



E U R O P E A N C E N T R A L B A N K

OPINION OF THE EUROPEAN CENTRAL BANK

**at the request of the Ministry of Justice of the Republic of Austria
under Articles 109l (2) and 109f (6) of the Treaty establishing the European Community and
Article 5.3 of the Statute of the European Monetary Institute on a draft legislative proposal
concerning a Regulation of the Federal Government on the use of the monetary policy
instruments of the European Central Bank as a basis for determining changes in the base and
reference interest rates (Regulation on the base and reference interest rates)**

CON/98/59

1. On 27 November 1998 the European Central Bank (ECB) received a request from the Ministry of Justice of the Republic of Austria for an ECB Opinion on a draft legislative proposal concerning a Regulation of the Federal Government on the use of the monetary policy instruments of the European Central Bank as a basis for determining changes in the base and reference interest rates (Regulation on the base and reference interest rates) (hereinafter referred to as the “draft legislative proposal”).
2. In accordance with Article 109l (2) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”), the ECB has taken over the advisory functions of the European Monetary Institute (EMI), which went into liquidation upon the establishment of the ECB on 1 June 1998. The ECB’s competence to deliver an opinion is based on Article 1.1, first indent, of the Council Decision (93/717/EC) of 22 November 1993 on the consultation of the EMI by the authorities of the Member States on draft legislative provisions, as the draft legislative proposal contains provisions concerning currency legislation. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the ECB, the ECB Opinion has been adopted by the Governing Council of the ECB.
3. The ECB notes that the draft legislative proposal is an implementing regulation for Article 1 of the Austrian Federal Law, dated 14 August 1998, changing certain provisions in the Austrian legislation as ancillary measures for the introduction of the euro (Erstes Euro-Justiz-Begleitgesetz), on which the EMI was consulted and delivered an Opinion on 13 February 1998 (hereinafter referred to as the “Austrian Federal Law”). Article 1 (1) of the Austrian Federal

Law stipulates that references in national laws and regulations to the discount rate, which is currently announced by the Oesterreichische Nationalbank, shall be replaced by a base interest rate on 1 January 1999. Article 1 (2) of the Austrian Federal Law specifies that references in national laws and regulations to the lombard rate, which is currently announced by the Oesterreichische Nationalbank, shall be replaced by a reference interest rate on 1 January 1999. The first base interest rate on 1 January 1999 shall be identical to the discount rate of 31 December 1998, whereas the first reference interest rate on 1 January 1999 shall be identical to the lombard rate of 31 December 1998. Under Article 1 (3) of the Austrian Federal Law, the Federal Government is required, by means of a Regulation, to determine, and, respectively, to adjust such base and reference interest rates after having consulted the Oesterreichische Nationalbank.

4. The ECB notes that Section 1 (1) of the draft legislative proposal provides for the interest rate on the deposit facility of the ECB to be the rate used to determine the basis for calculating changes in the base interest rate. According to Section 1 (2) of the draft legislative proposal, the interest rate on the marginal lending facility of the ECB shall be the rate used as a basis for determining changes in the reference interest rate.
5. The ECB notes that, according to the Explanatory Memorandum to the draft legislative proposal, the Oesterreichische Nationalbank has recommended the solution set out in the draft legislative proposal on the basis of the following considerations: first, the discount and lombard rates, as currently announced by the Oesterreichische Nationalbank, mark the lower and upper limits of the short-term money market rates in Austria and this function will be fulfilled by the interest rates on the deposit facility (lower limit of the money market rate) and on the marginal lending facility (upper limit of the money market rate) in Stage Three of Economic and Monetary Union (EMU). Second, viewed in terms of their stability and the frequency of changes, the facilities mentioned were also closer to the discount and lombard rates than the interest rates on the regular two-week or three-month tenders of the European System of Central Banks (ESCB).
6. The ECB welcomes the fact that the Oesterreichische Nationalbank was consulted on the draft legislative proposal and that the draft legislative proposal takes the form of a Regulation of the Federal Government, which will enter into force on 1 January 1999.
7. The ECB does not have any objections to the draft legislative proposal.

8. The ECB confirms that it has no objections to this ECB Opinion being made public by the competent national authorities at their discretion.

Done at Frankfurt am Main on 16 December 1998.

The President of the ECB

[signed]

Willem F. Duisenberg