



Advocate General Kokott proposes that the Court should rule that, by suspending the Governor of the Bank of Latvia from office, the Republic of Latvia has failed to fulfil its obligations

The Republic of Latvia has not provided proof of trading in influence alleged to have been committed by the Governor of its central bank

Mr Ilmārs Rimšēvičs, Governor of the Latvijas Banka (Bank of Latvia), was suspended from office by a decision of the Korupcijas novēršanas un apkarošanas birojs (Office for the prevention and combating of corruption, Latvia) because he is suspected of having traded in influence for the benefit of a Latvian bank.

The actions brought by Mr Rimšēvičs (C-202/18) and the European Central Bank (ECB) (C-238/18) against that decision are **the first cases brought before the Court of Justice on the basis of the power conferred on it by Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank¹ ('the ESCB' and 'the ECB', respectively) for a ruling on decisions relieving Governors of the central banks of the Member States from office.**

That power derives, inter alia, from the fact that Governors of the central banks of the Member States whose currency is the euro, even though appointed and relieved from office by the Member States, are also members of a body forming part of an EU institution, that is, the Governing Council of the ECB.

In today's Opinion, Advocate General Juliane Kokott proposes that the Court should rule that, by prohibiting Mr Rimšēvičs from performing his duties as Governor of the Bank of Latvia without providing the Court with evidence of the acts which it alleges he committed, the Republic of Latvia has failed to fulfil its obligations under the Statute of the ESCB and of the ECB. That statute provides that '*a Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct*'. As the Advocate General points out, the Court's task is to determine whether a Member State which has relieved a Governor of its central bank from office has shown to the requisite legal standard that those conditions are met.

First of all, the Advocate General observes that the measures adopted in the present case in respect of Mr Rimšēvičs, although temporary, nonetheless constitute being 'relieved from office' within the meaning of Article 14.2 of the Statute of the ESCB and of the ECB, because, in order for a measure to fall within its scope, that notion concerns not the form of that measure and its status under national law, but its substance and tangible effects. In the present case, the tangible effect of the measures imposed on Mr Rimšēvičs is that he is prevented from performing his duties as Governor of the Bank of Latvia and as member of the Governing Council of the European Central Bank.

¹ Protocol (No 4) on the Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB) annexed to the TEU and TFEU (OJ 2016 C 202/01, pp. 230).

Next, the Advocate General explains that, when such a matter concerning removal from office is brought before it, the Court's first task is to classify as a matter of law the acts allegedly committed by the Governor concerned, that is, to determine whether those acts are such as to establish that the latter no longer fulfils the conditions required for the performance of his duties or that he has been guilty of serious misconduct. If this should prove to be the case, the Court must then go on to examine, in the light of the evidence adduced by the Member State concerned, whether the Governor in question did in fact commit the acts alleged.

According to the Advocate General, in the present case, the acts allegedly committed by Mr Rimšēvičs are — if it is established that they were in fact committed — such as to demonstrate that he no longer fulfils the conditions required for the performance of his duties or that he has been guilty of serious misconduct.

Moreover, the Advocate General observes that it can be demonstrated that such acts were committed either by means of a ruling on the substance of the case by an independent court of a Member State or by **evidence capable of demonstrating, of itself, that the alleged acts did take place.**

However, as the Advocate General notes, in the present case, **no ruling on the substance of the case has been given by a Latvian court concerning the acts allegedly committed by Mr Rimšēvičs and nor has the Republic of Latvia produced any other evidence before the Court.** That Member State merely submitted, inter alia, documents drawn up by administrative authorities concerning Mr Rimšēvičs' role and his alleged conduct. Although the documents contain a description of the acts allegedly committed by Mr Rimšēvičs, they **do not contain any factual evidence capable of establishing that those acts did in fact take place.** There is therefore no evidence before the Court that would allow it to ascertain whether the allegations made against Mr Rimšēvičs are well founded. In those circumstances, the Court is not in a position to ascertain whether the conditions set out in Article 14.2 of the Statute of the ESCB and of the ECB for relieving a Governor of a central bank from office are met.

The Advocate General therefore concludes that, by relieving Mr Rimšēvičs from the office of Governor of the Bank of Latvia without demonstrating that the conditions set out in Article 14.2 of the Statute of the ESCB and of the ECB for such removal from office were met, the Republic of Latvia has failed to fulfil its obligations under that provision.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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