



OPINION OF THE EUROPEAN CENTRAL BANK

of 4 January 2012

on the salaries of civil servants

(CON/2012/1)

Introduction and legal basis

On 15 December 2011, the European Central Bank (ECB) received a request from the Cypriot Ministry of Finance for an opinion on a draft law relating to the salaries of civil servants (hereinafter the 'draft law')¹.

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 provisions², as the draft law relates to the Central Bank of Cyprus (CBC). 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 ECB understands that the aim of the draft law is to freeze, for 2012-2013, the index-linked allowance to which all officers and civil servants, and persons employed in the wider public sector, local government and school inspectorates in Cyprus, are entitled. It will also freeze, for the same period, the salaries of those categories of employees, and the pensions paid to those retired from the public and wider public sector, local government and school inspectorates. The draft law is part of the Government's reform efforts, aimed at redressing public finances by arresting wage costs, thereby arresting any further increase in the public deficit.

2. General observations

While the draft law does not refer explicitly to the CBC, its officers or staff members, either in its substantive provisions or in its Annex, the ECB understands that the CBC's officers and staff members would fall within the draft law's scope of application. Consequently, the draft law would also apply to and directly affect the CBC's decision-making bodies and its staff members. It follows that the draft law

¹ The corresponding law was published in the Official Gazette of the Republic of Cyprus on 30 December 2011.

² OJ L 189, 3.7.1998, p. 42.

should be examined from the perspective of central bank independence, in particular institutional and financial independence, as well as that of the personal independence of the members of the CBC's decision-making bodies.

3. Institutional and financial independence

- 3.1 Article 130 of the Treaty prohibits third parties, including the governments of the Member States, from issuing instructions to the national central banks (NCBs). Also, the principle of central bank independence means that third parties may not exercise direct or indirect influence over an NCB, whether relating to the performance of its tasks or its financial ability to fulfil its mandate³. As stated in the ECB's convergence reports and in several of its opinions⁴, Member States may not impair the autonomy of their NCBs in staff-related matters. Autonomy in such matters extends to issues relating to staff salaries and pensions⁵. It is therefore essential that measures such as those contemplated in the draft law do not prevent the CBC or its staff members from performing independently the tasks conferred upon them by the Treaty, the Statute of the European System of Central Banks, the Constitution of the Republic of Cyprus or national law.
- 3.2 Currently, the CBC enjoys statutory autonomy in determining its staff policy (including staff remuneration), with the CBC's officers and staff being subject to individual employment contracts and to collective bargaining agreements entered into between the CBC and the banking sector union. The measures contemplated in the draft law represent a departure from the current regime.
- 3.3 The ECB understands that the CBC would not object to the draft law. Moreover, in substantive terms, the impact of the measures contemplated is unlikely to prevent the officials or staff members of the CBC, or the CBC as a whole, from carrying out their tasks independently. In particular, the draft law is unlikely to limit the CBC's ability to retain qualified staff, or otherwise to deprive its decision-making bodies of their powers of internal organisation and control over staff. The ECB also notes that the measures contemplated in the draft law, which are intended as measures of general applicability, are strictly limited to freezing increases in salaries with the objective of reducing public expenditure, and do not impose a decrease in salaries or interfere with the CBC's staff policy (e.g. its ability to increase salaries due to promotions or to recruit new staff). While the CBC's remuneration structure differs from that of the rest of the public sector, equivalent measures could also be adopted autonomously by the CBC and the ECB is satisfied that the measures contemplated in the draft law do not limit the CBC's institutional and financial independence.

³ See, for example, the ECB's Convergence Report of May 2007, p. 20.

⁴ See Opinions CON/2008/9, CON/2008/10, CON/2009/15, CON/2009/45, CON/2009/47, CON/2010/42, CON/2010/51, CON/2010/56, CON/2010/58, CON/2010/59, CON/2010/69 and CON/2010/80. All ECB opinions are published on the ECB's website at www.ecb.europa.eu

⁵ See Opinion CON/2010/80, paragraph 3.2.1.

4. Personal independence

Article 130 of the Treaty requires the governments of the Member States to respect the principle of central bank independence and not to seek to influence the members of the NCBs' decision-making bodies in the performance of their tasks. The ECB understands that the draft law would not only affect the remuneration of the CBC's staff members, but also that of the members of its decision-making bodies. It also understands that the measures contemplated in the draft law are intended not only to apply to the members of the CBC's decision-making bodies but, more generally, to the management of public institutions in Cyprus. Their aim, as stated in the explanatory memorandum to the draft law, would not be to directly or indirectly influence the CBC's decision-making bodies in the performance of their tasks but, rather, to contribute to sound public finances by arresting wage costs. In the light of the above, the ECB considers that the draft law does not limit the personal independence of the members of the CBC's decision-making bodies.

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

Done at Frankfurt am Main, 4 January 2012.

[signed]

The President of the ECB

Mario DRAGHI