EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 20 January 2014

on public access to information on officials' wealth

(CON/2014/5)

Introduction and legal basis

On 20 December 2013, the European Central Bank (ECB) received a request from the President of the Slovenian Parliament for an opinion on a draft law on public access to information on officials' wealth (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[1], as the draft law relates to Banka Slovenije. 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 purpose of the draft law, as stated in its explanatory memorandum, is to ensure transparency in the conduct of public officials and take precautionary measures in the field of corruption. The draft law regulates the duty of officials to declare information on their wealth and public access to such information. The main features of the draft law are presented below.

1.2 Under the draft law, all officials, including the President of the Republic, Prime Minister, members of Parliament, ministers and judges, as well as the Governor of Banka Slovenije and Banka Slovenije officials are obliged to provide annually the Slovenian Court of Audit with information on their personal wealth, e.g. income, real estate, securities and cash holdings[2]. In addition, they have to explain any increase in their wealth since their previous declaration that exceeds the net salary payments they received for fulfilling their duties as officials in this period[3]. To the extent it refers to income and wealth acquired by officials during their term of public office or performance of relevant activities, such information will be made publicly available on the Court of Audit's website notwithstanding any legal restrictions as regards personal data protection and tax secrets[4].

1 OJ L 189, 3.7.1998, p. 42.

2 See Article 4 of the draft law.

3 See Article 6 of the draft law.

4 See Article 7 of the draft law.

1.3 The draft law envisages several types of sanctions that can be imposed on officials in the event of non-compliance with their obligations. If officials fail to provide information on their wealth and income, a fine under Article 13 of the draft law is imposed on them. In accordance with Article 8 of the draft law, the Court of Audit is to order that such official's salary is gradually reduced every month by one tenth, to the level of the minimum salary, until the official provides the requested information. This order will be executed by the respective official's employer. In addition to any fine imposed in accordance with Article 13(1) of the draft law, a fine under Article 13(4) of the draft law will be imposed on an official in the amount of the value of undeclared wealth or of the wealth from unexplained sources, as the case may be.

2. General observations

2.1 The ECB welcomes this consultation by the Slovenian Parliament. The term 'officials', which is defined in Article 2 of the draft law, explicitly includes the Governor of Banka Slovenije and Banka Slovenije officials. For this reason, the draft law should be assessed in terms of compatibility with the principle of personal independence of the Governor and of other members of Banka Slovenije's Governing Board.

2.2 Most of the draft law's provisions are identical to the draft legislative provisions on which the ECB adopted Opinion CON/2009/64[5] while the differences are not significant in terms of compatibility with the principle of personal independence. Therefore, the observations expressed in paragraph 3.3 of Opinion CON/2009/64 also apply with respect to this draft law[6]. They refer to the ECB's interpretation on the basis of which the draft law provisions on wealth declarations and related sanctions would not be incompatible with the principle of personal independence.

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

Done at Frankfurt am Main, 5 January 2014.

[signed]

The President of the ECB

Mario DRAGHI

5 All ECB opinions are available on the ECB website at www.ecb.europa.eu.

6 The ECB has also considered other similar draft laws in Opinions CON/2008/43 and CON/2010/27.