



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 15 December 2023**  
**on judicial relief granted to former holders of qualified bank credit**  
**(CON/2023/44)**

**Introduction and legal basis**

On 19 October 2023 the European Central Bank (ECB) received a request from the Slovenian Ministry of Finance for an opinion on a draft law on judicial relief granted to former holders of qualified bank credit (hereinafter the 'draft law'). On 1 December 2023, the ECB received from the Ministry of Finance an updated version of the draft law.

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the third indent of Article 2(1) of Council Decision 98/415/EC<sup>1</sup> as the draft law relates to Banka Slovenije. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**1. Purpose of the draft law**

- 1.1 The main objective of the draft law is to remedy the unconstitutionality of certain provisions of Slovenian law, as declared by the Slovenian Constitutional Court (hereinafter the 'Constitutional Court') in Decision No U-I-295/13-260 of 19 October 2016<sup>2</sup> (hereinafter the '2016 Decision') and Decision No U-I-420 of 13 February 2023 (hereinafter the '2023 Decision')<sup>3</sup>.
- 1.2 In the 2016 Decision, the Constitutional Court held that certain provisions of the Law on banking<sup>4</sup> governing Banka Slovenije's liability for damages with respect to extraordinary measures imposed by Banka Slovenije were unconstitutional. The provisions assessed by the Constitutional Court<sup>5</sup> authorised Banka Slovenije to adopt extraordinary measures to write-down or convert qualified liabilities during the reorganisation of a bank that had failed, or was likely to fail, to meet minimum

---

<sup>1</sup> Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

<sup>2</sup> Odločba o ugotovitvi, da je bil 350.a člen Zakona o bančništvu v neskladju z Ustavo, Odločba o ugotovitvi, da je bil 265. člen Zakona o reševanju in prisilnem prenehanju bank v neskladju z Ustavo, Odločba o ugotovitvi, da členi 253, 253a, 253b, 261a, 261b, 261c, 261d, 261e, drugi odstavek 262.b člena, ter členi 346, 347 in 350 Zakona o bančništvu niso bili v neskladju z Ustavo, Odločba o ugotovitvi, da 41. člen Zakona o spremembah in dopolnitvah Zakona o bančništvu ni bil v neskladju z Ustavo, *Uradni list Republike Slovenije št.71/16*.

<sup>3</sup> Odločba o razveljavitvi Zakona o postopku sodnega in izvensodnega varstva nekdanjih imetnikov kvalificiranih obveznosti bank (*Uradni list RS, št. 29/23*).

<sup>4</sup> Zakon o bančništvu, *Uradni list Republike Slovenije št. 131/06*.

<sup>5</sup> Articles 253, 253.a, 253.b, 260.a, 260.b, 261.b, 261.c, 261.d, 261.e, 262.a, 262.b(2), 346, 347, 350 and 350.a of the Law on banking.

requirements for capital and liquidity, to an extent that could result in the withdrawal of their banking authorisation<sup>6</sup>.

