsbestämmelse*) 13.21.1 of the Law on Parliament, relating to Chapter 13, Section 21 of the Law on Parliament.

29 See Chapter 12, Section 13 of the Law on Parliament.

delegation – such as the General Council of Sveriges Riksbank – the political party by which that person was appointed nominates their replacement and informs the speaker of the Parliament accordingly, who then declares the nominee elected<sup>30</sup>. However, there is currently no requirement that a member of the Parliament who ceases to be a member of a political party represented in the Parliament must cease to be a member of the committees and other parliamentary bodies and delegations (including the General Council of Sveriges Riksbank) of which they have become a member on the basis of their membership of that political party<sup>31</sup>. The ECB understands that the situation where a member of the Parliament ceases to be a member of a political party occurs relatively frequently<sup>32</sup>. Against this backdrop, the ECB further understands that the proposed amendment regarding the composition of the General Council of Sveriges Riksbank constitutes a limited change to ensure that the composition of the committees and other parliamentary bodies and delegations reflects the political majority in the Parliament to the greatest extent possible.

## 2.2 *Preparatory requirements for submissions made to Parliament by General Council and Executive Board of Sveriges Riksbank*

The ECB understands that the General Council and the Executive Board of Sveriges Riksbank each have the right to make submissions to the Parliament (i) regarding matters concerning Sveriges Riksbank's competence, organisation, personnel and forms of operation<sup>33</sup>, and (ii) within their own areas of responsibility<sup>34</sup>. In this regard, the ECB also understands that such submissions can include not only legislative proposals, but also other forms of legal acts and documents. The ECB welcomes the proposed preparatory requirements for submissions made to the Parliament, as they may enhance the legislative process and the quality of legal acts adopted by the Parliament.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 30 November 2020.

[signed]

*The President of the ECB*

Christine LAGARDE

---

<sup>30</sup> See Chapter 12, Section 14 of the Law on Parliament.

<sup>31</sup> See Chapter 9.1 of the Report.

<sup>32</sup> See Chapter 9.4 of the Report.

<sup>33</sup> See Chapter 9, Section 17 of the Law on Parliament.

<sup>34</sup> See supplementary provision 9.17.4 of the Law on Parliament, relating to Chapter 9, Section 17 of the Law on Parliament.