EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 9 December 2011

on the payment of an increase in Romania's International Monetary Fund quota

(CON/2011/102)

Introduction and legal basis

On 30 November 2011, the European Central Bank (ECB) received a request from Banca Națională a României (BNR) for an opinion on a draft Government emergency ordinance on accepting the increase of Romania's International Monetary Fund (IMF) quota (hereinafter the 'draft ordinance').

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 on 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[1], as the draft ordinance relates to Banca Națională a României. 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 ordinance

On 15 December 2010, the IMF's Board of Governors adopted Resolution No 66-2 to, *inter alia*, increase the quotas of all IMF members. The IMF must receive the required notices of consent to the increases by 31 December 2011. Hence, BNR requests the ECB's opinion to be issued by 12 December 2011.

Under the draft ordinance, BNR is authorised to pay the increase of Romania's quota from special drawing rights (SDR) 1 030,2 million to SDR 1 811,4 million. As stated in the explanatory memorandum to the consultation letter, 25% of the proposed quota increase will be paid by using the reserve tranche facility and the remainder by Romanian lei.

Article 4(4) of Law No 312/2004 on the Statute of BNR[2] states that BNR exercises rights and fulfils obligations incumbent on Romania in its capacity as an IMF member and Article 30(1)(c) states that BNR sets and maintains foreign reserves that are made up of, *inter alia*, 'any other worldwide acknowledged reserve assets, including the right to purchase from the IMF within the reserve tranche, as well as the special drawing rights holdings'. According to Article 2 of Government Ordinance No 30/1996 regulating Romania's participation in the IMF[3], 'starting from July 1996 all rights and obligations of Romania

1 OJ L 189, 3.7.1998, p. 42.

2 Published in *Monitorul Oficial al României*, Part One, No 582, 30.6.2004.

3 Published in *Monitorul Oficial al României*, Part One, No 186, 12.8.1996.

resulting from transactions with the IMF shall be reflected in BNR's balance sheet'. Thus, it is incumbent on the BNR to make the payments to the IMF in relation to the increase of Romania's IMF quota.

2. General observations

2.1 *Central bank independence*

The ECB notes that BNR is responsible for paying any increases in Romania's IMF quota and that it exercises the rights and obligations incumbent on Romania in its capacity as an IMF member. The SDRs are part of the foreign reserves managed by BNR pursuant to Article 31(b) of the Statute of BNR[4]. Thus, BNR is entrusted with the task of exercising the rights and obligations resulting from the membership of its Member State in the IMF. The ECB understands that in this context and in line with the principle of central bank independence enshrined in Article 130 of the Treaty and Article 7 of the Statute of the European System of Central Banks and of the European Central Bank, BNR takes decisions in a fully independent manner regarding the management of the SDRs.

2.2 *The monetary financing prohibition*

Several ECB opinions[5] have noted that the tasks performed by a national central bank (NCB) must comply with the monetary financing prohibition under Article 123 of the Treaty and Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Article 104 and Article 104b(1)[6]. Pursuant to Article 7 of Regulation (EC) No 3603/93, the financing by NCBs of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a credit facility within the meaning of Article 123 of the Treaty. Therefore, the ECB notes that the payment by BNR of the proposed increase in Romania's quota in the IMF does not infringe the monetary financing prohibition.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 9 December 2011.

[signed]

The President of the ECB

Mario DRAGHI

4 Banca Națională a României shall be authorised under the terms established by it and subject to its periodical amendments to purchase, sell and perform other transactions with foreign currencies.

5 See the most recent opinions: CON/2011/68, CON/2011/89 and CON/2011/97. All ECB Opinions are published on the ECB's website at www.ecb.europa.eu.

6 OJ L 332, 31.12.1993, p. 1.