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Governing Council statement on the expert report on the independence, autonomy, transparency and accountability of the Banco de España

On the occasion of the 30th anniversary of the Law of Autonomy of the Banco de España, last January the Banco de España launched a review of its independence, transparency and accountability with the ultimate aim of identifying aspects of its operating framework that could be strengthened or enhanced. This process – which kicked off with the "Central bank independence in the face of current and future challenges" conference – is set against a historic backdrop of profound changes in terms of both the functions conferred on central banks and the institutional framework in which some of said functions, such as monetary policy and microprudential supervision, are conducted.

To articulate this analysis, the Governing Council resolved to create an internal working group led by Lucía Rodríguez Muñoz, a member of the Bank's Executive Commission.[1] To contextualise the analysis, a report was commissioned from three external experts (Daniel Innerarity, Rosa Lastra and Joaquín Vial).[2] After gathering a wide range of opinions from representatives from different institutions and sectors of society, along with the Banco de España itself, the three experts drew up a report that was presented to the Governing Council on 27 June and has been published today.

The Governing Council of the Banco de España welcomes the experts' report and is grateful for their diagnosis and analysis, which, alongside other aspects, will inform the ongoing review of the Bank's independence, transparency and accountability.

The report includes specific recommendations on how to strengthen these areas. The experts' initial diagnosis of the Bank's performance is favourable: a wide range of interviewees from Spain and abroad spoke highly of its legitimacy and independence in their meetings with the experts. However, the experts identify various areas for improvement. They find that there is some headway to be made in the institution's governance arrangements, advocating a shift to a more collegiate model and more robust processes to appoint members to the decision-making bodies. They also highlight to the need to update

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[1] Javier Priego and Montserrat Martínez Parera are also part of this internal working group.

[2] Daniel Innerarity is a professor of political and social philosophy, Director of the Institute for Democratic Governance and Chair in Artificial Intelligence and Democracy at the European University Institute in Florence. Rosa Lastra is Chair of the Institute of Banking and Finance Law at Queen Mary University of London and has been a specialist adviser to the House of Lords on different occasions. Joaquín Vial is a member of Chile's Autonomous Fiscal Council. He was a member of the Central Bank of Chile's Policy Board from 2012 and its Deputy Governor between 2018 and 2022. He is Senior Researcher at CLAPES UC and professor of the Institute of Economics at the Pontifical Catholic University of Chile.

the Bank's reference framework, to include in the Law of Autonomy of the Banco de España not only the new competences conferred in other legislation (such as macroprudential policy), but also the necessary accountability to society in the exercise of these competences. The experts also recommend better defining the scope of the government advisory function. Lastly, they provide specific measures to strengthen the Bank's transparency, accountability and communication with society.

At its meetings on 14 and 29 July, the Governing Council discussed, on the basis of the expert report, the need to fine-tune the Bank's operating framework to, among other aspects, align it with its current competences. It also addressed the possible channels to strengthen the perception of its legitimacy, enhance its governance, transparency and the necessary social accountability as an independent institution. Some facets of this discussion might require the amendment of legal provisions with the force of law and, therefore, their initiative rests with other institutions, without prejudice to any analysis by the Governing Council in this respect. Other initiatives may be implemented under a Governing Council resolution by amending the Internal Rules of the Banco de España or the institution's daily practice and undertakings.

The Governing Council's review will henceforth revolve around three components.

With regard to governance arrangements, the Governing Council takes note of the experts' recommendation to afford the Spanish Parliament a greater role in the appointment of members of the Bank's decision-making bodies, in line with the practice at other independent authorities in Spain. It also views favourably moving towards a more collegiate governance structure. Accordingly, with its sights set on subsequent terms of office, the Governing Council will analyse in depth specific proposals based on international best practices.

Similarly, the Governing Council shares the need to review the practical implementation of the government advisory function established in the Law of Autonomy of the Banco de España and emphasises that the transparency, accountability and communication measures warrant in-depth analysis. In this respect, the Governing Council considers that accountability arrangements must be clearly established for the exercise of each of the Banco de España's functions. Thus, the Governing Council's review will include assessing the current arrangements and the necessary improvements. The importance of strengthening these elements is well aligned with the values and objectives of the Banco de España's Strategic Plan 2030.

Against this background, the Governing Council has launched a review in order to identify specific areas for action and improvement to enhance the Bank's independence, transparency and accountability. It expects to publish its conclusions in the first half of 2026.

THE INDEPENDENCE, AUTONOMY, TRANSPARENCY AND ACCOUNTABILITY OF THE BANCO DE ESPAÑA

GROUP OF EXPERTS REPORT

27 June 2025

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EXECUTIVE SUMMARY

Political, economic, legal and social independence is essential to the sound functioning of central banks. Such independence must be exercised with maximum transparency and active accountability. Amid a trend towards broader central bank mandates, we found that the Banco de España is regarded positively in terms of its independence and technical proficiency. However, we identified six areas where improvements could be made, some of which would require legislative amendments.

1. Governance

A number of aspects related to the governing bodies have been identified as areas for improvement or review, resulting in the following recommendations:

- Reform the appointment process for the Governor, Deputy Governor and elected Governing Council members, including parliamentary hearings and, where possible, parliamentary approval or non-objection.
- Create the post of Second Deputy Governor to foster more collegiate governance, who would stand in for the Governor as needed.
- Formalise the First Deputy Governor's role on the European Supervisory Board.
- Remove the voting rights of the ex officio members of the Governing Council, restricting them to a non-voting role.
- Extend the mandates of the Governor and Deputy Governor to eight years with no option for reappointment.

2. Supervision and financial stability function

Given the growing prominence of macroprudential policy, the following measures are recommended:

- Formalise half-yearly meetings of the Governing Council to review the credit cycle and decide on macroprudential policy tools.
- Publish the Financial Stability Report with full background data supporting the decisions made.

We further recommend a review of the institutional architecture in terms of financial system soundness and solvency, including the possibility of designating a single resolution authority.

3. Government advisory function

The current Law of Autonomy does not clearly define the scope of this function, which has been implemented inconsistently both across jurisdictions and over time. With this in mind, the following measures are recommended:

- A review of the function's scope, structured into an internal phase involving the Governing Council and an external phase involving other public authorities.

- Establish a research agenda following consultations with various stakeholders and organisations.
- Ensure that the research aligns, directly or indirectly, with the Bank's mandates, avoiding prescriptive recommendations that fall outside its remit.
- Ensure a clear distinction between research papers that are the sole responsibility of their authors and those that represent the institutional position.

4. Financial autonomy and balance sheet position

The ESCB identifies this as a key pillar of independence (together with personal, institutional and functional independence). Given the potential for losses on the profit and loss account, we recommend as follows:

- Conduct regular projection exercises for the balance sheet, including its sensitivity to different shocks.
- Identify strategies to respond to significant balance sheet deterioration.
- Enhance the clarity and accessibility of disclosure on these matters.

5. Internal management and efficiency

Our recommendations are as follows:

- Set up a General Management Office to optimise resource management and review Human Resources processes.
- Establish a Directorate General Risks entrusted with defining policies and coordinating risk identification and mitigation, reporting directly and regularly to the Governing Council.

6. Transparency, accountability and communication

Several measures are proposed:

- Increase the frequency of the Governor's parliamentary hearings beyond the Annual Report presentation.
- Integrate accountability-related aspects involving the Bank's various departments into the institution's Strategic Plan in a cross-cutting manner.
- Foster parliamentary research into cross-cutting topics, such as digitalisation and sustainability.
- Include communication training in leadership programmes.
- Encourage active, decentralised communication that caters to regional and linguistic diversity.
- Publish anonymised minutes of macroprudential decision meetings, following a time lag.
- Review the content and language of key reports to make them more concise, understandable and forward-looking.

I. Introduction

a. The mandate

On the occasion of the 30th anniversary of the Law of Autonomy of the Banco de España (the Law of Autonomy), the Governing Council of the Banco de España, at the Governor's proposal, resolved on 24 September 2024 to set up a working group to review the Law of Autonomy. The working group is led by Governing Council member Lucía Rodríguez and also comprises Javier Priego and Montserrat Martínez Parera.

As part of that review, three internationally renowned external experts (Daniel Innerarity, Rosa Lastra and Joaquín Vial) were commissioned to conduct a study on the independence, autonomy, transparency and accountability of the Banco de España, which was presented to the Governing Council in a seminar on 27 June 2025.

b. Preparation stage

Work on the study began on 17 January, coinciding with a conference at the Banco de España on central bank independence, which was led by Agustín Carstens, General Manager of the Bank for International Settlements (BIS), and also involved Mário Centeno, Governor of the Banco do Portugal, and José Luis Escrivá, Governor of the Banco de España. The experts subsequently met with representatives from various institutions and sectors of society, including the Banco de España itself, to compile a broad spectrum of opinions and viewpoints.

From the Banco de España, the experts interviewed past and present members of the governing bodies, directors general, department directors, staff representatives and representatives of the Independent Evaluations Office. Meetings were also held with representatives of other public authorities, such as the BIS, the European Central Bank (ECB), the National Securities Market Commission (CNMV), the Spanish executive resolution authority (FROB) and the General Secretariat of the Treasury. The experts also met with representatives of political parties, various supervised entities and journalists.

The opinions and practical experience of this broad spectrum of interviewees helped to form a robust and granular diagnosis of the Banco de España's independence, transparency and accountability.

c. Study scope and structure

A paper published by the International Monetary Fund (IMF) identifies "three pillars" of good central bank governance: independence, democratic accountability and transparency.[1] The Law of Autonomy lays the foundation for these three pillars, whose practical implementation also depends on the Banco de España's Internal Rules, guidelines and organisational structure.

1 Fabian Amtenbrink: "The Three Pillars of Central Bank Governance: Toward a Model of Central Bank Law or a Code of Good Governance?", Current Developments in Monetary and Financial Law, Vol. 4. IMF, November 2008.

Accordingly, the scope of the study extended beyond the Law of Autonomy itself.

The report is structured into three sections. First, a conceptual discussion of independence, accountability and transparency at the Banco de España, which operates within the framework of the Economic and Monetary Union, meaning some of the traditional functions of a national central bank (NCB) have been transferred to the respective European bodies. Second, a diagnosis of the current situation at the Banco de España with respect to its independence, accountability and transparency. Lastly, the third section presents recommendations for advancing independence, accountability and transparency in those areas where room for improvement has been identified.

II. A conceptual framework for central bank independence and accountability

The need for independence in monetary policy and supervision

The intellectual construct of central bank independence[2] was based on the notion of "monetary independence", considering the economic theories of time inconsistency and the vertical Phillips curve in the medium and long term,[3] as well as empirical evidence that establishes a correlation between the monetary authority's level of independence and inflation control.[4] In the current setting, independence is advocated with regard to the Government's political stance – and is essential for conducting a price stability-oriented monetary policy ("monetary independence") – and is also advocated vis-à-vis banks and financial markets in general, to avoid "capture" by regulated and supervised institutions ("supervisory independence").

Central bank independence is instrumental in nature, i.e. it is an "instrument" at the service of the State (or the European Union (EU)) that aims to achieve the objectives which the State – or, in the case of the EU, the Member States – delegate to the central bank through a law in the former case, or a treaty, in the latter. Monetary independence is an important pillar of the modern State; it is part of the so-called *Ordnungspolitik*, the political-constitutional order that should be a common denominator for all political parties, regardless of their ideology and, therefore, not subject to the electoral cycle.[5]

The delegation of monetary policy and prudential supervision decisions to independent institutions is economically desirable and is not incompatible with democratic values. However, for a better fit of such decisions in the overall democratic governance of a State (or the EU), greater independence and autonomy from governments and supervised institutions must come hand in hand with best practices relating to internal deliberation and accountability. Indeed, central bank independence does not mean (i) that a central bank has limited freedom

2 Central bank independence is multi-faceted and has political, economic, legal, social and philosophical dimensions. During his presentation at the conference organised by the Banco de España on 17 January 2025, Agustín Carstens referred to autonomy as being social (consensus among the public on the advisability of protecting the value of money; "social engineering to preserve the value of money"), political (delegation of powers), legal (formalisation of the delegation of powers) and economic and financial (technical solution to "guaranteeing" the value of money). He also highlighted that "despite consensus on its importance, there is no single formula for its adoption" and that any reform considered should aim to strengthen independence and increase its legitimacy.

3 Cf. Harold James, Tawney Lecture in the *Economic History Review*, 2022: "The linked arguments of the late twentieth century about the monetary policy framework of disinflation — central bank independence and the adoption of an inflation target — were predicated on the belief in the long-term verticality of the Phillips curve (…). It seems that the authors of this literature had in mind the behaviour of a real-life figure (...), Paul Volcker".

4 Cf. Alberto Alesina and Laurence Summers, "Central Bank Independence and Macro-economic Performance: Some Comparative Evidence", Journal of Money, Credit and Banking, Vol. 25, No. 2 (May 1993); Alex Cukierman, Steven Webb and Bilin Neyapti, "Measuring the Independence of Central Banks and its Effects on Policy Outcomes", The World Bank Economic Review, Vol. 6, No. 3 (Sep. 1992); David Ramelli, "The political economy of reforms in Central Bank design: evidence from a new dataset", *Economic Policy*, Volume 37, Issue 112, October 2022, Pages 641–688, https://doi.org/10.1093/epolic/eiac011.

5 Cf. Rosa Lastra, Central Banking and Banking Regulation (London School of Economics, 1996), p. 18.

of action; (ii) that its decisions are merely technical; (iii) that such decisions should not take into account public opinion or (iv) that they should be adopted without taking into account the priorities outlined by the European Commission or the respective governments.[6]

The limits of independence: the functions conferred under the regulatory framework

Central bank independence limits are set by the regulatory framework, i.e. the conferral of functions to fulfil the objectives established by law or treaty.

Setting central bank discretionality levels is essential because they are drawn from the typical accountability structures that are used by other State institutions. Elected representatives renouncing the use of economic policy instruments is restricted by a precise mandate set out, in the case of the Banco de España, in the Law of Autonomy, which must be consistent with ECB rules.

In the current setting, clearly establishing the Banco de España's level of discretionality is hindered by two concurring factors:

One is related to delimiting the extent of independence in relationships between central banks and governments and where accountability begins in the context of the European System of Central Banks (ESCB). Since responsibility for monetary policy, currency issuance and supervision of significant credit institutions has been transferred in the case of the Banco de España (and the other Eurosystem NCBs), it is not immediately necessary to define the scope of the Banco de España's discretionality in these areas.

The other factor is related to the expansion of central bank functions. Since the 2007-09 crisis, these institutions have been making more complex decisions than those envisaged under the 1992 Maastricht Treaty, mainly in relation to financial stability, the macroprudential function and the supervision of financial systems.[7] This has given rise to a change in the definition of independence and accountability.[8]

The expansion of micro- and macroprudential mandates is a challenge when defining independence from markets and supervised institutions and underscores the need to adjust transparency and accountability mechanisms at all supervisory authorities.

