EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 10 February 2014

on the reduction of statutory remuneration for senior officials in the public and semi-public sector

(CON/2014/12)

Introduction and legal basis

On 16 December 2013, the European Central Bank (ECB) received a request from the Dutch Ministry of the Interior and Kingdom Relations for an opinion on a draft law amending the Law on standards for remuneration for senior officials in the public and semi-public sector[1] (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the third indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[2] as the draft law relates to De Nederlandsche Bank (DNB). In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

1.1 The draft law uses the remuneration of a minister as the basis for the calculation of the remuneration of senior officials and sets a limit on the salaries for senior officials to a maximum of 100% of a minister's salary, rather than the current limit of 130%. Although the wording of the draft law does not explicitly mention DNB senior officials, the definition of 'senior officials' in the draft law makes it clear that the DNB officials fall under the definition of the draft law.

1.2 The draft law lays down a transitional arrangement that distinguishes between two categories of senior officials. The first category consists of those senior officials whose remuneration on 1 January 2013 exceeded the current statutory remuneration maximum of 130% of a minister's salary (€ 228,599). This remuneration will remain unchanged for four years, and then it will be reduced over a period of three years to 130%. Following this three-year period, their remuneration will be reduced over two years to 100%. The second category consists of senior officials whose remuneration was at or below the current statutory remuneration maximum of 130% of a minister's salary, but above the proposed remuneration maximum of 100%. Their remuneration will remain unchanged for four years, and will subsequently be reduced over the following three years to the new statutory remuneration maximum of 100%.

1 Wet normering bezoldiging topfunctionarissen publieke en semipublieke sector ('WNT').

2 OJ L 189, 3.7.1998, p. 42.

1.3 The Law on standards for remuneration of senior officials in the public and semi-public sector[3], which the draft law proposes to amend, already introduced a limit on the remuneration for these senior officials, with effect from 1 January 2013. The salary component of the remuneration was set at € 187 340[4]. The ECB was not consulted on this law despite the fact that it also applied to DNB officials.

2. General observations

The ECB understands that, as set out in the explanatory memorandum attached to the draft law, there is an economic and social need for the Dutch government to limit the maximum remuneration for senior officials, taking into account economic circumstances in the Netherlands and internationally, as well as the Dutch Government's current efforts to stabilise public finances[5]. According to the explanatory memorandum, the rationale of the draft law is not to reduce salaries, but rather to bring the remuneration of senior officials in the Netherlands to more socially acceptable, balanced and responsible levels.

The transitional arrangement mentioned in paragraph 1.2 above allows the senior officials affected a reasonable time to adjust to their new financial situation or to find alternative employment. Since the decrease in remuneration may have significant financial consequences for the senior officials, such a transitional period is welcome. Respecting the current remuneration system in place for four years and then reducing it over three years also creates transparency.

3. Specific observations

3.1. Financial independence

3.1.1 The ECB Convergence Reports and several ECB opinions[6] have elaborated on specific issues relevant to central bank autonomy in staff matters. With regard to the financial independence of a national central bank (NCB), Member States may not impair an NCB's ability to employ and retain the qualified staff necessary for the NCB to perform independently the tasks conferred on it by the Treaty and the Statute of the European System of Central Banks and of the European Central Bank. Furthermore, an NCB may not be put into a position where it has limited or no control over its staff, or where the government of a Member State is in a position to influence the NCB's policy on staff matters.

3.1.2 Article 7(3) of the draft law introduces a sliding-scale to reduce the remuneration of DNB senior officials. To protect DNB's autonomy in staff matters, the Dutch authorities should ensure that any amendment to the legislative provisions on remuneration for members of DNB's decision-making

3 Law of 15 November 2012, published in the Staatsblad (Government Gazette) nr. 583 (2012).

4 This amount is based on the gross salary of a minister multiplied by 130%. The other remuneration components are an employer's share of social premiums, taxable expenses and pension entitlements.

5 See Opinion CON/2009/47. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

6 See Opinions CON/2008/9, CON/2008/10, CON/2009/45, CON/2009/47, CON/2010/42 and CON/2010/51.

bodies and staff is decided in close and effective cooperation with DNB, taking due account of DNB's views, to ensure the ongoing ability of DNB to independently carry out its tasks[7].

3.2. Personal independence of the members of DNB's decision-making bodies

Article 130 of the Treaty prohibits, *inter alia*, national governments from influencing the members of NCBs' decision-making bodies in the performance of their tasks. The draft law will affect not only DNB's senior officials but, more generally, all senior officials in the public and semi-public sector. The ECB understands that the draft law forms part of a broader legislative reform that seeks to reduce remuneration for all employees in the public and semi-public sectors. Additionally, the draft law provides for a transitional period before changes in the remuneration apply. However, Member States may also not seek to influence the members of the NCB's decision-making bodies by amending national legislation affecting their remuneration, which, as a matter of principle, should not affect the terms under which they have been appointed. Consequently, the draft law should specifically provide that such an amendment should apply only for future appointments[8].

Done at Frankfurt am Main, 10 February 2014.

[signed]

The President of the ECB

Mario DRAGHI

7 See the ECB's Convergence Report, 2013, p.27.

8 See the ECB's Convergence Report, 2013, p. 23 and Opinions CON/2011/104, CON/2011/106, CON/2008/10 and CON/2010/42.