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Intervention for the hearing at the ECON Committee of the European Parliament

Dear Chairman Gualtieri, dear members of the Parliament, dear all present and listening!

My colleagues and I are very grateful for this open hearing. This is a unique event and hopefully the beginning of a fruitful joint work on the joint objective to make Europe even better than it is today. I will inform you who we are, why we are here, what our wishes for change are, why we think the European Parliament may have an interest in these and what the follow-ups to this hearing could be.

Who are we?

I do speak for IPSO – the International and European Public Services Organisation. IPSO is the only recognised union at the ECB. We have around 600 members and thus represent c. 35% of the ECB staff holding a permanent contract. We also support members that are temporary agency staff (in German this category is called Leiharbeitnehmer) and non-ECB staff such as trainees and seconded staff.

Why are we here?

We are here because we are concerned about the governance, staffing policies and staffing situation at the ECB, and the operational risk and financial consequences this might have for each and every European Citizen. We are concerned as the ECB should serve the European citizens as a part of the European public service. We wish to trigger improvements to the ECB and thereby to the way we serve the European citizens, a public service to which we are fully committed. We are here, because the ECB is “special”. In one of the hearings a member of your committee stated: *“The main problem is that the ECB is not subject to democratic control as it should be.”* We are here precisely because of this problem.

What are our wishes for change?

We have one wish: we would wish to work under a European Constitution, supported by the European citizens, based on the values of the European Union as enshrined in Article 2 of the Treaty, and guaranteeing the rule of law as well as the separation of powers. This overarching objective needs to be pursued further.

Why do we believe this to be important? In the absence of such an overarching framework, allow us to first point out that in our assessment Article 36 (1) of the ESCB and ECB Statute is not constitutional, and not in line with the values of the European Union. This article empowers the Governing Council of the ECB to *“lay down the conditions of employment of the Staff of the ECB”* based on a proposal by the Executive Board. This may read innocent and harmless. It is not! This key provision means that the ECB in its role as an employer can design its own civil service law - or whatever it wishes to look like that - for its entire staff. The ECB is thereby an independent executive authority which is also an independent labour law legislator, without any parliamentary control or influence in this legislation. A constitution and a codification of European civil service law would put



an end to this unhealthy anomaly. Until we have a constitution and a codification your parliamentary scrutiny of the law-making as well as a strong staff representation and union involvement are needed to balance this unique power concentration.

Until now, the independent and discrete labour law-making of the ECB has not achieved the results Europe deserves. Far too many of the ECB's rules allow for ample managerial discretion or exemptions on a case-by-case basis. Staff members perceive unequal treatment and arbitrariness of decisions. As a result, a subservient behaviour and in some areas even fear seems to prevail. These rules may foster a "Yes-man culture" and enforced mainstream argumentation. They may limit unduly the free debate and expression of alternatives any authority with powers like the ECB requires inside, and for which we have the intellectual richness among the ECB's staff. This situation is aggravated by the fact that colleagues on term contracts have one major preoccupation: safeguard their employment. Some do not even dare to join the union prior to the conversion of their contracts because they fear for their contract conversion, and if joining the union they wish that membership is not disclosed. Are term contracts and permanent fear of job loss the future European social model?

As an aside: the situation is not made easier by the fact that no national law applies to the staff of the ECB and that where it should apply, as for agency staff for example, the ECB does not respect it in full.

Regarding the ECB's law-making, we wish access of staff representatives to the law-making when labour law decisions are taken and full transparency of the rule-making. This is a humble wish that has been denied to staff representatives systematically. Yet, in which democracy are laws made behind closed doors without the involvement of elected representatives?

Our staff's contractual status and working conditions matter a lot for the quality of our work. To hold the ECB accountable for the quality of these, you need full access to all legislative labour law materials and should ask for full public transparency.

