

5. In the third place, removing the applicant from his post as Governor of the Bank of Latvia was based on a misinterpretation of Union law by the Office for the prevention and fight against corruption in so far as it stated that the applicant did not perform his functions on the Governing Council of the European Central Bank independently and in the interest of the European Central Bank, but rather performed those functions as Governor of the Bank of Latvia and acted in the interest of the Bank of Latvia. However, Article 13 of the Treaty on the Functioning of the European Union provides that the European Central Bank is an institution of the European Union.

In the exercise of their functions, officials of EU institutions may exercise only the powers provided for in Union legislation and may act only in the interest of those institutions. It is not for national legislation to define the functions of officials of EU institutions and, accordingly, when performing the functions of an official of an EU institution, it is not possible to exercise powers conferred by national legal acts.

Under Article 130 of the Treaty on the Functioning of the European Union, which guarantees the independence of the European Central Bank, the Governor of the Bank of Latvia is precluded, in exercising his functions as a member of the Governing Council of the European Central Bank, from acting as a representative of the Bank of Latvia and acting (strictly) in the interest of the Bank of Latvia or the Republic of Latvia.

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**Action brought on 3 April 2018 — European Central Bank v Republic of Latvia**

**(Case C-238/18)**

(2018/C 161/49)

*Language of the case: Latvian*

**Parties**

*Applicant:* European Central Bank (represented by: C. Zilioli, C. Kroppenstedt and K. Kaiser, acting as Agents, and D. Sarmiento Ramírez-Escudero, lawyer)

*Defendant:* Republic of Latvia

**Form of order sought**

The European Central Bank claims that the Court should:

- request the Republic of Latvia, in accordance with the first paragraph of Article 24 of the Statute of the Court of Justice of the European Union and Article 62 of the Rules of Procedure of the Court of Justice, to provide all relevant information pertaining to the ongoing investigation by the Korupcijas novēršanas un apkarošanas birojs (Office for the prevention and fight against corruption) of the Governor of the Bank of Latvia;
- declare, pursuant to Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank, that the Republic of Latvia has infringed the second paragraph of that provision:
  - by removing from office the Governor of the Bank of Latvia before the handing down of a conviction from an independent court that examined the merits of the case and
  - without, if so confirmed by the evidence presented by the Republic of Latvia, exceptional circumstances justifying that removal;
- order the Republic of Latvia to pay the costs.

**Pleas in law and main arguments**

The ECB claims that the Republic of Latvia has infringed the second paragraph of Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank in removing from office the Governor of the Bank of Latvia by way of a provisional security measure, without the handing down of a conviction from an independent court that examined the merits of the case.

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