- 1.3 With the aim of remedying the unconstitutionality declared in the 2016 Decision, the earlier versions of the draft law established specific procedural rules to enable former holders of cancelled financial instruments to seek judicial redress and access documents and information that Banka Slovenije considered or should have considered when imposing an emergency measure. On 10 January 2020, Banka Slovenije submitted an application for review of the constitutionality of an earlier version of the draft law<sup>7</sup> providing judicial relief granted to former holders of qualified bank credit. The Constitutional Court decided to stay the ensuing proceedings and submit a request to the Court of Justice of the European Union for a preliminary ruling under Article 267 of the Treaty concerning the interpretation of several provisions of Union law. On 13 September 2022, the Court rendered its judgment in Case C-45/21<sup>8</sup> (hereinafter the 'judgment in Case C-45/21'). In the 2023 decision, the Constitutional Court focused on reviewing certain provisions of the 2019 version of the draft law, which governed the payment of flat-rate compensation and indemnities, and decided to annul the draft law in its entirety.
- 1.4 In addition to taking into account the recent decisions of the Constitutional Court, as well as the judgment in Case C-45/21, the draft law is based on the following principles: (1) the principle of access to all information needed to decide the case; (2) the principle of independent judicial review as regards the review of the correct treatment of eligible liabilities; (3) the principle of compliance with Union State aid rules and banking supervision standards as laid down by the ECB, the European Commission and the European Banking Authority; (4) the principle of taking into account the facts at the time when the Banka Slovenije decision was issued; and (5) the principle of an economically efficient use of court resources.
- 1.5 In pursuit of these principles, the draft law governs four key aspects of judicial relief granted under the draft law<sup>9</sup>. First, the draft law provides the legal basis for the compensation of damages, the jurisdiction of the courts and the specific rules of procedure to provide effective judicial protection to former shareholders or creditors of a bank whose rights have been affected by a decision of Banka Slovenije to impose an emergency measure for the termination of the bank's eligible liabilities<sup>10</sup>. Second, the draft law governs access to documents and information that Banka Slovenije has considered or should have considered when imposing the emergency measure. Third, the draft law governs the publication of decisions of Banka Slovenije to impose an emergency measure and the manner in which documents and information relating to the emergency measure are to be provided. Fourth, the draft law governs the impact of the draft law on the relevant proceedings initiated prior to the entry into force of the draft law.
- 1.6 The draft law lays down special procedural rules on judicial redress for the former holders of qualified bank credit that deviate from the general rules and, inter alia, enable legal proceedings affecting

---

<sup>6</sup> See paragraph 1.1 of Opinion CON/2019/13. All ECB opinions are available on EUR-Lex.

<sup>7</sup> Zakon o postopku sodnega in izvensodnega varstva nekdanjih imetnikov kvalificiranih obveznosti bank (Uradni list RS, št. 72/19 in 29/23 – odl. US).

<sup>8</sup> Judgment of 13 September 2022, *Banka Slovenije*, C-45/21, EU:C:2022:670.

<sup>9</sup> See Article 1 of the draft law.

<sup>10</sup> See Article 261a of the Law on banking.

similarly placed litigants to be joined together to achieve a joint and uniform assessment of claims regarding a specific bank that was subject to Banka Slovenije's extraordinary measures. This includes the possibility for former holders of qualified bank credit to seek damages under the draft law by virtue of a collective redress action under the provisions of the law on collective actions<sup>11</sup>, provided that the claims originate from the same Banka Slovenije decision. An action for collective redress is a novel addition to the draft law that seeks to address the issue of a large number of actions overloading the judicial system, given that there are more than 100 000 former holders of eligible liabilities.

- 1.7 The draft law<sup>12</sup> provides that compensation is to be paid to those former holders who, as a result of the effect of the emergency measure, have suffered a loss greater than that which they would have suffered if the emergency measure had not been imposed<sup>13</sup>. An action for compensation may be brought no later than six months after the publication in the Official Journal of the Republic of Slovenia of a notice of the establishment of a virtual data room.
- 1.8 Before the expiration of the time limit to bring an action, the competent district court<sup>14</sup> (hereinafter the 'competent court') may, on the basis of a proposal from qualified applicants<sup>15</sup>, appoint an expert panel composed of independent experts tasked with preparing a preliminary opinion on whether and to what extent former holders would have received a payment in respect of their holding of an eligible instrument in the absence of an emergency measure. This expert panel is to consist of seven members, of whom the competent court is to appoint: (1) two members nominated by the Government; (2) one member nominated by Banka Slovenije; (3) three members nominated by the representative association representing the interests of former holders; and (4) the chairperson. Members of the expert panel must have expertise in financial and banking law, accounting, finance, auditing and asset valuation, with experience in asset quality review procedures for the prudential supervision of banks and corporate winding-up procedures within the Union. The competent court may appoint further experts if it concludes that other expertise is needed<sup>16</sup>. The Minister for Finance must set out in detail how the cost of the expert panel's work, including its members' emoluments, should be calculated<sup>17</sup>.
- 1.9 The expert panel must prepare a draft preliminary opinion within six months and send it to the competent court, which must in turn forward it to the applicants<sup>18</sup> for comment. The competent court must also post the draft preliminary opinion in the virtual data room and former holders with access to the room are to have 30 days to also provide their comments. Within three months of the expiration of the time limit for comments, the expert panel is to draw up a preliminary opinion, which must

---

<sup>11</sup> Zakon o kolektivnih tožbah (*Uradni list RS*, št. 55/17).