The potential tension between the different objectives of central banks (financial and price stability, inflation control and climate change issues,[9] among others) hinders accountability.

6 See Annex 1 for more information on these aspects.

7 In the wake of the global financial crisis, central banks' mandates were expanded across the board on financial stability issues, in particular as regards microprudential supervision, macroprudential policy, lender of last resort functions and resolution of credit institutions.

8 In the United Kingdom all of these functions were conferred by law on the Bank of England. In the EU (the Eurosystem), after the global financial crisis (which led to the establishment of the European Supervisory Authorities) and the sovereign debt crisis, the ECB became the microprudential supervisor of significant credit institutions (the Single Supervisory Mechanism) and new frameworks were set up for other functions, with a combination of national (not only central banks) and European institutions, which we refer to in our report. In the United States, the legislation amended and expanded the functions of the Federal Reserve System and the Federal Deposit Insurance Corporation established a Financial Stability Oversight Council for macroprudential supervision. During the crisis and according to the post mortem on the crisis, it became evident that focusing exclusively on price stability (understood as trying to keep consumer price index growth at 2% per year) had led to ignoring the tensions and frictions that had been emerging in the banking and financial system.

9 See Annex 3.

The limits of independence: accountability and communication

In a democratic society, independent agencies and institutions must explain how and why their actions and decisions contribute to their legal objectives, always in line with the principle of conferral.[10] Accountability, therefore, is not simply an appendage but rather an intrinsic part of the framework and the definition of independence. The independence of a technocratic institution without accountability would be akin to liberty without responsibility. Hence the need for responsible independence.[11]

The scope and implementation of transparency and accountability at any institution must be in line with the nature of the institution, its position in the governance architecture and the role played therein. The peculiarity of a central bank likewise requires a particular accountability towards other institutions and society.

The debate about mechanisms for articulating the accountability (ex ante and ex post) of an independent central bank currently also includes the need for adequate communication.

Communication plays several roles: (i) reflection, (ii) translation, explaining the measures adopted to the public in plain language and using appropriate channels, (iii) managing expectations, which is essential for communicating with agents and financial markets, (iv) listening to various actors, (v) promoting financial education among the public at large, not only among experts or interested individuals,[12] and (vi) providing legitimacy.

Central banks' strategies to control inflation include shaping expectations. It is said that central banks draw up inflation policies while market agents and society implement them.[13] As noted by Blinder, monetary policy is the art of managing expectations.[14] In this regard, a successful monetary policy is not so much a question of controlling interest rates, but, ultimately, of shaping market expectations, and this is where communication, transparency and accountability are of utmost importance. Without them central banks would find it very difficult to achieve their macroeconomic objectives. Communication is a part of the toolkit necessary to "make the future tractable",[15] a type of action classified as "performative" by the social sciences.

10 Cf. Rosa Lastra, "Central banking in a time of crisis: the Bank of England", *Wisconsin International Law Journal*, Vol. 42, No. 2, Winter 2024, pp. 143-177. The mission statement of the Bank of England is: "Promoting the good of the people of the United Kingdom by maintaining monetary and financial stability".

11 Cf. Rosa Lastra, "The Independence of the European System of Central Banks", *Harvard International Law Journal*, Spring 1992.

12 In this connection, the first episode of the Banco de España's podcast, "Step inside the Banco de España", fulfils the educational function of communication by speaking about monetary policy using the simile of water flowing through pipes and taps. As regards the functions of communication, cf. Douglas Holmes, "Economy of Words: Communicative Imperatives in Central Banks" (Chicago: University of Chicago Press, 2014). On page 29, Holmes argues that to gain a general understanding of the economy it must be construed as a complex communicative field. On page 216, he concludes that the challenge for central bankers, therefore, is to navigate and manage the shifting grounds upon which members of the public become protagonists of the monetary drama.

13 Douglas Holmes (2018). "A Tractable Future: Central Banks in Conversation with Their Publics". In *Uncertain Futures: Imaginaries, Narratives, and Calculation in the Economy,* edited by Jens Beckert and Richard Bronk, 173–93. Oxford: Oxford University Press.

14 Alan Blinder, Michael Ehrmann, Marcel Fratzscher, Jakob De Haan and David-Jan Jansen (2008), "Central Bank Communication and Monetary Policy: A Survey of Theory and Evidence", *Journal of Economic Literature,* American Economic Association, vol. 46 (4), pp. 910-45.

15 Cf. Holmes, 2018.

Thus, communicating with society is crucial for a central bank that needs to be understood and has to shape behaviour. Here, the discussion revolves around how to balance the level of discretion required and the democratic need for transparency. Some discretion is required with respect to matters whose disclosure could impact the effectiveness of monetary policy and the risk of market turbulence, to avoid possible pressures on decision-makers or issues that could lead to reputational damage. However, too much discretionality (and for an unlimited period of time) would come into conflict with the democratic principle of accountability.

Accountability mechanisms differ depending on whether they relate to monetary policy or supervision, where process monitoring is preferred, since supervisory performance or results are typically hard to measure.

Another difference between monetary and supervisory accountability is transparency. Monetary policy transparency is beneficial and may contribute to the management of agents' expectations,[16] while in supervision (and bank crisis management), the possibility of generating panic or bank runs calls for caution about what is published and when it is published, and often requires exercising confidentiality, given the characteristics of the traditional banking business.

Central banks often seem elitist and their public reputation could gain if they improved their relationship with society without forfeiting their independence. To this end, accountability should go beyond the mere notification of their decisions.

Using independence properly

With the return of inflation in 2022, against the backdrop of the war in Ukraine and the effects of expansionary fiscal and monetary policies to combat the COVID-19 crisis, the debate on the hierarchy of targets and social legitimacy has become topical and democratically significant.[17] The higher "cost of living" influenced recent voting decisions in the United Kingdom and the United States, for instance.

In order for independence to survive political and economic fluctuations, society needs to recognise the importance for central banks of meeting their objectives and of doing so independently, and to trust their capacity to fulfil their mandate. The first issue is easy when a crisis due to inflation or the financial system is fresh in the memory. However, paradoxically, as the central bank succeeds in meeting its goals, memories about the costs of the crises start to fade. This is why it is very important for central banks to remind the public of the importance of price stability and the smooth functioning of the financial system.

16 Central banks are clearly moving towards greater transparency in recent years. Cf. Nergiz Dincer, Barry Eichengreen and Petra Geraats (2022), "Trends in Monetary Policy Transparency: Further Updates", *International Journal of Central Banking* March 2022, pp. 331-348. In this vein, the objective set by the latest directive of the European Parliament and of the Council expressly refers to public and democratic accountability (Directive 2024/1619 of the European Parliament and of the Council of 31 May 2024, https://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=OJ:L_202401619.

17 Cf. Charles Goodhart and Rosa Lastra, "The changing and growing roles of independent Central Banks now do require a reconsideration of their mandate", Accounting, Economics and Law: a Convivium, 2023, De Gruytter, https://doi.org/10.1515/ael-2022-0097.

A central bank should not only call for independence, but also make good use of it, complementing it with systematic and transparent accountability that the public can understand. Public trust requires both efficient delivery of the mandate and accountability. Central banks should be aware that they can only stabilise "uncertain futures" through a steady conversation with the market and the public.

III. Diagnosis

The multiple interviews conducted in the course of this study demonstrate that the Banco de España and its independence are held in high regard. The reputational cost stemming from the collapse of the housing bubble – especially linked to the Bank's tardiness in recognising the problem – was raised in some of the interviews, but the damage does not appear to be lasting.

The interviews revealed a widely held view that the Law of Autonomy holds legitimacy and has established an appropriate framework for the Banco de España to perform its functions with independence. Moreover, membership of the European System of Central Banks (ESCB) has further underpinned its independence and, at the same time, fostered the application of best practices in transparency and accountability.

a. Governing bodies, appointments and remit

The governance of an institution such as the Banco de España must take into account independence, accountability and the prevailing legal and administrative system, in particular the Law of Autonomy. These three key principles should permeate every domain of central bank activity. Here we examine those relating to the appointment and remit of its governing bodies, as well as certain aspects that impact the Banco de España's governance, insofar as they influence its effectiveness and the cost of fulfilling its mandate, and present challenges to some of these pillars.

Article 17 of the Law of Autonomy establishes four governing bodies: the Governor, the Deputy Governor, the Governing Council and the Executive Commission.

In principle, the Governor "directs" the Banco de España, while the Governing Council establishes its general operating guidelines, discusses policy decisions and approves budgets, among other functions, as well as appointing, at the Governor's proposal, the two members who also sit on the Executive Commission. The powers of the Executive Commission are laid down in the law itself, although they are subject to the general guidelines dictated by the Governing Council. Some of them, such as the appointment of senior staff, must be ratified by the Governing Council.

What immediately stands out is the Government's near exclusive role in appointing the Governor.[18] As we will see, this is important due to the substantial influence that the Law of Autonomy confers on the Governor in appointing the members of the other governing bodies. The only requirement that the Government is obliged to meet, other than selecting a person of "recognised expertise in monetary or banking affairs", is for the Minister for Economy, Trade and Business to appear before the competent parliamentary committee. While it is true that central bank governors are appointed by the government in most countries,[19] the nominees typically appear before the relevant parliamentary committees.

18 Under Article 24 of the Law of Autonomy, the Governor is appointed by the King at the Prime Minister's proposal.

19 Frisell, Lars, Kasper Roszbach and Giancarlo Spagnolo: "Governing the Governors: A Clinical Study of Central Banks". Working Paper Series No 221. Sveriges Riksbank. March 2008.

The Government's authority in appointing the Governor also applies to the Deputy Governor and the elected Governing Council members, although the latter may be appointed at a different time and under different governments.

In practice, however, the Governor wields significant power over the entire decision-making process, stemming from the influence that the Law of Autonomy confers on them in appointing the members of the Council and the Executive Commission:

- The Deputy Governor is appointed by the Government at the Governor's proposal.
- The six elected members of the Governing Council are appointed by the Government, at the proposal of the Minister following consultations with the Governor.
- The two Governing Council members that sit on the Executive Commission are appointed by the Governing Council at the Governor's proposal.
- In addition, an employee representative, elected by the Bank's staff, sits on the Council and participates in a non-voting capacity. The Bank's Directors General also participate in a non-voting capacity.

The Governor also convenes and sets the agenda for the meetings of both the Governing Council and the Executive Commission, although the members are entitled to request the inclusion of items on the respective agendas. The Governor's personal independence in monetary policy decisions (Annex 2) does not preclude the Governing Council or the Executive Commission from raising questions ex post.

Clearly, the Governor's influence in appointing members of the other governing bodies is intended to facilitate swift decision-making, particularly in the event of a crisis, by generating greater alignment across senior management teams. However, it may reduce the diversity of views and, in some cases, undermine the bank's credibility.

A second aspect that should be reconsidered is the distribution of power across the Banco de España's governing bodies. Chapter III of the Law of Autonomy describes the governing bodies' remit and gives the impression that the body ultimately responsible for the Bank's functioning is the Governing Council, although, as the Law itself stipulates, day-to-day management lies with the Executive Commission.

In the case of the Executive Commission, the members appointed by the Governing Council, given their external status and part-time commitment, are in an inferior position to the other members, since they lack both the time and adequate support to discharge their function.

As for the Governing Council, the absence of a staggered appointments system with a fixed six-year mandate can result in several council members being replaced within a short timeframe and, by the same token, relatively long periods with no membership turnover. This could lead to continuity problems, on the one hand, and relatively abrupt shifts in the Council's stance, on the other.

The Governing Council includes two ex officio members (i.e. members by virtue of another office they hold): the General Secretary of the Treasury and Financial Policy and the Vice-Chair of the National Securities Market Commission, both with voting rights except on decisions relating to monetary policy (Chap. II, Sec. 1), external operations (Chap. II, Sec. 2) and means of payment (Chap. II, Sec. 4) where they refer to the functions of the ESCB. This means that the ex officio members have voting rights on decisions relating to treasury and public debt services, in addition to other issues on the Banco de España's internal governance and supervisory matters.[20] While it is important to share information with and hear the opinions of these ex officio members, their voting capacity undermines important aspects of independence within the ESCB.

The staff representative is a case apart since they do not act in a voting capacity. However, their role is less clear due to the absence of technical requirements and there is evident frustration over the inability to perform a more meaningful function.

It has been empirically demonstrated that governing bodies with diverse membership tend to make better decisions than homogeneous ones, even when the members of the latter have greater expertise.[21] Central bankers typically build up highly specialised knowledge over their careers, but this expertise is relatively limited in scope to economics, and more specifically to monetary and financial economics. While such skills remain absolutely essential, modern central banking calls for broader professional and personal backgrounds.

The previous Governor of the Banco de España, Pablo Hernández de Cos, stated in an appearance before Parliament that "given the complexity of the environment and regulations, the profusion of data, the influence of external and internal factors and the different elements that need to be taken into consideration to assess the probability and severity of the risks, every possible viewpoint – of experts of proven experience and specialisation – is required".

Promoting diversity would advance the dual aim of making the Bank a more representative and competent institution. Greater diversity in a central bank's governing bodies makes it more democratic, insofar as democracy represents social pluralism. Under Article 24 of the current law, Council members are only required to have expertise in the area of economy or law. One lesson from the major crises that unfolded towards the beginning of this century was the need to move beyond the tunnel vision of individual scientific disciplines.[22] The problems of dispensing with a broader political and economic understanding and viewing reality from the confines of a narrow discipline were laid bare. To understand what is really happening in the world (including the world of economics), a more diversified approach is required that encompasses the social and political dimensions. Without a pluralism of scientific viewpoints, sound economic decision-making is impossible. The Governing Council

20 The Financial Sector Assessment Program (FSAP) of the International Monetary Fund (IMF) recognises that the Banco de España's operational autonomy, although sound in practice, has vulnerabilities from the legal framework perspective, since Article 7(4) of the Law of Autonomy only prohibits giving or accepting instructions relating to the functions of the ESCB, and not in relation to the Banco de España's other functions. This is particularly important when the Council discusses proceedings concerning significant institutions initiated at the ECB's instruction, on which neither the General Secretary of the Treasury and Financial Policy nor the Vice-Chair of the National Securities Market Commission should have a vote. **As for the appeal system, the administrative appeal provided for in Article 2 of the Law of Autonomy should be removed.**

21 Cf. "Issues in the Governance of Central Banks", BIS, May 2009, https://www.bis.org/publ/othp04.pdf. "Collegial decision-making is a hallmark of modern central banking that both augments the independence of the decision-making process and enhances the quality of decisions. In the vast majority of the world's central banks, boards or committees are responsible for making policy decisions; in most cases, boards also oversee the operation of the bank. Collegial decision-making is better able to stand up to unwarranted external pressure. Committees also permit a wider range of perspectives to be brought to bear, which adds to the legitimacy and credibility of central bank decisions".

