

# Speech by Michel Barnier at the 7th State of the Union Conference, European University Institute, Florence

## **Protecting Citizens' Rights in the Negotiations with the UK**

Good afternoon to all of you.

I will speak in English – obviously, I wish to be understood by the people who speak French, especially two days before this crucial election in my country. But it is equally important to be understood by the British people. *[Applause]*

First of all, let me first extend my warm thanks to the European University Institute in Florence, and its President Renaud Dehousse, for having offered me the opportunity to speak before you today.

I am also happy to see Commissioner Jourová, who will be speaking shortly after me.

Ladies and Gentlemen, the State of the Union conference has become a major forum for debate.

And debate on the future of European citizenship is very much needed, now more than ever.

My topic today is the importance of the rights of European citizens and the priority that they will be given in the forthcoming Brexit negotiations.

In particular, free movement of people is at the heart of European citizenship. The principle was intensively discussed during the United Kingdom's referendum campaign.

Today, it would seem that this principle is under attack.

How did we get here?

In 2004, the UK was one of very few countries to immediately open its labour market to the new Member States.

Indeed, the United Kingdom was – and remains – an attractive destination for Europeans.

Studies show the positive impact of openness on national growth and prosperity.

The free movement of EU citizens makes labour markets more efficient.

It creates more choice for Europeans.

It allows companies to find the right talent.

On balance, EU citizens contribute more than they benefit from the UK tax and social security system.

In short, free movement of people is one of the four essential freedoms. These four freedoms are indivisible.

This is how our Single Market works.

And let me be clear: the integrity of the Single Market will never be compromised in these negotiations.

But this point fell on deaf ears during the referendum campaign.

The British debate first concentrated on “welfare tourism”, which we must fight.

It then shifted its focus to opposing free movement, which we must defend.

There are lessons for all of us in this campaign.

We should not allow populists to take the political debate hostage.

But we should not ignore what are often deeply felt opinions and reactions.

People are concerned about the free movement of EU workers, not only in the UK, but also in many other Member States.

This is certainly the case, I can tell you as a French citizen, in my home country.

And people often have good reason to be concerned.

But the solution lies in a *fairer* labour market, and in *better training* for people.

We must also apply EU and national rules in a more rigorous manner so as to prevent them from abuse.

The solution is not to restrict the free movement of fellow EU citizens.

Stopping free movement will not improve social protection.

This debate goes far beyond Brexit.

However, it is important to draw a number of lessons from Brexit if we are to encourage a more informed public debate across the Member States.

Here are some interesting facts that Brexit has highlighted:

- A large UK food retailer testified in the House of Commons that only

one in fifty job applicants are UK nationals.

- The British Hospitality Association warned that 60 000 vacancies may not be filled if EU citizens are barred from the labour market.
- And UK farmers have stressed many times their need for access to the EU labour pool.

Against this background, the Brexit process will contribute to a better understanding, for us all, of the nature and benefits of EU integration.

It will also bring into stark relief what it is to be or not to be a Member of the European Union.

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Let me now turn to the Brexit negotiations – which Jean-Claude Juncker and the European Council have asked me to conduct.

The EU is ready to start negotiations based on the clear guidelines of the European Council. Two days ago, the Commission put forward its recommendations for the forthcoming negotiations.

I confidently expect that the Council on the twenty second of May will give me a mandate to start negotiations. It is now clear exactly what the EU intends to place on the negotiation table in June.

The European Council has decided that preserving the rights of EU citizens and their families will be a priority; will be my priority.

I anticipate that protecting these rights will be both easy and complex at the same time.

What do I mean by that? It should be easy to agree on general principles.

But it will not be as easy to formulate all these principles neatly in a legally precise text.

There are a number of questions, in particular, that require close attention.

**To begin with, who should be protected, and for how long?**

The cut-off date is simple and logical: it is the day when the UK leaves the EU.

But protection should apply for the life time of the citizens who are concerned.

EU law specifies who it is that benefits from these rights.

The law sets out the rights of several categories of individual, both those who are economically active and those who are inactive.

Currently around 3.2 million EU citizens work and live in the UK, and 1.2 million British citizens work and live in the EU.

EU law also concerns frontier workers.

Finally, it concerns people who have worked or lived in the UK in the past.

The rights of family members should also continue to be protected including in those circumstances where family members are not themselves EU citizens.

