

JUDGEMENT ABOUT THE PRINCIPLE OF THE INVIOABILITY OF THE ARCHIVES OF THE EUROPEAN CENTRAL BANK

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1. Introduction

In a judgment of December 2020 the Court of Justice of the European Union decided that by unilaterally seizing documents that are part of the archives of the European Central Bank (ECB), Slovenia failed to fulfil its obligation to respect the principle of the inviolability of the archives of the Union. Furthermore, by failing to cooperate properly with the ECB to eliminate the unlawful consequences of that infringement, Slovenia also failed to fulfil its obligation of sincere cooperation with regard to the European Union.¹ It was the first case in which the Court had to interpret this issue. In its judgment, the Court, sitting as the Grand Chamber, upholds the Commission's action and declares that the infringements alleged took place in their entirety. This case has given the Court the opportunity to state the conditions applicable to the protection of the archives of the Union with regard to a unilateral seizure of documents forming part of those archives made by the authorities of a Member State in places other than the buildings and premises of the European Union and, in particular, the conditions under which a finding of infringement of the principle of the inviolability of the archives of the ECB may be made. The purpose of this article is to provide an overview of the background to the proceedings, the main legal arguments of the parties and the reasons for the Court's decision.

2. Legal background

According to the Protocol² on the European System of Central Banks (ESCB)³ and the ECB:

- In accordance with Article 282(1) [TFEU], the [ECB] and the national central banks shall constitute the [ESCB]. The ECB and the national central

¹ Judgment in Case C-316/19 Commission v Slovenia.

² Consolidated version of the Treaty on the Functioning of the European Union Protocol (No. 4) on the Statute of the European System of Central Banks and of the European Central Bank, *OJ*, C 202, 7. 6. 2016, pp. 230–250.

³ The ESCB comprises the ECB and the national central banks (NCBs) of all EU Member States whether they have adopted the euro or not.

banks of those Member States whose currency is the euro shall constitute the Eurosystem.⁴

- The ECB shall ensure that the tasks conferred upon the ESCB under Article 127(2), (3) and (5) [TFEU] are implemented either by its own activities pursuant to this Statute or through the national central banks pursuant to Articles 12.1 and 14.⁵
- The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and instructions of the ECB, and shall require that any necessary information be given to it.⁶
- The ECB shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the [Protocol on privileges and immunities].⁷

According to the The Protocol on Privileges and Immunities:

- The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.⁸
- The archives of the Union shall be inviolable.⁹
- The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.¹⁰
- This Protocol shall also apply to the [ECB], to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on [the ESCB and the ECB].¹¹

3. Background of the dispute

As of February 2015, the Central Bank of Slovenia and the Slovenian law enforcement authorities ('the Slovenian authorities') had exchanges regarding an investigation carried out by the latter against certain members of staff of that central bank, including the governor at the time ('the Governor'), on suspicion of abuse of power and of official functions in connection with the restructuring, in

⁴ Article 1 of the Protocol. The Eurosystem comprises the ECB and the NCBs of those countries that have adopted the euro. The Eurosystem and the ESCB will co-exist as long as there are EU Member States outside the euro area.

⁵ Article 9.2 of the Protocol.

⁶ Article 14.3 of the Protocol.

⁷ Article 39 of the Protocol.

⁸ Article 1 of the Protocol.

⁹ Article 2 of the Protocol.

¹⁰ Article 18 of the Protocol.

¹¹ The first paragraph of Article 22 of the Protocol.

2013, of a Slovenian bank. In the course of those exchanges, the Central Bank of Slovenia sent to the Slovenian authorities, at the request of the latter, certain information and certain documents which were not linked to the performance of the tasks of the ESCB and of the Eurosystem. The Slovenian authorities however took the view that the Central Bank of Slovenia had not provided all the information and documents requested. On 6 July 2016, on the basis of two orders of the Ljubljana Regional Court, Slovenia of 30 June and 6 July 2016, the Slovenian authorities, in connection with the abovementioned investigation, searched the premises of the Central Bank of Slovenia and seized documents. Although the Central Bank of Slovenia argued that those measures concerned ‘archives of the ECB’, protected by the Protocol on privileges and immunities, to which the Slovenian authorities were not to have access without the express agreement of the ECB, those authorities continued with that search and seizure of documents without involving the ECB.