22 Boy / Burgess / Leander 2011, 119.

– comprising individuals external to the Bank and not directly involved in its management – may be the body where some degree of professional and gender diversity could be expressed, without prejudice to senior Banco de España staff regularly consulting specialists from other disciplines and opinion leaders.

One concern raised in several interviews was the relatively short six-year mandates of the Governor and Deputy Governor (Article 25 of the Law of Autonomy), compared with the eight-year mandates common among their peers on ESCB bodies. This six-year term is thought to limit how effectively they can serve on those bodies.

As for the tenure of the Governing Council's ex officio members, there are no substantive grounds for changing the current mandate of six years.

Other central banks, including the Bank of England, recently transitioned from six to eight-year mandates. The option of retaining the six-year term, but with the possibility of reappointment seems clearly suboptimal for two reasons: first, a twelve-year term may be too long; second, and more importantly, the incentive to seek reappointment might compromise their independence from the Government and, potentially, Parliament.

b. Functions

The key responsibilities in terms of the design of monetary policy and controlling inflation have been transferred to the ECB. Accordingly, this section of the report focuses on the functions related to financial stability and the Bank's role in advising the Government.

i. The role of financial regulator and supervisor against a backdrop of broadening central bank mandates

Financial stability is a shared objective across institutions, involving governments, central banks and other national, European and international authorities. The functions included under the financial stability pillar are supervision (microprudential supervision, supervision of conduct and consumer protection), macroprudential policy and oversight, regulation, the Bank's role as lender of last resort, bank resolution and management of bank and financial crises (including sovereign debt crises).

Unlike price stability, there is no universally accepted definition of financial stability, which is a flexible concept, open to interpretation and encompassing multiple strands and dimensions. Inflation control can be viewed as key to maintaining confidence in "public" money (issued by the central bank). Meanwhile, safeguarding financial stability and the sound functioning of payment systems is vital for ensuring trust in bank deposits, which are the foundation of "private" money created by banks through credit operations. As such, the two objectives complement each other.

However, in practice tensions often arise between the two. For instance, interest rate hikes intended to ensure price stability might jeopardise the normal repayment of bank loans. Indeed, the new approach to macroprudential capital requirements precisely recognises the need for tools other than interest rates to moderate credit cycles, seeking to reinforce solvency – in the case of expansionary credit cycles – rather than raising borrowing costs.

Article 7(5)(b) of the Law of Autonomy, which addresses purposes and functions, is sparse in its description of the following function: “Promote the smooth operation and the stability of the financial system and, without prejudice to the terms of 7(3)(d) above, of national payment systems”.

The microprudential supervisory function for significant credit institutions was transferred to the ECB/SSM in 2014, but the Banco de España remains the authority responsible for the prudential supervision of less significant institutions and participates in the Joint Supervisory Teams (JSTs) for significant institutions directly supervised by the ECB/SSM.

The Banco de España is the competent authority in matters of “conduct” and protecting bank customers at the pre-emptive/ex ante and corrective/ex post level. However, there is draft legislation that would transfer the function of complaints resolution to the Financial Ombudsman Service, although that authority would not have competence in bank conduct supervision, which would instead be retained by the Banco de España.

Like all NCBs, the Banco de España also acts as lender of last resort in the event of a bank crisis, albeit subject to the limitations that the ECB may establish under Article 14.4 of its Statute, if it determines that such an operation could interfere with ECB monetary policy or the objectives and tasks of the Eurosystem.

According to Article 127(5) of the Treaty on the Functioning of the European Union (TFEU), the ECB is merely expected to contribute to maintaining financial stability, although in practice it has taken such stability into account when responding to crises.

The creation of the European Systemic Risk Board (ESRB) in 2010 was a foundational step towards establishing a macroprudential policy framework in the European Union, which is viewed as critical to preventing systemic risk. However, the ESRB lacks legal personality and decision-making powers. Those powers continue to lie with the national authorities, although the entry into force of the SSM Regulation saw some macroprudential powers transferred to the ECB.[23] Accordingly, the NCBs and other national competent authorities hold macroprudential policy decision-making powers. In Spain, the macroprudential authority (AMCESFI) is a collegiate body attached to the Ministry of Economy, Trade and Business and overseen by its Minister. It was established by royal decree in 2019 and has coordinating responsibilities (issuing opinions, warnings and recommendations) but no decision-making authority. In this respect, AMCESFI resembles the European Union’s ESRB and serves as its national-level equivalent.

23 Article 5 of the SSM Regulation transferred certain macroprudential responsibilities concerning the application of “capital buffers” to the ECB. For further information on the ESRB, see Chapter 11 of Rosa Lastra, International Financial and Monetary Law (Oxford University Press, 2015): With the SSM Regulation, macroprudential supervision is shared between the ESRB, the ECB (Article 5 of the SSM Regulation) and the national authorities, while responsibility for lender of last resort in the Euro area is currently divided between the ECB (when it comes to “market” liquidity assistance) and the national central banks (when it comes to collateralized lines of credit to individual illiquid but solvent banks, according to the ECB’s own restrictive interpretation of article 14.4 of the ESCB Statute).

Decision-making powers in macroprudential matters lie with the Banco de España (and other sectoral supervisors),[24] which reports such decisions to AMCESFI. Royal Decree-Law 22/2018, establishing macroprudential tools for each financial sector (securities, banking and insurance), conferred considerable powers on the Banco de España to adopt macroprudential measures in the banking sector. These measures are, first, capital buffers (the countercyclical capital buffer (CCyB) and systemically important institution buffers), which are applied to banking institutions (micro- and macroprudential measures), and, second, borrower-based measures (BBM), which are restrictions on borrowers' access to financing, e.g. caps on repayment terms or limits on loan-to-value or loan-to-income ratios.[25] BBMs are yet to be activated in Spain, but they have been in most countries of the banking union, as discussed in the Spring 2025 Financial Stability Report.[26] It is important to note that BBMs are not harmonised across the EU.

As the Spring 2025 Financial Stability Report[27] also notes, the ESRB has recommended that the Banco de España consider introducing BBMs targeting households and non-financial corporations.

Alongside conduct supervision and the protection of bank customers, macroprudential supervision represents the Banco de España's most material national responsibility. The Law of Autonomy should reflect this and establish appropriate accountability mechanisms both for the use of instruments (buffers and ratio caps) and publication of the Financial Stability Report. Unlike microprudential measures, where stability and confidentiality concerns prevail over transparency standards to prevent bank runs, macroprudential measures can directly affect the public, thereby necessitating proper accountability and transparency mechanisms.

In the context of the Economic and Monetary Union and the banking union, the Banco de España's powers to activate the CCyB, set its neutral level and adjust it in response to the credit cycle constitute – alongside setting the systemically important institution buffers – the main macroeconomic policy instrument available to date for steering the local economic cycle and aligning it with the requirements of the common monetary policy. The Banco de España has developed a set of indicators to conduct ongoing monitoring of the credit and real estate cycle, tailored to the specifics of the Spanish financial system. The potential adoption of BBMs demands transparency and communication (particularly in terms of awareness-raising), given the impact of such measures on the public, as well as clarity regarding the Banco de España's accountability mechanisms (parliamentary hearings and administrative and legal recourse).

24 Article 15 of Royal Decree 102/2019 of 1 March 2019 establishing AMCESFI specifies that the Banco de España, the CNMV and the Directorate General of Insurance and Pension Funds have the authority to adopt macroprudential tools, including capital buffers, sectoral concentration limits, conditions on lending, leverage limits for collective investment undertakings and prohibitions or restrictions on short sales.

25 Under Royal Decree-Law 22/2018 and Royal Decree 102/2019.

26 See the Spring 2025 Financial Stability Report https://www.bde.es/wbe/en/publicaciones/ estabilidad-financiera-politica-macroprudencial/informe-estabilidad-financiera/, particularly Chapter 6 on macroprudential policy, https://www.bde.es/f/webbe/Secciones/Publicaciones/ InformesBoletinesRevistas/InformesEstabilidadFinancera/25/FSR_2025_1_Ch6.pdf and Section 6.3 which discusses BBMs.

27 https://www.bde.es/f/webbe/Secciones/Publicaciones/InformesBoletinesRevistas/InformesEstabilidadFinancera/25/FSR_2025_1_Ch6.pdf, p. 161.

The Banco de España is not tasked with supervising the securities market or investor protection, which fall under the purview of the CNMV, nor the marketing of insurance and pension funds or prudential oversight of their management companies, which are the responsibility of the Directorate General of Insurance and Pension Funds (DGSFP).

The “sectoral” regulation model is also present in other European countries and in the United States. In the United Kingdom, however, regulation is objective-based (“twin peaks”), with a prudential authority (the Prudential Regulatory Authority), which is part of the Bank of England, and a conduct authority (the Financial Conduct Authority), which is independent. Empirical evidence does not support either regulatory model being superior when it comes to structuring supervision.[28]

In any event, in a highly banked economy with a growing share of financial conglomerates that offer different services (insurance, banking and investment) are making constant technological advancements, the boundaries between traditional sectors are becoming increasingly blurred. Whichever model is chosen, it is important that there be robust cooperation arrangements to facilitate coordination among the different supervisors, to cut down on overlaps and enhance supervisory efficiency. Currently, the Banco de España, the CNMV and the Directorate General of Insurance and Pension Funds have conduct and prudential supervisory powers, with each having its own scope of competence.

The European architecture of supervision is clearly incomplete, not only with regard to the missing pillar needed to complete the banking union (the European Deposit Insurance Scheme), but also with respect to other areas of the financial system. The 2024 Draghi report on EU competitiveness suggested that it would be beneficial to transform the European Securities and Markets Authority into a single common regulator for all EU securities markets, similar to the Securities and Exchange Commission in the United States.

The proposal for a digital euro and new sector-specific regulations (the Markets in Crypto Assets Regulation, Digital Operational Resilience Act and others) contribute to the oversight of the payments system and are driving significant change in it, as is technological innovation in general. The evolution of crypto asset markets (and new forms of money laundering and use of the financial system for illicit purposes) requires supervisory and regulatory mechanisms to adapt (SupTech, RegTech, LegTech).

28 See Rosa Lastra and Luis Garicano, “Towards a New Architecture for Financial Stability: Seven Principles”, *Journal of International Economic Law,* Vol. 13, No. 3, September 2010, pp. 597-621: “Whether twin peaks (as in the Netherlands), fragmented (as in the US), unitary (as in the United Kingdom with the FSA) or separated (like in France), most advanced countries suffered a severe hit to their financial systems. While to some extent that may mean that the architecture does not matter, since it was not a cause of the crisis, we do believe, however that the institutional design is important for the resolution of the crisis and for the establishment of a more effective framework of supervision, systemic risk control and crisis management going forward”. The problem was not who did the supervision, but rather how it was done. Pablo Hernández de Cos referred to this in an appearance before the Audit Committee on Democratic Quality in 2020: https://www.bde.es/f/webbde/SES/Secciones/Publicaciones/PublicacionesSeriadas/DocumentosOcasionales/21/Files/do2105e.pdf. A study carried out by the Financial Stability Institute of the BIS (https://www.bis.org/fsi/publ/insights8.pdf) confirms that there is no evidence of one model being better than another and notes the differences between countries. The only clear widespread change that has been observed in the wake of the global financial crisis is that the role of central banks has grown, especially as it relates to macroprudential and financial stability issues.

The monetary, banking and financial system is increasingly complex: climate change; the digitalisation of assets and, potentially, means of payment; cyber attacks; and sustainable finance (sustainability from an economic and environmental perspective and also in terms of financial inclusion and inequality) are opening up new dimensions of financial and sovereign debt crises. The Banco de España is facing new challenges, to which it has so far responded adequately, guided by the ongoing debates and emerging rules at the European level. In any case, it is advisable not to overburden the central bank with objectives.[29]

These new tasks will demand significant adjustments from the Banco de España's staff – new technical and operational capacities and the ability to adapt swiftly to overcome the challenges. In this new environment, greater emphasis should be placed on the institution's internal management and its resources.

ii. Advising the Government

The central bank-government relationship is always complex, particularly in the context of the European monetary and banking union, given the centralisation of monetary policy and banking supervision and the decentralisation of fiscal policy and other economic policy matters.

Independence does not imply isolation. In fact, the relationship between the "primary" and "secondary" objectives of the ESCB presupposes dialogue and demands a relationship of cooperation and coordination subject to the limits established by law (prohibiting monetary financing to avoid "fiscal dominance").

The Banco de España advises the Government in accordance with Article 7(5)(e) of the Law of Autonomy and prepares the reports and studies deemed necessary (including an annual report, four quarterly reports and two half-yearly financial stability reports, among others). It also conducts economic research and collaborates with other national and international institutions.

Various interviews revealed that this advisory function of the Banco de España was appreciated across the board, although the criticism was made that the Bank made legislative recommendations relating to areas not directly within its mandate and that had redistributive implications.

Other central banks are likewise tasked with offering this advisory function to their respective governments, although each does so differently. The central banks of eight Eurosystem countries are tasked with such a role (Belgium, Germany, Ireland, Greece, Italy, the Netherlands, Austria and Portugal). Outside the Eurosystem, the Bank of England and the Bank of Canada also perform a similar function. Although this task is formulated in a broadly analogous way (with stipulations that the advisory role may cover economic and financial aspects), the way it is actually exercised varies significantly.

29 This was one of the recommendations in the 2023 House of Lords report "Making an independent Bank of England work better". Cf. https://publications.parliament.uk/pa/ld5804/ldselect/ldeconaf/10/10.pdf.

While some, like the Deutsche Bundesbank, formalise the advice through written opinions (its governing rules stipulate that the information must be provided “when requested”), others, such as the Banco de Portugal, do so through research publications and informal links with the Government. In the United Kingdom, the Government sends annual “remit letters” (from the Chancellor of the Exchequer to the Governor of the Bank of England), which set out limits and provide guidance for the Bank in the exercise of this function (for monetary policy, the letter is sent to the Monetary Policy Committee; for macroprudential policy, to the Financial Policy Committee; and for microprudential supervision, to the Prudential Regulatory Authority). Furthermore, the advisory relationship gives rise to periodic reports (such as the Inflation Report and the Financial Stability Report), appearances before parliamentary committees (the Treasury Select Committee), bilateral meetings with HM Treasury and briefing notes, as well as ad hoc technical opinions on draft legislation affecting the monetary or financial sphere. Canada is a case apart, where the legislation does not set out a government advisory function as such, but rather a mandatory consultation mechanism on monetary policy and general economic issues. This takes the form of quarterly bilateral meetings with briefing notes sent to the Minister of Finance, annual mandate letters within the framework of a five-year agreement setting policy priorities, public reports (such as the Monetary Policy Report and the Financial System Report) and written opinions on draft legislation affecting monetary or financial stability.

The varying ways in which this function is performed can be seen not only across jurisdictions, but also at individual institutions over time. In the case of the Banco de España, the scope of this function can be seen to have shifted over time.