<sup>12</sup> See Article 4 of the draft law.

<sup>13</sup> See also paragraph 1.11 of this Opinion.

<sup>14</sup> As set out in Article 6 of the draft law, the District Court of Maribor is to have exclusive jurisdiction in proceedings under the draft law.

<sup>15</sup> See Article 23(1), (2), and (3) of the draft law.

<sup>16</sup> See also Article 24(2) of the draft law.

<sup>17</sup> See Article 25(4) of the draft law.

<sup>18</sup> The applicants encompassing all those applicants eligible to propose the appointment of the expert panel pursuant to Article 23(1) of the draft law.

include the panel's assessment of the comments received on the draft preliminary opinion<sup>19</sup>. The competent court must post the preliminary opinion in the virtual data room and publish a summary of the opinion on its own website. The content of the summary of the preliminary opinion is to be drafted by the expert panel.

- 1.10 Where, in the light of a preliminary opinion, it is established that all or some of the former holders have suffered loss as a result of the effect of the emergency measure that is greater than the loss they would have suffered had the emergency measure not been imposed, the Government must, by way of a regulation, put in place compensatory arrangements and determine the method of payment. Under such compensatory arrangements, an individual holder is to be entitled to no more than 60 % of the value of the loss suffered as a result of the emergency measure to write-down the bank's eligible liabilities.
- 1.11 The draft law provides that in the court proceedings that follow the preliminary opinion stage, actions seeking relief under the draft law are to be brought against Banka Slovenije. The burden of proof will lie with Banka Slovenije, which will have to prove (1) the fulfilment of the conditions necessary for imposing extraordinary measures<sup>20</sup> and (2) that the imposition of an extraordinary measure did not lead to the person seeking relief suffering greater losses than that person would have suffered if the bank had been declared insolvent, in accordance with the 'no-creditor-worse-off-than-in-insolvency' principle<sup>21</sup>.
- 1.12 The Republic of Slovenia is to act as an intervener for Banka Slovenije in all proceedings provided for in the draft law<sup>22</sup>. The competent court will serve upon Banka Slovenije at once all proceedings in which the claimants seek redress under the draft law, and which relate to the same Banka Slovenije decision<sup>23</sup>. Banka Slovenije will then have six months to respond to any proceedings lodged under the draft law and the same time limit will also apply to collective actions.<sup>24</sup>
- 1.13 Whilst actions seeking relief under the draft law, and claims to make good the loss suffered, may be brought against Banka Slovenije<sup>25</sup>, the funds for the payment of all damages under the draft law, including the funds for the payment of the sums towards any compensatory arrangements<sup>26</sup>, will be provided by the Republic of Slovenia<sup>27</sup>. However, the Republic of Slovenia will be entitled to claim from Banka Slovenije in separate proceedings reimbursement of that part of the sums paid out and other costs constituting payment in respect of the loss caused by Banka Slovenije and anyone acting under its authority, while being instructed by Banka Slovenije, through their conduct if they have

---

<sup>19</sup> See Article 23(9) of the draft law.

<sup>20</sup> As laid down in Article 253.a of the Law on banking. The conditions laid down in Article 253.a of the Banking Law are as follows: i) an increase in risk is prevailing in relation to the bank; ii) there are no circumstances indicated showing that the reasons for this increased risk are likely to be eliminated within a suitable time period, iii) it is not likely that Banka Slovenije could take other measures on the basis of this act for the bank to achieve short-term and long-term capital adequacy or to achieve a suitable liquidity position within a suitable time; and iv) extraordinary measures are in the public interest to prevent a threat to the stability of the financial system.

<sup>21</sup> See the fifth paragraph of Article 261.a of the Law on banking.

<sup>22</sup> See Article 33 of the draft law.

<sup>23</sup> See Article 30 of the draft law.

<sup>24</sup> See Article 31 of the draft law.

<sup>25</sup> See Article 27 of the draft law.

<sup>26</sup> See Article 26(5) of the draft law. See also paragraph 1.11 of this Opinion.

