



EUROPEAN CENTRAL BANK
EUROSYSTEM

COURTESY TRANSLATION

Mario DRAGHI

President

Mr Fabio De Masi
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 25 November 2014

L/MD/14/491

Re: Your letter (QZ30)

Honourable Member of the European Parliament, dear Mr De Masi,

Thank you for your letter, which was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 10 October 2014.

Companies supplying temporary labour to the European Central Bank (ECB) are required to comply with the German Temporary Employment Act (Gesetz zur Regelung der Arbeitnehmerüberlassung, AÜG), which implements Directive 2008/104/EC on temporary agency work. As recipient of these services, the ECB applies and complies with the provisions of the AÜG with the sole exception of those executive/administrative provisions which may encroach on the status of the ECB as a Union institution. These provisions are incompatible with the privileges and immunities afforded to the ECB under the Protocol on Privileges and Immunities (Protocol 7 attached to the Treaties), as further specified in the Headquarters Agreement between Germany and the ECB.

When awarding contracts for the supply of temporary labour, the ECB requires bidders and contractors to hold and provide evidence of a valid permit as required by Article 1 of the AÜG. A valid permit provides evidence of the service provider's compliance with the AÜG, as the permit would not otherwise have been issued (Article 3 of the AÜG). This practice was upheld by the Court of Justice of the European Union as compliant with Union laws relating to procurement in Case T-279/06, *Evropaïki Dynamiki v ECB*.

Directive 2008/104/EC is not directly applied by the ECB because it is addressed to Member States and requires further implementation. Unlike in the case of its own staff, for whom the ECB is empowered on the basis of Article 36.1 of the Statute of the European System of Central Banks and of the European Central Bank to lay down the conditions of employment, including the possible implementation of directives concerning social policy, agency staff remain employees of the service provider and are not themselves subject to the ECB's conditions of employment.

Yours sincerely,

[signed]

Mario Draghi