

The institutional framework of the European System of Central Banks

The Treaty establishing the European Community (the “Treaty”) and the Statute of the European System of Central Banks (ESCB) and of the European Central Bank (ECB) confer specific objectives and tasks upon the ESCB, which is composed of the ECB and the national central banks of the 15 Member States of the European Union (EU). In order to enhance transparency and to facilitate understanding of the complex structure of central banking in the euro area, the term “Eurosystème” has been adopted to refer more specifically to the body which carries out the basic tasks related to the single monetary policy of the euro area. The ESCB thus deals with the tasks and objectives as they relate to the EU as a whole.

In contrast to the ECB and the national central banks, the ESCB (and hence the Eurosystème) has no legal personality and no decision-making bodies of its own. The ESCB is governed by the decision-making bodies of the ECB, namely the Governing Council, the General Council and the Executive Board. While decisions relating to the objectives and tasks of the ESCB have to be taken centrally, operations are decentralised to the extent deemed appropriate and possible. When taking monetary policy decisions, the members of the Governing Council of the ECB do not act as national representatives, but in a fully independent personal capacity. This is reflected in the principle of “one person, one vote”.

The Treaty grants full constitutional independence to the ESCB. In particular, neither the ECB nor any member of its decision-making bodies is permitted to seek or take instructions from Community institutions or bodies, from any government of a Member State or from any other body.

I Introduction

The Treaty establishing the European Community (the “Treaty”) and the Statute of the European System of Central Banks and of the European Central Bank (the “Statute”), which is annexed to the Treaty as a Protocol and forms an integral part of the Treaty, establish the European System of Central Banks (ESCB). The Treaty and the Statute assign specific objectives and tasks to the ESCB, which is composed of the European Central Bank (ECB) and the national central banks of the 15 Member States of the European Union (EU).

Unlike the ECB and the national central banks, the ESCB has no legal personality and no decision-making bodies of its own. However, since the objectives of the ESCB are assigned to it by the Treaty, its 16 members have common aims. It is, however, the task of the

ECB and its decision-making bodies to decide how they should be achieved, i.e. directly or through the national central banks.

To enhance transparency and to enable the public to comprehend the complex structure of the European central banking system more easily, the Governing Council of the ECB decided to adopt the term “Eurosystème” as a user-friendly expression indicating the composition in which the ESCB performs its basic tasks.

The Eurosystème comprises the ECB and the national central banks of the 11 Member States which have adopted the euro. On the first day of Stage Three of Economic and Monetary Union (1 January 1999), these Member States transferred their sovereignty with regard to monetary policy to the Eurosystème.

2 Objectives and tasks of the Eurosystème

The primary objective of the Eurosystème is to maintain price stability. Without prejudice to this objective, it is required to support the

general economic policies in the European Community with a view to contributing to the achievement of the objectives of the

Community, such as the promotion of a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance and a high level of employment and of social protection. While pursuing its objectives, the Eurosystem is required to act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources. Should there be any conflict between the objectives to be assessed by the ECB, the objective of price stability will always be paramount; the other objectives are dealt with according to the weighting that the ECB considers appropriate.

The Treaty and the Statute confer the following basic tasks upon the Eurosystem:

- to define and implement the monetary policy of the euro area;
- to conduct foreign exchange operations;
- to hold and manage the official reserves of the Member States;

- to promote the smooth operation of payment systems;
- to issue banknotes with legal tender status within the euro area; and
- to approve the volume of issuance of the euro coins by the Member States which have adopted the euro.

In addition, the Eurosystem shall:

- contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system;
- be consulted on any proposed Community act and on any draft legislation of national authorities which falls within its field of competence;
- collect statistical information necessary for the fulfilment of its tasks; and
- be represented in the field of international co-operation and participate in international monetary institutions.

3 The European Central Bank

Legal status

The ECB has legal personality under public international law and is thus in a position, inter alia, to conclude, in matters relating to its field of competence, agreements under public international law and to participate in the work of international organisations such as the International Monetary Fund, the Bank for International Settlements or the Organisation for Economic Co-operation and Development. Moreover, in each Member State the ECB enjoys the most extensive legal capacity accorded to legal persons under the respective national law. It may therefore acquire or dispose of movable and immovable property and may be party to legal proceedings.

