

03 June 2019

Open letter to the future ECB president

Dear Madam, dear Sir,

We want to write this letter to you in advance of your appointment by the Heads of EU States and Governments to the ECB, a powerful, highly regarded and independent EU Institution. As the sole recognised trade union representing ECB staff, IPSO wants to draw your attention to a sometimes overlooked aspect of your future position, namely **staff participation and the internal functioning of this institution**. While we are addressing you even before knowing your name, we trust that the content of this letter will not appear as a challenge to you as an individual but rather as the expression of our sincere concerns and of our offer to jointly address these important issues.

The ECB plays a key role in fostering integration and giving impetus to the European Project.

In the current climate of anti-EU populism, we consider it vital to secure the ECB's image as that of a role model, exhibiting a culture of balanced leadership, engaging and listening to parties outside and inside the ECB. We believe an essential objective for you as President will be to strengthen trust in the ECB and indeed in the Euro and that a focus on these key areas will pay dividends.

The ECB has gained a remarkable position of power in Europe. It was in a position to help avoid the worst consequences of the financial crisis by implementing the Asset Purchase Programmes and also influencing national policies through conditional lending to Member States. Furthermore it has always defended its independence fiercely so as to shield its monetary policy from political pressures.

By the very nature of its independence, the ECB also finds itself in a particularly strong – actually unique – position of power vis-à-vis its own staff and employees. Even though the ECB is a European Institution, the democratically adopted Staff Regulations of officials and Conditions of Employment of other servants of the European Union do not apply. Also, even though the ECB is located in Germany, German labour law does not apply to ECB staff. Regarding any aspect of social security and labour law, the ECB has the status of an

independent nation state. The Statute (article 36.1) provides that the ECB Governing Council lays down the “Conditions of Employment” (CoE). Anybody taking up employment with the ECB has to explicitly accept that the ECB may unilaterally redefine and change the CoE. This results in a situation where the ECB is simultaneously the employer, but also the legislator when it comes to applying labour law for its staff. Furthermore, it also holds judiciary functions, since in the case of a conflict, the first two steps of appeal are also regulated and handled by the ECB. For ECB staff, the employer also plays the role of the State and the Social Security function. Unlike for all other central banks of the European Union and other EU Institutions, there is no legislative parliamentary control involved in the setting of these important rules that shape our institution. This concentration of powers in the hands of the Governing Council, whom you will lead, is seen by many as resulting in a so-called “democratic deficit” – a situation unlikely to foster trust in the ECB as an institution whose influence and credibility are fundamentally rooted in trust.

We would like to underline why you and the **public at large should care about social dialogue and the inner functioning of the ECB**. It is important for Europe (and all its citizens) that the ECB works well in light of its institutional role in the EU. Efficient monetary policy, market infrastructures and payment systems, as well as banking supervision are tasks, to name only a few, which indisputably have a substantial effect on European citizens. In times of euro-scepticism, it is required more than ever to demonstrate that the ECB not only produces high quality work, but also that it does so while respecting the European social model. We believe that the ECB serves as a role model for social relations in the EU. In short, we fear that internal practices at the ECB are suboptimal and if left unchecked will negatively affect Europe at large due to its very nature as role model.

Allow us to provide one clear illustration of the problems faced: The absence or inadequacy of staff participation in personnel decisions has led to repeated allegations of favouritism– which in turn leads to poor staff and issue management at all levels of the hierarchy. Recruitment and promotion processes are performed only by management - with no staff representation involvement. This has a direct impact on the diversity of opinions/ideas in the bank, fostering an unhealthy lack of balance and discussion when addressing problems and issues, which the ECB dearly needs to avoid.