Regarding the ECB's governance and staffing for quite a long time we observe the effects of a conflict of interest in the Governing Council resulting in dramatic understaffing. The National Central Bank Governors decide on staffing and budget of the ECB. They appear unwilling due to a national bias to adequately staff the ECB. As a result the ECB resorted to the hiring of temporary agency staff, trainees and consultants, often deployed in permanent tasks. IPSO has since years pressured to rectify this situation which is neither fair, nor free of operational risk as well as undue extra cost and effort. We need your support to ensure proper staffing. We need your support in our claim to honour the year-long service of our agency staff colleagues by the offer of proper ECB contracts. Further outsourcing of these works and services cannot be a solution.

Another problem is that the ECB issues for its staff only term contracts. Some but not all of these are convertible into indefinite term contracts. New ECB staff hired for permanent positions (and this is a fraction of the workforce – we estimate far less than 50%) has de facto a three-year probationary



period. ECB managers have a five year probationary period. Staff representatives are not informed about or involved in conversion decisions which lead to indefinite term contracts.

These long periods of uncertainty put an enormous pressure on staff and managers to be subservient. The conversion (or not) is another situation fraught with management discretion. We estimate that to date we have only about 1,300 staff with an indefinite term contract and the rest of the workforce either hopes for their conversion (about 1,100) or – the remainder of up to an estimated workforce of about 4,500 – 5,000 persons - hold other forms of term contracts, or “enjoys” other forms of employment. This means that less than a third of the persons working for the ECB hold safe labour contracts which would support their freely voicing unconventional thinking which is so desperately needed in times of crises. In comparison: the Deutsche Bundesbank reports for end 2015 a workforce of some 9,600 positions of which 126 are term contracts. We think that an independent central bank needs independent staff. That principle is one of the backbones of civil service.

Concerning **staff participation and representation**, the ECB has opted not to follow the model of the European Commission and the other EU institutions. At the ECB, staff participation is limited to what is called the consultation processes. There are no joint committees (comité paritaire). The ECB’s staff representatives are not involved in or informed about hiring and promotion processes. In the other EU institutions these matters are decided by joint committees set up under the Staff Regulations. In the absence of checks and balances there is a widespread impression of favouritism and pre-arranged promotion procedures. The negative impact on staff morale and incentives does not warrant further comments. Widespread management discretion results as well in fear to speak up, and for instance the ECB offers no protection for whistle-blowers in its Staff Rules.

Why should the European Parliament be interested in our wishes?

We consider that we have given you clear indications calling for your committee’s and the employment committee’s interest in these affairs. In the end, the way the ECB is governed internally has an impact on its functioning in the European and global economy. The uncontrolled exercise of power our colleagues perceive inside the ECB is then replicated by them outside the ECB, e.g. when refusing to discuss with the trade unions in country missions as part of the Troika.

Furthermore, we see risks of undue capture of the ECB by national or particular interests. We see potential operational risks, e.g. due to unbalanced sourcing and outsourcing. The past surveys of the Staff Committee and also of the ECB itself have shown a picture of staff under heavy work pressure, stress, wide-spread burnout and with some wrong incentives when it comes to careers.

What could the European Parliament do as a follow-up?

We suggest and hope that this hearing will not be the first and last but rather the beginning of a dialogue that, in the end, will support addressing the situation for staff as well as the constitutional anomaly described in this intervention.

As one step, we suggest that the ECON, together with the Employment Committee, conducts an inquiry into the ECB’s Conditions of Employment and Staff Rules against the principles as they have evolved for the European public service. We would be more than happy to contribute with our



observations. We suggest that you put governance and staffing issues on your agenda as a regular topic when you hold the ECB accountable in your hearings with our leadership.

We kindly ask you to support our claims by a declaration calling for

- 1) full transparency on the ECB's law-making on individual and collective labour law, social security and disciplinary law
- 2) access of staff and union representatives to the decision making bodies in these matters
- 3) stronger participation rights – following the model of other EU institutions and national laws
- 4) a sounder staffing, putting an end to the use of temporary agency staff, trainees and consultants for permanent tasks – but not by way of risky outsourcing but by way of filling positions with the long-serving staff and offering trainees training rather than low-paid exploitation.

We thank you for your attention!