A retrospective review of the Annual Report (one of the ways in which it exercises this advisory function and one of the longest-standing of the Bank’s publications) reveals significant change. Its length varies significantly[30] and the content also differs: sometimes it is descriptive, other times it is more prescriptive.

Specifying and regulating the scope of this governmental advisory function is important when discussing independence, as well as transparency and accountability. During the interviews, some parties disputed certain of the Banco de España’s analyses (initially prepared as part of the Government advisory function) that came to conclusions involving clear redistributive matters.

The advisory function can generate some controversy, both in terms of independence and accountability questions and with regard to its scope. When the Bank itself extends this role into economic areas beyond a central bank’s traditional remit, it can raise concerns regarding how the Bank’s resources are being used and its potential politicisation.

c. Financial autonomy and balance sheet position

Financial autonomy is an essential component of a central bank’s independence both in its monetary policy decisions and in matters of financial stability. As Lybek points out, “The

30 Compare, for example, the 2005 Report with one of a few years or a decade later.

central bank's financial integrity should be protected to prevent it becoming subject to indirect influence from the government via appropriation procedures or as the result of significant losses depleting its capital. Profitability should not in itself be a central bank objective, as it could adversely affect achieving and maintaining price stability".[31] It should also be noted that a severe deterioration of the central bank's balance sheet could also affect its ability to handle episodes of financial crisis without requiring fiscal stimulus.

This concern has come to the fore since several central banks in developed countries, including the Banco de España, have experienced significant financial losses in recent years owing to the substantial expansion of the balance sheet (quantitative easing) during the years of the pandemic-related crisis when interest rates were very low.[32] After the post-pandemic economic recovery, interest rates rose and the value of assets acquired during that period fell.

Several observations can be made after analysing financial statements and interviews with the Bank's leadership, specifically with the heads of the Associate Directorate General Services and Control and Accounting.

- The financial statements, which allow sound analysis and forecasting, support the assertion that the Banco de España's solvency is not jeopardised by the balance sheet losses or foreseeable trends. Its ability to face adverse contingencies that could hinder the fulfilment of its mandate is also unchanged.
- The public explanation of the losses has been effective and it appears that the Bank's public image has not suffered. However, some parliamentarians interviewed pointed out the need for more data in order to analyse and understand the details of the accounts.
- Provisions have been sufficient to cover the losses, which should decline in the future with the maturity of the low-yield investments acquired during the crisis. This process should be completed by 2034.
- There was a significant change between 2023 and 2024 in the way the Banco de España presented its profit or loss, moving from a pure accounting approach to one that makes more economic sense, which is an important step forward in transparency. However, neither the press release nor the notes to the 2024 accounts mention this fact or explain the change.

d. Comprehensive risk management and internal management

i. Comprehensive risk management

One of the most important challenges for any central bank is identifying and managing the risks it faces. This is a key function for preserving credibility, which is a central bank's most important asset. Poor governance that tarnishes a central bank's reputation can

31 Lybek, Tonny: "Central Bank Autonomy, Accountability, and Governance: Conceptual Framework". Current Developments in Monetary and Financial Law. Vol. 4. IMF. November 2008.

32 For example, according to the financial statements published by the central banks themselves: the Deutsche Bundesbank lost €2.4 billion in 2023, with losses rising to more than €19 billion in 2024; the Banque de France lost €12.4 billion in 2023; the Banca d'Italia lost €1.5 billion in 2023; and the Banco de España lost €6.6 billion in 2023 and €7.5 billion in 2024.

lead to a loss of confidence in the bank itself, as well as in financial intermediaries and, ultimately, in the value of money (both cash and bank money). Confidence is a fragile asset, meaning that risk management is key for any central bank.

Comprehensive risk management requires teams dedicated to identifying and countering these risks throughout the bank's domains and operations. The impacts and likelihood of their occurrence must be assessed and possible actions to mitigate them identified. Given this, senior management bodies, in this case the Executive Commission and the Governing Council, should propose and approve the risk appetite for each identified event, which requires well-defined processes across all areas of the Bank. There must be constant vigilance for event risks that could affect the Banco de España's reputation and it is essential to foster an internal culture of committed risk control.

Our initial reading of the situation was that risk management does take place, but only partially and it is highly focused on operational and financial risks. At the time of completing this report, Bank leadership had decided to significantly bolster risk management, which is in line with our proposals in this report.

ii. Internal management

The interviews and our analysis of the organisation chart and various documents suggest that there is no central body responsible for the internal management of the Bank's resources. This task is currently divided between two general directorates: i) the Directorate General Strategy, People and Data, which includes the Strategy and People Department (in turn encompassing the organisation and budget divisions) and the Information Systems Department; and ii) the General Secretariat, which includes the Control and Accounting and Risk Control, General Services, and Procurement Departments. According to Article 45(1) of the Internal Rules of the Banco de España, the Deputy Governor "assumes the executive management of the internal common services of the Banco de España."

An additional concern, which arose in several consultations with current and former Bank executives, is the complexity and slowness of the staff hiring procedures, as well as the employees' lack of rotation and low mobility, which hinders internal management.

Internal management involves setting management goals for the various directorates and units, monitoring and evaluating compliance, identifying key processes and potential risks associated with each one, seeking internal efficiency gains, prioritising investments and everything relating to the efficient allocation of resources within the Bank. Having these functions separated into two directorates makes it difficult to comprehensively manage these resources.

According to Article 45(1) of the Internal Rules of the Banco de España, the Deputy Governor "assumes the executive management of the internal common services of the Banco de España." However, fulfilling that responsibility demands specialised expertise and a full-time focus, making it improbable that the Deputy Governor could realistically assume the role, regardless of who reports to them. Given the importance of the function and the need for continuity in the actions undertaken, it seems better to create a body in charge of this function that reports to the Executive Commission and submits periodic reports to the Governing Council.

In several Latin American countries, the central bank has a General Manager[33] who occupies roughly the same hierarchical level as the General Secretary in the Banco de España, but with very different, more management-focused, functions and with professional skills in line with those required to manage the Bank's resources.

The most relevant aspect of a General Manager is that the role could offer a cross-cutting perspective of the Bank's operations and ensure that supporting resources for the various divisions are managed appropriately, defining priorities, seeking out synergies and potential overlaps, setting goals and evaluating compliance.

Generally, areas such as Human Resources, Accounting, Risk Management and IT, which provide cross-departmental supporting services to the policy and supervision areas, are the responsibility of such a General Management Office.

e. Accountability and transparency

Article 10 of the Law of Autonomy obliges the Banco de España to regularly report to Parliament and the Government on monetary policy matters so that they may regularly discuss the decisions taken in this area. As the Banco de España's formal representative, it is the Governor's responsibility to formally present this information in formal settings, such as before Parliament or the Government.

The question of what information to provide has been debated at the European and international levels and, by extension, is also an issue to be considered at the central bank level. The information provided to the European Parliament and the general public is very limited. It is clear that the expansion of the ECB's monetary policy instruments and the broad interpretation of its mandate require appropriate accountability arrangements. In particular, the European Parliament should have more access to the economic and legal analyses that inform the ECB's deliberations.[34]

In the case of the Banco de España, the expansion of its mandate, for example in macroprudential matters and preventive resolution, has not been accompanied by a corresponding adjustment in its approach to accountability. While it is true that the Financial Stability Report provides a lot of information in this regard and has increasingly moved in this direction, its publication is not accompanied by an appearance before Parliament. Appropriate arrangements must be

33 It should be noted, however, that there are significant differences across central banks. In some cases (e.g. in Peru), the General Manager plays an active role in monetary policy decisions, whereas in others (e.g. in Chile), the position is fully focused on internal management and while they attend monetary policy meetings, they tend not to participate in the discussions.

34 Article 284 of the TFEU addresses the ECB's accountability. In practice, these arrangements have been developed over the course of time, especially with regard to transparency and communications. Cf. Rosa Lastra, "The accountability mechanisms of the Bank of England and of the European Central Bank", report for the ECON committee of the European Parliament (Monetary Dialogue Papers, 2020), https://www.europarl.europa.eu/cmsdata/211623/1_LASTRA-final.pdf.

made for the Banco de España to inform national authorities and the general public about the circumstances underpinning the decisions made on monetary and financial policy matters, as well as their effects on the Spanish economy and the follow-on actions required at the national level.

As explained earlier, accountability also involves notifying stakeholders that are directly affected by both Banco de España and ECB/SSM decisions. This is primarily technical and specialised communication that can be handled by the Deputy Governor in more formal settings and by the respective Directors General or their representatives. Representatives of the financial system did not express any concerns in this regard when interviewed and judged their communication with the Banco de España's technical teams to be regular and fluid.

The key ways in which the Banco de España's actions are communicated and unpacked are its regular reports: the Annual Report (required by the Law of Autonomy) and the Financial Stability Report (prepared by the Bank at its own volition). The Supervision Report, Institutional Report and Complaints Report, all published annually, should also be noted. These publications all suffer from some common issues, including their excessive length and a highly descriptive approach that does not always connect the analysis to the Banco de España's policy responses and its mandate. Focusing on their presentation, they suffer from a problem common to many central bank texts: specialists write for other specialists, not for a broader audience.

We recommend that the approach and language of the Annual Report and the Financial Stability Report be thoroughly reviewed so that they serve to educate the public on the factors that will shape the policies that are set by the Banco de España during the current year and in the near future. This requires focusing more on the future than on the past, making them much shorter and using simple and accessible language.

The latest Financial Stability Report shows significant improvements compared to previous ones, with the most notable being the initial Executive Summary, which is narrowly focused on financial stability. However, it is still very lengthy and some boxes are almost chapters in themselves.

Lastly, informing the general public is also part of the mandate, which requires an emphasis on education, far less technical content and clear, accessible language that can be easily understood by its target audience. The Banco de España must communicate with the general public, highlighting not only its own actions, but also the importance for individuals of inflation control and safeguarding the sound functioning of the financial system.

There are multiple channels and forms for this, some of which are already being used by the Directorate General Institutional and European Relations and Transparency and, in particular, by its Transparency and Communication Department. However, not all of the aforementioned official publications manage this communication as effectively as others.

IV. Recommendations

The legislation governing central banks should not be frequently changed lest it lose credibility and, indeed, the Law of Autonomy has not undergone any substantial changes in the last 30 years, despite the Banco de España's role having undergone significant changes as a result of the Treaty on European Union. However, it may need a reform to update or revise its mandate and/or to legitimise the Bank's functions. Further, periods of relative stability should be used as an opportunity for a moment of unhurried reflection, so that changes are not brought in only as a knee-jerk response to crisis.

There are two possible avenues for regulatory reform (which are not mutually exclusive):

- A revision of the Law of Autonomy could see it updated and errors corrected with a minimal reform; a more far-reaching reform could address governance and competence issues more thoroughly. In the case of a minimalist reform, articles can continue to be drafted or concluding provisions added to ordinary laws.
- The Internal Rules of the Banco de España can be revised.

Regarding possible regulatory reform, it should be noted that the ECB may give its opinion on any amendment of laws relating to NCBs based on Article 127(4) of the TFEU.

The Internal Rules could be amended for some reforms (e.g. regarding the approach of the Governing Council's meetings, such as their convening, content, frequency, how far in advance documents should be provided and their thematic focus). Others, e.g. those relating to communications matters – such as establishing relationships with universities and research centres, along with other initiatives to improve financial literacy – require no regulatory overhaul. In point of fact, the creation of the Banco de España's Independent Evaluations Office needed no legislative changes. The Governing Council approved, at its meeting on 15 March 2022, guidelines for the implementation of an Assessment Programme, as well as the basic principles for managing and coordinating these evaluations within the framework of the Banco de España's Strategic Plan 2024.[35]

35 Initially, management of the Assessment Programme was coordinated by a staff member attached to the Governor's Office. Later, in January 2024, a specific organisational unit was created, the Evaluation and Strategic Planning Office, that reported to the Governor's Office. More recently, in September 2024, as part of the Assessment Programme, the Evaluation and Strategic Planning Office was renamed the Independent Evaluations Office (IEO) and its place in the organisation was changed to report to the Governing Council. In January 2025 the Governing Council approved the IEO's terms of reference (TOR). This document sets out the IEO's structure and responsibilities, as well as how it is to operate in terms of consultations, publications and external relations. Although no legislative provision is required to establish the assessment function or to create the related Office, it is set to appear in the Internal Rules of the Banco de España, as are some of the TOR's provisions.

i. Recommendations on appointments to governing bodies and the length of terms of office

Regarding the appointment process for the Governor, Deputy Governor and elected members of the Governing Council, in line with how things are done in other jurisdictions, Congress should have more sway to boost both independence and accountability, as well as global standing. The Government's nominee for the post of Governor should appear before the relevant committee, i.e. they should not be represented by the Minister (and the same applies to the Deputy Governor and elected Council members).

This is the case with the President and Vice President of the CNMV under the third additional provision of Law 3/2015, regulating the holding of senior offices in the Central Government (which only applies to the Banco de España on a supplementary basis insofar as its own specific regulations do not expressly provide otherwise, as indicated in the first additional provision of Law 3/2015).[36]

This would enhance the legitimacy of the mandate, facilitate communication with Parliament and boost accountability, as the candidate nominated by the Government would have the opportunity to explain their strategy in advance and present their plans. Most importantly, it would allow for their suitability for the position to be given the seal of approval as a person of recognised prestige with the appropriate subject matter-specific skills and expertise. Hearings of this type are an important accountability tool among the Bank's peers worldwide.[37] In this regard, the Banco de España's rules deviate from what is considered best practice in other jurisdictions when it comes to measuring accountability.

One option worth considering is to go one step further and amend the Law of Autonomy to require not only that nominees attend a hearing, but also that Parliament ratify the Government's nominations, especially in the case of the members of the Governing Council. This requires careful consideration since it could be challenging and potentially lead to appointments being held up, affecting the Bank's normal functioning.[38] However, it would lend democratic legitimacy to the Governing Council, which can be very important in times of crisis. If this recommendation were adopted, a mechanism to stagger the appointment of Council Members should be introduced.

36 The third additional provision (on appearing before Parliament) of Law 3/2015, regulating the holding of senior offices in the Central Government:

1. Prior to their appointment, the Government shall provide Parliament with the names of the candidates for the roles listed below in order that they may be summoned before the corresponding parliamentary committee:

a) Chair of the Council of State

b) Heads of the regulatory or supervisory authorities listed in Article 1(2)(e)

c) Chair of the Economic and Social Council

d) Chair of Agencia EFE

e) Director of the Spanish Data Protection Agency

2. The parliamentary committee will review, as appropriate, the candidates put forward. Members may formulate questions or request further details. The parliamentary committee will issue an opinion on the candidate's apparent suitability and the existence of any conflicts of interest.

37 Cf., for example, Governance Benchmarks 2025, Executive Summary, Central Banking, p. 3, "Key findings: Governors and senior officials at three-fourths (77.8%) of jurisdictions make appearances before an external body to explain policies and actions".