If a staff member’s promotion depends largely on agreeing with the opinion of the immediate hierarchy, it pays to display a “yes Sir / Ma’am” attitude. Consequently, in the recent 2018 Staff Survey, more than half of the staff members stated that they do not think that it is important to show good performance to build a career at the ECB, rather 67% thought that you just need to know the right people. Raising a negative voice to initiatives or proposals or just displaying a critical or original mind is interpreted as a sign of insubordination, often facing direct or indirect retaliation. Ultimately, the loser in all of this is the decision-making ability of the ECB.

Above all else we would like to raise your awareness about a recent and increasing trend at the ECB. It is evident that the trend of hiring staff on a short-term basis has led in turn to an increasing trend in staff turnover. At this point in the ECB's history, nearly half of the working population of the ECB is on short-term contracts and IPSO is convinced that this situation is becoming unsustainable as it creates **an important operational risk for the bank**. The status of the work force is fragmented in a multitude of categories, with about one third of the people working at the ECB not being ECB employees. From those actually employed by the ECB half do not have a permanent contract, leaving only approx. one third of staff on ECB indefinite term contracts. This is a very atypical proportion for a central bank as a public institution and is not supportive of the long-term mission of the ECB, that of ensuring stability. This situation results in part from the National Central Bank Governors' conflict of interests which leads them to squeeze ECB staff to protect the staffing levels at their own National Central Banks.

It is fair to argue that the situation at the ECB is unbalanced and not aligned with the European social dialogue model, since the ECB's Executive Board, via the Governing Council, yields virtually unlimited power and can, in particular, unilaterally change the CoE as they deem fit. The ECB's Governing Council, which you will chair, exerts amongst other things the legislative power, not having to even hear those to whom the law applies or their representatives – and indeed this has so far not been done when important staff matters came up for decision. Furthermore, the Executive Board also decides alone on appointments to high offices. The European Court of Justice (ECJ) who judges in last instance the conflicts between the ECB and its servants just needs to make sure that the ECB has respected the law it itself has created (*patere legem quam ipsi fecisti*). The ECJ can anyway only annul an ECB decision, not replace it. Most often the ECB protects itself by mentioning in its own law that it *may*, not that it *must*, which is a unique and highly disputable governance feature for a legislator since it disregards the principles of legal certainty and equality before the law.

In spite of these aspects, you will soon arrive in an institution with dysfunctional features. Social dialogue remains stalled, and does not rest on balanced structures. The standards for social law or regulations are often below those implemented in Member States. In specific cases the ECB even accepts EU Directives selectively because they are not directly applicable to the ECB. An internal survey has shown that one third of staff is at risk of burnout, as a result of insufficient personnel resources, but also because of de-motivation, inner resignation and “cognitive dissonance” i.e. not recognising oneself in what the ECB is doing. The imbalance of power in the house has also led to managers fiercely defending their own interests instead of having the benefit of the overall institution in mind. The absence of genuine social dialogue has led IPSO and the ECB Staff Committee to seek contact to the press – for which both are heavily criticized but it seems to be sometimes the only way to have a message being heard/read.

You are obviously not responsible for the situation which you find upon your arrival. We trust that you will be committed to improving it in line with our European social tradition, thereby making the ECB more legitimate and credible. We are convinced that trust, culture and social dialogue are not beyond repair and that an independent ECB needs staff that feels free to provide the institution with independent ideas and initiatives. Equally, the independence of the ECB should not be an excuse for inertia, a lack of free thinking or substandard internal law-making. On the contrary, the ECB can use its power to amend the CoE to foster fair and efficient staff participation. It is its prerogative and simultaneously its obligation to establish adequate checks and balances as well as well-functioning structures of social dialogue.

Allow us to conclude by stating that we place a lot of hope on you to introduce fairness, restore good practice and effect true efficiency at the ECB. The ECB management should under your guidance share some of its power internally for the institution's own good – a sort of democratic *qualitative* easing. We expect you to do "*whatever it takes*" to improve the ECB's internal situation, and to establish a proper staff participation framework. And you can do a lot! This is the best way to re-establish trust inside this institution. No doubt it will then pay dividends outside.

Yours sincerely

IPSO Board