

Action brought on 16 March 2018 — Ilmārs Rimšēvičs v Republic of Latvia**(Case C-202/18)**

(2018/C 161/48)

*Language of the case: Latvian***Parties**

Applicant: Ilmārs Rimšēvičs (represented by: S. Vārpiņš, I. Pazare and M. Kvēps, lawyers)

Defendant: Republic of Latvia

Form of order sought

The applicant claims that the Court should:

- declare that he was unlawfully removed from the office of Governor of the Bank of Latvia by the decision of 19 February 2018 adopted by the Korupcijas novēršanas un apkarošanas birojs (Office for the prevention and fight against corruption), in the name of the Republic of Latvia, on the implementation of security measures;
- declare unlawful the security measure prohibiting the exercise of certain professional activities — on the basis of which the applicant was prohibited from performing the functions of Governor of the Bank of Latvia and from exercising the rights associated with that office — which was imposed on the applicant pursuant to the decision of 19 February 2018 adopted by the Office for the prevention and fight against corruption, in the name of the Republic of Latvia, on the implementation of security measures;
- declare unlawful the restrictions on performing the functions of a member of the Governing Council of the European Central Bank and exercising the rights associated with that office, which were imposed on the applicant pursuant to the decision of 19 February 2018 adopted by the Office for the prevention and fight against corruption, in the name of the Republic of Latvia, on the implementation of security measures.

Pleas in law and main arguments

1. The applicant challenges the unlawful decision of 19 February 2018 adopted by the investigating authority of the Latvian State (that is, the Office for the prevention and fight against corruption, which is part of the executive) on the basis of which he was removed, indefinitely, from his position as Governor of the Bank of Latvia. The decision to remove him was adopted in the name of the Latvian State. On being removed from the office of Governor of the Bank of Latvia, the applicant also lost, automatically, his position as member of the Governing Council of the European Central Bank.
2. In removing the applicant from office, the following infringements at least were committed.
3. In the first place, removing the applicant from his posts as Governor of the Bank of Latvia and member of the Governing Council of the European Central Bank constituted a breach of Article 14.2 of Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on the Functioning of the European Union, given that, at the time of his removal, none of the conditions specified in that provision for the removal of a governor of a national central bank were satisfied (namely, that the governor no longer fulfil the conditions required for the performance of his duties or have been guilty of serious misconduct).
4. In the second place, removing the applicant from his post as Governor of the Bank of Latvia also breached Article 22 of the likums 'Par Latvijas Banku' (Law on the Bank of Latvia), the national measure implementing the Treaty on the Functioning of the European Union. At the time the decision at issue was adopted, none of the conditions set out in that article for the removal of the Governor of the Bank of Latvia were satisfied (first, voluntary resignation, secondly, the condition laid down in Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank relating to serious misconduct, in which case the Parliament may decide to remove the Governor of the Bank of Latvia from office once the conviction has become final, or, thirdly, the other conditions specified in Article 14.2 of that statute). In addition, although in accordance with the Law on the Bank of Latvia only the Parliament of the Republic of Latvia may lawfully remove the Governor of the Bank of Latvia from office, the applicant was not removed by that Parliament, but by the investigating authority of the Latvian State, which is part of the executive.

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.

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.