38 This is the practice in several countries, some of which have fairly dysfunctional political systems, and it has not jeopardised those central banks.

Regarding the separation of monetary policy and banking supervision, since the Governor sits on the ECB Governing Council, the Deputy Governor should sit on the ECB's Supervisory Board, in line with the separation of the monetary policy and banking supervision functions established in Article 25 of the SSM Regulation and the practice of other NCBs, and as a way of enhancing independence. This would also endow the participation of the Banco de España with more institutional prestige and credibility, strengthen independence at a personal level and better separate monetary policy and banking supervision. This could be formalised through an amendment to the Internal Rules of the Banco de España.

Regarding the Governor's prominent role in appointing the members of the Banco de España's governing bodies, an amendment to the Law of Autonomy should facilitate a transition towards a governance model less centred on the Governor's powers, in line with practices in other jurisdictions, where they are moving towards more collegial models.[39] To this end, we propose that a Second Deputy Governor be appointed to perform the functions currently assigned to the Deputy Governor by the Law of Autonomy (i.e. standing in for the Governor in executive management and Bank representation), while the First Deputy Governor would assume the senior management functions related to microprudential supervision.

The Executive Commission would thus be composed of five members, including the Governor, First Deputy Governor and Second Deputy Governor.

Setting aside legislative reform to improve collegiality, there is nothing to prevent the Governor from giving the Council a more active role in decision-making in practice, providing information and managing meeting agendas to incorporate the fresh perspectives offered by Council members.

The role of the Council representatives on the Executive Commission should be reviewed. They should be 100% focused on the position, given the responsibility they hold and the need for time and support to properly perform their function.

Regarding the composition of the governing bodies, particularly the Governing Council (Article 20 of the Law of Autonomy), the term of office should be maintained, but with a system of staggered appointments under which one member is renewed each year (in cases where a vacancy arises before the six-year term is completed, a replacement would be appointed for the remaining term). This would allow for continuity and for new members to gradually learn about the Bank's operations, while fostering healthy turnover within the Council. If such a system were adopted, transitional arrangements would be required. For example, such new arrangements could be initiated at the end of the term of the longest-serving member and then be applied to each the remaining Council members in order of seniority, one per year.

Regarding the ex officio Council members, the General Secretary of the Treasury and Financial Policy and the Vice President of the CNMV should not have voting rights. This is particularly

39 Cf. "Issues in the Governance of Central Banks", BIS, May 2009, https://www.bis.org/publ/othp04.pdf. Pablo Hernández de Cos defined governance "not only in terms of observing certain basic principles of public action (such as efficacy and effectiveness) or of impartiality and due diligence, but also of implementing procedures and collegiate decisions to ensure that the primary institutional course of action is to uphold the public interest". Cf. Pablo Hernández de Cos, "The independence of economic authorities and supervisors. The case of the Banco de España. Testimony by the Governor of the Banco de España before the Audit Committee on Democratic Quality / Congress of Deputies, 22 December 2020", Documentos Ocasionales, 2105 (2021).

relevant when the Council discusses proceedings concerning significant institutions opened at the ECB's instruction. Under the SSM, breaches of the Capital Requirements Regulation or ECB decisions are handled by the ECB. However, breaches of the Capital Requirements Directive (CRD) or breaches committed by individuals (e.g. bank directors) are handled by the Banco de España at the ECB's instruction. Government representatives should not, therefore, have voting rights (they could be observers or, at most, be allowed to speak, but not vote). Circulars are also approved by the Governing Council. Issues such as those relating to treasury and public debt management will typically be defined through contracts or memorandums of understanding between the parties.

The role of the staff representative on the Council should be reviewed, along with the requirements that this representative must meet. Since this remit differs from that of the unions, it seems reasonable to have certain minimum requirements in terms of economic-financial knowledge. Furthermore, the representative could be given a specific role associated with monitoring and communicating issues related to the Bank's management.

An extension of the term of office of the Governor and Deputy Governor (Article 25 of the Law of Autonomy) from six to eight years should be considered. This change was made at the Bank of England, for example, and would be consistent with the practices of other NCBs (see Annex 4). It would help to strengthen the Governor's independence, on the one hand, and, on the other, could enhance the standing of the Governor and Deputy Governor on European bodies.

As for the appeal system, the administrative appeal envisaged in Article 2 of the Law of Autonomy should be removed.[40]

ii. Recommendations on the government advisory function

In general terms, this function is not considered to compromise the Banco de España's independence, as it legitimises and enhances the institution's reputation as a source of independent technical advice. This, coupled with its economic expertise, allows it to furnish the Government with impartial counsel and aids in the necessary coordination between (centralised) monetary policy and (decentralised) fiscal policy. Such coordination is essential in the European context to achieve a genuine Economic and Monetary Union.

This advisory role is also crucial in addressing vital national, European and international challenges, issues and risks, including climate change, the sustainability of public debt, various crises, digitalisation, artificial intelligence, geopolitical changes and the impact of migration, among many others. Central banks are typically the best equipped technically to construct models that relate specific variables to the economy's medium and long-term performance and can thus contribute to the design of public policy.

Furthermore, the Banco de España enjoys academic esteem and institutional prestige as one of the best – if not the best – Spanish think tanks, capable of conducting rigorous and in-depth evaluations on a range of topics, thus legitimising its role.

40 With the transposition of CRD VI (Directive 2024/1619, which must be incorporated into Spanish law by 10 January 2026), Law 10/2014 on the regulation, supervision and solvency of credit banks must be amended. In addition, the appeal process outlined in Article 2 of the Law of Autonomy must be removed (although in practice there has not been a single instance in which the Minister has overruled the Banco de España) and replaced by an optional appeal for reconsideration before the Banco de España.

In any case, it is a role that should be played with caution, especially when dealing with matters that do not have a direct and clear relationship with the Banco de España's mandates. In these cases, background information should be provided to aid in Government or Parliamentary decision-making, but, in general, the Bank should avoid prescribing measures that fall outside the scope of its mandate.

30 years on, the scope of this function should be reviewed from two perspectives. Internally, it would benefit from the Governing Council's input, which, in addition to setting the general guidelines for the Bank's activities, is also the single most significant manifestation of plurality and diversity in the governing bodies. Externally, since lawmakers entrusted the Banco de España with this Government advisory function in the Law of Autonomy, it should involve Parliament, the Executive and the Banco de España and could take the form of a memorandum of understanding that defines the procedure for formalising specific advisory requests, evaluating the resources required and determining how results are shared. In some countries, this function is exercised in response to specific requests from governments or parliaments, which is not the case in Spain. Nevertheless, the research agenda on such matters could be decided after (non-binding) consultations with various stakeholders and organisations, including universities and research centres at home and abroad. In any case, for an activity to be considered advisory, it must necessarily be made public, unless the advice is offered at the request of other State institutions with a justified need for confidentiality.

In terms of communications, a clear distinction must be drawn between official Banco de España documents that express the views of its governing bodies (e.g. the Annual Report, which is required by the Law of Autonomy, and the Institutional Report and the Financial Stability Report, which are prepared at the Bank's own initiative) and studies conducted by the Bank in the course of performing its advisory function. In the latter case, unless they are published in response to specific requests from other State authorities, any opinions expressed should be understood as belonging to the authors.

iii. Recommendations on the supervisory and financial stability functions

The Banco de España has specific powers to make decisions on macroprudential policy. This is a fundamental competence that is not defined in the Law of Autonomy. Given that it is a relatively new power, it would be advisable to reflect on the Spanish institutional architecture in this area, in the light of the multiple changes at the European and international levels. As part of this process, it may be worth considering a potential consolidation and reform of the complex system that has accreted in response to past crises.

The institutional framework of the banking and financial system is complicated. Any possible reform of the Law of Autonomy must address the different competences of the Banco de España, specifying the independence criteria for these functions (particularly in the macroprudential framework) and accountability mechanisms. Any coordination required between the different national and European authorities should also be stipulated, as should national authorities' involvement in international fora, such as the Basel Committee, the Financial Stability Committee and the International Monetary Fund.

Given this context, the procedures for deciding on such macroprudential policy should be formalised. An interesting example is the case of the Banco Central de Chile, which instituted two financial stability meetings each year, held to coincide with the publication of the Financial Stability Report – which provides all the background and reasoning for steps taken in this area – and the report's presentation to the relevant Parliamentary committee.

The Banco de España is also the preventive resolution authority and works on resolution matters with the Spanish executive resolution authority (FROB), as well as engaging in various European and international fora. Spain and Malta are the only countries of the banking union to have two resolution authorities. A single resolution authority would be preferable, and a working group should be set up to consider whether that authority should be the FROB or the Banco de España.

There is a case for avoiding a concentration of powers in the central bank and designating the FROB as the single resolution authority, following the model of the Federal Deposit Insurance Corporation in the United States, which acts as both the single resolution authority and deposit guarantee mechanism. Conversely, it could be argued that the Banco de España should assume the role given its responsibility for supervising the solvency of less significant credit institutions and its involvement in the ECB supervisory teams overseeing the solvency of significant institutions. The example in this case would be the Bank of England, which serves as the microprudential supervisor (via the Prudential Regulatory Authority), macroprudential supervisor (via the Financial Policy Committee), lender of last resort and the resolution authority. The justification for concentrating functions is the overlap that exists in practice between prudential supervision and bank crisis management (lender of last resort, resolution and winding up).

In any event, whether the FROB or the Banco de España is chosen as the single resolution authority, its system of governance should be aligned with the requirements of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms (known as the Bank Recovery and Resolution Directive or BRRD). Article 3(3) of the BRRD allows the resolution authority to assume other responsibilities (e.g. financial supervision, debt management, central banking) provided there is organisational separation. This means that the staff involved in performing the functions of the resolution authority shall be structurally separate and subject to separate reporting lines from the staff involved in carrying out the supervision function.[41] For the purposes of this requirement, the resolution authority shall

41 In the case of the Bank of England, which has four Deputy Governors (cf. Annex 4), responsibility for the Resolution Directorate lies with the Deputy Governor for Markets and Banking. Resolution is, therefore, separate from the supervision function, which is overseen by the Deputy Governor for Prudential Regulation.

adopt and make public any relevant internal rules, including those regarding professional secrecy and information sharing between the different functional areas.[42]

Should the resolution function be entrusted to the Banco de España, it could fall under the Second Deputy Governor's responsibilities.[43]

Adequate structural mechanisms (which Article 3(3) of the BRRD does not define) are intended to ensure operational independence (both from political influence and regulatory capture) and to avoid conflicts of interest. The BRRD also recognises that sharing information is crucial to safeguard financial stability and, in Article 3(4), calls for close cooperation, both where the resolution authority and the competent authority are separate entities and where the functions are carried out in the same entity.

iv. Recommendations on the Bank's financial autonomy and balance sheet position

Our recommendations are the following.

- Conduct regular projection exercises for the Bank's balance sheet and foster awareness of probable trends in key variables, such as interest rates. Using this information, identify potential strategies for managing the balance sheet to mitigate key risks. The results of these exercises should be reported to the Governing Council biannually, at least while the risk of negative financial results remains.
- Identify the core elements of a strategy to respond to a prolonged deterioration of the balance sheet under severe stress scenarios.

42 Article 3(3) of Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, provides as follows: "Resolution authorities may be national central banks, competent ministries or other public administrative authorities or authorities entrusted with public administrative powers. Member States may exceptionally provide for the resolution authority to be the competent authorities for supervision for the purposes of Regulation (EU) No 575/2013 and Directive 2013/36/EU. Adequate structural arrangements shall be in place to ensure operational independence and avoid conflicts of interest between the functions of supervision pursuant to Regulation (EU) No 575/2013 and Directive 2013/36/EU or the other functions of the relevant authority and the functions of resolution authorities pursuant to this Directive, without prejudice to the exchange of information and cooperation obligations as required by paragraph 4. In particular, Member States shall ensure that, within the competent authorities, national central banks, competent ministries or other authorities there is operational independence between the resolution function and the supervisory or other functions of the relevant authority.
The staff involved in carrying out the functions of the resolution authority pursuant to this Directive shall be structurally separated from, and subject to, separate reporting lines from the staff involved in carrying out the tasks pursuant to Regulation (EU) No 575/2013 and Directive 2013/36/EU or with regard to the other functions of the relevant authority.
For the purposes of this paragraph, the Member States or the resolution authority shall adopt and make public any necessary relevant internal rules including rules regarding professional secrecy and information exchanges between the different functional areas".
Article 3(4) reads as follows: "Member States shall require that authorities exercising supervision and resolution functions and persons exercising those functions on their behalf cooperate closely in the preparation, planning and application of resolution decisions, both where the resolution authority and the competent authority are separate entities and where the functions are carried out in the same entity".

43 Cf. footnote 41.

– Given the shift in the Banco de España's economic performance (in line with the vast majority of central banks globally), it seems appropriate to enhance the information shared with the public, particularly when changes in how results are presented might lead to misinterpretations. This should be explained to the public at large, Parliament and the Government to demonstrate that the central bank's capacity to carry out its mission has not been jeopardised and indeed the losses are the direct result of the Bank fulfilling its mandate during the crisis.

v. Recommendations on risk management and internal management

In terms of risk management, a high-level unit should be set up to report regularly to the Executive Commission and the Governing Council on the risks facing the Banco de España, the actions to mitigate them and compliance with the risk appetite metrics approved by the Council, in line with the BIS' proposals.[44]

As for internal management, we recommend engaging an external consultancy firm specialised in assessing potential improvements in resource management based on the current distribution of functions and potential improvements thereto. Notwithstanding this, a review of human resources management appears warranted, especially in terms of recruitment processes.

vi. Recommendations on accountability and transparency

Effective accountability starts with the procedures used to appoint senior staff. We recommend that the candidate for Governor personally appear before Parliament before their appointment, rather than only the Minister for Economy, Trade and Business, and that the Deputy Governor and elected members do the same. The Law of Autonomy would have to be amended to make this mandatory, but there is nothing preventing them from doing so voluntarily at the Government's or Parliament's request, or on their own initiative.

All individuals who perform governance and advisory roles at the Banco de España are subject to accountability requirements based on their specific responsibilities. In the Banco de España's strategic plans, each of its bodies must consider the transparency and accountability standards appropriate to their functions, coordinated by the Transparency and Communication Department to ensure a comprehensive and cohesive approach.

A key objective of this strategy is to make the nature and functions of the Banco de España more open and accessible, both to the media and the specialised public, which requires effective communication coupled with the necessary safeguards to avoid divulging sensitive information or misrepresenting the Bank's policies. There is no room for improvisation here, but these abilities can be developed gradually.

44 Central Bank Governance Group, BIS: "El buen gobierno en los bancos centrales". May 2009, www.bis.org/publ/othp04_es.pdf.