**So, we know who we want to protect.**

**But, what are the principles that we will put forward?**

Number one: the level of protection afforded under EU law must not be watered down.

Brexit should not alter the nature of people's daily lives.

Number two: there must be equal treatment between all EU and UK nationals in the UK.

Inversely, equal treatment between UK citizens and the nationals of the 27 Member States must also be the rule when UK citizens live in those 27 states.

Number three: the EU requires crystal-clear guarantees that rights will be effectively enforced.

For UK citizens in the EU, the European Court of Justice will play its role to ensure the application of the withdrawal agreement.

Similarly in the UK, the rights in the withdrawal agreement will need to be directly enforceable and the jurisdiction of the European Court of Justice maintained.

**Let me now turn to the third issue.**

**The Article 50 agreement will need to define material rights.**

The media has focused a great deal on the "right to stay".

Individuals legally residing in the UK today must remain residents after withdrawal, including in those cases when people have no documents to prove residency.

Obviously, the same goes for UK nationals in the 27.

No one should be confronted with a mountain of red tape.

But the right to residence is only one aspect amongst many others.

There are a whole series of rights at stake.

Let me give you some examples.

For instance, what if a skilled Polish worker for BMW who works at Plant Oxford, loses his job?

Will he keep his right to UK unemployment benefit for a few months even if he goes back to Poland to look for a job?

That is what EU law allows today.

What if a self-employed photographer from Edinburgh who lives in Malaga goes bankrupt?

Will she still have access to the same healthcare – under the same conditions – as Spanish nationals?

If she decides to restart her professional life in the UK, will she still be able to require that her social security rights obtained in Spain are taken into account by the UK.

The withdrawal agreement must provide clear and affirmative answers to these questions.

Given legal certainty is a question of respect for more than 4 million people.

Let me give you some further examples of the sorts of situations that we will inevitably have to confront:

- A Greek engineer in the UK must maintain the right to export the full amount of her old-age pension to Greece if she decides to retire in Athens.
- A German worker in the UK must have access to healthcare under the same conditions as UK nationals.
- The Spanish widow of a UK national living in the UK must continue to enjoy the rights that she has today.
- A Scottish designer who has worked in Hungary for the last ten years, and who finishes his career in Glasgow, must be able to aggregate all his pension periods after returning to the UK. If his daughter decides to stay in Budapest to attend university there, she must be treated in the same manner as a Hungarian national.
- The son of a Polish worker residing in the UK must be able to attend higher education under the same conditions as a British national. It should not matter if this happens in 2020 or in 2030.

For the coordination of social security systems, national administrations in the EU deal with cross-border cases on a daily basis.

They take care of the aggregation of rights and the export of benefits.

Post-Brexit, the principle of a single applicable law should continue to apply.

Protecting these rights is our moral duty.

It is also a political necessity: we will not discuss our future relationship with the UK until the 27 Member States are reassured that all citizens will be treated properly and humanely.

Otherwise, there can be no trust when it comes to constructing a new relationship with the UK.

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I know that in order for this new partnership to be solid and sustainable, we have to build it together on the base of mutual trust.

It would be premature of me to discuss the details of this future relationship today.

Nevertheless we can be certain that Brexit will inevitably entail a number of negative consequences.

This is not a question of "punishment".

There are consequences that simply follow logically from the choice made by the British people.

Let me give you an example of just one potential difficulty.

Peter, a PhD student from Essex, receives a grant from his university in 2020.

He then wishes to spend 4 months at the University of Turin in order to deepen his knowledge with regard to, for instance, a collaborative project on Euroscepticism.

2020 is after Brexit, so Peter will be a third-country national by then. He will have to make sure that he still has the right to reside and study on Italian territory.

And he will probably need to look into private health insurance as he will no longer have the European Health Insurance Card.

This is only one example.

This leads me to the consequences for the UK of the EU's research and higher education policy.

I understand that universities are keen to have clarity as soon as possible with regard to the future relationship that they will find themselves in.

Planning takes time.

And I know how important EU policy is for creating networks and exchanges between universities in all 28 countries.

It is certainly true that the EU has cooperation agreements with third countries – Norway, Israel or Switzerland.

One option is that the UK could decide to continue to support university networking and joint projects as a third country after Brexit.

But this would require a different legal and financial framework.

I do not expect negotiations to bring clarity on these and a plethora of other issues in the immediate future.

