



OPINION OF THE EUROPEAN CENTRAL BANK
of 27 November 2012
on the introduction of the euro
(CON/2012/97)

Introduction and legal basis

On 12 November 2012, the European Central Bank (ECB) received a request from the Latvian Ministry of Finance for an opinion on a draft law on the introduction of the euro (hereinafter the ‘draft law’). The ECB was already consulted on an earlier version of the draft law and provided its observations in Opinion CON/2012/73¹.

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 first and second 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 provisions², as the draft laws relate to currency matters and means of payment. 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 purpose of the draft law is to prepare for the introduction of the euro in Latvia and to ensure that this is done in an efficient and transparent manner. In particular, the draft law determines measures related to the cash changeover, the exchange of non-cash and electronic money and the dual display of prices of goods and services. It also provides for measures for the restatement in euro of accounting records and financial reports and the adjustment of financial markets for the introduction of euro. The draft law also contains provisions concerning the amendment and enforcement of the law.

2. General observations

The ECB welcomes the fact that the Latvian authorities have taken into account the observation on the earlier version of the draft law made in paragraph 2.1 of Opinion CON/2012/73 and have clarified that the day on which the euro is introduced in Latvia is the day on which the abrogation of the derogation in accordance with Article 140(2) of the Treaty enters into force.

¹ All ECB opinions are published on the ECB’s website at www.ecb.europa.eu.

² OJ L 189, 3.7.1998, p. 42.

3. Specific observations

Expression of amounts in legislative provisions

3.1 With regard to the adjustment of Latvian legal acts to the introduction of the euro, the ECB notes that the currency of a Member State with a derogation is its national currency until the entry into force of the Council decision abrogating the derogation under Article 140(2) of the Treaty. In accordance with this principle, the national authorities should ensure that the entry into force of national law provisions introducing amounts in euro that replace the national currency do not take place prior to the date of the introduction of the euro, following the Council decision abrogating the Member State's derogation³.

Rounding rules and the principle of neutrality

3.2 Article 7 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro⁴ lays down the principle that 'The substitution of the euro for the currency of each participating Member State shall not in itself have the effect of altering the denomination of legal instruments in existence on the date of substitution' (hereinafter the 'principle of neutrality'). Moreover, pursuant to Article 5 of Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro⁵, any monetary amount to be paid or accounted for must be rounded up or down to the nearest cent. This provision is reflected in Article 6 and paragraph 1 of Article 31(2) of the draft law.

However, paragraph 2 of Article 31(2) of the draft law also allows rounding up or down of the converted amount by a number of digits not exceeding the number of digits in the initial legal provision provided that: (a) the amended legal provision is no more unfavourable for an individual than the initial legal norm, save for the legal provisions setting fines, and (b) the substitution of numerical value does not have a significant adverse effect on the state budget.

In this regard, the ECB notes that the principle of neutrality⁶ does not prevent the national legislator from using its sovereign powers when expressing monetary amounts such as fines, fees, minimum capital, taxes, allowances, salaries, etc. in legislative provisions.

Accordingly, the national legislator remains free to legislate on the increase or decrease of any monetary amounts when addressing euro changeover matters. In doing so, however, it is bound to act in accordance with the principles of legal certainty and transparency, i.e. it must ensure that economic agents are able to make a clear distinction⁷ between a decision of the Latvian authorities

³ See also paragraph 3.2 of Opinion CON/2006/28 and paragraph 5.1 of Opinion CON/2007/43.

⁴ OJ L 139, 11.5.1998, p. 1.

⁵ OJ L 162, 19.6.1997, p. 1.

⁶ As stated in paragraph 25 of Case C-359/05 *Estager SA v Receveur principal de la recette des douanes de Brive* [2007] ECR I-00581, 'The principle of the continuity of legal instruments and the objective that the transition to the euro should be neutral apply to the "terms" or to the "wording" of the "legal instruments" within the meaning of Regulations No 1103/97 and No 974/98'.

⁷ This applies not only to legislative acts, but also to implementing measures or other legal instruments, e.g. collective agreements governing the issue of rounding of certain monetary amounts up or down to more than one cent.

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to increase or decrease any amount and the process of converting an amount into euro and rounding it⁸.

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

Done at Frankfurt am Main, 27 November 2012.

[signed]

The President of the ECB

Mario DRAGHI

⁸ In *Estager*, the Court of Justice held that 'Regulations No 1103/97 No 974/98 must be interpreted as precluding national legislation which, on effecting the conversion into euros of an amount ... raised it to an amount higher than that which would have resulted from application of the rules of conversion provided for in those regulations, unless such an increase meets the requirements of legal certainty and transparency guaranteed by those regulations, which presupposes that the legislative texts at issue make it possible to distinguish clearly the decision of the authorities of a Member State to increase that amount from the operation of conversion of that amount into euros.' See also paragraphs 34, 35 and 37 of the judgment in *Estager*. See also paragraph 3.2 of Opinion CON/2008/40.