EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

25 March 2008

at the request of Riigikogu

on a draft law amending the Law on Eesti Pank

(CON/2008/14)

Introduction and legal basis

On 6 March 2008 the European Central Bank (ECB) received a request from Riigikogu (Parliament) for an opinion on a draft law amending the Law on Eesti Pank (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and 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 law relates to Eesti Pank. 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

The purpose of the draft law is to remove the requirement for Riigikogu to select candidates for the posts of Governor or Chair of the Supervisory Board of Eesti Pank among persons only with a law or economics degree. In future any university degree will suffice.

Two other amendments, proposed by Eesti Pank to be able to better fulfil its role as a member of the European System of Central Banks (ESCB), are the following: (a) Eesti Pank's right to restrict access to information if it concerns risk to price or financial stability and if the information is subject to restrictions on access as specified by the ESCB; and (b) establishment of a multi-year mandate for the independent external auditors of Eesti Pank.

2. General observations

2.1 The ECB notes that the draft law was submitted to Riigikogu for adoption on 12 March 2008 and that the ECB received the consultation request on 6 March 2008, i.e. only a few working days before the submission of the draft law for adoption. The ECB would like to draw attention to Article 4 of Council Decision 98/415/EC, which requires Member States to ensure that the ECB is consulted at an appropriate point in time, to allow the consulting authority to take its opinion into consideration before deciding on the substance of the draft legislative provisions. The ECB expects

1 OJ L 189, 3.7.1998, p. 42.

that the obligation to consult the ECB at an appropriate stage in the Estonian legislative process will in the future be respected. More generally, internal administrative procedures should be in place to ensure that the timely consultation of the ECB is foreseen whenever such a consultation is mandatory.

2.2 The ECB notes that the proposed amendment to the educational requirements for appointing the Governor and the Chair of the Supervisory Board of Eesti Pank would not undermine the personal independence requirements under Article 14.2 of the Statute of the European System of Central Banks and of the European Central Bank (the 'ESCB Statute').

2.3 The ECB welcomes the streamlining of the access rights to the information received by Eesti Pank. The amendment further brings the law into line with Article 38.1 of the ESCB Statute.

2.4 The ECB also welcomes the amendment to the procedure for appointing independent auditors in line with the ESCB good practices.

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

Done at Frankfurt am Main, 25 March 2008.

[signed]

The President of the ECB

Jean-Claude TRICHET