We first need to tackle the rights of citizens, get a fair and clear agreement, and the orderly withdrawal of the United Kingdom. The sooner we make sufficient progress, the sooner we can start tackling these sometimes complex issues.

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To conclude, some in the UK have tried to blame Member States for the continued uncertainty that citizens have been confronted with for ten months now.

That is wrong.

The only cause of uncertainty is Brexit.

The only way to remove uncertainty and to protect rights properly is through an Article 50 agreement.

Here, I should like to finish by saying that I will, of course, approach our British friends constructively and amicably on all issues.

But I will also be firm, backed by European Council guidelines and Council directives and also the resolutions of the European Parliament.

I will base my position on factual evidence and on EU law.

*And* I will do everything in my power to ensure that information on the negotiations is made public so that an informed debate can take place.

That, I am confident, will dramatically increase our chances of reaching an enduring agreement.

Thank you very much.

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## [Daily News 05 / 05 / 2017](#)

### **President Juncker delivers address at the State of the Union conference in Florence**

The 7<sup>th</sup> edition of the State of the Union conference, organised by the

European University Institute, focuses this year on the theme of European Citizenship. President Juncker delivered an opening address in which he commended Italy for its work in managing the refugee crisis and saving lives at sea, saying *“Italy has saved the honour of Europe.”* Looking to the future, President **Juncker** called for more efforts to develop the social dimension of European integration and for deeper cooperation on defence. Watch the full speech [here](#). Several Commissioners also took part in the conference. Commissioner Navracsics took part in a panel debate on “The European Union at Sixty”, highlighting the main achievements of the Union, such as the Erasmus+ programme. At 14:45, Commissioner **Jourová** and Michel Barnier will participate in a panel on “EU Citizens’ Rights: a Priority for the Negotiations with the UK”. At 16:15, High Representative/Vice-President, Federica **Mogherini**, will address the opportunities and challenges facing the EU’s foreign and security policy, as presented in the [EU Global Strategy](#), during an interactive session on “Cooperation and Partnerships, the European Way”. All panels are streamed [live](#). (For more information: *Natasha Bertaud – Tel.: +32 229 67456* )

### **Plus de 1 300 étudiants de Master bénéficient de bourses Erasmus Mundus en 2017**

1 345 étudiants du monde entier viennent tout juste de recevoir la bonne nouvelle selon laquelle ils ont reçu une bourse financée par l’UE pour commencer à étudier dans le cadre d’un [master commun Erasmus Mundus](#) cet automne. Ces bourses couvriront tous les frais de leur programme d’études qui les emmènera dans au moins deux établissements d’enseignement supérieur en quête d’un diplôme de master commun ou double. La plupart des programmes ont une durée de deux ans. Tibor **Navracsics**, commissaire européen chargé de l’éducation, de la culture, de la jeunesse et du sport, a déclaré: *«Les masters communs Erasmus Mundus sont de très bons exemples d’universités qui collaborent par-delà les frontières pour offrir des programmes universitaires intégrés, innovants et de qualité. Alors que nous célébrons le 30e anniversaire d’Erasmus, c’est une source d’inspiration de voir les perspectives internationales que ce programme de financement de l’Union a aidé à promouvoir auprès des universités, des étudiants et des membres du personnel. C’est pourquoi nous sommes très heureux de pouvoir financer plus de 1 300 bourses en faveur d’étudiants du monde entier en 2017. Dans un délai de deux ans, ils obtiendront leur diplôme en disposant d’une panoplie adaptée de connaissances et de compétences professionnelles pour lancer ou stimuler leur carrière.»* Les bourses de cette année ont été attribuées à des étudiants venant de six continents, et principalement de cinq pays : Brésil (79), Inde (63), Iran (59), Bangladesh (58) et Mexique (49). Au moins 75% des bourses sont destinées aux étudiants de pays partenaires, avec des bourses supplémentaires accordées à certaines régions du monde où l’enseignement supérieur est un domaine prioritaire de la politique de coopération de l’UE. Les 25% restants sont destinés aux étudiants de l’UE et d’autres pays de programme. De plus amples détails sont disponibles dans le [communiqué de presse](#). (Pour plus d’informations: *Nathalie Vandystadt – Tél: +32 2 296 70 83; Inga Höglund – Tél.: +32 229 50698*)