On the same day, in a letter sent to the Slovenian authorities, the President of the ECB formally protested against the authorities’ seizure of the documents, referring to the principle of the inviolability of the ECB’s archives. In particular, he objected that those authorities had not taken any action to find a solution enabling the investigation carried out by them to be reconciled with the principle of the inviolability of the ECB’s archives. On 26 July 2016, the ECB suggested to the Slovenian authorities that they could agree on a method to identify the documents seized which were part of its archives, which would enable those documents to be excluded from an immediate assessment in the investigation and would give the ECB the opportunity to determine whether the protection of those documents should be waived. On 27 July 2016, the Prosecutor-General in charge of the case (‘the Prosecutor-General’) informed the ECB that he regarded that proposal as interference in the ongoing investigation. On 5 August 2016, the ECB brought an action against the two orders of the Ljubljana Regional Court referred to in paragraph 15 above before the Administrative Court, which the latter dismissed by decision of 9 August 2016. On 11 October 2016, the appeal brought by the ECB against that decision was dismissed by the Supreme Court.

On 28 April 2017, the Commission sent the Republic of Slovenia a letter of formal notice in which it stated that, by conducting a search and seizing documents at the premises of the Central Bank of Slovenia, the Republic of Slovenia had failed to fulfil its obligation to observe the principle of the inviolability of the archives of the ECB, in breach of Article 343 TFEU, Article 39 of the Protocol on the ESCB and the ECB and Articles 2 and 22 of the Protocol on privileges and immunities. It also informed the Republic of Slovenia that it considered the Slovenian authorities not to have engaged in constructive discussion on that issue with the ECB, contrary to the requirements of the principle of sincere cooperation laid down in Article 4(3) TEU and Article 18 of the Protocol on privileges and immunities. The Republic of Slovenia replied to that letter of formal notice by letter of 21 June 2017 in which it stated that the documents seized could not be subsumed under the term ‘archives of the ECB’ for the purposes of the Protocol on privileges and immunities. Taking the view that the Republic of Slovenia’s response was not

satisfactory, on 20 July 2018 the Commission issued a reasoned opinion in which it requested the Republic of Slovenia to take the necessary measures to comply with that opinion within two months of its receipt. On 11 September 2018, the Republic of Slovenia, in its reply to that reasoned opinion, disputed the infringement alleged by the Commission. In those circumstances, the Commission decided to bring the action.

4. Alleging interference with the principle of the inviolability of the archives of the ECB

4.1. Arguments of the Commission

According to the Commission by unilaterally seizing at the premises of the Central Bank of Slovenia documents connected to the performance of the ESCB's and the Eurosystem's tasks, the Republic of Slovenia has infringed the principle of the inviolability of the archives of the ECB and, consequently, has failed to fulfil its obligations under Article 343 TFEU, Article 39 of the Protocol on the ESCB and of the ECB, Articles 2, 18 and 22 of the Protocol on privileges and immunities and Article 4(3) TEU.

- The concept 'archives of the Union' in Article 2 of the Protocol on privileges and immunities, although not defined in that protocol, covers all the documents belonging to an EU institution or held by it, regardless of their medium.
- The privileges and immunities recognised by that protocol have a purely functional character, inasmuch as they are intended to avoid any interference with the functioning and independence of the European Union. In the light of the special institutional regime of the ESCB and of the Eurosystem, Article 2 of the Protocol on privileges and immunities should apply not only to the documents held by the ECB but also to those held by the national central banks which are part of the ESCB and the Eurosystem, such as the Central Bank of Slovenia, in so far as those documents relate to the execution of the tasks of the ESCB or of the Eurosystem, irrespective of whether they originate from the ECB or the national central banks.
- The TFEU confers tasks on the ECB, the ESCB and the Eurosystem. In that regard, it is apparent from Article 9.2 of the Protocol on the ESCB and the ECB that the tasks conferred on the ESCB are implemented either by the ECB itself or through the national central banks.
- The national central banks and their governors participate directly in decision-taking at the ECB and in the implementation and execution of those decisions. The functioning of the system thus established requires an exchange of documents within the ESCB and the Eurosystem and between the ECB and the national central banks for the purpose of adopting the decisions necessary for the performance of the tasks of the ESCB and of the Eurosystem and for the implementation and execution of those decisions by the national central banks. To avoid any interference with the proper functioning and the

