

Ms Christine Lagarde
President
European Central Bank
60640 Frankfurt am Main
GERMANY

Brussels, 2 January 2024

Renewal of the mandate of Governor Pierre Wunsch

Dear Ms President,

I am addressing you in my capacity as Chair of the Council of Regency of the National Bank of Belgium (“the NBB”).

The five-year term of office of Governor Pierre Wunsch expired yesterday, 1 January 2024. Despite this, the Belgian government has not proceeded to renew his mandate in time. Such a situation is unprecedented and not explicitly foreseen by the legal framework applicable to the NBB, i.e. its Organic Law and Statutes. Arguably, being the NBB’s highest decision-making body on governance matters, it falls to the Council of Regency to examine possible ways to ensure the continuity of the functioning of the NBB. This was confirmed by an external law firm, STIBBE BV, that was consulted by the NBB.

On 30 December 2023 I received a joint letter (see annex) from the Belgian Prime Minister and the Minister of Finance on the matter asking us to consider how the current Governor of the NBB can remain in office, by way of exception and for a short period of time, pending a formal decision on the renewal of his mandate by the Belgian Government. Such temporary solution would be based on the Belgian law principle of continuity of public service.

The Council of Regency has carefully examined this request, also considering the external legal opinion of STIBBE BV on the matter and which is attached to this letter. In that context, we have taken into account the requirements of the Treaty on the functioning of the European Union and of the Statute of the ESCB and of the ECB and we have been particularly mindful of maximally preserving the independence of the NBB and of the ESCB.

The continuity of public service is a well-known principle of Belgian public law. It is well established in Belgian case law and legal doctrine and arguably even has constitutional status. Belgian courts and in particular the Council of State (the highest administrative court) have had many opportunities to apply this principle in concrete cases, partly because of the long periods in our recent history when governance was exercised by resigning governments without full powers.

your reference

your correspondent

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COUNCIL OF REGENCY

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Based on this principle of continuity of public service Belgian case law accepts that, unless prohibited by law or expressly provided otherwise, a public official, staff member or member of a collective decision-making body may continue to perform his duties until a successor is appointed or his appointment is renewed, even after expiry of the term of office. According to certain case law of the Council of State there would even be an obligation on the part of the person involved to stay in office until a formal decision has been taken.

In view of these considerations, the Council of Regency has decided at its meeting today to respond positively to the request of the Prime Minister and the Minister of Finance. Consequently, the Council has asked Mr Pierre Wunsch to remain in office as Governor of the NBB pending a formal decision of the Belgian Government on the renewal of his mandate.

Hence, under Belgian law Pierre Wunsch will remain the governor of the NBB for the time being. As such, I trust that he can also continue his duties as member of the Governing Council of the ECB.

Nevertheless, we understand that only a swift decision by the Belgian government in line with Article 14.2 of Protocol No 4 (Statute of the ESCB and of the ECB) would lead to ultimate legal certainty. In that regard, we note that the Belgian Prime Minister and the Minister of Finance have indicated in their letter that the Belgian government will complete its deliberations on the reappointment of Mr Wunsch as Governor of the NBB soon. We will, of course, follow the matter closely.

Yours sincerely,



Claire Tillekaerts
Chair of the Council of Regency

Annexes: 3



De Eerste Minister

Mevrouw Claire Tillekaerts

Voorzitster Regentenraad
Nationale Bank van België

Uw bericht van

Uw kenmerk

Brussel

30/12/2023

Ons kenmerk

Dossier behandeld door

Contact via

Geachte mevrouw,

De Federale Regering is tot op heden niet over gegaan tot een formele beslissing over de benoeming van een Gouverneur van de Nationale Bank van België.

Wij vragen U na te gaan hoe ten uitzonderlijke titel, voor een korte periode, de huidige Gouverneur van de Bank op grond van het 'continuïteitsbeginsel', in functie kan blijven tot wanneer er is voorzien in een herbenoeming door de Federale Regering.

De Regering zal zijn beraadslagingen over de herbenoeming van de heer Wunsch als Gouverneur van de Nationale Bank van België spoedig afronden.

Wij vragen U de nodige schikkingen daartoe te treffen in afwachting van een beslissing van de Federale Regering.

Met vriendelijke groeten,



Alexander De Croo
Eerste minister



Vincent Van Peteghem
Vice-Eerste Minister, Minister van Financiën

COURTESY TRANSLATION



De Eerste Minister

Ms Claire Tillekaerts

Chairwoman of the Council of
Regency of the National Bank of
Belgium

Your message of

Your reference

Brussels
30/12/2023

Our reference

File handled by

Contact
[REDACTED]

Dear Madam Chair,

To date, the federal government has yet to take a formal decision on the appointment of the National Bank of Belgium's governor

We ask you to examine how on an exceptional basis, for a short period of time, the Bank's current governor can, pursuant to the continuity principle, remain in office until such time as provision is made for reappointment by the federal government.

The government will soon conclude its deliberations on the reappointment of Mr Wunsch as governor of the National Bank of Belgium.

We ask you to make the necessary arrangements to that end pending a decision by the federal government.

Yours sincerely,

[REDACTED]

Alexander De Croo
Prime Minister

[REDACTED]

Vincent Van Peteghem
Deputy Prime Minister, Minister of Finance

