

**COUNCIL DECISION**

of 29 June 1998

**on the consultation of the European Central Bank by national authorities  
regarding draft legislative provisions**

(98/415/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 105(4) thereof and Article 4 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank annexed thereto,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute <sup>(3)</sup>,

Acting in accordance with the procedure provided for in Article 106(6) of the Treaty and in Article 42 of the said Protocol,

- (1) Whereas the European Central Bank (ECB) will be established as soon as its Executive Board is appointed;
- (2) Whereas the Treaty stipulates that national authorities shall consult the ECB regarding any draft legislative provision in its fields of competence; whereas it is for the Council to set out the limits and the conditions of such consultation;
- (3) Whereas this obligation on the authorities of the Member States to consult the ECB must not prejudice the responsibility of these authorities for the matters which are the subject of such provision; whereas Member States must consult the ECB on any draft legislation in its fields of competence in accordance with Article 105(4) of the Treaty; whereas the list of particular areas included in Article 2 of this Decision is not exhaustive; whereas the sixth indent of Article 2 of this Decision is without prejudice to the present assignment of competences for policies relating to the prudential supervision of credit institutions and the stability of the financial system;

(4) Whereas the monetary functions and operations of the European System of Central Banks (ESCB) are defined in the Statute of the ESCB and of the ECB; whereas central banks of participating Member States are an integral part of the ESCB and must act in accordance with the guidelines and instructions of the ECB; whereas, in the third stage of Economic and Monetary Union (EMU), the authorities of non-participating Member States must consult the ECB on draft legislative provisions on the instruments of monetary policy;

(5) Whereas as long as Member States do not participate in the monetary policy of the ESCB, this Decision does not concern decisions taken by authorities of these Member States in the context of the implementation of their monetary policy;

(6) Whereas consultation of the ECB must not unduly lengthen procedures for adopting legislative provisions in the Member States; whereas the time limits within which the ECB must deliver its opinion must, nevertheless, enable it to examine the texts referred to it with the required care; whereas, in duly justified cases of extreme urgency, for which the reasons will be stated, for example on account of market sensitivity, Member States may set a time limit which is less than one month and which reflects the urgency of the situation; whereas in these cases particularly, dialogue between the national authorities and the ECB should enable the interests of both to be taken into account;

(7) Whereas, in accordance with paragraphs 5 and 8 of Protocol No 11 annexed to the Treaty, this Decision shall not apply to the United Kingdom of Great Britain and Northern Ireland if and so long as that Member State does not move to the third stage of EMU;

(8) Whereas, from the date of the establishment of the ECB until the start of the third stage of EMU, national authorities have to consult the ECB, pursuant to Decision 93/717/EC <sup>(4)</sup> and Article 109l(2) of the Treaty,

<sup>(1)</sup> OJ C 118, 17. 4. 1998, p. 11.

<sup>(2)</sup> OJ C 195, 22. 6. 1998.

<sup>(3)</sup> Opinion delivered on 6 April 1998 (not yet published in the Official Journal).

<sup>(4)</sup> OJ L 332, 31. 12. 1993, p. 14.

HAS ADOPTED THIS DECISION:

*Article 1*

1. For the purpose of this Decision:

'participating Member State' shall mean a Member State which has adopted the single currency in accordance with the Treaty;

'draft legislative provisions' shall mean any such provisions which, once they become legally binding and of general applicability in the territory of a Member State, lay down rules for an indefinite number of cases and are addressed to an indefinite number of natural or legal persons.

2. Draft legislative provisions shall not include draft provisions the exclusive purpose of which is the transposition of Community directives into the law of Member States.

*Article 2*

1. The authorities of the Member States shall consult the ECB on any draft legislative provision within its field of competence pursuant to the Treaty and in particular on:

- currency matters,
- means of payment,
- national central banks,
- the collection, compilation and distribution of monetary, financial, banking, payment systems and balance of payments statistics,
- payment and settlement systems,
- rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets.

2. In addition, the authorities of Member States other than participating Member States shall consult the ECB on any draft legislative provisions on the instruments of monetary policy.

3. The ECB shall, immediately on receipt of any draft legislative provision, notify the consulting authority whether, in its opinion, such provision is within its field of competence.

*Article 3*

1. The authorities of the Member States preparing a legislative provision may, if they consider it necessary, set the ECB a time limit for the submission of its opinion which may not be less than one month from the date on

which the President of the ECB receives notification to this effect.

2. In case of extreme urgency, the time limit may be reduced. In this case, the consulting authority shall state the reasons for the urgency.

3. The ECB may request in due time an extension of the time limit for up to an additional four weeks. This request shall not be unreasonably declined by the consulting authority.

4. Upon expiry of the time limit, the absence of an opinion shall not prevent further action by the consulting national authority. Should the opinion of the ECB be received after the time limit, Member States shall, nevertheless, ensure that it is brought to the knowledge of the authorities referred to in Article 4.

*Article 4*

Each Member State shall take the measures necessary to ensure effective compliance with this Decision. To that end, it shall ensure that the ECB is consulted at an appropriate stage enabling the authority initiating the draft legislative provision to take into consideration the ECB's opinion before taking its decision on the substance and that the opinion received from the ECB is brought to the knowledge of the adopting authority if the latter is an authority other than that which has prepared the legislative provisions concerned.

*Article 5*

1. This Decision shall apply from 1 January 1999.
2. Decision 93/717/EC shall be repealed with effect from 1 January 1999.

*Article 6*

This Decision is addressed to the Member States.

Done at Luxembourg, 29 June 1998.

*For the Council*

*The President*

R. COOK