EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 12 February 2014

on the introduction of the euro in Lithuania

(CON/2014/14)

Introduction and legal basis

On 22 January 2014, the European Central Bank (ECB) received a request from the Lithuanian Ministry of Finance for an opinion on the draft law on the introduction of the euro in Lithuania (hereinafter the 'draft law').

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, second and third indents of Article 2(1) of Council Decision 98/415/EC[1], as the draft law relates to currency matters, means of payment 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

The purpose of the draft law is to establish a procedure for the introduction of the euro in Lithuania and, more particularly, to lay down rules governing the following matters: (a) the exchange of the litas to the euro after the adoption of the euro in Lithuania and related rounding rules; (b) the exchange of non-cash and electronic money; (c) the dual display of prices of goods and services; (d) references to the litas and the euro in legal instruments; and (e) the withdrawal of the litas from circulation. The draft law also contains measures relating to the adaptation of accounting practices and enforcement of the law.

2. General observations

2.1 The ECB welcomes the timely preparations for the introduction of the euro, and notes that the Law on foreign currency in Lithuania[2] will be repealed from the date of the adoption of the euro in Lithuania to avoid any inconsistencies in the legal framework.

2.2 The draft law addresses an earlier concern[3] and uses the correct spelling of the euro. It is therefore compatible with Union law in this respect.

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 *Valstybės žinios*, 14.07.1993, No 28-640.

3 See Opinion CON/2005/21, paragraph 10. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

3. Definition of dual circulation period

The ECB understands that the ‘transitional period’ mentioned in Article 3(2) of the draft law means the dual circulation period, i.e. the 15-calendar day period following the adoption of the euro within which the litas keeps its legal tender status in parallel with the euro as laid down in Article 25(1) of the draft law. This is in line with Article 15(1) of Council Regulation (EC) No 974/98[4]. The term ‘transitional period’ is used in Council Regulation (EC) No 974/98 to define a different concept, related to the start of stage three of the economic and monetary union, i.e. a period of three years between the euro adoption date and the cash changeover date[5]. The ECB recommends that the term ‘transitional period’ used in the draft law should be replaced by a reference to Article 25(1) of the draft law, which would clarify that ‘dual circulation period’ is the correct term.

4. Rounding rules and the principle of neutrality

4.1 Article 7(1) of the draft law specifies that the conversion and rounding rules laid down in Articles 4 and 5 of Council Regulation (EC) No 1103/97[6] apply in the context of the conversion mechanism relating to the litas and the euro. However, the wording of the first part of Article 7(2) of the draft law unnecessarily complicates the application of Article 5 of Council Regulation (EC) No 1103/97. The draft law should regulate only those issues relating to the introduction of the euro in Lithuania not covered by Union legislation. This approach would also help simplify the draft law[7].

4.2 Article 7 of Council Regulation (EC) No 974/98 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’).

Article 7(4) of the draft law allows the rounding up of fines or other monetary obligations to the nearest euro. In this regard, the principle of neutrality 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[8].

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 distinction between a decision of the Lithuanian authorities to increase or decrease any amount and the process of converting an amount into euro and rounding it.

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4 Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.1998, p. 1).

5 In Article 1(h) of Council Regulation (EC) No 974/98 the term ‘transitional period’ is defined as ‘a period of three years at the most beginning at 00.00 hours on the euro adoption date and ending at 00.00 hours on the cash changeover date’.

6 Council Regulation (EC) No 1103/97 of 17 June 1997 on certain provisions relating to the introduction of the euro (OJ L 162, 19.6.1997, p. 1).

7 See also Opinion CON/2007/43, in particular paragraph 2.2.

8 See also Opinion CON/2012/97, in particular paragraph 3.2.

4.3 The ECB welcomes the greater precision of the rounding rules on monetary amounts for tariffs contained in Article 7(5) of the draft law, which are in line with previous ECB opinions[9] and the case law of the Court of Justice of the European Union[10].

5. Settlement in euro at automated retail locations after expiry of the dual circulation period

Article 25(6) of the draft law provides that after the expiry of the dual circulation period, automated retail locations shall only accept euro for settlement. The ECB trusts that an impact assessment with regard to the practical feasibility of this provision has been made.

6. Entry into force and application of the draft law

6.1 Article 1 of the draft law defines the purpose of the draft law as being to establish the procedure for the preparations to introduce the euro, the exchange of the litas to the euro, and the conversion of litas-denominated values to euro-denominated values after the adoption of the euro in Lithuania. Article 2(2) of the draft law defines the date of adoption of the euro as the date set in the Council decision abrogating Lithuania's derogation under Article 140(2) of the Treaty.

Article 32 of the draft law provides that the draft law shall enter into force on the date the Council makes a decision to abrogate Lithuania's derogation under Article 140(2) of the Treaty.

Furthermore, most of the provisions of the draft law contain specific references to their application date, e.g. 'before the date of adoption of the euro'[11], 'as from the date of adoption of the euro'[12], 'on the date of adoption of the euro'[13] etc.

6.2 Certain provisions of the draft law do not specify the dates from which they apply. These include, *inter alia*, Article 4 (information on images of euro banknotes and coins), Article 6(2) (destruction of litas banknotes and coins), Article 14 (redenomination of the nominal value of securities and other financial instruments), and Article 15 (redenomination of the State debt, loans and guarantees). These provisions should be read and interpreted systemically, either in conjunction with Article 1 (i.e. attributed to one of the fields mentioned in Article 1) or with Article 32 of the draft law (general entry into force provision). In the interests of clarity and legal certainty, the dates of entry into force and application of the provisions of the draft law should be simplified and clarified.

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9 See Opinion CON/2005/21, in particular paragraph 20.
10 Case C-19/03 *Verbraucher-Zentrale Hamburg eV v O2 (Germany) GmbH & Co. OHG* [2004] ECR-I-8183.
11 E.g. Article 6(1) of the draft law.
12 E.g. Articles 3(1), 3(3), 8, 9(1), 12(1), 16(1), 20, 25 etc. of the draft law.
13 E.g. Article 10(1) of the draft law.

6.3 The national authorities should ensure that the national law provisions introducing amounts in euro that replace the national currency do not enter into force prior to the date of the adoption of the euro, following the Council decision abrogating the Member State's derogation[14].

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

Done at Frankfurt am Main, 12 February 2014.

[signed]

The President of the ECB

Mario DRAGHI

14 See also paragraph 3.1 of Opinion CON/2012/97, paragraph 3.2 of Opinion CON/2006/28 and paragraph 5.1 of Opinion CON/2007/43.