General Court: ECB’s refusal to grant access to documents lawful

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In a judgment of 29 November 2012, the General Court of the European Union (EGC) ruled that the refusal of the European Central Bank (ECB) to grant access to documents relating to the economic situation in Greece was lawful.

In 2010, a journalist asked the ECB to give her access to two documents dealing with the economic situation in Greece. The first described the economic situation in that country as of March 2010; the second dealt with transactions effected by a company set up by the National Bank of Greece and its content was closely connected to that of the first document. The ECB refused to grant the journalist access to the two documents, giving as its reasons the protection of the economic policy of both Greece and the European Union and therefore the protection of public interests. The journalist challenged the decision before the ECB, arguing that there was a compelling public interest in the publication of the documents.

The ECB pointed out that it is obliged to refuse access to documents if the public interest may be undermined by their disclosure. No weighing up of that public interest against an “overriding public interest” is provided for by EU law. The EGC also noted that the ECB had not made a manifest error in its assessment of whether access to the documents could be granted. Although the documents described the situation of Greece as of March 2010 and the journalist did not make her request until October that year, the disclosure of the outdated documents could have led to negative consequences since it could not be reasonably ruled out that market players would have mistakenly regarded the outdated information as still valid. According to the EGC, such an error might have had negative consequences on Greece’s access to the financial markets and therefore have affected the proper conduct of economic policy in Greece and the EU.

Press release of the General Court of the European Union

http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-11/cp120156en.pdf

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