**Commission opens infringement procedure against Slovenia in relation to the**



## **seizure of ECB information**

The European Commission has sent a Letter of Formal Notice (Art [258](#) of TFEU) to the Slovenian Government in relation to the seizure of European Central Bank (ECB) information that took place at the Central Bank of Slovenia in July 2016. The Commission encourages the Slovenian authorities to engage in constructive talks with the European Central Bank to find a cooperative solution to carry out investigations in compliance with EU law. Slovenian authorities will now have two months to respond to reply to this first step in any formal infringement procedure. A press release is available [here](#). (For more information: Annika Breidhardt – Tel.: +32 229 56153; Enda McNamara – Tel.: +32 229 64976)

## **Commission awards €15.33 million in emergency assistance to enhance relocation in Italy**

The European Commission has awarded €15.33 million in emergency assistance to Italy under the Asylum, Migration and Integration Fund to improve the functioning of the relocation scheme (the transfer of persons who are in need of international protection from Italy to other EU Member States). In particular, the funding will support the Ministry of Interior regarding the provision of accommodation, food, health care and linguistic and cultural mediation. The assistance will also help reinforce the provision of information regarding relocation to those nationalities eligible to participate in the programme. This brings the total emergency assistance awarded by the Commission under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF) since 2015 to support the Italian authorities as well as international organisations operating in Italy to €74.09 million. This funding comes on top of the €592.6 million already allocated to Italy under the national programmes for the period 2014-2020 (€347.7 million from AMIF and €244.9 million from ISF). Commissioner for Migration, Home Affairs and Citizenship Dimitris **Avramopoulos** said: *“This extra financial support for Italy shows once again that the EU continues to stand by Italy. In the last months of the relocation scheme, it is now vital to make sure everyone who is eligible for relocation is effectively and swiftly relocated.”* (For more information: Natasha Bertaud – Tel.: +32 229 67456; Tove Ernst – Tel.: +32 2 298 67 64; Kasia Kolanko – Tel.: +32 296 34 44)

## **Aides d’État: la Commission autorise trois initiatives françaises visant à produire plus de 17 gigawatts d’énergie à partir de sources renouvelables**

La Commission européenne a autorisé, en vertu des règles de l’UE en matière d’aides d’État, trois régimes d’aides à la production d’électricité à partir des petites installations d’éoliennes terrestres, des petites installations solaires et des installations utilisant les gaz de stations d’épuration d’eaux usées en France. Ces régimes vont permettre à la France de produire plus de 17 gigawatts supplémentaires d’énergie à partir de sources renouvelables. Le régime en faveur de l’éolien terrestre est doté d’un budget prévisionnel d’un milliard d’euros par an, le régime en faveur de l’énergie solaire d’un budget prévisionnel de 190 millions d’euros par an et le régime en faveur du développement d’installations utilisant les gaz de stations

d'épuration d'eaux usées d'un budget prévisionnel de 58 millions d'euros par an. Ces régimes aideront la France à atteindre son objectif pour 2020, qui est de couvrir 23 % de ses besoins énergétiques à partir de sources renouvelables. Ils s'inscrivent dans le droit fil des priorités de la Commission Juncker visant à soutenir les investissements dans les sources d'énergie renouvelables et à faire en sorte que la transition énergétique permette à l'industrie de l'UE d'atteindre une position de premier plan dans les technologies à faible intensité de carbone, encourageant ainsi la croissance verte et l'emploi. Pour plus de détails voir le communiqué de presse en [FR](#), [EN](#) et [DE](#). (Pour plus d'informations: Ricardo Cardoso – Tél.: +32 229 80100; Yizhou Ren – Tél.: +32 229 94889)

### **Mergers: Commission clears acquisition of joint control over LogPay Transport Services by LogPay Financial and Volkswagen Financial Services**

The European Commission has approved under the EU Merger Regulation the acquisition of joint control over LogPay Transport Services by LogPay Financial and Volkswagen Financial Services, all of Germany. LogPay Transport Services issues fuel and road toll credit cards for commercial customers under the brand LogPay. LogPay Financial is a factoring company with focus on companies in the logistics sector and Volkswagen Financial Services is the financial services arm of the Volkswagen Group. Its subsidiary, Carmobility GmbH is active in the issuing of fuel and service credit and debit cards for commercial customers under the brands MAN Card and NEOPLAN Card. The Commission concluded that the proposed acquisition would raise no competition concerns because of the limited overlap between the companies' activities. The operation was examined under the simplified merger review procedure. More information will be available on the Commission's [competition](#) website, in the [public case register](#) under the case number [M.8404](#). (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Maria Tsoni – Tel.: +32 229 90526)