The role of both the European and Spanish parliaments in relation to central banks can be strengthened without having to amend European treaties or the Spanish Constitution, although in the case of the Banco de España such efforts would be more effective if laid down in a new law.

The wording of Article 10 is insufficiently prescriptive ("may be asked to appear" by Parliament and the Fiscal and Financial Policy Council of the Regional Authorities) and should be amended to regulate the hearings, making them compulsory. At the same time, the chair of the relevant parliamentary committee — or another appropriate individual depending on the agenda — could be invited to attend one or more sessions of the Banco de España's Governing Council, just as the ECB's Rules of Procedure envisage for Governing Council meetings,[45] which the Chair of the ECON Committee is often invited to attend.

The parliamentary accountability arrangements (Article 10 of the Law of Autonomy) should be reinforced and formalised, aligning them with practices in other jurisdictions and developments in the ECB's accountability mechanisms. It is particularly significant that the Governor's annual parliamentary appearance is to discuss the annual report on the economic landscape, rather than the decisions that the Banco de España has adopted, especially those regarding macroprudential policy. Indeed, during interviews with various parliamentary group representatives it was suggested that the Banco de España take a more active role, explaining both the decisions of the ECB and their implications for the Spanish economy.

In conversations with financial system representatives, it was suggested that the Bank engage more proactively in the legislative debate on issues that affect the functioning of the financial system.

The fact that the main channel of communication is with institutions that represent the public does not preclude direct communication with society at large - quite the opposite. The Banco de España should increase its presence in domestic and international fora (including universities and research centres),[46] develop a closer relationship with the media and send reports to a wider range of social and political stakeholders.

The Banco de España's information should be actively shared, not merely available. Senior staff should take the initiative in offering explanations, rather than waiting until there is public demand. The Bank should aim to anticipate information needs, not wait to be asked. More decentralised communication might help this more forthcoming approach, using locations outside Madrid, capitalising on visits to other Spanish cities and recognising the diversity inherent in a composite and plurilingual state, as suggested in various interviews.

In short, the intention would be to open the Banco de España's decisions to public scrutiny, enhancing its authority through communication rather than greater secrecy.

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45 Article 3.5 Decision of the European Central Bank of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (ECB/2004/2).

46 This is common practice at, for instance, the Bank of England (https://www.wbs.ac.uk/courses/masters/global-central-global-central-banking-and-financial-regulation/ , https://www.bankofengland.co.uk/-/media/boe/ files/ccbs/gcbq-bursary.pdf) and the Banque centrale du Luxembourg (https://www.bcl.lu/fr/media_ actualites/communiques/2023/10/central-banking/index.html , https://www.bcl.lu/fr/media_actualites/ communiques/2023/10/central-banking/index.html , https://www.tse-fr.eu/groups/bcl-tse-partnership), as well as the International Monetary Fund.

Other central banks have considered publishing the minutes of their governing council meetings. As a member of the ESCB, the Banco de España is subject to confidentiality obligations under Article 10.4 of the Statute of the ESCB and of the ECB.[47] Therefore, we suggest only publishing the minutes of meetings in which macroprudential policy decisions are taken and always at a sufficiently long delay to avoid such publication influencing the decisions of the Council members, the Governor or the Deputy Governor (or Deputy Governors should the proposal for a second Deputy Governor be implemented).

Importantly, the main reports (the Annual Report, the Financial Stability Report, the Report on Banking Supervision and the Institutional Report), along with the respective presentations by the Governor, should explain the decisions taken by the ECB and the Banco de España, with a particular focus on how those decisions impact the economic and financial landscape. In all of this the emphasis should be placed on accountability, but also on providing forward guidance.

Accordingly, consideration should be given to changing the frequency, format and content of the Annual Report. We recommend publishing a second report in September, before the draft budget is presented to Parliament, focusing on the ECB's projections and broad monetary policy guidelines. The report, which is traditionally published in April, should be more concise and not only explain the economy's performance in the previous year, but also discuss past projections and clarify any deviations. The reports published by the Bank (including the Financial Stability Report, the Institutional Report and any thematic reports) should be presented to Parliament, as they serve as essential communication and accountability tools.

It is important to communicate how new instruments are being used to respond to the changing economic landscape. It is especially important to clarify how using unconventional instruments (such as the CCyB and the various microprudential measures) aligns with the institution's mandate, since this may not be immediately obvious to public authorities or society at large.

In their interviews, Members of Parliament suggested regular reporting on the state of the financial system. This could happen once or twice annually, alongside publication of the Bank's Financial Stability Report.

As a rule, merely informing is not enough; actions must be justified. In particular, the rationale for macroprudential decisions needs to be made clear, as these are truly national and general in scope, affecting the public as a whole (unlike supervisory decisions, which target specific institutions).

This information should be rounded off with ex post thematic evaluations, such as those undertaken by the Independent Evaluations Office and similar exercises in other jurisdictions.

Ex post thematic evaluations are an important accountability tool. In the United Kingdom, parliamentary select committees – comprised of experts in economics, finance and regulation drawn from the House of Commons and the House of Lords – regularly examine key topics for central banking and the functioning of the banking and financial system. The assessments last for several months and culminate with a report based on the oral and written evidence provided by multiple experts and authorities. Not only do these thematic evaluations provide

47 The article reads as follows: "The proceedings of the meetings shall be confidential".

comprehensive and in-depth insights into the subject areas, they also help to structure the hearings of the Governor of the Bank of England and other regulators, introducing greater critical scrutiny.

Transparency on matters that could impact supervised institutions or the autonomy of decision-making bodies is controversial. However, democratic principles call for greater transparency from the Banco de España, provided its independence is not undermined. Such transparency is particularly necessary when it comes to use of macroprudential instruments and areas where the Banco de España advises the Government.

V. Conclusion and summary of the recommendations

Central bank good governance requires that central banks operate independently on all fronts: political, economic, legal and social. Such independence is defined by the decision-making mandate conferred on the institution by the general public and, precisely because this authority is delegated, it should be exercised with the utmost transparency and active accountability. In order for this independence to last over time and persist during crises, it is key that central banks exercise their functions efficiently and earn and keep the trust placed in them.

The diagnosis indicates that overall the Banco de España is perceived to have acted independently, making its decisions on technical grounds, and to have the capabilities to discharge its functions appropriately. While a sizeable portion of NCBs' mandate for monetary policy and the supervision of significant credit institutions has been transferred to the ESCB, as a result of the Basel agreements in the wake of the 2007-09 global financial crisis, their mandate has expanded and become more complex, especially in the financial supervision and regulation realm, most notably vis-à-vis macroprudential policy and, in particular, the determination of the CCyB and other capital buffer rates and the possible introduction of BBM.

While the independence requirements are similar in these fields to those that warrant independence for the democratically delegated conduct of monetary policy, transparency and accountability are limited by the supervised institutions' right to privacy. A further challenge in this area is that there is no measure of compliance with financial stability goals, unlike in the case of inflation control, where price indices fulfil this purpose. Even with regard to assessing the credit cycle, there are multiple indicators that do not always point in the same direction. However, the grounds for discretion and confidentiality in microprudential supervision and the provision of emergency liquidity assistance do not apply to macroprudential measures. In the macroprudential arena, accountability mechanisms and greater transparency need to be appropriately coordinated.

While the assessment of the Banco de España's governance is generally favourable, various improvements were identified while preparing this report, some of which require legislative amendments.

i. One area of possible improvements is related to changes to the Bank's decision-making bodies.
   - First, we suggest amending the process for selecting the Bank's senior officials, which poses risks to its independence from the Government and could be made more transparent. To mitigate these risks we recommend that the appointment of the Governor, Deputy Governor and elected Governing Council members consider a hearing before the Congress of Deputies and, ideally, its approval or, at least, its non-objection.

- Second, power appears to be overly concentrated in the Governor, at a time where central bank governance has gradually pivoted towards more collegiate models. While in practice there is nothing in the Law of Autonomy of the Banco de España preventing greater involvement by the Governing Council or members of the Executive Commission, we consider it advisable that the Law of Autonomy be amended to create a Second Deputy Governor with subrogation and other functions, either directly delegated or by amending the Internal Rules of the Banco de España. Further, we recommend formalising the involvement of the First Deputy Governor in the European Supervisory Board, which could be achieved by changing the Internal Rules.

- A third recommendation on the decision-making bodies relates to the Executive Commission, namely the full and exclusive dedication of Governing Council members.

- With regard to elected Governing Council members, we suggest that their term of office remain six years, but that their renewal be staggered, one per year, and that a hearing before Parliament be required. Furthermore, we find that ex officio members' voting rights differ from international practices and sow doubts over independence. We therefore recommend that they remain on the Governing Council, but only as non-voting members.

- In a similar vein, we find that the Governor's and Deputy Governor's terms of office are shorter than their peers' terms on the decision-making bodies of the ESCB. We therefore recommend extending them to eight years with no option for reappointment.

- Except for formalising the involvement of the First Deputy Governor in the European Supervisory Board, these recommendations require changes in the Law of Autonomy of the Banco de España, although, in the case of the hearing before Parliament of the candidates for senior officials mentioned above, this could be achieved through a voluntary agreement with Parliament.

ii. A second set of recommendations is related to the government advisory function. No shortcomings requiring major changes were identified in this respect, except that – given that this function may cause some controversy from the point of view of its scope and extension (at the Bank's own initiative) to other economic areas – we recommend that the results of the studies be presented as research papers, whose responsibility rests on the authors, and not as an expression of the Banco de España's official stance, without prejudice to their findings being used and cited in official publications such as the Annual Report or the Financial Stability Report.

Given that this is a topic that may cause some concern from the standpoint of the use of the Bank's resources and its possible politicisation, we recommend linking these studies, directly or indirectly, to the Bank's mandates and, in general, avoiding mandatory pronouncements on public policies that are not directly related to such mandates. We also recommend launching a review of the scope of this function, in which, in addition to the Governing Council of the Bank, other State powers participate. Likewise, we recommend consulting a range of actors and bodies to define the research agenda.

iii. A third group of recommendations refers to the supervisory function and preserving financial stability. This is an area in which new mandates and tools have been included, especially in the macroprudential realm, which is now one of the Banco de España's most important responsibilities. As a result, there are several recommendations:

   – First, we recommend focusing the Financial Stability Report analysis, decision-making and publication processes on macroprudential policy, establishing a half-yearly financial policy meeting. The analysis and assessment of the credit cycle and the staff's recommendations on the activation and setting of rates for the different policy instruments (e.g. the CCyB) should be presented and decisions in this regard should be adopted at this formal Governing Council meeting. These decisions should be announced at the end of the meeting, followed by publication of the Financial Stability Report, which would have to contain all the background data considered to support those decisions. This would deliver on the mandate in this respect with full transparency over the decisions.

   – We also recommend that the possible reform of the Law of Autonomy of the Banco de España include a review of the regulatory and supervisory framework, clearly stipulating the macroprudential and resolution powers. Opting for a single resolution authority would be desirable.

iv. A fourth set of recommendations relates to preserving the financial autonomy and the financial situation of the Banco de España. While it has operated well to date, the sizeable losses on the income statement may cause reputational risks and, were they to persist as a result of global economic developments, could have a significant impact on the Bank's financial position. Three recommendations are proposed as a result:

   – Conduct regular balance sheet projections and analyses of the balance sheet's sensitivity to various shocks. The results of these exercises should be reported to the Governing Council one or twice a year and published.

   – Define possible strategies for facing the possibility of the financial position becoming significantly impaired, should this be considered to affect the Bank's ability to deliver on its mandate, which should be assessed regularly.

   – Improve the information disclosed to the public in this regard, explaining as clearly and plainly as possible their causes and the effects on the Bank's ability to deliver on its mandate.

v. Fifth, we propose strengthening internal management to improve efficiency and the resilience to the multiple risks to which the Banco de España is exposed. In this respect, we have two recommendations:

   – The creation of a General Management Office in order to maximise efficiency in resource management, particularly in relation to all the institution's business and support areas. Nevertheless, we recommend conducting an extensive review of Human Resources processes, where important shortcomings are identified. The General Manager would report regularly to the Executive Commission and would report directly to the Governor. Their appointment should be approved by the Executive Commission and ratified by the Governing Council.

   – Create a Directorate General Risks with the mission of defining risk policies, coordinating and leading the identification of risks and defining mitigation and prevention policies and the processes to implement them. This Directorate General, which would report directly to the Governing Council, should, together with the latter, coordinate the process to define the Governing Council's risk appetite metrics and regularly report to the Executive Commission, with a frequency to be determined, and to the Governing Council.

vi. The last group of recommendations refers to transparency, accountability and communication-related topics, beyond those already mentioned in other sections:

   – If a decision is made to amend the Law of Autonomy of the Banco de España, we recommend relaxing and increasing the Governor's appearances before Parliament, and not limiting them to the presentation of the Annual Report. The Governor's appearance to present the Financial Stability Report, for example, is voluntary.

   – It is important that transparency and accountability pervade the institution; we therefore recommend that, in an instance involving all staff, such as the Strategic Plan, all the accountability issues and persons responsible in each area be identified. Thematic parliamentary research should also be conducted on cross-cutting topics of interest, such as digitalisation, climate change or the sustainability of public debt.

   – The leadership and professional development training programmes should include activities to develop communication skills, so that the Bank's universe of potential spokespersons gradually increases.

   – The Banco de España's information should be actively shared. The Bank should aim to anticipate information needs, not wait to be asked. More decentralised communication is also required. This would involve communicating from locations beyond Madrid, capitalising on visits to other Spanish cities and recognising the diversity inherent in a composite and plurilingual State.

   – We recommend publishing the minutes of the Governing Council meetings where macroprudential policy decisions are made. The minutes would be anonymised and published with a sufficiently long lag as to not influence decision-making. All this without prejudice to the statements and reports that are published as a result of these decisions.

– Regarding the Annual Report and the Financial Stability Report, we recommend thoroughly reviewing their content, approach and language, so that they serve to educate the public on the factors that will shape the policies within the Banco de España's remit during the current year and in the near future. This requires them to be more forward-looking, much shorter and to be reader-friendly, eschewing excessive use of acronyms that only specialists are familiar with.

Annex 1: Additional reflections on central bank independence and accountability. Central bank independence categories

The idea that central bank independence is another case of bureaucratic delegation is defended, among others, by Paul Tucker,[48] on the basis that monetary policy and banking supervision are mainly technical issues that, in order to be successful, should remain separate from political cycles. Central banks make decisions based on the knowledge available, but these decisions are not neutral (there are trade-offs and weighing them is not a simple technical matter) and may be questioned, even if other branches of government cannot revoke them. There is some debate and many opinions about what should be understood by stability (be it of the price, financial or social variety, in general). These considerations are valid for decisions taken within the scope of each central bank's mandate, but if such mandates are transgressed, the democratic institutions should contest them, unless there has been a legal change backing them.

