

DECISION (EU) 2023/135 OF THE EUROPEAN CENTRAL BANK**of 30 December 2022****on the paying-up of capital, transfer of foreign reserve assets, and contributions by Hrvatska narodna banka to the European Central Bank's reserves and provisions (ECB/2022/51)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular Articles 30.1, 30.3, 48.1 and 48.2 thereof,

Whereas:

- (1) Pursuant to Article 1 of Council Decision (EU) 2022/1211 ⁽¹⁾, in accordance with Article 140(2) of the Treaty on the Functioning of the European Union, Croatia fulfils the necessary conditions for adoption of the euro and the derogation in favour of Croatia referred to in Article 5 of the 2012 Act of Accession ⁽²⁾ will be abrogated with effect from 1 January 2023.
- (2) Article 48.1 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB') provides that the national central bank (NCB) of a Member State whose derogation has been abrogated must pay up its subscribed share of the capital of the European Central Bank (ECB) to the same extent as the NCBs of the other Member States whose currency is the euro. The NCBs of the existing Member States whose currency is the euro have paid up their shares in the ECB's subscribed capital in full ⁽³⁾. The weighting of Hrvatska narodna banka in the ECB's capital key is 0,6595 %, pursuant to Article 2 of Decision (EU) 2020/137 of the European Central Bank (ECB/2020/3) ⁽⁴⁾. Hrvatska narodna banka has already paid up part of its share in the ECB's subscribed capital, pursuant to Article 1 of Decision (EU) 2020/136 of the European Central Bank (ECB/2020/2) ⁽⁵⁾. The outstanding amount is therefore EUR 68 713 762,06, which results from multiplying the ECB's subscribed capital (EUR 10 825 007 069,61) by the capital key weighting of Hrvatska narodna banka (0,6595 %), minus the part of its share in the ECB's subscribed capital that has already been paid up.
- (3) Article 48.1, in conjunction with Article 30.1, of the Statute of the ESCB provides that the NCB of a Member State whose derogation has been abrogated must also transfer foreign reserve assets to the ECB. Pursuant to Article 48.1 of the Statute of the ESCB, the sum to be transferred is determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1 of the Statute of the ESCB by the ratio between the number of shares subscribed by the NCB concerned and the number of shares already paid up by the NCBs of the other Member States whose currency is the euro. When determining the 'foreign reserve assets which have already been transferred to the ECB in accordance with

⁽¹⁾ Council Decision (EU) 2022/1211 of 12 July 2022 on the adoption by Croatia of the euro on 1 January 2023 (OJ L 187, 14.7.2022, p. 31).

⁽²⁾ Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community (OJ L 112, 24.4.2012, p. 21).

⁽³⁾ Decision (EU) 2020/138 of the European Central Bank of 22 January 2020 on the paying-up of the European Central Bank's capital by the national central banks of Member States whose currency is the euro and repealing Decision (EU) 2019/44 (ECB/2020/4) (OJ L 27 I, 1.2.2020, p. 6).

⁽⁴⁾ Decision (EU) 2020/137 of the European Central Bank of 22 January 2020 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital and repealing Decision (EU) 2019/43 (ECB/2020/3) (OJ L 27 I, 1.2.2020, p. 4).

⁽⁵⁾ Decision (EU) 2020/136 of the European Central Bank of 22 January 2020 on the paying-up of the European Central Bank's capital by the non-euro area national central banks and repealing Decision (EU) 2019/48 (ECB/2020/2) (OJ L 27 I, 1.2.2020, p. 1).

Article 30.1', due account should be taken of previous capital key adjustments pursuant to Article 29.3 of the Statute of the ESCB and of capital key expansions pursuant to Article 48.3 of the Statute of the ESCB. As a result, pursuant to Decision (EU) 2020/140 of the European Central Bank (ECB/2020/6) (⁶), the euro equivalent of the foreign reserve assets which have already been transferred to the ECB under Article 30.1 of the Statute of the ESCB is EUR 40 343 940 778,93.