In addition, the ECB enjoys in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Communities. Further details are stipulated in the Headquarters Agreement between the ECB and the Federal Republic of Germany concerning the seat of the former; in particular, the members of the Executive Board enjoy the privileges, exemptions, immunities and facilities granted to all diplomats accredited by the German Federal Government in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961.

Overall responsibility

The ECB has been established as the core of the Eurosystem. The overall responsibility to ensure that the tasks of the Eurosystem are carried out either by its own activities or through the national central banks is attributed to the ECB. In taking its decisions on the way in which the tasks of the ESCB are to be carried out – adopting a centralised or a decentralised approach – the ECB adheres to the *principle of decentralisation*. This principle stipulates that, to the extent deemed possible and appropriate, the ECB shall have recourse to the national central banks to carry out operations which form part of the tasks of the Eurosystem. It is for the ECB (Governing Council) to evaluate the possibility and appropriateness of decentralising operations. Where, taking into account the objectives of the Eurosystem, operations can be carried out more effectively if they are handled directly by the ECB, the Statute entitles the ECB to act in a centralised manner. Moreover, it should be underlined that the principle of decentralisation applies to operations only, while decisions and legislative activities remain centralised.

In order to ensure that the decentralised approach does not hamper the smooth functioning of the Eurosystem, the national central banks, as operational arms of the ECB, have to act in accordance with ECB Guidelines and ECB Instructions. To ensure compliance by the national central banks with these legal instruments, the ECB is empowered to take any steps that are deemed necessary – which may extend to bringing a matter before the Court of Justice of the European Communities (European Court of Justice).

Regulatory powers

The Treaty assigns to the ECB not only the power to conclude agreements with third parties, but also the regulatory powers to adopt any legal acts that are necessary to

fulfil the tasks assigned to the Eurosystem. A distinction can be made between two different kinds of ECB legislation. The first of these are legal acts addressed to third parties outside the Eurosystem. These legal acts are ECB Regulations, Decisions, Recommendations and Opinions. In addition, the ECB is empowered to adopt legal instruments which are of internal relevance to the Eurosystem and are meant to govern the Eurosystem without affecting third parties. Taking into account the unique structure of the Eurosystem, in which each of the constituent bodies retains its own legal personality, the internal legal instruments (ECB Guidelines, Instructions and Decisions) have been designed in such a way as to functionally subordinate the national central banks to the ECB and to allow the Eurosystem to operate efficiently as a single entity with a view to achieving the objectives of the Treaty.

Independence

The ECB has been granted full constitutional independence by the Treaty, which explicitly stipulates that, when exercising their powers and carrying out their tasks and duties, neither the ECB nor any member of its decision-making bodies shall seek or take instructions from Community institutions or bodies, from any government of a Member State or from any other body. The Community institutions and bodies and the governments of the Member States have undertaken to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB in the performance of their tasks. The concept of independence was further specified by the European Monetary Institute in its Convergence Report (March 1998), which was endorsed by the ECOFIN Council in its recommendation to the Council under Article 109j (2), last paragraph, of the Treaty. Therefore, independence means *financial* and *institutional independence*. The Treaty establishes that the ECB has its own budget, independent from that of the European

Union. This makes it impossible for Community institutions to interfere with the administration of the ECB and keeps the budget separate from the financial interests of the Community. The Statute protects the *personal independence* of the members of the ECB's decision-making bodies, stipulating:

- a minimum renewable term of office of five years for governors of the national central banks;
- a non-renewable term of office of eight years for members of the Executive Board, a system of staggered appointments having been applied for the appointment of its first members;
- removal from office only in the event of incapacity or serious misconduct; and
- competence of the European Court of Justice to settle any disputes in these matters.

Moreover, the Statute enables the ECB to adopt autonomous rules for its personnel, prohibiting other Community institutions from having any influence on the conditions of employment for staff of the ECB. The institutional independence is established in the provisions already mentioned. Moreover, the competence of the European Court of Auditors has been limited to an examination of the operational efficiency of the management of the ECB, while the accounts of the ECB are audited by independent external auditors.