independence of the ECB, and of the ESCB and the Eurosystem as a whole, there should be the same level of protection for all documents drawn up for the purposes of carrying out the tasks of the ESCB and of the Eurosystem. Consequently, all those documents should be regarded as part of the ‘archives of the Union’, even if they are held by a national central bank or located at its premises.

- The principle of the inviolability of those archives means that the national authorities can have access to them only with the ECB’s prior agreement or, in the event of disagreement between the ECB and those authorities, with the authorisation of the Court of Justice. In the present case, the search and seizure of the documents concerned were carried out unilaterally.

4.2. Arguments of the Member State

The Republic of Slovenia contends in reply that it did not infringe the principle of the inviolability of the archives of the Union. The main arguments were the following:

- It results from both international law and the case-law of the Court of Justice, as well as from the fundamental values of the European Union such as the principles of transparency, openness and the rule of law, that the concept of ‘privileges and immunities’, must be strictly interpreted and that, far from being of an absolute nature, the exercise of those privileges and immunities is restricted in functional terms to the extent necessary to guarantee the functioning of the European Union and its institutions and to achieve their objectives.¹²
- The concept of ‘archives of the Union’ must also be interpreted strictly and that the documents seized by the Slovenian authorities at the premises of the Central Bank of Slovenia were not part of the archives of the ECB. In this connection, first, it submits that the rules concerning the immunity of archives under international law, in particular those applicable to consular and diplomatic relations, are relevant in the present case. According to the case-law of the international and national courts, solely the documents which belong to or are held by the person benefiting from the principle of inviolability of archives may be regarded as forming part of the archives, and not those which are sent by such a person to a third party or which are held by a third party.

¹² The aim of the system of privileges and immunities in international law is to guarantee the effective functioning of international organisations, which are ‘in a position of weakness’ in relation to their founding Member States. Having regard to the evolution of EU law and the particular nature of the EU’s legal order, the EU institutions are not in such a position in relation to the Member States. Accordingly, the archives of the Union, including those of the ECB, enjoy less extensive protection than under the system of privileges and immunities in international law. That fact supports a strict interpretation of the concept of ‘privileges and immunities of the European Union’.

- The objective of the Protocol on privileges and immunities is to ensure the independence of the EU institutions. Thus, solely the ECB, as an EU institution, may enjoy the privileges and immunities provided for by that protocol, and not the ESCB and, as an integral part of the ESCB, the national central banks.
- The interpretation of the provisions at issue defended by the Commission would mean that archives of the Union might be located on the computers of all the national staff and civil servants who are members of the EU institutions or who work under their management, including the ministers of the Member States who participate in decisions of the Council of the European Union, the heads of State or of government of the Member States who participate in decisions of the European Council and all the national staff who work in the EU committees and agencies. That would amount in practice to ‘absurd situations’ in which all documents in the possession of the national government and its ministers, the head of State and entire administrations of the State would be regarded as archives of the Union.
- The interpretation of the concept of ‘archives of the ECB’ proposed by the Commission is impossible to implement, in both law and fact, which would prevent or significantly hinder any criminal investigation in the public sector in the Member States.
- Under Article 1 of the Protocol on privileges and immunities, the Court of Justice’s authorisation is required only in the event that the national authorities wish to adopt administrative or legal measures of constraint concerning the property or assets of the Union. By contrast, neither Article 2 of that protocol nor the Court’s case-law require such authorisation, inasmuch as the Slovenian authorities were not seeking to obtain documents belonging to the EU institutions or in their possession.

