

# EUROPEAN MONETARY INSTITUTE

## OPINION OF THE EUROPEAN MONETARY INSTITUTE

at the request of the Council of the European Union under Articles 106(6) and 109f(8) of the Treaty establishing the European Community (the Treaty) and Article 42 of the Statute of the ESCB on a proposal from the Commission for a Council Decision on the consultation of the European Central Bank by national authorities on draft legislative provisions (the proposal)

(98/C 190/05)

CON/98/14

1. The present opinion was requested in a letter dated 6 March 1998 from the Council of the European Union which, for this purpose, forwarded document COM(97)725 final to the EMI. The document contained the proposal and its explanatory memorandum. The EMI is competent to deliver an opinion under Articles 106(6) and 109f(8) of the Treaty.
2. The objective of the proposal is to define the limits within which, and the conditions under which the authorities of the Member States shall consult the ECB on draft legislative provisions falling within its fields of competence. To a certain extent the proposal mirrors the legal situation currently applicable to the consultation of the European Monetary Institute.
3. The reference in the third recital to 'draft legislation' should be replaced by 'draft legislative provisions' as defined in Article 1 of the proposal.
4. It is suggested that in Article 1(2) the words 'or continuing implementation' are deleted. The meaning of these words is not clear and this uncertainty might give rise to problems for the interpretation and application of the proposal.
5. In general, the EMI agrees with the non-exhaustive enumeration of subjects on which the ECB is to be consulted as defined in Article 2 of the proposal.
6. The EMI welcomes the fact that, by comparison with Council Decision 93/717/EC, Article 3, paragraphs 2 and 3, and recital 6 of the proposal provide further information on the time-frame to apply to a consultation procedure. Whereas in most cases in the past the EMI has been able to meet even very short deadlines set by national authorities, experience has shown that both requiring the consulting authority to state the reasons for any urgency and allowing a request to be made for an extension to deadlines for replies might increase the efficient and orderly procedure followed when providing opinions.
7. With regard to Article 4 of the proposal, further consideration could be given to whether the efficiency of the procedure would not be increased by informing the ECB about national measures for the implementation of the Council Decision. In such a case it would be advisable to specify a date in Article 4 by which the ECB should be informed about such measures by Member States.
8. This opinion will be published in the *Official Journal of the European Communities*.

Frankfurt, 6 April 1998