Ms Menda Stoyanova  
Chairwoman  
Budget and Finance Committee  
National Assembly of the Republic of Bulgaria  
National Assembly Square 2  
1169 Sofia  
Bulgaria  

11 November 2019  

Request for an opinion of the European Central Bank on provisions amending the Law on credit institutions  

Dear Ms Stoyanova,  

I refer to your letter dated 10 October 2019 requesting an opinion from the European Central Bank (ECB) on certain draft provisions amending the Law on credit institutions in relation to the supervisory powers of Българска народна банка (BNB, Bulgarian National Bank) and also its powers to impose administrative penalties. As explained in your letter, the ECB understands that the aim of the draft provisions is to remove potential constraints in relation to the practical implementation of the Bulgarian legislation adopted for the purpose of the establishment of close cooperation with the ECB.  

In accordance with Article 127(4) and Article 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, the ECB should be consulted on the draft provisions as the draft provisions concern the BNB and the ECB’s tasks concerning the prudential supervision of credit institutions pursuant to Article 127(6) of the Treaty.  

The ECB understands that on the day the consultation request was sent to the ECB, the National Assembly adopted at a second and final reading the Law amending and supplementing the Law on markets in financial instruments and other laws, which also included the draft provisions in relation to which the ECB was consulted. The adoption of that law by the National Assembly on 10 October 2019

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1 The official ECB letter is addressed in the official language of the concerned Member State.  
2 Закон за кредитните институции (ДВ, бр. 59 от 21.07.2006).  
4 Закон за пазарите на финансови инструменти (ДВ, бр. 15 от 16.02.2018).
and its publication in the official gazette on 22 October 2019⁵ made it impossible for the ECB to deliver an opinion to be considered by the National Assembly in due time. As the law has already been adopted, the ECB will not issue an opinion on it.

In this respect, I would mention the following considerations regarding the appropriate time to consult the ECB on draft legislative provisions within its fields of competence. In accordance with Article 127(4) and Article 282(5) of the Treaty and Article 4 of Decision 98/415/EC, each Member State is required to ensure that the ECB is consulted at an appropriate stage enabling the authority initiating the draft legislative provision to take into consideration the ECB’s opinion before taking its decision on the substance. This implies that national procedures should ensure that the consultation takes place at a point in the legislative process which affords the ECB sufficient time to examine the draft legislative provisions and to adopt its opinion⁶.

In addition, it has come to the attention of the ECB that the Law amending and supplementing the Law on markets in financial instruments and other laws which was adopted on 10 October 2019 contains further provisions on which the ECB has not been consulted. In particular, the said law supplements BNB’s competences under Article 3(7) of the Law on markets in financial instruments and under Article 1(2) of the Law on credit institutions with the task to exercise the powers set out in Article 39(3) and Article 42 of Regulation (EU) No 600/2014 of the European Parliament and of the Council⁷.

These provisions comprise draft legislative provisions in relation to a national central bank and thus fall under the obligation of national authorities to consult the ECB under Article 127(4) and Article 282(5) of the Treaty and the third indent of Article 2(1) of Council Decision 98/415/EC. While respecting the prerogatives of national parliaments, the consultation of the ECB allows for the ECB to contribute its expertise to the legislative debate and for national authorities to take the ECB’s views into account.

The ECB would appreciate that the Bulgarian authorities give due consideration to the above observations and seek to timely consult the ECB on draft legislation within the ECB’s fields of competence in the future.

Yours sincerely,

[signed]

Cc: Mr D Radev, Governor of Българска народна банка (Bulgarian National Bank)
Mr P Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs
Mr L Requena, Director-General Legal Service, European Commission

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⁵ Darjaven vestnik issue 83, 22.10.2019.