4.3. Findings of the Court

The Commission stated that although in its action it refers both to the search and to the seizure of documents carried out by the Slovenian authorities at the premises of the Central Bank of Slovenia on 6 July 2016, in fact that action is directed solely at the seizure of the documents. In that regard, the Commission claimed that by unilaterally seizing documents at the premises of the Central Bank of Slovenia on 6 July 2016, the Slovenian authorities infringed the principle of the inviolability of the archives of the Union. It was therefore necessary to examine, in the first place, whether the documents seized by the Slovenian authorities on that occasion included documents which were part of the archives of the ECB and, if that was the case, in the second place, whether the seizure of those documents constituted an infringement of the principle of the inviolability of those archives.

4.3.1. The concept of ‘archives of the Union’

It was first of all necessary to establish the scope of the concept of ‘archives of the Union’. First of all, in respect of the Republic of Slovenia’s argument that the con-

cept of ‘archives’ should be interpreted by reference to international law, it should be recalled that, by contrast with ordinary international treaties, the Treaties on the European Union have created their own legal system which, on the entry into force of those treaties, became an integral part of the legal systems of the Member States.¹³ It follows that the concept of ‘archives of the Union’ is an autonomous concept of EU law, distinct from that which might be accepted by international organisations and courts or by the law of the Member States. According to the Court:

- The term ‘archives’ commonly designates a set of documents, irrespective of when they are dated, their type and their medium, held by a person in the exercise of his or her activity.
- In EU law the term ‘archives’ has been defined in a different context to that of the Protocol on privileges and immunities, namely Article 1(2)(a) of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community¹⁴ (OJ 1983 L 43, p. 1), as all those documents and records of whatever type and in whatever medium which have originated in or been received by one of the institutions, bodies, offices or agencies or by one of their representatives or servants in the performance of their duties, and which relate to the activities of those Communities.
- In respect of the objective pursued by Article 2 of the Protocol on privileges and immunities, according to case-law the privileges and immunities accorded to the European Union by the Protocol on privileges and immunities have a functional character, inasmuch as they are intended to avoid any interference with the functioning and independence of the European Union.¹⁵
- The concept of ‘archives of the Union’ within the meaning of Article 2 of the Protocol on privileges and immunities must be understood as meaning all those documents of whatever date, of whatever type and in whatever medium which have originated in or been received by the institutions, bodies, offices or agencies of the European Union or by their representatives or servants in the performance of their duties, and which relate to the activities of or the performance of the tasks of those entities.

4.3.2. The extent of the archives of the ECB

Since the ECB is an EU institution, it is apparent from Article 2 of the Protocol on privileges and immunities, as interpreted in the preceding paragraph and read in con-

¹³ Order of 13 July 1990, *Zwartveld and Others*, C-2/88-IMM, EU:C:1990:315, paragraph 15.

¹⁴ Council Regulation (EEC, Euratom) No. 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community, *OJ*, L 43, 15. 2. 1983, pp. 1–3.

¹⁵ Order of 13 July 1990, *Zwartveld and Others*, C-2/88-IMM, EU:C:1990:315, paragraph 19; judgment of 18 June 2020, *Commission v RQ*, C-831/18 P, EU:C:2020:481, paragraph 47.

junction with Article 343 TFEU, Article 39 of the Protocol on the ESCB and the ECB and Article 22 of the Protocol on privileges and immunities, that the principle of the inviolability of the archives of the Union applies to the archives of the ECB. The question was that documents in the possession, not of the ECB, but of a national central bank may also be considered to form part of the ‘archives of the ECB’.

- The archives of the Union need not necessarily be kept at the premises of the institution, body, office or agency concerned, otherwise the scope of Article 2 of the Protocol on privileges and immunities would be indissociable from that of Article 1 of that protocol, which provides for the inviolability of the premises and buildings of the Union, to the point of rendering Article 2 of the Protocol redundant. It follows that Article 2 of the Protocol covers the archives of an EU institution, such as the ECB, located at premises other than those of the European Union.¹⁶
- The ESCB represents a novel legal construct in EU law which brings together national institutions, namely the national central banks, and an EU institution, namely the ECB, and causes them to cooperate closely with each other, and within which a different structure and a less marked distinction between the EU legal order and national legal orders prevails.¹⁷ In this highly integrated system intended by the authors of the Treaties for the purposes of the ESCB, the national central banks and their governors have a hybrid status, inasmuch as, although they constitute national authorities, they are authorities acting under the ESCB which, as was observed in paragraph 79 above, is constituted by those national central banks and the ECB.
- Such documents are covered by the concept of ‘archives of the ECB’ even if they are held by national central banks and not by the ECB itself. Given the functional nature which the principle of the inviolability of the archives of the Union should be acknowledged to have, as recalled in paragraph 73 above, that principle would be rendered redundant if it did not protect the documents issued by the ECB or the national central banks and exchanged between those entities for the purposes of the performance of the tasks of the ESCB and of the Eurosystem.

