



EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 17 May 2001

at the request of the Austrian Ministry of Justice on a draft Second Federal Law containing ancillary measures for the introduction of the euro

(2. *Euro-Justiz-Begleitgesetz*)

CON/2001/9

1. On 25 April 2001 the European Central Bank (ECB) received a request from the Austrian Ministry of Justice on a draft Second Federal Law containing ancillary measures for the introduction of the euro (hereinafter referred to as the “draft law”).
2. The ECB’s competence to deliver an opinion is based on the second indent of Article 105(4) of the Treaty establishing the European Community, the second indent of Article 4(a) of the Statute of the European System of Central Banks and of the European Central Bank and the first indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions<sup>1</sup>, as the legislative proposal contains provisions concerning currency matters. The Governing Council of the ECB has adopted this opinion in accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB.
3. The main purpose of the draft law is the conversion of amounts and thresholds in schillings into euro, to the extent that this replacement was not accomplished by the First Federal Law containing ancillary measures for the introduction of the euro (*1. Euro-Justiz-Begleitgesetz*)<sup>2</sup>.
4. The substitution of schilling amounts with euro amounts is based on the following principles.
  - In line with the Austrian national changeover scenario the draft law provides for a smoothing of “signal amounts and thresholds” whereas the conversion of amounts of less significance for the general public are directly converted by applying the irrevocably fixed conversion rate.

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

<sup>2</sup> The European Monetary Institute was consulted on the *1. Euro-Justiz-Begleitgesetz* and delivered an opinion on 13 February 1998 (CON/98/01). The *1. Euro-Justiz-Begleitgesetz* dealt with the adjustments necessary for 1 January 1999 and in particular introduced the “euro options” in the fields of accounting and the establishment of companies.

- The conversion to the euro was partly prepared in previous legislative amendments by setting the schilling amounts to enable a relatively simple conversion into convenient and round euro amounts (e.g. the Ceiling Amending Law 1997 in the area of civil procedure, *Erweiterte Wertgrenzen-Novelle 1997*).
  - Provisions concerning fees (e.g. notary and expert fees) are to have no impact on costs. Consequently, limited smoothing is foreseen (rounding to whole 10 cent amounts), which should have no impact on costs. The introduction of the euro should not result in advantages or disadvantages for specific groups (such as notaries, experts or interpreters on the one hand, or their clients or customers on the other).
  - In the field of consumer protection, the amounts have been smoothed to the benefit of the consumer.
  - Some penal provisions have been smoothed down which is deemed to be in the interest of the citizens. However, the Penal Code is adapted to the euro in a separate amendment, which will also contain a general revision of penal provisions.
5. The ECB welcomes the draft law, which provides for the replacement of schilling amounts with euro amounts in the area of civil law. Such adjustments are in the interest of legal clarity and transparency of the national legal system.
  6. The ECB takes note that a direct conversion of amounts contained in legal acts according to the provisions laid down by Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro<sup>3</sup> is not always regarded as appropriate by the Austrian Ministry of Justice. With regard to a number of legislative provisions, a smoothing of signal amounts is considered necessary for reasons of transparency and practicability. The ECB also notes the underlying principles regarding the extent and the direction of such smoothing. In particular, the ECB welcomes and underlines the importance of the principle of “no impact on costs”. It is noted that as regards specific provisions of the Consumer Protection Act implementing Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit<sup>4</sup>, the draft law introduces higher thresholds than provided by the Directive. This is possible as the Directive represents a minimum harmonisation measure.
  7. The ECB notes that the *2. Euro-Justiz-Begleitgesetz* enters into force on 1 January 2002 unless provided otherwise. The ECB welcomes the transitory regime regarding fees described in the explanatory memorandum, which makes reference to Article 14 of Regulation (EC) No 974/98 on the introduction of the euro<sup>5</sup> and to Articles 4 and 5 of Regulation (EC) No 1103/97.

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<sup>3</sup> OJ L 162, 19.6.1997, p. 1.

<sup>4</sup> OJ L 42, 12.2.1987, p. 48.

<sup>5</sup> OJ L 139, 11.5.1998, p. 1.

8. The ECB confirms that it has no objections to publication of this opinion by the competent national authorities.

Done at Frankfurt am Main on 17 May 2001.

*The President of the ECB*

[signed]

Willem F. DUISENBERG