Accountability and transparency

All central banks operate in a particular social, political and institutional environment. In a democratic context, it is vital for an independent central bank not only to be open, transparent and clear about the reasons for its actions, but also for it to be accountable for its performance. Recognising the importance of these issues, the Treaty imposes stringent reporting obligations on the Eurosystem. The ECB publishes a consolidated weekly financial statement of the Eurosystem and has to draw up and publish reports on the activities of the ESCB at least

every quarter. It has to address an Annual Report on the activities of the ESCB and on the monetary policy of both the previous and the current year to the European Parliament, the EU Council, the European Commission and the European Council. The European Parliament may hold a general debate on the Annual Report, and the President of the ECB and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament. The President of the EU Council and a member of the European Commission may participate in the meetings of the Governing Council of the ECB without having the right to vote.

In fact, the Eurosystem has committed itself to exceeding these requirements. A press conference introduced by the President of the ECB is held immediately after the first meeting of the Governing Council in any month. His regular statements giving the Governing Council's views on the economic situation and the outlook for price developments are supplemented by the publication of a Monthly Bulletin (which is translated into all official languages of the European Community). However, the Statute does not permit publication of the individual voting of the members of the Governing Council because, rather than contribute to further transparency, this would jeopardise the independence of its members, since they would then be more likely to come under national or other pressure. In fact, the members of the Governing Council must not be seen and should not act as national representatives, but rather in a fully independent personal capacity. Their monetary policy decisions are taken in respect of the euro area as a whole; national economic developments should not be taken into account when they vote on monetary policy decisions affecting the euro area.

Judicial control

The acts and omissions of the ECB – including those addressed to the national central banks as an integral part of the Eurosystem – are

open to review or interpretation by the European Court of Justice. Moreover, to protect its prerogatives the ECB has *jus standi* before the European Court of Justice.

The European Court of Justice's jurisdiction with regard to the control of the fulfilment by national central banks of their obligations reflects the special character of the ESCB and the role of the ECB, parallel to that of the European Commission, as the "guardian of the European currency constitution". If the ECB considers that a national central bank has failed to fulfil its obligations, it may, following the established procedure, bring the matter before the European Court of Justice.

Decision-making bodies of the ECB

The process of decision-making in the Eurosystem is centralised through the decision-making bodies of the ECB, namely the Governing Council and the Executive Board. As long as there are Member States which have not adopted the euro the General Council exists as a third decision-making body.

Governing Council

The Governing Council comprises all the members of the Executive Board and the governors of the national central banks of the Member States which have adopted the euro. It is the primary decision-making body of the ECB. With regard to the objectives and tasks entrusted to the Eurosystem, the Governing Council is responsible, in particular, for:

- adopting the Guidelines and Decisions necessary to ensure the performance of the tasks entrusted to the Eurosystem under the Treaty and the Statute;
- formulating the monetary policy of the euro area, including intermediate monetary objectives, key interest rates and the supply of reserves in the Eurosystem,

taking the necessary decisions and adopting the Guidelines needed for its implementation;

- deciding on the use of other operational methods of monetary control;
- adopting the Regulation concerning the calculation and determination of the required minimum reserves;
- adopting Regulations to ensure efficient and sound clearing and payment systems within the Community;
- issuing Guidelines for operations of the national central banks and the Member States with remaining foreign reserve assets;
- taking the necessary steps to ensure compliance with ECB Guidelines and Instructions and defining any necessary information to be provided by the national central banks;
- fulfilling the advisory role of the ECB;
- adopting the Rules of Procedure which determine the internal organisation of the ECB and its decision-making bodies;
- authorising the issuance of euro banknotes and the volume of issue of the euro coins within the euro area; and
- establishing the necessary rules for the standardisation of the accounting and reporting of operations undertaken by the national central banks.

It emerges from these competences that the Treaty and the Statute assign to the Governing Council the power to take the most important and strategically significant decisions for the Eurosystem. In particular when taking monetary policy decisions, the Governing Council normally acts by a simple majority of the votes cast by the members who are present in person. Each member has one vote. The principle of "one person, one vote" reflects the status of all the members of the Governing Council, including the governors of the national central banks of the Eurosystem, who are appointed in their personal capacity and not as representatives of their Member States. In the event of a tie, the President has the deciding vote.