## **ANNOUNCEMENTS**

### **Open Days European Institutions**

In the framework of the European Institutions' Open Days, the European Commission's Berlaymont building will open its doors to visitors tomorrow from 10:00 to 18:00. Around 30 stands will show the main policies of the European Commission, highlighting, amongst others, the [White Paper on the future of Europe](#), the [European Solidarity Corps](#) initiative and the 30th anniversary of the [Erasmus Programme](#). The Jean Monnet room, where the College of Commissioners meets for their weekly meetings, will be open for guided tours. Commissioners **Oettinger** and **Moedas** will participate in short Citizens' Dialogues during the day. (For more information: Margaritis Schinas – Tel.: +32 229 60524; Natasha Bertaud – Tel.: +32 229 67456)

### **Vice-President Dombrovskis in Riga to discuss the Future of Europe and celebrate Europe Day**

Vice-President Valdis **Dombrovskis**, responsible for the Euro and Social Dialogue, also in charge of Financial Stability, Financial Services and Capital Markets Union, will visit Riga, Latvia, on Monday and Tuesday to

discuss economic and financial issues and to discuss scenarios for the Future of Europe following the [Commission's White Paper](#) published in March. Vice-President **Dombrovskis** will give a keynote speech at a [financial sector conference "Finding Future Financial Solutions Today"](#). He will meet Mr Raimonds Vējonis, President of Latvia, as well as Ms Daiga Auzina-Melnalksne, CEO of Nasdaq Riga, and Members of the Association of Latvian Commercial Banks. He will also attend a discussion "The Scenarios of Europe's Future: Latvia's perspective" at the Celebrating Europe Day 2017 event, organised by the Ministry of Foreign Affairs of Latvia. (For more information: Annika Breidhardt – Tel.: +32 229 56153; Juliana Dahl – Tel.: +32 229 59914)

### **Trade Commissioner Malmström travels to Mexico to discuss ongoing trade negotiations**

Trade Commissioner Cecilia **Malmström** will be travelling to Mexico on 8 and 9 May to assess the state of play and discuss the way forward in the ongoing negotiations for a new EU-Mexico trade agreement. Commissioner **Malmström** will meet with Mexican secretary of foreign affairs Luis Videgaray Caso and Mexican minister of economy, Ildefonso Guajardo, as well as representatives of Mexican and European business organisations, civil society organisations and trade unions. The Commissioner will meet with students at a conference organised by the National Autonomous University of Mexico and speak at a [business event](#) focusing on EU-Mexico trade. She will also visit a large brewery of Heineken, one of many European investors in Mexico. In February, the EU and Mexico agreed to significantly [accelerate the pace](#) of the negotiating process. The [latest negotiating round](#) took place in April, with the next one planned for the end of June. The full [report](#) from the April round is available online as of today along with [16 new EU proposals](#) presented by the EU in the negotiations. The publication of these proposals stems from the Commission's commitment to transparency in trade negotiations, as expressed in the "[Trade for All](#)" strategy paper. The existing 20-year-old EU-Mexico trade agreement has contributed to triple increase in trade flows between the two partners and [benefitted European companies](#) and consumers. The negotiations on a new, modern trade agreement started in the spring of last year. The new agreement will replace the existing trade deal by cutting unnecessary red tape, bringing the relationship up to modern standards, adapted to new global economic realities. A detailed program of the Commissioner's visit is available [here](#). EbS [photos](#) and [video](#) will be available for download as of 8 May. (For more information: Daniel Rosario – Tel.: + 32 229 56185; Kinga Malinowska – Tel.: +32 229 51383)

### **La Commissaire Crețu en Roumanie**

Lundi 8 et mardi 9 mai, la Commissaire à la politique régionale Corina **Crețu** est en Roumanie. Lundi, la Commissaire participera à une conférence sur "Égalité des genres: un test pour la démocratie", ainsi qu'au lancement d'une série d'évènements sur la politique de Cohésion organisés par la Représentation de la Commission européenne en Roumanie. La Commissaire

rencontrera également Mme Sevil Shhaideh, Vice-Première Ministre, Ministre du Développement régional, de l'Administration publique et des Fonds européens et visitera un projet culturel à Bucarest soutenu par l'UE. Mardi, dans le cadre de la Journée de l'Europe, Corina Crețu participera à deux événements sur le futur de l'Europe, ainsi qu'à un forum sur les fonds structurels, aux côtés de Mme Rovana Plumb, Ministre déléguée en charge des fonds européens. (Pour plus d'informations: Anna-Kaisa Itkonen – Tel.: +32 229 56186; Sophie Dupin de Saint-Cyr – Tél.: +32 229 56169)