- (4) The foreign reserve assets to be transferred by Hrvatska narodna banka should be in or be denominated in US dollars and gold.
- (5) Article 30.3 of the Statute of the ESCB provides that the ECB must credit each NCB of a Member State whose currency is the euro with a claim equivalent to the foreign reserve assets that it has transferred to the ECB. The provisions regarding the denomination and remuneration of the claims that have already been credited to the NCBs of the Member States whose currency is the euro (⁷) should also apply to the denomination and remuneration of the claims of Hrvatska narodna banka.
- (6) Article 48.2 of the Statute of the ESCB provides that the NCB of a Member State whose derogation has been abrogated must contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31 December of the year prior to the abrogation of the derogation. The amount of this contribution is determined in accordance with Article 48.2 of the Statute of the ESCB.
- (7) By analogy with Article 3.5 of the Rules of Procedure of the European Central Bank (⁸), the Governor of Hrvatska narodna banka has had the opportunity to make observations on this Decision before its adoption.
- (8) Due to the time constraints presented by the short period between the calculation of the euro-equivalent amount of foreign reserve assets to be transferred by Hrvatska narodna banka on 30 December 2022 and the abrogation of the derogation in favour of Croatia on 1 January 2023, this Decision should be notified as a matter of urgency and it should apply from 1 January 2023,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision:

- (a) 'foreign reserve assets' means gold or US dollars;
- (b) 'gold' means fine troy ounces of gold in the form of London Good Delivery bars, as specified by the London Bullion Market Association;
- (c) 'US dollar' means the lawful currency of the United States.

(⁶) Decision (EU) 2020/140 of the European Central Bank of 22 January 2020 laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets and repealing Decision (EU) 2019/46 (ECB/2020/6) (OJ L 27 I, 1.2.2020, p. 15).

(⁷) Pursuant to Guideline ECB/2000/15 of the European Central Bank of 3 November 1998 as amended by the Guideline of 16 November 2000 on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims (OJ L 336, 30.12.2000, p. 114).

(⁸) Decision ECB/2004/2 of the European Central Bank of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

*Article 2***Extent and form of paid-up capital**

- With effect from 1 January 2023, Hrvatska narodna banka shall pay up the remaining part of its share in the ECB's subscribed capital, which corresponds to EUR 68 713 762,06.
- Hrvatska narodna banka shall pay the amount specified in paragraph 1 to the ECB on 2 January 2023 by means of a separate transfer via the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2) settling in euro in central bank money.
- Hrvatska narodna banka shall pay to the ECB on 2 January 2023, by a separate TARGET2 transfer, the interest accrued on 1 January 2023 on the amount due to the ECB under paragraph 2. This interest shall be calculated on a daily basis, using the actual-over-360 day-count method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

*Article 3***Transfer of foreign reserve assets**

- Hrvatska narodna banka shall transfer to the ECB, with effect from 1 January 2023 and in accordance with this Article and the arrangements taken pursuant to it, an amount of foreign reserve assets that is equivalent to EUR 639 849 638,12 as follows:

Euro-equivalent amount of US dollars in the form of cash	Euro-equivalent amount of gold	Aggregate euro-equivalent amount
543 872 192,40	95 977 445,72	639 849 638,12

- The euro-equivalent amount of foreign reserve assets to be transferred by Hrvatska narodna banka under paragraph 1 shall be calculated on the basis of the exchange rates between the euro and the US dollar as calculated for the purpose of the ECB's euro foreign exchange reference rates on 30 December 2022 and, in the case of gold, on the basis of the price of gold per fine troy ounce established in the concertation procedure for the ECB's internal purposes on 30 December 2022.

- The ECB shall confirm to Hrvatska narodna banka as soon as possible the amount calculated in accordance with paragraph 2.

- In accordance with paragraph 1, Hrvatska narodna banka shall transfer to the ECB an amount of US dollars in the form of cash that is equivalent to the amount of euro laid down in the table in paragraph 1.

- The transfer of the amount of US dollars in the form of cash that is equivalent to the amount of euro laid down in the table in paragraph 1 shall take place to such accounts as are specified by the ECB. The settlement date for the amount of US dollars in the form of cash to be transferred to the ECB shall be 3 January 2023. Hrvatska narodna banka shall give instructions to execute such transfer to the ECB.

- The value of the gold which Hrvatska narodna banka transfers to the ECB in accordance with paragraph 1 shall be as close as possible to, but no more than, EUR 95 977 445,72.

- Hrvatska narodna banka shall transfer the gold referred to in paragraph 1 in uninvested form to such accounts and such locations as are specified by the ECB. The settlement date for the gold to be transferred to the ECB shall be 3 January 2023. Hrvatska narodna banka shall give instructions to execute such transfer to the ECB.

