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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.10.2009
COM(2009) 570 final

2009/0158 (CNB)

Recommendation for a

COUNCIL DECISION

on the position to be taken by the European Community regarding the renegotiation of the Monetary Agreement with the Vatican City State

EXPLANATORY MEMORANDUM

The Monetary Agreements were concluded between the European Community and Monaco, San Marino and Vatican in order to give legal continuity to the arrangements which existed between these countries on the one hand and France and Italy on the other before the introduction of the euro.

Ten years after the euro replaced the legacy currencies of Italy and France used by Monaco, San Marino and Vatican, the Council invited the Commission to review the functioning of the Monetary Agreements[1]. The results of the assessment were adopted in the 'Commission Communication on the functioning of the Monetary Agreements with Monaco, San Marino and Vatican'[2]. The Commission concluded that the Monetary Agreements in their present form need to be amended with a view to ensuring a more consistent approach in the relations between the Community and the countries having signed the Agreements. The present draft Recommendation for a Council Decision defines the position to be taken by the Community in the renegotiation of the Agreement with the Vatican City State.

The Commission proposes to renegotiate and amend the following provisions:

- **Transposition of relevant EC legislation**

The obligations of Monaco, San Marino and Vatican stemming from their respective Monetary Agreements with the Community are very unequal. The Monetary Agreement with the Principality of Monaco comprises the biggest number of obligations. Contrary to the Agreement with Monaco, the Agreements with Vatican and San Marino do not entail any specific obligation to transpose EU legislation in the domain of protection of euro cash against counterfeiting and the ways of cooperation with the Community in this area. ***In order to create a level playing field and ensure appropriate protection of euro banknotes and coins against counterfeiting Vatican, together with San Marino, shall apply the relevant Community legislation.***

Since there is no proper banking sector in Vatican, there is no need to transpose the Community banking and financial legislation.

- **Follow-up mechanisms**

In contrast with the procedure envisaged for the Agreement with Monaco, no provision was made for a follow-up procedure in the Agreements signed with Vatican and San Marino. In the absence of regular formal follow-up, Vatican and San Marino do not regularly report on the implementation of the Agreements and they are not properly informed of legislative developments in the fields covered by the Agreements. The Commission therefore proposes creating two new joint committees - similar to the one existing with the Principality of Monaco - with the Vatican City State and the Republic of San Marino.

The ***Joint Committee with the Vatican City State*** would be composed of representatives of the Vatican City State, Italy, the European Commission and the European Central Bank. The

[1] Council Conclusions on 'Common guidelines for the national sides and the issuance of euro coins intended for circulation', 2922nd ECOFIN Council meeting of 10 February 2009.

[2] COM (2009)359 of 14 July 2009

Committee would be in charge of facilitating the implementation of the Agreement and discussing possible amendments to the list of the Community legislation to be applied by Vatican. It would also have a decision making power with regard to a limited number of issues conferred to it by the Monetary Agreement (e.g. approving the change of a Mint producing Vatican euro coins).

- **Ceiling for the issuance of euro coins**

For historical reasons, the ceilings for maximum yearly issuance of Monaco, San Marino and Vatican were fixed in two different ways (Monaco is currently authorised to issue a maximum of $1/500^{th}$ of the quantity of coins minted in France while Vatican and San Marino have fixed quotas) leading to very different results.

With a view to ensuring fair treatment to all countries with the Monetary Agreements, the Commission proposes to introduce *a **new uniform method for calculating the ceilings of euro coins issuance*** (i.e. to be also used in all future Agreements). The Commission also proposes to increase the ceilings of issuance of the countries having signed the Monetary Agreements with a view to allowing some circulation of their coins. Coins minted in low quantities are very demanded by coin collectors. As a consequence, the coins are not serving their original purpose of a payment instrument but are solely kept as collectors' items.

The new ceilings would be composed of a fixed and a variable part:

(1) **The fixed part** should aim at covering the demand of coin collectors. According to common estimates, a total value of around €2 100 000 should be sufficient to cover the demand of the collectors' market.[3]

(2) **The variable part** would be based, in the case of Vatican, on the average per capita issuance of Italy. The average number of coins per capita issued in Italy in (n-1) would be multiplied by the number of inhabitants of the Vatican City State.

Using the new method, the ceiling of issuance of the Vatican City State would approximately double if compared with the current quota.

- **Rules for minting euro coins**

The current Monetary Agreements reserve the right to produce the euro coins of Vatican and San Marino to the national Mint of Italy. This rule was introduced for historical reasons, at a time when euro cash was not yet in circulation and nearly all the euro-area countries were minting euro coins only for their own needs. The situation has now evolved, with a number of euro-area countries today having their coins minted in another euro-area country. The Commission therefore proposes ***to open the possibility for Vatican and San Marino to order their euro coins in another EU Mint experienced in producing euro coins***. The change of the Mint would however have to be approved by the Joint Committee.

