



EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

Mario DRAGHI

President

Mr Csaba Molnár

Member of the European Parliament

European Parliament

60, rue Wiertz

B-1047 Brussels

Frankfurt, 18 April 2016

L/MD/16/190

Re: Your letters (QZ-032 and QZ-033)

Honourable Member of the European Parliament, dear Mr Molnár,

Thank you for your letters, which were passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 17 March 2016.

The ECB has not been consulted on the amendment to the Law on the Magyar Nemzeti Bank (hereinafter referred to as “the Law”). Nevertheless, in view of the Decision of the Constitutional Court of Hungary of 31 March 2016¹ (hereinafter referred to as “the Decision”), there would no longer seem to be any purpose to be served by the ECB expressing a view on the amendment to the Law. As detailed in the Decision, the Court considered several provisions² contained in the amendment to the Law (which was adopted by the Hungarian National Assembly on 1 March 2016) as not being in line with the Fundamental Law of Hungary.

The ECB’s understanding is therefore that the amendment to the Law cannot enter into force. If the amendment to the Law is revised and submitted to the Hungarian National Assembly for further discussion, with the aim of resolving the constitutional conflict, this would give the Hungarian National Assembly an opportunity to consult the ECB in accordance with Council Decision 98/415/EC.

¹ Decision - No I/494/2016, 31 March 2016.

² The amendment to the Law introduced provisions on the non-disclosure of data relating to the performance of the MNB’s basic and other tasks and managed/created by economic entities in the MNB’s full or majority ownership. In respect of foundations established by the MNB, the amendment also stipulated that only data relating to the founder - exercising its rights as the founder – could be made available to the public. All other data managed by the foundations will be subject to access according to the law on civil associations (with some deviations), instead of the laws on access to information of public interest. These provisions were also to be applied retroactively in respect of pending public access request procedures and in respect of data created before the entry into force of the amendment.

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In respect of your question as to the compatibility of the amendment to the Law with EU Directives, I would kindly refer you to the European Commission, the competent European authority. The Commission, as guardian of the Treaties, is responsible for examining whether national legislation is compatible with Member States' obligations under the Treaties, in accordance with the procedures set out under Articles 258 and 259 of the Treaty on the Functioning of the European Union (TFEU).

I can also assure you that the ECB, pursuant to Article 271(d) of the TFEU, monitors national central banks' compliance with the provisions prohibiting monetary financing and privileged access, as laid down in Articles 123 and 124 of the TFEU and Council Regulations (EC) No 3603/93³ and (EC) No 3604/93⁴.

The Magyar Nemzeti Bank (MNB) launched several programmes in 2014 not related to monetary policy, including a real estate investment programme, a programme to promote financial literacy and a programme involving purchases of Hungarian artworks and cultural property. The ECB assessed these operations from the perspective of their compliance with the prohibition of monetary financing for the first time as part of its 2014 annual monitoring exercise, as mentioned in the 2014 ECB Annual Report.⁵ This assessment concluded that, in view of their number, scope and size, the programmes could be perceived as potentially in conflict with the monetary financing prohibition, to the extent that they could be viewed as the MNB taking on government responsibilities and/or otherwise conferring financial benefits on the state.

As the ECB points out in its 2015 Annual Report, its concerns were not dispelled in the course of 2015, and it will therefore continue to closely monitor the MNB's operations, with a view to ensuring that their implementation does not conflict with the prohibition of monetary financing.⁶

Yours sincerely,

[signed]

Mario Draghi

³ Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty (OJ L 332, 31.12.1993, p. 1).

⁴ Council Regulation (EC) No 3604/93 of 13 December 1993 specifying definitions for the application of the prohibition of privileged access referred to in Article 104a of the Treaty (OJ L 332, 31.12.1993, p. 4).

⁵ Available on the ECB's website at www.ecb.europa.eu/pub/pdf/annrep/ar2014en.pdf.

⁶ See the 2015 ECB Annual Report, available on the ECB's website at www.ecb.europa.eu/pub/pdf/annrep/ar2015en.pdf.

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