



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 30 November 2016

on the reimbursement of the costs for the operation of the central credit register and the register of bank accounts

(CON/2016/57)

Introduction and legal basis

On 3 November 2016 the European Central Bank (ECB) received a request from Българска народна банка (Bulgarian National Bank (BNB)), following correspondence exchanged between BNB and the Minister of Finance, for an opinion on a draft law on the 2017 State Budget of the Republic of Bulgaria (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 third indent of Article 2(1) of Council Decision 98/415/EC¹, as the draft law relates to BNB. 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 draft law proposes, inter alia, to amend the Law on credit institutions, so that BNB defines the methodology for the calculation of the fees for access to the two information systems operated by BNB: the central credit register and the register of bank accounts. The expenditures of the relevant state bodies and judicial authorities in respect of their access to the two registers shall be incurred by the state budget and their payment to BNB shall be arranged by means of an agreement between BNB and the Ministry of Finance. The purpose of the proposed amendments is to overcome the drawbacks of the currently established decentralised payment of costs by the relevant public and judicial authorities, which could hamper both the planning and accounting of the budget expenses of these authorities and the payment of the expenditures.
- 1.2 In addition, the draft law envisages that credit institutions and branches of credit institutions operating in Bulgaria shall have access to the register of bank accounts, in order to establish the existence of clients' payment accounts that have basic features, as well as to receive relevant data for the purposes of assessing the creditworthiness of individuals. It is suggested by BNB that the inclusion of credit institutions as users of information from the register of bank accounts aims to ensure that costs in relation to the operation of the register are predominantly covered from private sources.

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. Specific observations

- 2.1 The ECB has had the opportunity to comment on the arrangements for the reimbursement of the costs that BNB would incur in setting up and operating the central credit register and the register of bank accounts².
- 2.2 The principle of financial independence of European System of Central Banks (ESCB) members requires that the Member States do not put their NCBs in a position where they have insufficient financial resources to carry out not only their ESCB related tasks, but also their national tasks, both from an operational and financial perspective³. The ECB has noted that, in this regard and in order to comply with the prohibition of monetary financing under Article 123 of the Treaty, it needs to be ensured that BNB will be fully and adequately reimbursed for all costs incurred in performing activities related to the tasks entrusted to it in connection with the setting up and operation of the two registers⁴.
- 2.3 The draft law aims to replace the current arrangement for the decentralised payment of a fee charged by BNB with an overarching framework agreement between BNB and the Ministry of Finance. The ECB underlines that this agreement should ensure that the reimbursement of BNB for the incurred costs is made on the basis of 'arm's length' commercial terms, either in advance of costs being incurred or on a regular and prompt basis as the costs arise. The ECB would appreciate receiving a copy of the draft agreement between BNB and the Ministry of Finance prior to its entry into effect and execution.

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

Done at Frankfurt am Main, 30 November 2016.

[signed]

The President of the ECB

Mario DRAGHI

² See Opinions CON/2015/46 and CON/2016/19. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

³ See paragraph 3.1.2 of Opinion CON/2015/46.

⁴ See paragraph 3.1.6 of Opinion CON/2015/46 and paragraph 3.2.1 of Opinion CON/2016/19.