



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 26 September 2001

at the request of the Ministry of Finance of the Grand Duchy of Luxembourg on a draft Grand-Duchy regulation relating to a derogation from the provisions concerning State officials or probationer officials in respect of agents of the Banque centrale du Luxembourg subjected to public law status as defined by Article 14(3)(a) of the Law of 23 December 1998 relating to monetary status and the Banque centrale du Luxembourg

(CON/2001/28)

1. On 7 August 2001, the European Central Bank (ECB) received a request from the Ministry of Finance of the Grand Duchy of Luxembourg on a draft Grand-Duchy regulation concerning the status of certain agents of the Banque centrale du Luxembourg (BCL).
2. The ECB's competence to deliver an opinion is based 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 provisions¹, since the draft Regulation lays down provisions concerning the national central bank. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, this opinion has been adopted by the Governing Council of the ECB.
3. The draft Regulation implements Article 14(3)(a) of the Law of 23 December 1998 defining the status of the BCL. A translation of this Article reads:

"Central Bank agents who occupy the posts specified in the organisational chart referred to in Article 29(2), which involve, either directly or indirectly, the exercise of public power and tasks safeguarding the general interests of the State or other public authorities, have public law status consisting in the application, if necessary by analogy, of the provisions relating to officials and probationer officials, save as otherwise provided in a Grand-Ducal regulation to be adopted in the interests of the proper functioning of the Central Bank."
4. Taking into account the particular constraints of the BCL, the draft Regulation defines the areas of derogation from the general status of State officials². The main reason for this derogation is

¹ OJ L 189, 3.7.1998, p. 42.

² Consolidated version, *Mémorial* (Luxembourg Official Journal) No 95, 10.11.1998, p 2364.

due to the fact that the BCL forms part of the European System of Central Banks (ESCB). As such, the BCL must be granted the means to accomplish its objectives and missions independently from *inter alia* national authorities, as laid down in the Treaty establishing the European Community.

5. The ECB welcomes the draft Regulation as it presently reads, since it appears to grant the BCL adequate autonomy and independence in the management of its staff in order to perform its objectives and missions in relation to the ESCB.
6. The ECB confirms that it has no objection to the competent national authorities making this opinion publicly available at their discretion.

Done at Frankfurt am Main on 26 September 2001.

The President of the ECB

[signed]

Willem F. DUISENBERG