## [Calendar](#)

The Commissioners' weekly activities

[Upcoming events](#) of the European Commission (ex-Top News)

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## [Commission opens infringement procedure against Slovenia](#)

The European Commission has taken the first step in an infringement procedure against Slovenia in relation to the seizure of European Central Bank (ECB) information that took place at the Central Bank of Slovenia in 2016. This step takes the form of a Letter of Formal Notice.

On 6 July 2016, in the context of a national investigation against central bank officials, Slovenian authorities seized information at the Bank of Slovenia that included ECB documents and IT hardware. The ECB had given no prior authorisation for the seizure of their documents. The inviolability of the ECB's archives is protected by Protocol No 7 on the Privileges and Immunities of the EU.

The letter follows Commission attempts to clarify the facts informally and an EU Pilot letter sent in December 2016 asking for clarification on the facts and on how the Slovenian authorities had preserved the inviolability of ECB archives. The Commission was not satisfied with the response provided by the authorities and, without questioning the powers of national authorities under national procedures, decided to open an infringement procedure for the possible violation of [Protocol No 7](#) to the Treaty on the Functioning of the European Union and the duty of sincere cooperation ([Article 4\(3\) of the Treaty on European Union](#)). The Commission is in close contact with the ECB on this matter.

The Slovenian authorities now have two months to reply to the Commission's letter.

## Further information:

- On key decisions in the April 2017 infringements package, see full [MEMO/17/1045](#).
  - On the general infringements procedure, see [MEMO/12/12 \(and info graph\)](#).
  - On the [EU infringements procedure](#).
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## Yves Mersch: Zentralbankunabhängigkeit auf dem Prüfstand

Zunehmend treten Kritiker auf den Plan, die die Unabhängigkeit von Zentralbanken in Frage stellen. Zwei Vorwürfe stehen dabei besonders im Raum: Erstens, mit dem Einsatz von unkonventionellen Maßnahmen wie dem Ankauf von Wertpapieren, als Quantitative Easing bekannt oder negativen Zinsen überdehnten sie ihr Mandat. Zweitens stößt auf Kritik, dass vielen Zentralbanken als Reaktion auf die Finanzkrise Befugnisse übertragen wurden, die über ihr traditionelles Mandat der Kaufkraftsicherung hinausgehen. Beispiele dafür sind die mikro- und makro-prudenzielle Aufsicht, also die Überwachung der Banken sowie des gesamten Finanzsystems, und die Teilnahme an den makro-ökonomischen Programmen in Krisenländern. Manchen nationalen Zentralbanken wurden zusätzlich Aufgaben zum Verbraucherschutz sowie die Abwicklung maroder Banken übertragen – Funktionen, die der Staat zu erfüllen hat.

Mit Blick auf die Europäische Zentralbank (EZB) gehen beide Vorwürfe fehl und halten einer – insbesondere rechtlichen – Prüfung nicht stand. Auf beide gehe ich im Folgenden näher ein.

Der Frage nach der institutionellen Unabhängigkeit ist zunächst eine funktionale Analyse voranzustellen. Denn diese Unabhängigkeit stellt in der Tat eine Ausnahme von der Regel dar, dass die Exekutive demokratisch überwacht werden sollte. Insofern muss die Unabhängigkeit einer Zentralbank eng ausgelegt werden.

Zentralbanken wurde Unabhängigkeit eingeräumt, um sie bei der Gewährleistung von Preisstabilität vor kurzfristiger politischer Einflussnahme zu schützen. Diese Begründung ist weitgehend akzeptiert. Daran hat sich bis heute im Wesentlichen nichts geändert.

Was sich dagegen geändert hat, ist das Umfeld, in dem Zentralbank mitunter agieren müssen, um ihrem Mandat gerecht zu werden. Bankenkrise, Staatsschuldenkrise und sehr niedriger Inflationsdruck haben die EZB dazu genötigt, unkonventionelle Maßnahmen aufzulegen, um sicherzustellen, dass der geldpolitische Impuls die Realwirtschaft erreicht, obwohl die traditionellen

Transmissionskanäle mitunter verstopft waren und Nullzinsgrenze erreicht bzw. unterschritten wurde.

