14th Staff Committee of the European Central Bank

28 July 2025

To: **Ms C. Lagarde, Mr F. Elderson**

Cc: **Mr L. de Guindos; Mr P. Lane; Ms I. Schnabel; Mr M. Cipollone**

Subject: **Letter regarding your remarks on the value of Democracy, Rule of Law and Checks and Balances, and how these values are applied at the ECB (Ref. 2025/028, 1844510287)**

Dear President Lagarde,

Dear Mr Elderson,

Dear Members of the Executive Board,

We read with great interest the opinion piece of Ms Lagarde in the Financial Times published on 17 June 2025. The publication stresses the comparative advantage for Europe derived from its inclusive decision-making, system of checks and balances and respect for the rule of law.

Mr Elderson made similar comments earlier, in his speech of 9 June 2025 in Rome, presenting the rule of law as a constitutional pillar of central banking, also referring to a book he studied as a law student about “Democracy and the rule of law”.

We are very pleased to see how much we are aligned on the principles. Sadly, however, we regret to see that these principles expressed outside the institution seem to be given little value inside the institution by its power structure.

These statements were made at the time when the ECB, following a demand from the Executive Board, is considering measures which are fundamentally anti-democratic, geared towards the reduction of (the already very weak) checks and balances within the ECB and targeting the staff representation.

Because of its extra-territorial nature, the ECB’s independence has resulted into far-fetched powers for a central bank. Specifically, the ECB has been granted a legislative power over its staff, as regards labour law, without having this legislative power flanked by an electoral process to appoint the legislator which could provide for a democratic legitimation.

Due to this fact, which is sufficiently problematic on its own to call for an amendment of the EU Treaty, the ECB is both in a situation of being an employer and a legislator. This would call for the

ECB to show significant restraint, when using its legislative prerogative. However, such restraint does not happen, and we see the legislative arm regularly used by the employer to tilt the balance of power against its employees. This imbalance of power is generating substantial issues, in relation to the non-existence of checks and balances, as the widespread concerns of favouritism in hiring and promotion, the abuse of precarious contracts or the high level of burnout and suicidality show. Increasingly, it is being used to undermine and even silence the only institutional counter-weight within the ECB, namely the staff representation.

As a recent survey showed, staff are disheartened by what they report as dishonesty in ECB communication regarding staff matters. The ECB regularly does not behave in line with what it preaches. Your statements are, unfortunately, another example of this fact. While praising the strength of the European rule of law, you reject the applicability of the EU Directive in social matters. While Europe advocates for a strong social dialogue, including negotiations and participation of social partners, you reject the very principle of looking for compromise solutions in case of disputes.

This situation has not started with this Executive Board. Its history can be traced back to the inception of the ECB – when for instance the ECB rejected the competence of the EU first instance Tribunal or that of the Anti-Fraud Office (OLAF)[1]. It is based on a legal theory which has exploited governance loopholes coming from the Maastricht Treaty and, under the premise of strengthening its independence, aimed at transforming the ECB into a kind of unaccountable legal fortress.

We stress that the independence of the public administration, which – to echo Mr Elderson's statements – is there to ensure that the minority is not abused by the majority in our democracies, always was meant to take place within the boundary of laws and the constitution, all decided by elected representatives and ultimately the people, with due regard to the principle of separation of powers.[2] This is where the rule of law concept stands. Without ultimately abiding to laws adopted by elected parliaments, without due regard for the principle of separation of powers, without a constitution able to provide for additional safeguards for human rights, the independence of the administration does not anymore follow democratic principles.

However, such boundaries disappeared or were reduced with the ECB's extra-territoriality. It distorted the application of the principle of separation of powers[3] and the abidance to a constitution and legislation coming from an elected representation.

Externally, the ECB is placed in a situation where it has a huge margin of discretion regarding the definition of its own mandate. Unlike other central banks, whose mandate can be defined and readjusted by an elected Parliament, the ECB stands on the same footing as the European Parliament, which has no capacity on its own to correct any wrong interpretation made of its mandate or to amend it as time changes. De facto, we observe a situation where the ECB is able to step in the political domain, issuing instructions to elected governments going beyond the monetary policy domain[4], or taking decisions that many observers identify as being of a political nature.[5] In

[1] Mudge, S. L., & Vauchez, A. (2022). Dependence on independence: Central bank lawyers and the (un)making of the European economy. Economy and Society, 51(4), 584-609.
[2] Rosanvallon, Pierre, *Democratic Legitimacy: Impartiality, Reflexivity, Proximity*. Princeton University Press, 2011.
[3] Such principle is not, as you know, a principle recognised in the European legal order.
[4] See the letter from President Trichet and Governor Draghi to Prime Minister Berlusconi, 5 August 2011.