Although central banks are not subject to electoral pressure, they should still be concerned about their reputation and public support for their autonomy. In 2008 bank bail-outs were carried out in some countries in coordination with the Treasury and other government agencies. During the 2020 pandemic, some central banks broke certain taboos, facilitating lending to governments and troubled firms, and they did so backed by broad social consensus.

A central bank is not democratic in the sense of being elected directly, but it can be to the extent that it explains its decisions. One of the features of a democratic government is precisely the absence of arbitrariness in its decisions. From this democratic viewpoint, the fact that a central bank is autonomous and independent means that it should justify its decisions and explain why one option was chosen over another, considering that even very technical decisions such as monetary policy and banking supervision decisions can be open to several possibilities and may be adopted amid discussions where different opinions are expressed. The public at large cannot make these decisions themselves but should be aware of the terms discussed and the reasons behind their adoption.

This issue requires a balance to be struck, but this cannot be achieved by maintaining the technocratic bias that usually characterises institutions of this kind. It should also be borne in mind that in the current international setting there are pressures to erode central bank autonomy in the name of democracy. Consider President Trump's proposal to limit the independence of regulatory and financial supervision agencies. Under the pretext of ensuring accountability, it is in fact seeking greater presidential control.[49]

48 Paul Tucker, "Unelected Power: the Quest for Legitimacy in Central Banking and the Regulatory State", Princeton University Press, 2018.

49 President Trump's Executive Order of 18 February 2025, Executive Order on Ensuring Accountability for all Agencies (https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-accountability-for-all-agencies/), revisits the unitary executive theory. All administrative agencies are part of the Executive branch and have been authorised by Congress. The Executive Order leans towards presidential supervision as a way of being accountable to the Executive branch, to the detriment of independence. The Order preserves the independence of monetary policy, recognising that it is highly specialised, but not that of banking and financial regulatory policy.

It is true that central banks are able to make better decisions because they are protected from electoral pressure and, in principle, their decisions differ from political representatives' and the public's, but this does not mean that they are completely isolated from other State institutions. Formal independence and some degree of coordination with governments can go hand in hand. Indeed, it could improve decision quality and legitimacy when facing collective challenges. In fact, Article 127(1) of the Treaty on the Functioning of the European Union (TFEU) states that, without prejudice to the primary objective of price stability, the ESCB also aims to "support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union". The interpretation of this mandate is that the objective of supporting the Union's general policies is a "secondary" objective, although the article does not use this term.

Similarly, central banks have a range of mechanisms to achieve this alignment without compromising their autonomy, such as the advisory function or taking into consideration the economic policies of the governments from which they are independent. Institutional coordination between governments and central banks is even more necessary on matters that are not among their primary objectives. A central bank is part of society's democratic architecture and should exercise its autonomy while being mindful that it is part of that general governance.

Article 7 of the Law of Autonomy defines the objectives and functions for whose fulfilment the Banco de España shall act independently. For the purposes of this paper, the analysis focuses on those more directly linked to the implementation of monetary and financial policies, which can be summarised as "maintaining price stability" (2), helping "define and implement the monetary policy of the Community" (3a), "promot[ing] the smooth functioning of the payment system" (3d), discharging "all other functions deriving from its status as an integral part of the ESCB" (3f), "promot[ing] the smooth operation and the stability of the financial system..." (5b), "advis[ing] the Government, and prepar[ing] any reports and studies deemed necessary" (5e), "compil[ing] and publish[ing] statistics related to its functions and assist[ing] the ECB in the compilation of the statistical information needed for the fulfilment of the ESCB's functions" (5f) and "carry[ing] out any other responsibilities which it is assigned by law" (5g).

Measuring a central bank's independence is not an exact science. The level of independence is determined by a series of organic and functional safeguards on the basis of which independence indices have been constructed.[50]

A provision stating that the central bank is independent from the Government's political stance and that monetary policy decisions will not be subject to political control does not suffice. It must be accompanied by other rules safeguarding personal and professional independence (appointment and suitability procedures, mandate duration, dismissal processes), institutional independence (such as the regulation of conflicts of interest, Treasury/Ministry of Economy relations), functional independence (such as monetary financing prohibition, decision-making powers, regulatory powers) and financial independence.

50 In Rosa Lastra's 1992 article on the ESCB's independence ("The Independence of the European System of Central Banks", *Harvard International Law Journal,* Spring 1992), she divides such safeguards into "organic and functional (including financial autonomy and regulatory powers) safeguards".

As regards these safeguards, independence categories or criteria have been set that are included in the "convergence reports"[51] that assess the compatibility of national legislation in non-euro countries with the TFEU (Articles 130 and 131[52] and Article 123 regarding the prohibition on monetary financing) and with the Statute of the ESCB and of the ECB (in particular, Article 14). These categories or criteria were first established by the European Monetary Institute in 1995 and were subsequently adopted by the ECB in its 1998 convergence report. According to these "convergence reports", four facets of independence are assessed: functional, institutional, personal and financial.

Institutional independence in particular is especially important in the European Union, as it not only aspires to achieve depoliticisation, but also denationalisation in the functions in which the ECB has exclusive competence.

Personal independence also has a (denationalised) EU dimension. Article 10.2 of the Statute of the ESCB and of the ECB defines the ad personam participation of the members of the Governing Council of the ECB. Said personal independence is protected by Article 14.2 of the Statute of the ESCB and of the ECB, which provides that NCB governors may be relieved from office only if they no longer fulfil the conditions required for the performance of their duties or if they have been guilty of serious misconduct. The competent court in the event of suspension of a governor is the Court of Justice of the European Union.[53] The mandate of a governor of an NCB will be no less than five years.

Although not regulated by the Law of Autonomy, these four dimensions of independence implemented by Article 130 of the TFEU in the convergence reports are directly applied in the case of the Banco de España due to the primacy of EU law.

51 Cf. Convergence Report 2024 on Bulgaria, Czech Republic, Hungary, Poland and Sweden (prepared in accordance with Article 140(1) of the TFEU: https://economy-finance.ec.europa.eu/document/download/a3bb3063-6478-44a5-a270-933e49fb304b_en?filename=ip294_en.pdf. Denmark is not included as it negotiated an opt-out arrangement.

52 Article 131 provides that: "Each Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB."

53 This was debated in the European Court of Justice in the Rimšēvičs case regarding the suspension of the Governor of Latvijas Banka.

Annex 2: The legal framework for the Banco de España's independence

A central bank is a State institution whose mission is to preserve the value of money, the stability of the banking system and the smooth functioning of the payment system. The autonomy (independence) of the Banco de España is a core and constituent part of its organisation within the Spanish State and as a part of the Eurosystem.

The ECB is a unique case as it is a central bank without a State. NCBs – like the Banco de España – do have a State into which their legislation fits and have legal personality. The ECB has legal personality, but the Eurosystem and the ESCB do not.[54]

The Banco de España's legal form is special, as is the case for almost all central banks, which exercise (i) banking functions (as a "bank", both a bank of the Treasury and a bank to banks) and (ii) governmental functions (as an administrative "agency"). And, in common with other Eurosystem NCBs, the Banco de España's legal form is governed by EU and Spanish legislation. NCBs are national authorities that fulfil European functions.

Since the establishment of the monetary union in 1999 and the banking union in 2014, NCBs have two types of functions: European and domestic. Article 14(3) of the Statute of the ESCB and of the ECB establishes that, with regard to the transferred functions (attributed to the ECB), NCBs will act in accordance with the instructions of the ECB, to which it must submit all pertinent information. And, under Article 14(4) of the Statute, NCBs remain responsible for the functions that are not part of the functions of the ESCB (national functions), unless the ECB Governing Council finds, by a majority of two thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. This dual nature of the NCBs, as members of the ESCB/Eurosystem, on the one hand, and as a national institution, on the other, is a source of legislative complexity.[55]

The Banco de España is a State institution with its own special and exclusive position within the Spanish legal system, as it is governed, primarily, by the TFEU and other EU legal provisions, which have primacy over any national legislation, and, second, by national legislation, in particular, Law 13/1994 of 1 June 1994 of Autonomy of the Banco de España and the Internal Rules of the Banco de España.

Articles 1 and 4 of the Law of Autonomy of the Banco de España clarify what the Banco de España's independence from the central government means. According to Article 1(2), the Banco de España "shall not be subject to the terms of Law 6/1997, of April 14, on the

54 In a 2019 European Court of Justice judgment on the personal independence of the Governor of Latvijas Banka (Rimšēvičs case, §69, https://curia.europa.eu/juris/document/document.jsf?docid=211050&doclang=EN), the Court explains: "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."

55 Cf. Rosa Lastra, "The Division of Responsibilities between the European Central Bank and the National Central Banks within the European System of Central Banks", ***Columbia Journal of European Law***, Vol. 6, No. 2, Spring 2000, pp. 167-180.

Organisation and Functioning of the Administration". In accordance with Article 4(1), "The rules governing the State budget, property and contracting shall not apply to the Bank unless otherwise specifically indicated."

In addition to these articles in the Law of Autonomy, the Banco de España's special institutional position within the Spanish legal system is also acknowledged in Law 40/2015 on the Legal Regime of the Public Sector.[56] which also clearly states that the TFEU prevails over national law.

With the establishment of the monetary union and the banking union, the fundamental tasks of monetary policy design and conduct, the smooth functioning of payment systems, the issuance of legal tender banknotes and the resolution of significant credit institutions were transferred to the EU Member States so that they are conducted independently by the ECB and the Single Resolution Board,[57] albeit with operational decentralisation when performing such functions.

Consequently, the Banco de España's main functions are conducted as an ESCB/Eurosystem NCB, as an NCA of the SSM and as a preventive resolution authority of the Single Resolution Mechanism (SRM). This necessarily means that the Banco de España's institutional and

56 According to the 19th Additional Provision of Law 40/2015: "The Banco de España, as a national central bank, shall be governed, primarily, by the Treaty on the Functioning of the European Union, the Statute of the European System of Central Banks and of the European Central Bank, Council Regulation (EU) No 1024/2013 of 15 October 2013 and Law 13/1994 of 1 June 1994 of Autonomy of the Banco de España. The provisions of this Law shall be applicable to all matters not regulated in the above-mentioned laws, where compatible with the Bank's nature and functions." The opinion of the Council of State of 9 October 2008 (https://www.boe.es/buscar/doc.php?id=CE-D-2008-1479) analyses the nature of the Banco de España, comparing it with the National Securities Market Commission and other independent administrative authorities: "That said, although the CNMV and the Banco de España share some predicable characteristics of the different institutions and bodies comprising the category of the so-called independent authorities (frequently identified with the supervisors, nowadays incorrectly dubbed regulators), when assessing the appropriateness of extending to the decision-making bodies of the CNMV the rules applicable to those of the Banco de España, the latter's peculiar institutional position in the Spanish legal system should not be overlooked. Above all, it should be borne in mind that, as stated in the preamble of Law 13/1994 of 1 June 1994, the Banco de España is a special institution within the administration; it is subordinate to the Government in general terms but nonetheless enjoys full autonomy in the area of monetary policy, so as to better defend the objective of price stability set out in the Law itself. Further, the Banco de España is an integral part of the European System of Central Banks (ESCB) and is directly subject to the provisions of the Treaty (…) and to the Statute of the ESCB (Article 1(3) of Law 13/1994). A reflection of this special nature is the inapplicability to the Banco de España of the provisions of Law 6/1997 of 14 April 1997 on the Organisation and Functioning of the Administration, as per Article 1(2) of Law 13/1994 and the Eighth Additional Provision of Law 6/1997. This provision contrasts with that contained in the Tenth Additional Provision of the same Law, which establishes its supplementary application to the CNMV, the Nuclear Security Council, the National Energy Commission, the Telecommunications Market Commission and the National Competition Commission, among other bodies. A systematic and teleological interpretation of this provision allows us to conclude that the institutions included therein are similar in nature, but that theirs is undoubtedly different from the Banco de España's own exclusive nature. Precisely because of this peculiar nature, Article 4(1) of Law 13/1994 establishes that "The rules governing the State budget, property and contracting shall not apply to the Bank unless otherwise specifically indicated."

57 The establishment of the SRM in accordance with Article 114 of the TFEU and, in particular, Article 18 of the SRMR, takes into account the powers of the Commission and the Council and the Meroni doctrine. According to this case law, the delegation of EU powers to an EU agency is limited to clearly defined executive powers that must be supervised by the delegating authority, delegated by express decision and may not entail discretionary powers. Cf. Special Report of the European Court of Auditors 22/2020, "Future of EU agencies – Potential for more flexibility and cooperation", https://op.europa.eu/webpub/eca/special-reports/agencies-performance-audit-22-2020/en.

operational legal framework is largely determined by EU law, in particular the TFEU, the Statute of the ESCB and of the ECB, the Single Supervisory Mechanism Regulation (SSMR) and the Single Resolution Mechanism Regulation (SRMR).

As the Governor explained in his appearance before the Parliamentary Economic Affairs, Trade and Digital Transformation Committee (21 November 2024), of the Bank's 11 functions, monetary policy powers are exclusive to the ESCB, while with regard to the solvency and soundness of the financial system and oversight of the smooth functioning of the payment system, there are European and national powers. In the case of monetary policy, the Governor participates in the collegiate decision-making of the Governing Council of the ECB, and the Banco de España, as the bank to private banks, conducts monetary policy in Spain (in accordance with the operational decentralisation principle).

Only in matters not provided for in EU law and in the Law of Autonomy of the Banco de España may other Spanish legal provisions be applicable to the Bank, provided that they are compatible with its legal framework and are compliant with European legislation.

The Banco de España – and its autonomy – were constitutionalised "through the back door" when the Spanish Government ratified the Treaty on European Union (TEU), which entered into force in December 2009 (Lisbon Treaty), recognising the ECB as one of the seven European institutions.[58]

Article 130 of the TFEU (and Article 7 of the Statute of the ESCB and of the ECB) broadly defines the independence of the ECB and the NCBs from the national and European authorities:

> *When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body.*
>
> *The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.*

When Article 130 of the TFEU was drawn up, the ECB was not tasked with banking supervision. Therefore, whether Article 130 protects "supervisory independence" in the same terms as it protects "monetary policy independence" has been a subject of debate.[59]

Article 1(5) of the Regulation establishing the European Banking Authority lays down the principles of "independence, objectiveness, non-discrimination and transparency (...) and

58 Article 13 of the TEU lists the seven EU institutions: the European Parliament, the European Council, the Council, the European Commission, the Court of Justice of the European Union, the European Central Bank and the Court of Auditors. It would have been desirable for the Spanish Constitution to have included the Banco de España as a constitutional body, (as it did with the Spanish Court of Auditors) in order for it to be regulated by an organic law. However, as it is not a constitutional body, the Banco de España may be modified by an ordinary law.

59 Cf. Yves Mersch, "International Trends in Central Bank Independence: the ECB's Perspective", ECB, Frankfurt, 12 November 2019.

proportionality". And a recent European Supervisory Authorities report develops some joint criteria for the independence of the supervisory authorities.[60]

The new CRD VI,[61] whose deadline for transposition into Spanish law expires on 10 January 2026, enshrines supervisory independence in similar terms to the independence of the ECB and the NCBs.