For some decisions on financial matters relating to the status of the national central banks as shareholders of the capital of the ECB, the votes in the Governing Council are weighted according to the national central banks' shares in the subscribed capital of the ECB. The votes of the members of the Executive Board are zero-weighted. In the case of "shareholder matters", a governor who is unable to participate may appoint an alternate to cast his/her vote.

According to the Statute, the Governing Council has to meet at least 10 times a year. Current practice is for the Governing Council to meet every two weeks in Frankfurt.

Executive Board

The Executive Board is composed of the President and the Vice-President of the ECB and four other members who have been appointed from among persons of recognised standing and professional experience in monetary and banking matters. The appointment procedure confers a high level of legitimacy on the Executive Board's decisions; the appointments have to be made by common accord of the governments of the Member States at the level of the Heads of State or Government, on a recommendation from the EU Council after it has consulted the European Parliament and the Governing Council of the ECB. The main responsibilities of the Executive Board are:

- to implement monetary policy in accordance with the Guidelines and Decisions laid down by the Governing Council;
- to issue the necessary Instructions to national central banks for the implementation of the Guidelines and Decisions of the Governing Council;
- to be responsible for the current business of the ECB; and
- to execute certain powers delegated to it by the Governing Council, including those of a regulatory nature.

The Statute stipulates that implementation of the monetary policy is a competence exclusive to the Executive Board and is not at the disposal of the Governing Council.

These responsibilities of the Executive Board justify its status as the primary operational decision-making body of the ECB. The power of the Executive Board to adopt ECB Instructions addressed to the national central banks enables the Eurosystem to react and adapt to quickly changing conditions in the money and capital markets, to address specific cases and to deal with matters of urgency.

The Executive Board normally acts by a simple majority of the votes cast by the members who are present in person. In the event of a tie, the President has the casting vote. Current practice is that the Executive Board meets at least once a week.

The current members of the Executive Board and their individual responsibilities with respect to the working units of the ECB are presented in Box I.

General Council

The General Council is composed of the President and the Vice-President of the ECB and the governors of the national central banks of all 15 Member States. It can be defined as a "transitory body", performing those tasks taken over from the European Monetary Institute which, owing to the fact that not all Member States have adopted the euro, still have to be performed by the ECB in Stage Three of Economic and Monetary Union. Therefore, the General Council is primarily responsible for giving advice in the necessary preparations for irrevocably fixing the exchange rates of the currencies of the Member States which have not yet adopted the euro. Moreover, the General Council contributes to particular activities of the ESCB, such as the ESCB's advisory functions and the collection of statistical information. The President of the ECB has to inform the General Council of the decisions taken by the Governing Council.

Box I

Individual responsibilities of the members of the Executive Board with respect to the working units of the European Central Bank (ECB)

Article 11.5 of the Statute of the European System of Central Banks and of the European Central Bank stipulates that “each member of the Executive Board present in person shall have the right to vote and shall have, for that purpose, one vote”. Thereby, Article 11.5 establishes the principle of collegiate responsibility as the relevant factor governing decision-making by the Executive Board. It is based on the equal participation of the Executive Board in the adoption of Decisions, from which it follows, in particular, that Decisions should be subject to collective deliberations and that all members of the decision-making body should bear collective responsibility for all Decisions adopted.

While respecting the principle of collegiate responsibility, it is stipulated in the Rules of Procedure of the European Central Bank that, with regard to the ECB’s internal organisation, the Executive Board shall decide on the individual responsibilities of its members with respect to the working units of the ECB. The following allocation of responsibilities has been agreed by the members of the Executive Board:

- The President, **Willem F. Duisenberg**, is responsible for *External Relations, Secretariat, Protocol and Conferences* and *Internal Audit*.
- The Vice-President, **Christian Noyer**, is responsible for *Administration and Personnel, Legal Services* and the *Middle Office*. He is also one of the ECB’s two members of the Economic and Financial Committee, a consultative Community body set up at the start of Stage Three of Economic and Monetary Union.
- **Eugenio Domingo Solans** is responsible for *Information Systems, Statistics* and *Banknotes*.
- **Sirkka Hämäläinen** is responsible for *Operations* and *Controlling and Organisation*.
- **Otmar Issing** is responsible for *Economics* and *Research*. He is also one of the ECB’s two members of the Economic and Financial Committee.
- **Tommaso Padoa-Schioppa** is responsible for *International and European Relations, Payment Systems* and *Prudential Supervision*.

