EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 16 November 2001

at the request of the Federal Ministry of Justice of the Republic of Austria on a draft law amending the Lawyers' Fees Act on the introduction of the euro (*Euro-Rechtsanwaltstarif-Novelle*)

(CON/2001/37)

1. On 24 October 2001 the European Central Bank (ECB) received a request from the Ministry of Justice of the Republic of Austria for an opinion on a draft law amending the Lawyers' Fees Act (*Euro-Rechtsanwaltstarif-Novelle*), hereinafter referred to as the "draft law".

2. The ECB's competence to deliver an opinion is based on the second indent of Article 105(4) of the Treaty establishing the European Community, the second indent of Article 4(a) of the Statute of the European System of Central Banks and of the European Central Bank and the first indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions[1], as the legislative proposal contains provisions concerning currency matters. The Governing Council of the ECB has adopted this opinion in accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB.

3. The main purpose of the draft law is the substitution of schilling amounts and thresholds by euro amounts and thresholds in the law relating to lawyers' fees. Furthermore, the draft law contains some minor amendments to the Court Commission Fees Act (*Gerichtskommisssionstarifgesetz*) and the Notary Fees Act (*Notariatstarifgesetz*) in line with the principles of revenue and cost neutrality.

4. The replacement of schilling amounts with euro amounts for the purposes of lawyers' fees is based on the following principles:

   - thresholds are to be rounded up or down to whole 10 euro amounts in order to obtain convenient and practical figures,

1 OJ L 189, 3.7.1998, p. 42.

- in order to preserve cost neutrality, the fees are to be rounded up or down to full 10 cent amounts.

5. The ECB notes that according to the explanatory memorandum, the conversion of lawyers' fees into euro commenced only after the entry into force of their adjustment in line with inflation on 1 July 2001.

6. The ECB welcomes the draft law, which provides for the substitution of schilling amounts with euro amounts for the purposes of lawyers' fees. Such adjustments are in the interests of legal clarity and the transparency of the national legal system.

7. The ECB welcomes the intention of the draft law to comply with the principle of cost neutrality. In its opinions of 17 May 2001 on a draft Second Federal Law containing ancillary measures for the introduction of the euro (*2. Euro-Justiz-Begleitgesetz*), of 24 August 2001 on a draft law amending Austrian criminal law (*Strafrechtsänderungsgesetz 2001*) and of 28 September 2001 on a draft law amending court fees (*Euro-Gerichtsgebühren-Novelle*), the ECB underlined the importance of this principle in the context of the introduction of the euro. Furthermore, it is again recalled that at the meeting of the Eurogroup on 4 June 2001, the ministers reiterated their policy that, overall, conversion into euro of all prices, charges and fees administered by their Governments should be price neutral or smoothed in favour of the consumer.

8. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion.

Done at Frankfurt am Main on 16 November 2001.

The President of the ECB

[signed]

Willem F. DUISENBERG