4.3.3. The infringement of the principle of inviolability of the archives of the ECB

According to the judgement such infringement may only be found if, first, a seizure decided upon unilaterally by the national authorities of documents belonging to the archives of the Union may constitute such an infringement and, secondly, the documents seized in the present case in fact included documents which must be considered to form part of the archives of the ECB.

¹⁶ See the Opinion of the Advocate General, point 50.

¹⁷ Judgment of 26 February 2019, *Rimšēvičs and ECB v Latvia*, C-202/18 and C-238/18, EU:C: 2019:139, paragraph 69.

- The concept of ‘inviolability’, within the meaning of Article 2 of the Protocol on privileges and immunities, means protection against any unilateral interference on the part of the Member States. As the Advocate General observed in points 67 and 68 of her Opinion,¹⁸ by the fact that that concept, which also appears in Article 1 of the Protocol, is described as protection against any search, requisition, confiscation or expropriation measures. Therefore, the unilateral seizure by the national authorities of documents belonging to the archives of the Union must be considered to constitute an infringement of the principle of the inviolability of those archives of the Union.
- The documents seized by the Slovenian authorities included all communications sent through the Governor’s email account, all electronic documents on his workspace computer and on his laptop concerning the period between 2012 and 2014, irrespective of their content, and documents relating to that period that were in the Governor’s office. The Slovenian authorities also seized all electronic documents from the period 2012 to 2014 stored on the IT server of the Central Bank of Slovenia and relating to the Governor. Having regard, first, to the considerable number of documents seized and, secondly, to the duties that the governor of a national central bank, such as the Central Bank of Slovenia, is called upon to carry out within the framework of the Governing Council of the ECB, and therefore also in connection with the ESCB and the Eurosystem, the documents seized by the Slovenian authorities must have included documents which were part of the archives of the ECB. So the material and documents seized by the Slovenian authorities at the premises of the Central Bank of Slovenia on 6 July 2016 included documents which were part of the archives of the ECB.
- Since Article 2 of the Protocol on privileges and immunities expressly provides that the archives of the Union are inviolable, by seizing such documents unilaterally the Slovenian authorities infringed the principle of the inviolability of the archives of the ECB.

5. Alleging failure to comply with the obligation of sincere cooperation

5.1. Arguments of the parties

In its second head of claim the Commission has submitted that the Republic of Slovenia has failed to fulfil its obligation of sincere cooperation under Article 18 of the Protocol on privileges and immunities and Article 4(3) TEU. In essence, the Commission has alleged that the Slovenian authorities did not cooperate adequately with the ECB, be it before the search by those authorities and their seizure of documents or afterwards, for the purposes of reconciling the principle of the inviolability of the archives of the ECB with the national investigation. According to the Commission, the principle of sincere cooperation required the Slovenian authorities

¹⁸ Opinion of Advocate General Kokott delivered on 3 September 2020 in Case C-316/19 *European Commission v Republic of Slovenia*.

to cooperate with the ECB in order to (i) determine which documents were protected by the Protocol on privileges and immunities and which documents were not, (ii) identify, among the documents protected, those which could be relevant for the national criminal investigation, and (iii) allow the ECB to decide, in the case of the potentially relevant documents, whether the protection should be waived or whether, on the contrary, it could not be waived for reasons relating to the functioning and independence of the ECB.

The Republic of Slovenia has contended that it did not fail to fulfil its obligation of sincere cooperation.