- **Election of jurisdiction**

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3 San Marino has for instance concentrated on striking selected euro denomination coins with some success: these coins are now used at face value for transactions.

The present Monetary Agreements have not given the Community any leverage in the event that the countries having signed the Monetary Agreements do not fulfil their obligations (e.g. do not transpose the relevant Community legislation in due time), apart from the ultimate – and therefore unlikely - possibility to withdraw unilaterally from the Agreement. The Commission therefore proposes ***to elect the European Court of Justice as the jurisdiction responsible for settling disputes*** which may arise from the application of the Monetary Agreements.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 111.3 thereof,

Having regard to the recommendation from the Commission[4],

Having regard to the opinion of the European Central Bank[5],

Whereas:

(1) The Community has the competence for monetary and exchange rate matters as of the date of the introduction of the euro;

(2) The Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matter;

(3) The Italian Republic, on behalf of the Community, concluded on 29 December 2000 a Monetary Agreement with the Vatican City State ;

(4) The Council concluded on 10 February 2009 that the Commission should review the functioning of the existing agreements and consider possible increases in the ceilings for coin issuance;

(5) The Commission concluded in the 'Communication on the functioning of the Monetary Agreements with Monaco, San Marino and Vatican'[6] that the Monetary Agreement with the Vatican City State in its present form needs to be amended with a view to ensuring a more consistent approach in the relations between the Community and the Countries having signed a monetary agreement;

(6) The Monetary Agreement with Vatican should therefore be renegotiated as soon as possible so that the new regime enters into force on 1st January 2010, together with the new rules on the modalities of introduction of euro coins set by the Commission Recommendation of 19 December 2008 on common guidelines for the national side

4 OJ C , , p. .
5 OJ C , , p. .
6 COM(2009)359

and the issuance of euro coins intended for circulation, endorsed by the Council in its conclusions of 10 February 2009.

HAS ADOPTED THIS DECISION:

Article 1

The Italian Republic shall notify the Vatican City State of the need to amend the existing Monetary Agreement between the Italian Republic, on behalf of the European Community, and the Vatican City State at the earliest possible date and offer renegotiation on the relevant provisions of the Agreement.

Article 2

The Community shall seek the following changes in the renegotiation of the Agreement with the Vatican City State:

(a) The Agreement shall be concluded between the Community and the Vatican City State. The text of the agreement shall be a codified text of the current agreement with the amendments.

(b) The Vatican City State shall undertake to adopt all appropriate measures, through direct transpositions or possibly equivalent actions, for the application of all relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of cash and non-cash means of payment.

(c) The method for determining the ceiling of issuance of Vatican euro coins shall be revised. The new ceiling shall be calculated using a method which will combine a fixed part aimed at avoiding excessive numismatic speculation on Vatican coins by satisfying the demand of the collector coin market and a variable part, calculated as the average per capita coin issuance of Italy in the year n-1 multiplied by the number of inhabitants of Vatican. Without prejudice to the issuance of collector coins, the Agreement shall set the minimum proportion of Vatican euro coins to be introduced at face value at 51%.

(d) A Joint Committee shall be established in order to monitor the progress in the implementation of the Agreement. It shall be composed of representatives of the Vatican City State, the Republic of Italy, the Commission and the ECB. It shall have the possibility to revise each year the fixed part with a view to taking into account inflation and the evolution of the collector market. It shall adopt decisions unanimously. The Joint Committee shall adopt its own rules of procedure.

(e) The euro coins of the Vatican City State shall be minted by the Instituto Poligrafico e Zecca dello Stato. The Vatican City State shall however have the possibility to take another contractor among the EU Mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Vatican City State shall be added to the volume of coins issued by the home country of the producing mint for the purpose of the ECB approval of the total volume of the issuance.

(f) The Court of Justice of the European Communities shall be elected as the body in charge of settling disputes which may arise from the application of the Agreement.

If the Community or the Vatican consider that the other Party has not fulfilled an obligation under the Monetary Agreement, it may bring the matter before the Court of Justice. The judgment of the Court shall be binding on the Parties, which will take the necessary measures to comply with the judgment within a period to be decided by the Court in its judgment. In case the Community or the Vatican fail to take the necessary measures to comply with the judgment within the period, the other Party can terminate immediately the Agreement.

Article 3

The negotiations with the Vatican City State shall be conducted by the Italian Republic and the Commission on behalf of the Community. The European Central Bank shall be fully associated with the negotiations in its field of competence. The Italian Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 4

The Council shall conclude the agreement.

This Decision is addressed to the Italian Republic and the Commission.

Done at Brussels,

For the Council
The President