



OPINION OF THE EUROPEAN CENTRAL BANK
of 20 July 2009
on the procedure to change the official litas exchange rate
(CON/2009/61)

Introduction and legal basis

On 23 June 2009 the European Central Bank (ECB) received a request from the Speaker of the Seimas (Parliament) of the Republic of Lithuania for an opinion on a draft law amending Article 3 of the Law on the credibility of the litas (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the first and third indents 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, as the draft relates to currency matters and Lietuvos bankas. 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

- 1.1 The main purpose of the draft law is to amend the Law on the credibility of the litas in order to include the Parliament in the procedure for changing the anchor currency and/or official litas exchange rate.
- 1.2 According to Article 3(3) of the Law on the credibility of the litas, Lietuvos bankas, upon coordination with the Government, has been delegated the power to change the anchor currency, currently the euro², and/or the official litas exchange rate. This power may only be exercised under extraordinary circumstances, where maintaining the established exchange rate of the litas would have a destructive effect on the stability of the national economy.
- 1.3 According to the draft law, Parliament becomes responsible for deciding if such extraordinary circumstances exist. Parliament, which previously played no role in this process, takes on an

¹ OJ L 189, 3.7.1998, p. 42.

² Lietuvos bankas decided to set the euro as the anchor currency and to set the official litas exchange rate as 3.4528 litas to 1 euro from 2 February 2002 (Resolution No 15 of the Board of Lietuvos bankas of 1 February 2002 'On the anchor currency and the official litas exchange rate' (*Valstybės žinios*, 2002, No 12-453)). This decision was taken upon coordination with the Government (Resolution No 157 of the Government of 1 February 2002 'On the endorsement of the proposal of Lietuvos bankas concerning the anchor currency and the official litas exchange rate and the repeal of resolutions of the Government' (*Valstybės žinios*, 2002, No 12-417)).

important role in the procedure to be followed when the anchor currency and/or the official litas exchange rate is to be changed.

2. General observations

- 2.1 According to Article 124(2) of the Treaty, each Member State with a derogation as referred to in Article 122(1) of the Treaty will treat its exchange-rate policy as a matter of common interest.
- 2.2 On 27 June 2004, at the request of the Lithuanian authorities, the ministers of the euro area Member States, the President of the ECB and the ministers and the central bank governors of Denmark and Lithuania decided, by mutual agreement, following a common procedure involving the European Commission and after consulting the Economic and Financial Committee, to include Lithuanian litas in the Exchange Rate Mechanism II (ERM II). The central rate of the Lithuanian litas was set at 1 euro = 3.45280 litas with a standard fluctuation band of $\pm 15\%$.
- 2.3 The draft law will amend the procedure for changing: (i) the anchor currency; and/or (ii) the official litas exchange rate. As regards the possibility to change the anchor currency (the euro), the ECB notes that although Member States with a derogation do not yet participate in economic and monetary union, they have a legal duty to start preparatory work for the adoption of the euro and to ensure the compatibility of their legislation with the Treaty and the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') with respect to Eurosystem-related tasks. In this context, the ECB is of the opinion that the provisions on a possible change from the anchor currency (the euro) to any other anchor currency are not compatible with Lithuania's membership in ERM II, its obligations under the Treaty and Lithuania's goal of introducing the euro and becoming part of the euro area³.

3. Establishing and changing the exchange rate

- 3.1 According to Article 1.1 of the Agreement of 16 March 2006 between the European Central Bank and the national central banks of the Member States outside the euro area laying down the operating procedures for an exchange rate mechanism in stage three of Economic and Monetary Union⁴ (hereinafter the 'ERM II Agreement'), the parties participate in a joint notification to the market of the bilateral central rates, and any changes to them, between the participating non-euro area currencies and the euro as agreed following the common procedure specified in paragraph 2.3 of the Resolution of the European Council of 16 June 1997 on the establishment of an exchange-

³ See, for example, the Ecofin conclusions of 7 November 2000, which provide that 'The ERM II could accommodate the main features of a number of exchange rates regimes, provided their commitments and objectives are credible and in line with those of the ERM II. The only clear incompatibilities vis-à-vis the ERM II that can be identified already at this stage are ... pegs against anchors other than the euro'.

⁴ OJ C 73, 25.3.2006, p. 21.

rate mechanism in the third stage of economic and monetary union⁵ (hereinafter the ‘Resolution’). Lietuvos bankas, as party to the ERM II Agreement, is bound by these conditions.

- 3.2 Paragraph 2.3 of the Resolution provides that decisions on central rates and the standard fluctuation band are taken by mutual agreement of the ministers of the euro area Member States, the ECB and the ministers and central bank governors of the non-euro area Member States participating in the mechanism, following a common procedure involving the European Commission, and after consulting the Economic and Financial Committee. It also provides that all parties to the mutual agreement, including the ECB, will have the right to initiate a confidential procedure aimed at reconsidering central rates.
- 3.3 The Law on the credibility of the litas was adopted on 17 March 1994⁶. Article 3 of this Law, on the procedure for establishing and changing the official litas exchange rate, was last amended on 20 July 1994⁷, well before Lithuania’s entry into the European Union. It has no direct references to Community legal acts and/or instruments in the field of exchange rate mechanisms.
- 3.4 Despite this shortcoming in the Law on the credibility of the litas, the ECB understands that Lietuvos bankas would follow the procedures described in the ERM II Agreement and the Resolution when reconsidering the central rate, under which confidentiality is of utmost importance.

4. Final observations

In the ECB’s view, there is an inconsistency between the provisions of the draft law on the amendment to the procedure to change the official litas exchange rate, which provide for the involvement of the Parliament in this procedure, and the provisions of the Law on Lietuvos bankas, in particular Article 3(2) and Article 8(1)(3), which delegate to Lietuvos bankas the function of determining the litas exchange rate regulation system in an independent manner; such inconsistency would create uncertainty for Lietuvos bankas in fulfilling the tasks conferred upon it.

The ECB notes that the national legislation must ensure that Lietuvos bankas’s primary goal of preserving price stability is maintained.

⁵ OJ C 236, 2.8.1997, p. 5.

⁶ *Valstybės žinios*, 1994, No 24-378.

⁷ Law No I-566 on the amendment of Article 3 of the Law on the credibility of the litas (*Valstybės žinios*, 1994, No 59-1157).

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

Done at Frankfurt am Main, 20 July 2009.

[signed]

The Vice-President of the ECB

LUCAS D. PAPADEMOS