theory, European citizens have the capacity to amend the ECB's mandate and how it operates. At the national level for instance, they would be able to correct a daring jurisprudential interpretation of laws made by judges via the adoption of a law clarifying or rectifying the matter. At the European level, however, such a correction requires a Treaty change. Changing the EU Treaty is much more difficult to do than passing a law in a national parliament or even changing a national constitution. This means that the ECB's democratic accountability is extremely reduced. This results in calls for strengthening the democratic accountability of our institution.[6]

Internally, the situation is even worse, as the ECB is de facto, and as explained earlier, placed in a situation of acting like a mini-state, with the employer being granted also a legislative competence regarding labour law – and with no practically available mechanism to democratically remove from their positions the legislators when they do not use that power responsibly, or misuse it. This is also placing its employees into a situation of extreme dependence on the power in place, thereby jeopardizing the capacity of staff to independently express their expert views. It is telling that such large powers, which are to a large extent set out in the Protocol on the Statute of the ESCB and the ECB which was annexed to the Maastricht Treaty, have been designed by a committee composed of officials who were either already central bank governors or were to serve as members of the ECB Governing Council and the Executive Board. Nobody among the electorate, at the moment of voting for the Maastricht Treaty, paid attention to these technical provisions regarding the setting of ECB staff conditions of employment, as the whole question was whether EU citizens were in favour of the single currency or not. In retrospect, it appears that EU central bankers essentially granted to themselves unprecedentedly large powers, hidden behind the technicality of apparently innocent legal provisions (notably Article 36).

Such large powers, which call into question the reality of the rule of law regarding ECB internal functioning, could be managed adequately if the ECB was to accept the existence and activity of its internal checks and balances. Such would be, first and foremost, the elected staff representation and the social partners. However, as Montesquieu already noted: "It is an eternal experience, that any man who has power is led to abuse it;"[7] This reality is the one we, ECB staff, could unfortunately observe within the ECB, through various generations of Executive Boards. Staff representatives have already explained at length the operational impact of such a concentration of power, for instance in an ECON hearing on staffing matters on 26 October 2016 where they warned that this could lead the

[5] The jurisdictional control of the European Court of Justice, which cannot be substituted for a legislative capacity, is of limited value as whenever a technical matter is involved, the control is restricted to the manifest error of assessment. Interestingly, the jurisprudence used in the Gauweiler case (C62-14) made against the ECB's OMT decisions is the same used for the ECB staff pension reform court case. The matter is too technical for the judges to decide, so the ECB is left with a blank check. It was obvious, however, that the ECB was prohibited to finance governments when being set up. Similarly, it was obvious to many ECB staff that interest rate assumptions used in the pension reform, as well as other parameters, were manipulated and reverse engineered. Eventually ECB staff themselves lost trust in their institution, because the extraordinary nature of the legislative powers granted to the ECB go very much against the concept of the rule of law, within a democratic environment.

[6] See for instance Eric Monnet, Balance of Power: Central Banks and the Fate of Democracies, University of Chicago Press, 2024

[7] Esprit des lois, 1748.

institution to miss the next crisis.[8] All the warnings seem to have been made in vain, as, to quote Montesquieu again "[power] goes until it finds limits".

Unfortunately, we note that this Executive Board has taken a much more anti-democratic turn than the previous ones. Not only is this Executive Board blatantly rejecting the applicability of European Directives and the possibility that working conditions could be negotiated with social partners, but it now goes as far as using its own legislative power to change the constitution of the staff representation, with a view to undermine their capacity to challenge the ECB's power structure. Even worse, an intimidation letter was sent to the Staff Committee spokesperson, instructing him not to mention the existence of a culture of fear within the ECB and its potential operational impact. This comes after other measures, like the suppression of the Staff Committee forum and the repeated challenging of the legitimacy of the staff to speak with a collective voice, via intermediate bodies.

We would like to urge you to reconsider your approach.

The anti-democratic moves against ECB staff representation, and the absence of effective checks and balances within the ECB, are fundamentally damaging the legitimacy of the independence of our institution. They are as well creating severe operational risks, as observed in the widespread complaints of favouritism, the high burnout rates, and the vulnerability of many colleagues working under temporary contracts.

We would also like to refer to the words of apology sent by Mr Elderson in relation to the idea that staff would need to be reprogrammed. We appreciated these words. They would, however, have no value if the approach which underpinned the "reprogramming call" is to continue. Attempts to interfere with the electoral process, to silence or retaliate against staff representatives expressing an unpleasant opinion, are not much different than a call to reprogram staff who think differently than the leadership. In a democracy, freedom of opinion, respect for existing checks and balances, and restraint from misuse of power, are key.

To conclude, ECB staff are very worried about the misuse of power observed in our institution and the anti-democratic turn taken in recent years. We would urge you to consider the value of aligning your internal approach to the words and stance expressed externally.

Kind regards,

Carlos Bowles

On behalf of the Staff Committee

[8] Reuters, Francesco Canepa, "ECB 'groupthink' raises risk of missing next crisis - staff representatives", 26 October 2016.