<sup>27</sup> See Article 42 of the draft law.

seriously breached their duty of care<sup>28</sup>. The method and timing for the payment of the sums stemming from such claims to the Republic of Slovenia is to be governed by a special agreement between the Government of Slovenia and Banka Slovenije, which is to set out the rate and pace of payment in such a way as to ensure that the value of Banka Slovenije's general reserves never falls below 1 % of its balance sheet total<sup>29</sup>.

- 1.14 As regards provisions on the confidentiality regime and disclosure of documents envisaged under the draft law, the draft law maintains the approach introduced in earlier versions of the draft law<sup>30</sup>. In order to ensure the effectiveness of the protection of documents and data in a data room, the draft law establishes fines for violations<sup>31</sup>.
- 1.15 The draft law regulates those proceedings that were already pending or will be pending in which the former holders of qualified bank credit seek judicial protection under civil law<sup>32</sup>.
- 1.16 The draft law provides for one exception from the mandatory application of the draft law, in situations where a criminal offence has been declared to have been committed in relation to a decision of Banka Slovenije on an extraordinary measure by a final judgment of a criminal court. In such cases, the general rules for the recovery of damages and the general procedure will apply, instead of the special provisions of the draft law<sup>33</sup>.

## 2. General observations

- 2.1 The ECB has delivered four opinions on earlier versions of the draft law<sup>34</sup>, all prior to the judgment in Case C-45/21, which clarified the interpretation of Article 123(1) and Article 130 of the Treaty in the context of a national central bank (NCB) performing tasks other than the tasks of the European System of Central Banks (ESCB). The Court also ruled on the interpretation of certain provisions of secondary Union law regarding the disclosure of confidential information<sup>35</sup>, clarifying that those provisions did not apply in the context of extraordinary measures adopted by Banka Slovenije in 2013 and 2014.
- 2.2 The current version of the draft law differs from its earlier versions in providing that funds for the payment of damages under the draft law, including funds for the payment of sums towards any compensatory arrangements<sup>36</sup>, will be provided by the Republic of Slovenia<sup>37</sup>. The Republic of

---

28 See Article 223.a of the Law on banking, which provided that Banka Slovenije and all of the persons acting on its behalf should act with the diligence of a good expert when exercising their supervisory functions.

29 See Article 43(2) of the draft law.

30 See paragraph 1.9 of Opinion CON/2019/13 and paragraph 1.13 of Opinion CON/2019/20.

31 See Article 45 of the draft law.

32 Based on Article 350.a of the Law on banking. See also Article 48 of the draft law.

33 See Article 3(2) of the draft law.

34 See Opinions CON/2017/16, CON/2017/41, CON/2019/13 and CON 2019/20.

35 Article 33 of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15), Articles 44 to 52 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006, p. 1) and Articles 53 to 62 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 33).

36 Such as those envisaged under Article 26 of the draft law. See also paragraph 1.10 of this Opinion.

37 See Article 43 of the draft law.

Slovenia is to claim from Banka Slovenije in separate proceedings reimbursement of that part of the sums paid out and other costs constituting payment in respect of the loss caused by Banka Slovenije and anyone acting under its authority through their conduct if they have seriously breached their duty of care under the Law on banking<sup>38</sup>.

- 2.3 In accordance with Article 14.4 of the Statute of the European System of Central Banks and of the European Central Bank, the NCBs may perform functions other than those specified in that Statute, unless the Governing Council finds that those functions interfere with the objectives and tasks of the ESCB. Where a Member State assigns such a function to its NCB, that NCB is responsible and liable for the performance of that function. Nevertheless, when defining the responsibility and liability of an NCB in relation to that function, Member States are required to comply with their obligations deriving from Union law and, in particular, Article 123(1) and Article 130 of the Treaty<sup>39</sup>.