Langfristige Kreditoperationen (einschließlich der Vollzuteilung bei Festzins, bei der das Eurosystem den Geschäftsbanken gegen Sicherheiten Zugang zu Krediten in Höhe der Nachfrage gewährt und "gezielte" Varianten, bei denen der Umfang an die Kreditvergabe der Bank gebunden ist), der direkte Ankauf von Wertpapieren in Verbindung mit *Forward Guidance*, also weit vorausschauender Kommunikation über die eigene Geldpolitik, und negativer Einlagenzins sind Beispiele für diese unkonventionelle Maßnahmen.

Die EZB bewegt sich mit den gewählten Maßnahmen auf solidem rechtlichem Grund. Wie der Europäische Gerichtshof in seinem Urteil zu den Ankäufen von Anleihen (OMT-Programm) erläutert hat, verfügt die EZB bei ihren geldpolitischen Entscheidungen über ein „weites Ermessen“. Das heißt, sie ist nicht nur unabhängig, ihre geldpolitische Strategie festzulegen sowie das Preisstabilitätsziel zu quantifizieren. Zudem kann sie die geldpolitischen Instrumente ohne Einflussnahme Dritter festlegen, um Preisstabilität zu erreichen (instrumentelle Unabhängigkeit). Das bedeutet, es liegt im Ermessen der EZB, die im Primärrecht vorgesehenen Instrumente einzusetzen und zu spezifizieren. Neben dem klassischen Instrument der Leitzinsen sind das zum Beispiel Wertpapier-Käufe, einschließlich des Erwerbs von Staatsanleihen im Sekundärmarkt, sowie Veränderungen der Regeln bei der Akzeptanz von Sicherheiten und Auswahl der Geschäftspartner.

Etwas anders verhält es sich mit den neuen Aufgaben, die der EZB von außen aufgetragen wurden. Im Folgenden werde ich mich im Wesentlichen auf das Gebiet der Bankenaufsicht beschränken, da die Zuständigkeit für die Aufsicht über das Finanzsystem weitgehend bei den Einzelstaaten liegt. Zudem ist die geldpolitische Strategie der EZB so ausgestaltet, dass sie über ihre „monetäre Analyse“ auch der Analyse der Kreditentwicklung besondere Aufmerksamkeit schenkt. Sie berücksichtigt daher Trends an den Kreditmärkten in geldpolitischen Beschlüssen, selbst wenn die Inflation unverändert bleibt.

In der Tat ist es so, dass die Rechenschaftspflicht einer Zentralbank strikter ist, soweit sie Aufgaben der Bankenaufsicht übernimmt. Die Begründung hierfür ist, dass Entscheidungen über die Banken, den Steuerzahler belasten können. Die gesamte Finanzkrise hindurch mussten die Steuerzahler Banken retten, die auf nationaler Ebene beaufsichtigt wurden. Auch wenn die Kosten von Bankinsolvenzen nach der neuen Abwicklungsregelung der EU von den Anteilseignern und Gläubigern der Banken getragen werden sollen, besteht, wie gegenwärtig zu beobachten ist, nach wie vor die Möglichkeit staatlicher Finanzhilfen.

Als Konsequenz nun aber die Unabhängigkeit der EZB in Frage zu stellen, greift zu kurz. Denn die europäische Gesetzgebung sowie die organisatorische Ausgestaltung innerhalb der EZB trägt dieser funktionalen Unterscheidung dadurch Rechnung, dass die Geldpolitik von der Bankenaufsicht strikt getrennt ist und anderen Rechenschaftspflichten unterliegt. Während die Rechenschaftspflicht für die geldpolitischen Aufgaben im Primärrecht festgelegt ist, regelt eine Verordnung, also Sekundärrecht, die Bankenaufsicht. Sie wird ergänzt durch eine Vereinbarung zwischen dem

Europäischen Parlament und der EZB sowie einem *Memorandum of Understanding* zwischen dem Rat der EU und der EZB.

Und während die Geldpolitik über weites Ermessen und autonome Regulierungs- und Entscheidungsbefugnis verfügt, ist der Spielraum in Aufsichtsfragen durch die Beschlüsse der entsprechenden europäischen und nationalen Gesetzgeber begrenzt.

