



EUROPEAN CENTRAL BANK

EUROSYSTEM

Directorate General Secretariat

ECB-UNRESTRICTED

Mr D. Cabo  
ask+request-[1051-ebb5746e@asktheeu.org](mailto:1051-ebb5746e@asktheeu.org)

20 December 2013

LS/PvdH/13/41

### Public access request for ECB documents

Dear Mr Cabo,

On 29 November 2013, the European Central Bank (ECB) received your request for access to “*A copy of the letter sent to the Spanish Government on August 5th, 2011; and (ii) a copy of any response by the Spanish Government to that letter (i.e. a copy of all correspondence from the Spanish Government during the second half of 2011)*”.

We should like to note that - as also stated in your own communication - both letters from August 2011 are in the meantime in the public domain (via the memoirs of Mr Zapatero, then Prime Minister of Spain and via the Spanish media).

As you are aware, these confidential letters address fiscal, structural and financial sector policy issues in the context of Spain’s adjustment programme. In particular, they relate to measures aimed at ensuring the smooth unwinding of existing macroeconomic, fiscal and financial imbalances, which should foster an environment that ultimately contributes to restoring investors’ confidence in the sustainability of public finances, the stability of the financial sector and the overall growth outlook for the Spanish economy. These measures therefore were essential not only for contributing to financial stability in Spain, but also for contributing to the smooth functioning of the monetary policy transmission mechanism, which, in turn, is of overriding importance for the integrity and effectiveness of monetary policy and eventually for the ECB to be in the position to discharge its mandate in a credible manner vis-à-vis the euro area citizens and in the best interests of euro area citizens.

Having consulted, in accordance with Article 4.4 of the Decision ECB/2004/3 on public access to ECB documents (hereinafter Decision ECB/2004/3)<sup>1</sup>, the Spanish authorities on the potential ‘official’ disclosure of the requested documents, it has been concluded, in agreement with the Spanish authorities,

---

<sup>1</sup> OJ L 80, 18.3.2004, p. 42, as amended by Decision ECB/2011/6 of 9 May 2011, L 158, 16.6.2011, p. 37.

ECB-UNRESTRICTED

that the requested letters cannot be disclosed as they are protected under the second indent of Article 4(1)(a) (*the monetary policy of the Union*) and the seventh indent of Article 4(1)(a) (*the stability of the financial system in a Member State, e.g. Spain*) of the Decision ECB/2004/3.

It is of crucial importance for the ECB to be in a position to have a pertinent and candid exchange of views with European and/or national authorities of the euro area in the manner judged to be the most effective for serving the public interest. It is in the best interests of the public that the effectiveness of such a confidential exchange of views is not undermined by the prospect of disclosure. Otherwise, the ECB's ability to effectively discharge its monetary policy mandate would be jeopardised and its capacity to contribute effectively to financial stability would be undermined, which, in turn, is in contrast to the public interest.

In deciding not to disclose the exchange of letters, due account has also been taken of the fact that the above-mentioned letters were published without the authorisation of the ECB or of the Spanish authorities. Granting public access to a confidential document on the grounds of it having been made public without the prior authorisation and consent of the parties concerned would set the precedent that an institution would be forced to endorse ex post such disclosure of documents.

Moreover, please note that the ECB did not correspond further with the Spanish Government during the second half of 2011.

Finally, and for the sake of good order, we would like to inform you that, in line with Article 7(2) of Decision ECB/2004/3, "in the event of total or partial refusal, the applicant may, within 20 working days of receiving the ECB's reply, make a confirmatory application asking the ECB's Executive Board to reconsider its position".

Yours sincerely,



Pierre van der Haegen  
Director General  
Secretariat



Roman Schremser  
Senior Adviser  
Secretariat