- First, it submits, the Slovenian authorities interfered neither with the archives of the ECB nor with the functioning and independence of the latter.
- Secondly, throughout the investigation, the Prosecutor-General requested that the documents seized be handled ‘with extreme caution’, in order that they be accessible to the fewest investigators possible and the risk of disclosure be reduced to the minimum. Although it was not provided for under national law, the Prosecutor-General also allowed representatives of the ECB to be present during the procedure for securing those documents.
- Thirdly, even if the Republic of Slovenia did not engage in constructive discussion with the ECB, the Commission has not shown that that fact threatened the establishment of an economic and monetary union and the maintenance of price stability in the European Union.

5.2. Findings of the Court

According to settled case-law, it follows from the principle of sincere cooperation laid down in Article 4(3) TEU that the Member States are obliged to take all the measures necessary to guarantee the application and effectiveness of EU law.¹⁹ Under Article 18 of the Protocol on privileges and immunities, which sets out in this connection the principle laid down in Article 4(3) TEU, the institutions of the Union and the authorities of the Member States are required to cooperate in order to avoid any conflict in the interpretation and application of the provisions of that protocol.²⁰

- By the first head of claim, the Commission has alleged specifically that the Slovenian authorities unilaterally, and therefore without consulting the ECB beforehand, seized documents at the premises of the Central Bank of Slovenia. That seizure constitutes an infringement of EU law inasmuch as the documents seized necessarily included documents linked to the performance of the tasks of the ESCB and of the Eurosystem.

¹⁹ Judgment of 31 October 2019, *Commission v Netherlands*, C-395/17, EU:C:2019:918, paragraph 95 and the case-law cited.

²⁰ See, to that effect, judgment of 21 October 2008, *Marra*, C-200/07 and C-201/07, EU:C:2008:579, paragraphs 41 and 42.

- Admittedly, the obligation of sincere cooperation is, by its very nature, reciprocal. It was consequently for the ECB to assist the Slovenian authorities so that the latter could remedy, as far as possible, the unlawful consequences of its seizure of documents at the premises of the Central Bank of Slovenia on 6 July 2016.
- To enable the ECB to cooperate effectively with the Slovenian authorities in this respect, it was essential for the Slovenian authorities to allow the ECB to identify, among the documents seized on 6 July 2016, those connected with the performance of the tasks of the ESCB and of the Eurosystem. It is common ground that, at the end of the deadline set in the reasoned opinion, the Slovenian authorities had not allowed the ECB to carry out such identification. It is also common ground that, at that date, the Slovenian authorities had not returned those documents to the Central Bank of Slovenia although, at the hearing, the Republic of Slovenia stated that such documents were not relevant for the purposes of the pending criminal case in that Member State.
- The fact that the Slovenian authorities took measures to ensure that the confidentiality of the documents seized on 6 July 2016 at the premises of the Central Bank of Slovenia was maintained does not cast doubt on the finding that, in the present case, those authorities failed to fulfil their obligation of sincere cooperation with the ECB. The same is true of the fact, highlighted by the Republic of Slovenia, that the investigation conducted by the Slovenian authorities was not capable of threatening the establishment of an economic and monetary union and the maintenance of price stability in the European Union, since that fact has no bearing on the duty which the Slovenian authorities were under, in accordance with what was stated in paragraph 124 above, to eliminate the unlawful consequences of the infringement of the archives of the ECB which they had committed in seizing the documents on 6 July 2016.
- The Slovenian authorities failed to fulfil their obligation of sincere cooperation with the ECB and that the Commission’s second head of claim must be upheld.

6. Final remarks

An analysis of the judgment shows that the Court places particular emphasis on the principle of inviolability of the archives of the Union and the obligation of sincere cooperation with regard to the European Union. The Court noted that the Protocol on privileges and immunities and the principle of the inviolability of the archives of the Union preclude, in principle, the seizure of documents by the authority of a Member State where those documents are part of those archives and the institutions have not agreed to such a seizure. Nevertheless, that authority has the option of requesting the EU institution concerned to waive the protection enjoyed by the documents concerned, subject to conditions if necessary and, in the event that access is refused, of applying to the EU judicature for a decision of authorisation

forcing that institution to give access to its archives. Furthermore, the protection of the archives of the Union does not preclude in any way the seizure by the national authorities at the premises of a Member State's central bank of documents which do not belong to the archives of the Union.