EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 18 December 2013

on the containment of public expenditure as regards the Banca d'Italia

(CON/2013/92)

Introduction and legal basis

On 25 November 2013, the European Central Bank (ECB) received a request from the Italian Ministry of Economy and Finance for an opinion on the proposed amendments to the draft law relating to the provisions for drawing up the annual and pluriannual budget of the State (hereinafter the 'draft law'), and in particular to Article 9, paragraph 27-*quattuordecies* thereof (hereinafter the 'draft amendment'). The draft law was approved by the Italian Senate on 27 November, without any material changes[1], and is currently under consideration by the Chamber of Deputies. This opinion is delivered on the basis of the draft amendment attached to the request.

The ECB's competence to deliver an opinion is based on Articles 127(4) and 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 of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[2], as the draft law relates to the Banca d'Italia. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

The draft law aims at, *inter alia*, stabilising the public finances by rationalising and reducing public expenditure relating to civil service recruitment, remuneration and pensions. The draft amendment provides that the Banca d'Italia will take into account, within its legal remit, the principles of public expenditure containment laid down in Articles 11 and 12 of the draft law[3]. These principles will be implemented by means of collective agreements negotiated between the Banca d'Italia and the trade unions. In the absence of collective agreements, the Banca d'Italia will adopt appropriate implementing measures.

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1 However, Article 9(27-*quattuordecies*) has been renumbered as Article 1(201) whereas Articles 11 and 12 have been renumbered as Article 1(306) to (326), respectively.

2 OJ L 189, 3.7.1998, p. 42.

3 Article 1(306) to (326) of the draft law, as approved by the Senate, lay down provisions on contract renewal, remuneration, recruitment policies, termination benefits and pensions for civil servants, the aim of which is to reduce public expenditure.

2. Compliance with the central bank independence principle

2.1. As underlined in the ECB's Convergence Reports[4] and several opinions[5] on issues concerning autonomy in staff matters, which are an aspect of the financial independence of national central banks (NCBs), Member States may not impair an NCB's ability to recruit and retain the qualified staff necessary for the NCB to perform independently the tasks conferred on it by the Treaty and the Statute of the European System of Central Banks and of the European Central Bank. Moreover, any amendment to the legislative provisions on the remuneration of members of an NCB's decision-making bodies and its employees should be decided in close and effective cooperation with the NCB to ensure the ongoing ability of the NCB to independently carry out its tasks. Autonomy in staff matters extends to issues relating to staff pensions.

2.2 By virtue of Article 3(1) of Legislative Decree No 165 of 30 March 2001 on general rules for the organisation of employment by the public authorities, the rules and principles applying to the Italian civil service do not currently apply to the staff of the Banca d'Italia, and the draft amendment aims at extending the principles of containing public expenditure to the Banca d'Italia's staff, with regard to recruitment, remuneration and pensions. Consequently, the Banca d'Italia will have to take these principles into account in relation to its own legal remit.

2.3 The ECB understands that the draft amendment requires the Banca d'Italia to (a) assess whether the draft amendment's principles can be implemented without prejudice to the Banca d'Italia's autonomy in staff matters; and (b) take measures in accordance with such principles only if and to the extent compatible with its ability to independently carry out its task[6]. Since Article 18(2), points 4 to 6 of the Statute of the Banca d'Italia remain unchanged, the ECB also understands that the Board of Directors retains its power to adopt the Banca d'Italia internal regulations, determine the staffing level, recruit and dismiss employees and approve agreements negotiated with trade unions. Based on these understandings, the draft amendment can be considered compatible with the principle of financial independence. The ECB trusts that it will be consulted on any future draft legislative provisions in this matter.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 18 December 2013.

[signed]

The President of the ECB

Mario DRAGHI

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4 See, for example, the ECB's Convergence Report, 2013, p. 27.

5 See, for example, Opinions CON/2010/42, CON/2010/56, CON/2010/69, CON/2010/80;CON/2011/104, CON/2011/106. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

6 See Opinion CON/2010/58.