### 3. Specific observations

#### 3.1 *Prohibition of monetary financing*

- 3.1.1 Article 123(1) of the Treaty prohibits the NCBs from granting overdraft facilities or any other type of credit facility to public authorities and bodies of the Member States. Article 1(1), point (b), of Council Regulation (EC) No 3603/93<sup>40</sup> defines the term 'other type of credit facility' for the purposes of Article 123 of the Treaty as, inter alia, any financing of the public sector's obligations vis-à-vis third parties. Accordingly, the NCB concerned must not assume obligations vis-à-vis third parties that could potentially be incumbent on the public sector. Consequently, the NCB concerned must not finance pre-existing obligations vis-à-vis third parties that are incumbent on other public authorities or bodies and the effective financing of the obligations vis-à-vis third parties by the NCB concerned must not result directly from the measures adopted, or from the policy choices made, by other public authorities or bodies<sup>41</sup>.
- 3.1.2 As clarified in the judgment in Case C-45/21, a regime under which an NCB incurs liability where that NCB or the persons it has authorised to act on its behalf have not complied with the duty to exercise due care imposed on them by national law, in the exercise of a function conferred on that NCB by that law, cannot, in principle, be regarded as involving financing of public sector obligations vis-à-vis third parties. Nevertheless, in view of the high degree of complexity and urgency characterising the implementation of reorganisation measures within the meaning of Directive 2001/24/EC, such a liability regime cannot be applied to damage resulting from the implementation of those measures by a NCB, without requiring that the infringement of the duty to exercise due care alleged against the NCB is of a serious nature. Otherwise, that would have the effect, in reality, of imposing on that NCB most of the financial uncertainties inherent in that implementation. The NCB would therefore be required, in breach of the prohibition on monetary financing, to be responsible, in place of the other

38 As previously noted, Article 223.a of the Law on banking states that Banka Slovenije and all of the persons acting on its behalf should act with the diligence of a good expert when exercising their supervisory functions.

39 See judgment in Case C-45/21, paragraphs 53, 54, 57 and 97.

40 Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b (1) of the Treaty (OJ L 332, 31.12.1993, p. 1).

41 See judgment in Case C-45/21, paragraphs 67 to 75 and 84.

public authorities of the Member State concerned, for the effective financing of obligations vis-à-vis third parties that might result from the economic policy choices made by those public authorities<sup>42</sup>.

3.1.3 The draft law appears to comply with the above limitations stemming from the monetary financing prohibition laid down in Article 123(1) of the Treaty. In this respect, the ECB considers it important that under the draft law it is the Republic of Slovenia that is primarily liable for paying damages to former holders for the loss they suffered. Banka Slovenije is liable for reimbursing the damages paid by the Republic of Slovenia only if Banka Slovenije and anyone acting under its authority, and while being instructed by Banka Slovenije, have seriously breached their duty of care under the Law on banking<sup>43</sup>. The fact that the burden of proof relating to compliance with the duty to exercise due care falls on Banka Slovenije is not decisive, for the purposes of Article 123(1) of the Treaty, insofar as that distribution of the burden of proof preserves, in any event, the possibility for Banka Slovenije to release itself from its liability by proving that it did not infringe that duty in a serious manner<sup>44</sup>. As clarified in the judgment in Case C-45/21, Article 123(1) of the Treaty must be interpreted as not precluding national legislation which provides that an NCB belonging to the ESCB is liable, from its own funds, for damage suffered by former holders of financial instruments cancelled by it pursuant to reorganisation measures, within the meaning of Directive 2001/24/EC, ordered by that NCB, where it appears, during subsequent court proceedings, that either that cancellation was not necessary in order to ensure the stability of the financial system or former holders of financial instruments suffered greater losses as a result of that cancellation than they would have suffered in the event of the insolvency of the financial institution concerned, to the extent that the NCB in question is held liable only where it or the persons which it authorised to act on its behalf acted in serious breach of their duty to exercise due care<sup>45</sup>. The ECB understands that the preliminary opinion has been introduced in the draft law with a view to achieving expedited proceedings by way of facilitating the possibility for the government to settle certain claims in applicable cases<sup>46</sup>. In other cases, the adoption of the preliminary opinion is an important step towards the final judgment on the merits as the competent court may rely on the preliminary opinion in the main proceedings envisaged under the draft law<sup>47</sup>. The ECB understands that the preliminary opinion would not be applicable in the separate reimbursement proceedings between the Republic of Slovenia and Banka Slovenije envisaged under the draft law<sup>48</sup>. In the light of the above considerations, the ECB understands that the preliminary opinion would be used to serve the abovementioned purposes and would not impede the ability of Banka Slovenije to prove that it did not infringe its duty to exercise due care.