Neither the Treaty nor the Statute provides for a minimum number of meetings of the General Council. Current practice is that the

General Council meets every three months in Frankfurt.

4 The role of the national central banks

The national central banks have legal personality according to the national law of their respective countries. As a consequence of the requirement of legal convergence, the national laws which apply to the national central banks have been amended in order to be compatible with Community law; in particular, they have to comply with the requirement of independence, which is necessary for the smooth functioning of the ESCB. Despite their separate legal personality, the national central banks of the Eurosystem are integral parts of it and, as such, subject to the regulatory regime of the

ECB; they are therefore functionally subordinate to the ECB. As a consequence, the national central banks have to comply with the internal legal instruments adopted by the Governing Council or the Executive Board.

As integral parts of the Eurosystem, the national central banks act as operative arms of the ESCB, carrying out the tasks conferred upon the Eurosystem in accordance with the rules established by the ECB. Through various Committees which are, as a rule, chaired by a representative of the ECB, representatives of

the national central banks assist in the work of the ESCB (see the list of current Committees in Box 2). The mandates of the Committees are laid down by the Governing Council. The Committees report to the Governing Council via the Executive Board.

The Statute allows the national central banks to continue to perform non-Eurosystem functions on their own responsibility unless the Governing Council finds that such functions interfere with the objectives and tasks of the Eurosystem.

Box 2

The Committees of the European System of Central Banks (ESCB)

The Committees of the ESCB are composed of representatives of the European Central Bank (ECB) and of the national central banks of participating Member States, i.e. those Member States which have adopted the euro. The national central banks of each non-participating Member State may also appoint a representative to take part in the meetings of an ESCB Committee whenever it deals with matters which fall within the field of competence of the General Council. The ESCB Committees have been formed to assist in the work of the ESCB/Eurosystem. The reports prepared by the ESCB Committees, in line with their clearly defined mandates, reflect the range of opinions expressed by their members.

The ESCB Committees, most of which are chaired by a representative of the ECB, do not have any decision-making powers as such, but contribute to the preparation of the decisions to be taken by the decision-making bodies of the ECB within their fields of competence.

Both the Governing Council and the Executive Board have the right to request ESCB Committees to undertake studies of specific topics.

The following ESCB Committees have been established:

- Accounting and Monetary Income Committee (AMICO);
- Banking Supervision Committee (BSC);
- Banknote Committee (BANCO);
- External Communications Committee (ECCO);
- Information Technology Committee (ITC);
- Internal Auditors Committee (IAC);
- International Relations Committee (IRC);
- Legal Committee (LEGCO);
- Market Operations Committee (MOC);
- Monetary Policy Committee (MPC);
- Payment and Settlement Systems Committee (PSSC);
- Statistics Committee (STC).

In addition, a Budget Committee (BUCOM) has been established to assist in matters related to the budget of the ECB.

5 Concluding remarks

The characteristics of the institutional framework of the ESCB enable the ECB to deal with the new environment which has confronted central banking in the euro area from the first day of Stage Three of Economic and Monetary Union.

The pattern of centralised decision-making in the Eurosystem through the decision-making bodies of the ECB ensures the singleness of the monetary policy of the euro area. The primarily decentralised execution of the monetary policy operations through the national central banks of the Eurosystem adequately reflects the differences in the financial market structures and the different legal systems in the Member States which have adopted the euro.

In the General Council the ESCB has a forum through which co-operation between the Eurosystem and the other national central banks of the ESCB can be strengthened and preparation can be made for the participation of the other national central banks of the ESCB in the Eurosystem.

In addition, the institutional framework provides the decision-making bodies with enough flexibility to allow the Eurosystem to adapt to new challenges arising, for instance, from the deepening integration of financial markets in the euro area.