8. If Hrvatska narodna banka transfers gold to the ECB with a value of less than the amount specified in paragraph 1, then on 3 January 2023 it shall transfer an amount of US dollars in the form of cash equivalent to the shortfall to an ECB account as specified by the ECB. Any such US dollars in the form of cash shall not form part of the foreign reserve assets which Hrvatska narodna banka transfers to the ECB in accordance with paragraph 4.

9. The difference, if any, between the aggregate euro-equivalent amount mentioned in paragraph 1 and the amount mentioned in Article 4(1) shall be settled in accordance with the Agreement of 30 December 2022 between Hrvatska narodna banka and the European Central Bank regarding the claim credited to Hrvatska narodna banka by the European Central Bank under Article 30.3 of the Statute of the European System of Central Banks and of the European Central Bank (¹).

Article 4

Denomination, remuneration and maturity of the claim equivalent to the contribution

1. With effect from 1 January 2023, and subject to the specifications in Article 3 regarding the settlement dates of the transfers of foreign reserve assets, the ECB shall credit Hrvatska narodna banka with a claim denominated in euro, equivalent to the aggregate euro amount of its contribution of foreign reserve assets. This claim corresponds to EUR 327 152 181,93.

2. The claim credited by the ECB to Hrvatska narodna banka shall be remunerated from the settlement date. The interest accruing shall be calculated on a daily basis, using the actual-over-360 day-count method of calculation, at a rate equivalent to 85 % of the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

3. The accrued interest calculated in accordance with paragraph 2 shall be paid to Hrvatska narodna banka at the end of each financial year. Each quarter the ECB shall inform Hrvatska narodna banka of the cumulative amount.

4. The claim shall not be redeemable.

Article 5

Contributions to the ECB's reserves and provisions

1. With effect from 1 January 2023, Hrvatska narodna banka shall contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account at 31 December 2022.

2. The amounts to be contributed by Hrvatska narodna banka shall be determined in accordance with Article 48.2 of the Statute of the ESCB. The references in Article 48.2 to 'the number of shares subscribed by the central bank concerned' and 'the number of shares already paid up by the other central banks' shall refer to the respective weightings of Hrvatska narodna banka and the NCBs of the other Member States whose currency is the euro in the ECB's capital key, pursuant to Decision (EU) 2020/140 (ECB/2020/6).

3. For the purposes of paragraph 1, 'the ECB's reserves' and 'provisions equivalent to reserves' shall include the ECB's general reserve fund, balances on revaluation accounts and the provision for financial risks.

4. At the latest on the first working day following the Governing Council's approval of the ECB's annual accounts for the year 2022, the ECB shall calculate and confirm to Hrvatska narodna banka the amount to be contributed by Hrvatska narodna banka under paragraph 1.

¹) OJ C 18, 19.1.2023, p. 1.

5. On the second working day following the Governing Council's approval of the ECB's annual accounts for the year 2022, Hrvatska narodna banka shall, via TARGET2, pay to the ECB:

- (a) the amount due to the ECB calculated under paragraph 4, less any amount transferred in excess of the claim referred to in Article 4(1) on the settlement dates laid down in Article 3(5) and (7) (an 'advance contribution'), if any; and
- (b) the interest accrued from 1 January 2023 until the payment date on the amount due to the ECB calculated under paragraph 4, less any advance contribution.

6. Any interest accruing under paragraph 5(b) shall be calculated on a daily basis, using the actual-over-360 day-count method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

Article 6

Competencies

1. To the extent necessary, the ECB's Executive Board shall issue instructions to Hrvatska narodna banka to further specify and give effect to any provision of this Decision and to provide for appropriate remedies to address any problems that may arise.

2. Any instruction issued by the Executive Board under paragraph 1 shall be promptly notified to the Governing Council, and the Executive Board shall comply with any decision of the Governing Council thereon.

Article 7

Taking effect

- 1. This Decision shall take effect on the day of its notification to the addressee.
- 2. It shall apply from 1 January 2023.

Article 8

Addressee

This Decision is addressed to Hrvatska narodna banka.

Done at Frankfurt am Main, 30 December 2022.

The President of the ECB

Christine LAGARDE