European Central Bank (ECB): powers to impose sanctions

2014/0807(CNS) - 27/01/2015 - Final act

PURPOSE: to adapt Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions in case of a breach of its regulations or decisions.

LEGISLATIVE ACT: Council Regulation (EU) 2015/159 amending Regulation (EC) No 2532/98 concerning the powers of the European Central Bank to impose sanctions.

CONTENT: this Regulation adapts the framework set out in Regulation (EC) No 2532/98 for the purposes of monetary policy, establishing a regime for the imposition of sanctions by the ECB relating to the performance of its supervisory tasks under the single supervisory mechanism (Council Regulation (EU) No 1024/2013).

The main amendments have been made to Regulation (EC) No 2532/98:

General principles and scope: it is stipulated that this Regulation shall apply to the imposition by the ECB of sanctions on undertakings for failure to comply with obligations arising from ECB decisions or regulations.

The ECB shall publish any decision imposing sanctions on an undertaking in case of a breach of an ECB regulation or decision, in the supervisory field, whether or not such decision has been appealed. The publication shall include information on the type and nature of the breach and the identity of the undertaking concerned, unless publication in this manner would either jeopardise the stability of the financial markets or an ongoing criminal investigation; or cause, in so far as can be determined, disproportionate damage to the undertaking concerned.

The ECB shall ensure that information published remains on its official website for at least five years.

Upper limits of sanctions: in the case of infringements relating to decisions and regulations adopted by the ECB in the exercise of its supervisory tasks, the limits within which the ECB may impose fines and periodic penalty payments shall be as follows:

- **for fines**, the upper limit shall be twice the amount of the profits gained or losses avoided because of the infringement where these can be determined, or 10% of the total annual turnover of the undertaking;
- **for periodic penalty payments**, the upper limit shall be 5% of the average daily turnover per day of infringement. Periodic penalty payments may be imposed in respect of a maximum period of six months from the date stipulated in the decision imposing the periodic penalty payment.

Procedural rules: where the ECB considers that there is reason to suspect that one or more breaches of an ECB regulation or decision are being or have been committed, the ECB shall exercise the **relevant investigations**.

On completion of an investigation and before a proposal for a complete draft decision is prepared and submitted to the Supervisory Board, the ECB shall inform the undertaking concerned of its right to make

submissions in writing to the ECB on the factual results and the objections raised against the entity. It shall set a reasonable time limit for making such submissions. The ECB may invite the undertaking concerned to attend an **oral hearing**.

Specific time limits for sanctions: the right to take a decision to impose a sanction in case of a breach of an ECB decision or regulation relating to its supervisory tasks, shall expire **five years** after the infringement occurred or, in the case of a continued infringement, five years after the infringement ceased.

The limitation period shall be interrupted with effect from the date on which the action is notified to the supervised entity concerned. Each interruption shall cause the time limit to recommence. However, the time limit shall not exceed a period of **10 years** after the infringement occurred or, in the case of a continued infringement, 10 years after the infringement ceased.

The limitation period for the enforcement of sanctions shall be **suspended**: (i) until the deadline for payment of the imposed sanction has passed; (ii) if enforcement of payment of the imposed sanction is suspended pursuant to a decision of the Governing Council or of the Court of Justice.

ENTRY INTO FORCE: 4.2.2015.