EUROPEAN CENTRAL BANK

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ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 29 December 2014

on Romania's contribution to the International Monetary Fund's Poverty Reduction and Growth Trust

(CON/2014/92)

Introduction and legal basis

On 27 November 2014, the European Central Bank (ECB) received a request from Banca Naţională a României (BNR) for an opinion on a draft law concerning Romania's contribution to the General Subsidy Account of the International Monetary Fund's Poverty Reduction and Growth Trust (PRGT) (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[1], as the draft law relates to BNR. 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

In February and September 2012, the Executive Board of the International Monetary Fund (IMF) approved the distribution of 700 million special drawing rights (SDRs) and 1.75 billion SDRs, respectively. This approval was the result of windfall profits from IMF gold sales and profits were distributed to IMF member countries in proportion to their quota shares[2]. Distributions were subject to satisfactory assurances by IMF members that an amount equivalent to at least 90% of the distributions would be made available to the PRGT. The IMF thereby envisaged that further subsidy resources would be raised for the PRGT[3].

Accordingly, the Romanian authorities decided to contribute Romania's share of the September 2012 distribution to support the PRGT. Pursuant to the Statute of BNR[4], BNR has the power to exercise the rights and fulfil the obligations of Romania as a member of the IMF. Consequently, the draft law authorises BNR to transfer 7,571,246 SDRs from the IMF Interim Administered Account to the General Subsidy Account of the PRGT on behalf of Romania.

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 See IMF Press Release No 12/368, 28 September 2012.

3 See Opinion CON/2010/22 for more information regarding the establishment and funding of the PRGT; all ECB opinions are published on the ECB's website at www.ecb.europa.eu.

4 Law 312/2004 on the Statute of Banca Naţională a României, *Monitorul Oficial al României*, Part I No 582, 30 June 2004.

2. Monetary financing prohibition

2.1 The tasks performed by a national central bank must comply with the monetary financing prohibition under Article 123 of the Treaty and Council Regulation (EC) No 3603/93[5], which provisions are subject to certain exemptions detailed therein. In particular, Article 7 of Regulation (EC) No 3603/93 provides that the financing by national central banks of obligations falling upon the public sector vis-à-vis the IMF shall not be regarded as a credit facility within the meaning of Article 123 of the Treaty[6].

2.2 The transfer by BNR of Romania's contribution to the PRGT, as set out in the draft law, falls under the Article 7 exemption in Regulation (EC) No 3603/93 and therefore should not be regarded as a form of monetary financing prohibited by Article 123(1) of the Treaty. In this regard, the draft law is similar to the Austrian legislation on the Oesterreichische Nationalbank's contribution of windfall profits from IMF gold sales to the PRGT[7].

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

Done at Frankfurt am Main, 29 December 2014.

[signed]

The President of the ECB

Mario DRAGHI

5 Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty (OJ L 332, 31.12.1993, p. 1).

6 For examples, see Opinions CON/2010/22, CON/2011/102, and CON/2013/16.

7 In particular, see paragraph 2.2 of Opinion CON/2013/16. See also paragraph 2.2 of Opinion CON/2010/22.