### 3.2 *Financial independence of Banka Slovenije*

---

<sup>42</sup> See judgment in Case C-45/21, paragraph 75.

<sup>43</sup> Article 223.a of the Law on banking provided that Banka Slovenije and all of the persons acting on its behalf should act with the diligence of a good expert when exercising their supervisory functions.

<sup>44</sup> See judgment in Case C-45/21, paragraph 76.

<sup>45</sup> See judgment in Case C-45/21, paragraph 79.

<sup>46</sup> See Article 26 of the draft law.

<sup>47</sup> See Article 38(1) of the draft law.

<sup>48</sup> See Article 43(1) of the draft law.

- 3.2.1 Article 130 of the Treaty prohibits Member States from placing their NCBs in a situation which in any way undermines their ability to carry out independently a task falling within the scope of the ESCB<sup>49</sup>. This would be the case if, for example, an NCB were precluded from building up adequate financial resources in the form of reserves or buffers to offset losses, particularly those resulting from monetary policy operations, and the Member State concerned did not ensure in advance that the NCB had the necessary funds to bear the financial burden resulting from exercising a function outside the scope of the ESCB (such as the funds necessary to be able to pay the compensation resulting from the liability regime for that function), while retaining its ability to carry out its ESCB tasks effectively and independently<sup>50</sup>. An NCB constrained in its ability to create and/or restore its reserves or buffers may need to seek the consent of political authorities to obtain funding or recapitalisation. This places the NCB in a situation of dependence on those political authorities<sup>51</sup>. As noted by the Court in the judgment in Case C-45/21, the authors of the Treaty intended to ensure that the ESCB should be in a position to carry out independently the tasks conferred upon it<sup>52</sup>. Article 130 of the Treaty purports to shield the ESCB from all political pressure in order to enable it to pursue the objectives ascribed to its tasks effectively, through the independent exercise of the specific powers conferred on it for that purpose by primary law. In this respect, the Court noted that the establishment of reserves by the NCBs is essential, in particular in order to be able to offset any losses resulting from monetary policy operations<sup>53</sup>. Accordingly, legislation such as that envisaged under the earlier version of the draft law, which affected the ability of the NCB to establish reserves (due to the imposition of a levy in these reserves) or to restore them (because the NCB's profits could be systematically used for purposes other than restoring the level of these reserves), was considered incompatible with Article 130 of the Treaty as it could expose the NCB to political pressures.
- 3.2.2 Under the draft law, Banka Slovenije could still bear liability for part of the damages paid out by the Republic of Slovenia under the draft law under a reimbursement procedure for the recovery by the Republic of Slovenia of the amount of damages stemming from loss caused by Banka Slovenije and anyone acting under its authority through their conduct if they have seriously breached their duty of care under the Law on banking<sup>54</sup>. To this end, the ECB notes that, in contrast to the earlier version of the law, the draft law guarantees that Banka Slovenije's general reserves will not fall below 1 % of its balance sheet total, allowing for part of the current general reserves of Banka Slovenije to be eventually used to offset losses<sup>55</sup>. The ECB also notes that if the levels of Banka Slovenije's general reserves were to fall below 1 % (whether for reasons related or unrelated to these potential reimbursements) the reimbursement to the Republic of Slovenia would need to be deferred. The ECB would welcome further clarification on whether the special agreement between the Government of the Republic of Slovenia and Banka Slovenije referred to in the draft law would, nevertheless, be subject to an overall time limit in terms of a maximum duration in years during which Banka Slovenije

---

49 See judgment in Case C-45/21, paragraph 97.

50 See judgment in Case C-45/21, paragraph 105.

51 See judgment in Case C-45/21, paragraphs 100 to 102.

52 See judgment in Case C-45/21, paragraph 93.

53 See judgment in Case C-45/21, paragraph 100.

54 Article 223a of the Law on banking.

55 For the year 2022, the level of Banka Slovenije's general reserves is 3.75 % of Banka Slovenije's balance sheet total.



would be obliged to allocate part of its funds towards the payment of the sums stipulated in that special agreement.

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 15 December 2023.

[signed]

*The President of the ECB*

Christine LAGARDE