Lastly, Article 131 of the TFEU requires the Member States to ensure that their national legislation is compatible with Union law.

> *Each Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB.*

The wording of Article 131 of the TFEU makes it clear that the definition of NCB independence also depends on national legislation, with the requirement that such legislation be compatible with the primary law of the ECB.

60 Cf. https://www.eba.europa.eu/publications-and-media/press-releases/european-supervisory-authorities-publish-joint-criteria: "Supervisory independence is key to ensure that fair, effective and transparent decisions are taken by appropriately resourced supervisory authorities. (...) The independence criteria are organised around four key principles:
(1) Operational independence: so supervisory authorities operate without any form of undue influence from the supervised sector and the government, have adequate legal powers and operational resources.
(2 Personal independence: with transparent rules for the appointment, selection and removal of members of the supervisory authority's governing body, and high ethical standards for members of the supervisory authority's staff and governing body.
(3) Financial independence: with sufficient financial resources for supervisory authorities to fulfil their mandates.
(4) Accountability and transparency: so supervisory authorities conduct their tasks in a transparent and accountable manner."
Cf. also the EBA Report on the Supervisory Independence of Competent Authorities: https://www.eba.europa.eu/sites/default/files/document_library/Publications/Reports/2021/1022092/EBA%20report%20on%20supervisory%20independence%20of%20competent%20authorities.pdf.

61 Directive (EU) 2024/1619 of the European Parliament and of the Council of 31 May 2024 (https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401619) amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks. Cf. Annex 2. To comply with this Directive, Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions must be amended.

Annex 3: Central banking and climate change

The ECB's announcement in July 2022 that it was going to include the climate agenda in its strategy was greeted with controversy. Climate change is of the utmost importance at national and international level alike. Yet it was widely ignored, in the case of the ECB, until the Paris Agreement of 2015, whose Article 2 requires "making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development". Since then, most central banks have adopted more initiatives in this direction, such as the creation of the Network for Greening the Financial System.

Climate change and sustainability are one of the major challenges for national governments and the international community. When it comes to distributing responsibilities for these fundamental tasks – fighting climate change and preserving nature and biodiversity –, there is no doubt that a political commitment through an appropriate fiscal and tax policy is required. Granting subsidies or financing under favourable conditions to activities linked to combatting climate change (or preventing the loss of biodiversity and the destruction of ecosystems) is a task for the Government and not for central banks, given that there are multiple externalities that distort private and public decisions in these arenas. This falls well and truly within the scope of decisions on resource allocation, with winners and losers, which requires essentially political decisions that should be taken by institutions with a direct popular mandate for these topics, and this far exceeds the powers delegated to central banks.

In "Sustainable Central Banking", Rosa Lastra and Christina Skinner discuss the divergence between the Federal Reserve System, the ECB and the Bank of England when tackling these issues and conclude (using a traffic light analogy): red for using a monetary policy approach for climate change, amber for using macroprudential policy and green for using microprudential supervision.

In our opinion, there is considerable room for central bank action on climate topics in the financial stability and government advisory arenas:

a. Climate change could affect, and is already affecting, real and financial asset values, either because of the direct impact of natural disasters linked to the climate, the actions to mitigate climate change (e.g. in the share prices of oil and coal companies) or adaptation needs. Establishing rules that require disclosures about the incorporation of these risks (and opportunities) in credit and investment decisions, in addition to the supervision of compliance with such rules, falls within the remit of central banks or financial supervisors if this function lies with bodies other than central banks.

b. With regard to advising governments, central banks are typically the best equipped technically to construct models that relate climate variables to the economy's medium and long-term performance and can thus contribute to the design of public policy.

An additional factor to consider is the risk facing central banks today that politicians try to shirk their responsibility when faced with unpopular decisions, handing them over to “independent” bodies, forcing them to lose credit with the electorate. In the long run, this will ultimately weaken central banks in the areas within their legitimate remit.

Annex 4: Central bank appointments and terms of office

The **ESCB** comprises the ECB and the NCBs. The ECB has three governing bodies: the Executive Board, the Governing Council and the General Council. The Executive Board consists of six members, including the President and the Vice-President, who are appointed by the European Council, acting by a qualified majority for an eight-year term that cannot be renewed. The Governing Council is the ECB's main decision-making body. The Governing Council consists of the six members of the Executive Board, plus the governors of the NCBs of the 20 euro area countries. Each member of the Governing Council has one vote, subject to the requirements of Article 10 of the Statute of the ESCB and of the ECB. The General Council comprises the President and Vice-President of the ECB and the governors of the 27 NCBs of the EU Member States, including representatives of all euro area and non-euro area countries in the EU. The General Council's main task is the Convergence Report.

With the transfer of supervisory responsibilities to the ECB in 2014, the Supervisory Board was created as internal body of the ECB. It proposes draft decisions relating to the supervision of credit institutions in the ECB's purview to the Governing Council under the non-objection procedure. The Supervisory Board comprises a Chair (appointed for a non-renewable term of five years), a Vice-Chair (chosen from among the members of the ECB's Executive Board), four ECB representatives and representatives of national supervisors. If the national supervisory authority designated by a Member State is not an NCB, the representative of the competent authority can be accompanied by a representative from their NCB. In such cases, the representatives are together considered as one member for the purposes of the voting procedure. All members of the Supervisory Board must act in the interest of the Union as a whole.

For Germany, Estonia, Luxembourg, Malta, Austria and Finland, there are representatives of the NCBs and other banking supervisors. For Belgium, Bulgaria, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, the Netherlands, Portugal, Slovenia and Slovakia, there are only representatives of the NCBs. Most NCB representatives hold the rank of Deputy Governor, although in the case of the Banco de España, the current representative holds the position of Director General, not Deputy Governor. The Supervisory Board does not have decision-making powers but prepares decisions taken formally by the ECB's Governing Council. There is also a steering committee that supports the activities of the Supervisory Board and prepares the Board's meetings. The Steering Committee is composed of the Chair of the Supervisory Board, the Vice-Chair of the Supervisory Board, one ECB representative and five representatives of national supervisors (the latter are appointed by the Supervisory Board for one year based on a rotation system that ensures a fair representation of countries).

In the **United States,** the Federal Reserve System comprises the Board of Governors and the Federal Open Market Committee (FOMC) (both government bodies based in Washington, D.C.) and the 12 Federal Reserve Banks. The seven members of the Board of Governors of the Federal Reserve System are nominated by the President and confirmed by the Senate. Board members are elected for a non-renewable term of up to 14 years. However, the Federal Reserve

System Chair may serve multiple four-year terms during their 14-year term as a Governor.[62] A member's term on the Board of Governors is not affected by their status as Chair or Vice-Chair. The FOMC comprises up to 12 members: all members of the Board of Governors (maximum of seven), the President of the Federal Reserve Bank of New York and four of the 11 remaining Federal Reserve Bank presidents, who serve one-year terms on a rotating basis. The 12 Federal Reserve Banks are located in the 12 Federal Reserve Districts: Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas and San Francisco.

The Federal Reserve Banks are owned by the member commercial banks and supervised by the Board of Governors.[63] Each of the 12 Federal Reserve Banks is headed by a President appointed by the Bank's board of directors, comprising nine members familiar with the region's economic conditions.[64] Presidents of the Federal Reserve Banks can be re-elected every five years following the same process by which they were appointed. They can serve until the age of 65 (unless appointed after the age of 55, in which case they can serve for up to ten years, with a cap at age 75).

The Governor of the **Bank of England** and the four Deputy Governors are appointed by the Crown following the advice of the Prime Minister and the Chancellor of the Exchequer. The Governor serves for a non-renewable term of eight years .[65] It has become customary to hold pre-appointment hearings before the Treasury Select Committee following the Governor's nomination, although they were not stipulated by the Bank of England Act 1998. The Treasury Select Committee sends the Governor a written questionnaire in which they outline their experience and views relating to the role before the oral hearing that is held before taking office.

The Bank of England's governing bodies are the Court of Directors and four committees. The Monetary Policy Committee (MPC) makes monetary policy decisions and is comprised of nine members: the Governor, three Deputy Governors (for Monetary Policy, Financial Stability, and Markets and Banking), the Chief Economist and four external members appointed by the Chancellor for a maximum of two three-year terms, following a public announcement, with an Advisory Assessment Panel organised by the Treasury to assist the Chancellor in the selection. The Bank's Chief Economist is appointed by the Court of Directors following the Governor's consultation with the Chancellor. The House of Commons Treasury Committee holds hearings on the appointment of each new external member of the MPC.

62 "A full term is fourteen years. One term begins every two years, on February 1 of even-numbered years. A member who serves a full term may not be reappointed". https://www.federalreserve.gov/aboutthefed/bios/board/default.htm.

63 Cf. https://www.federalreserve.gov/aboutthefed/structure-federal-reserve-system.htm and https://www.federalreserve.gov/faqs/how-is-a-federal-reserve-bank-president-selected.htm. "Member banks hold stock in the Federal Reserve Banks and earn dividends. Holding this stock does not carry with it the control and financial interest given to holders of common stock in for-profit organizations. The stock may not be sold or pledged as collateral for loans. Member banks also elect six of the nine members of each Reserve Bank's board of directors". https://www.stlouisfed.org/in-plain-english/who-owns-the-federal-reserve-banks.

64 Cf. https://www.federalreserve.gov/faqs/how-is-a-federal-reserve-bank-president-selected.htm.

65 Cf. the 2023 House of Lords report on the Bank of England: https://committees.parliament.uk/publications/42289/documents/210852/default/.
With the approval of the Financial Markets Services and Markets Act 2023, a new financial infrastructure committee was created, the Financial Market Infrastructure Committee.

The Financial Policy Committee (FPC) makes macroprudential policy decisions and consists of 13 members: the Governor, the four Deputy Governors, the Executive Director for Financial Stability Strategy and Risk, the Chief Executive of the Financial Conduct Authority (FCA), one non-voting member and five external members. The Prudential Regulation Committee (PRC) is responsible for prudential regulation and supervision and has 12 members, including the Governor, three Deputy Governors (for Financial Stability, Prudential Regulation, and Markets and Banking), the Chief Executive of the Financial Conduct Authority, a member appointed by the Governor with the approval of the Chancellor and six external members appointed for a three-year term.

The Treasury Committee also conducts hearings prior to the appointment of MPC, FPC and PRC members, as well as of the Court of Directors Chair.

In **Japan,** according to Article 23 of the Bank of Japan Act: (1) The Governor and the Deputy Governors are appointed by the Cabinet, subject to the consent of the House of Representatives and the House of Councillors. (2) The Council members are appointed by the Cabinet, subject to the consent of the House of Representatives and the House of Councillors, from among persons with relevant expertise including experts on the economy or finance.

Article 24 of the Bank of Japan Act provides that: (1) The terms of office are five years for the Governor, a Deputy Governor and a Council member; four years for an auditor and an executive director; and two years for a counsellor; provided, however, that if a vacancy occurs in the office of the Governor, Deputy Governor or council member, the term of office for a substitute Governor, Deputy Governor or Council member is limited to the remaining term of their predecessor. (2) The Governor, Deputy Governor, Council member, auditor, executive director and counsellor may be re-elected.

In **Canada,** the Governor is appointed by the Board of Directors, with the approval of Cabinet, for a seven-year term. The Governing Council consists of the Governor, the Senior Deputy Governor and the Deputy Governors. The Executive Council is made up of the Senior Deputy Governor, the Chief Operating Officer, the Executive Director of Policy, the Executive Director of Payments, Supervision and Oversight and the Advisor and Chief of Staff to the Governor.

In **Sweden,** Sveriges Riksbank has two governing bodies: the Executive Board and the General Council. The Executive Board is responsible for Sveriges Riksbank's activities, including monetary policy and financial stability. The five members of the Executive Board (including the Governor) are appointed by the General Council for a period of five or six years and may be reappointed once for another five or six-year term. The General Council, appointed by Parliament, is responsible for monitoring the work of the Executive Board and the activities of the Bank. The Chair and Vice-Chair of the General Council have the right to attend Executive Board meetings, but are not allowed to submit proposals or take decisions in order not to jeopardise the Bank's independence. The General Council also has an audit unit that, among other things, examines how the Executive Board members exercise their duties. This work is carried out by a chartered accountant.[66]

66 A study by Davide Romelli published in October 2022 in Economic Policy draws up a central bank legal independence index based on appointments and other indicators: https://doi.org/10.1093/epolic/eiac011.

The former Governor of the Banco de España, Pablo Hernández de Cos, reviewed the terms of office of the Governors in other European countries in a report entitled "The independence of economic authorities and supervisors. The case of the Banco de España".[67] Of the 19 central banks examined (Eurosystem NCBs, the ECB and the Bank of England), only the Banco de España, the ECB and the Bank of England have non-renewable terms of office. The terms of office at other Eurosystem NCBs are renewable. However, while the Governor's term of office at the ECB and the Bank of England is eight years, in Spain it is six.

In **Chile,** the Central Bank's Organic Law enacted in 1989 provides that the Board is responsible for the Bank's management and policy decisions. The Board has five members, who serve on a full-time and exclusive basis and are appointed for a 10-year term of office under a staggered system whereby a Board member is renewed every two years. In the event of a vacancy, a new member is appointed for the remaining term of office. The President of the Republic nominates Board members, who must be ratified by the Senate (in only one instance was an appointment rejected, although it was subsequently approved on the insistence of the Executive branch). The Chair of the Board (and Governor) is the Central Bank's representative and official spokesperson. The Chair is appointed by the President of the Republic for a five-year term of office or less if their term as Board member concludes first. Although technically the Chair is a primus inter pares, in practice and by tradition they have the closest relationship with the Bank's technical teams on a day-to-day basis. Decisions are taken by simple majority. If a Board member is absent, the Chair has the casting vote in the event of a tie.

The Organic Law does not prohibit re-election, but in practice this has only occurred when a board member was nominated to cover a vacancy.

The system has performed well, responding efficiently and promptly to extreme events, such as the 2008-09 global financial crisis, the social upheaval at end-2019, the COVID-19 pandemic and the 2020-21 pension fund withdrawals.

This governance model was applied when the regulatory and financial supervision framework was modified, merging the Banks Superintendence with the Securities and Insurance Superintendence into the Financial Market Commission, under a collegiate system similar to that of the central bank, albeit for shorter periods. More recently, this system was used when the Autonomous Fiscal Council was created in 2019, although with five-year terms for the Board members and an annual renewal for only one.

67 Testimony by the Governor of the Banco de España before the Audit Committee on Democratic Quality / Congress of Deputies, 22 December 2020, Documentos Ocasionales, 2105, published in 2021: https://www.bde.es/f/webbde/SES/Secciones/Publicaciones/PublicacionesSeriadas/DocumentosOcasionales/21/Files/do2105e.pdf.