Hinzukommt, dass die EZB verbindlichen technischen Regulierungs- und Durchführungsstandards unterliegt, die von der Europäischen Bankenaufsichtsbehörde (European Banking Authority – EBA) ausgearbeitet und von der Kommission erlassen werden, sowie der Befugnis der EBA, Streitigkeiten zwischen zuständigen Behörden rechtsverbindlich zu regeln. Die EZB wird zwar zu Gesetzesentwürfen in ihren Zuständigkeitsbereichen konsultiert, aber die aufsichtsrechtliche Politik wurde nicht an die EZB übertragen – anders als die Währungspolitik.

Auch die personelle Unabhängigkeit ist anders gestaltet. Sie ist im Rahmen der geldpolitischen Funktion weitreichender und detaillierter geregelt als für die aufsichtliche Aufgabe. Der Vertrag legt die Amtszeit von EZB-Direktoriumsmitgliedern auf einmalig acht Jahre fest – das ist deutlich länger als der gängige politische Wahlzyklus. Die EZB-Direktoren können nur vom EuGH ihres Amtes enthoben werden, wenn sie die Voraussetzungen für die Ausübung ihres Amtes nicht mehr erfüllen oder eine „schwere Verfehlung“ begangen haben. Für nationale Zentralbankpräsidenten gelten entsprechende Regelungen. Deren Amtszeit beträgt mindestens fünf Jahre.

Die Mitglieder des Aufsichtsgremiums (Supervisory Board) dagegen – mit Ausnahme der Vorsitzenden und ihrer Stellvertreterin sowie den EZB-Repräsentanten – genießen keinen Schutz vor willkürlicher Amtsenthebung. Sie haben auch keine gesetzlich geschützte Mindestamtszeit nach europäischem Recht.

Zwei Schlussfolgerungen lassen sich ziehen.

- Erstens: In der gegenwärtigen Debatte um die Unabhängigkeit von Zentralbanken muss man zwischen den Aufgaben innerhalb des etablierten Mandats der Kaufkraftsicherung und denen unterscheiden, die den Zentralbanken zusätzlich von außen angetragen wurden. In der Geldpolitik ist das hohe Maß an Unabhängigkeit nach wie vor gerechtfertigt, auch wenn neue, zeitlich begrenzte Instrumente angesichts eines veränderten Umfeldes erforderlich wurden.
- Und zweitens: Funktionen, die traditionell einer strengeren demokratischen Kontrolle unterliegen, sind nach wie vor anderen Rechenschaftspflichten und Regeln unterworfen. Aus diesem Grund hat sich der europäische Gesetzgeber für eine explizite Trennung der Mandate für Geldpolitik und mikro-prudenzielle Aufsicht entschieden. Es ist dabei möglich, in ein und derselben Institution Unterschiede bei der zugewiesenen Unabhängigkeit zu organisieren; wie die EZB belegt, die unter einem Dach sowohl Geldpolitik als auch Bankenaufsicht beherbergt – organisatorisch strikt getrennt und mit unterschiedlichen Rechenschafts- und Kontrollpflichten.



Richtig ist, dass die Herausforderungen für die Geldpolitik in den zurückgelegenen Jahren deutlich zugenommen haben. Richtig ist auch, dass den Zentralbanken neue Aufgaben angediehen wurden, die eine andere Rechenschaftspflicht bedingen. Die EZB hat in den vergangenen Jahren gezeigt, dass beides machbar und rechtens ist. Nun die Unabhängigkeit der Zentralbanken *per se* in Frage zu stellen, hieße deshalb, das Kind mit dem Bade auszuschütten.

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## **Meeting between HRVP Federica Mogherini and Minister of Foreign Affairs Carlos Raúl Morales Moscoso, Minister of Labor Aura**

The High Representative of the European Union for Foreign Affairs and Security Policy/Vice-President Federica Mogherini met this afternoon with the Minister of Foreign Affairs, Carlos Raúl Morales Moscoso, the Minister of Labour Aura Leticia Teleguario and the Minister of Interior Francisco Rivas of Guatemala.

They discussed the situation in Guatemala, including the progress towards a peaceful resolution of the dispute with Belize. They also commended the positive cooperation between the EU and Guatemala.

HRVP Mogherini and Minister Morales exchanged views on the political developments in the Latin America and Caribbean region. Both parties underlined the importance of the forthcoming Summit between the EU and the Community of Latin American and Caribbean States (CELAC) for the strengthening of the bi-regional relations. The summit is due to take place in October this year in El Salvador.