EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 8 February 2013

on limitations on cash payments in the context of payment of wages

(CON/2013/11)

Introduction and legal basis

On 11 January 2013, the European Central Bank (ECB) received a request from the Finnish Ministry of Employment and the Economy for an opinion on a draft law amending Chapter 2 Section 16 of the Law on employment contracts[1] and Chapter 2 and Chapter 8 Section 4 of the Law on accounting[2] (hereinafter the 'draft law').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the second indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions[3], as the draft law relates to means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft law

The draft law is part of a Government action programme for 2012-2015[4], which aims, *inter alia*, to combat tax evasion. The draft law provides that wages should, as a general rule, be paid into a bank account designated by the employee. The aim is to reduce the use of cash, and thereby to make it more difficult for employers to make undocumented payment of wages.

2. General observations

2.1 The ECB notes that the draft law is in compliance with Union law[5], and in particular with recital 19 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro[6], which states that 'limitations on payments in notes and coins, established by Member States for public

1 *Työsopimuslaki* 26.1.2001/55.

2 *Kirjanpitolaki* 30.12.1997/1336.

3 OJ L 189, 3.7.1998, p. 42.

4 *Tehostettu harmaan talouden ja talousrikollisuuden torjunnan toimintaohjelma vuosille* 2012–2015, *valtioneuvoston periaatepäätös* 19.1.2012.

5 See paragraph 2.3.2 of Opinion CON/2010/36 and paragraph 2.1 of opinion CON/2012/33. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

6 OJ L 139, 11.5.1998, p. 1.

reasons, are not incompatible with the status of legal tender of euro banknotes and coins, provided that other lawful means for the settlement of monetary debts are available'. The ECB acknowledges that: (i) such other lawful means for the settlement of monetary debts, other than cash, are available in Finland; and (ii) the draft law's objective of combating tax evasion qualifies as a public reason outweighing the impact of the limitations on cash payments.

2.2 However, limitations on payments in cash should be proportionate to the objectives pursued and should not go beyond what is necessary to achieve such objectives, especially in view of the fact that the restrictive measures of the draft law may also affect relatively low value payments. Any negative impact of the proposed limitations should be carefully weighed against the public benefits expected to be derived from them.

3. Specific observations

3.1 The ECB understands that the proposed limitations on payments in cash would only affect the payment of wages, while payments in cash in relation to other transactions (such as between businesses, and between businesses and customers) would not be affected.

3.2 The ECB notes that payment of wages in cash would still be allowed under the draft law for 'compelling reasons'. While the draft law does not define the meaning of 'compelling reasons', the explanatory memorandum refers to situations where, for reasons beyond the control of the employer, an employee would not otherwise have access to their wages within the time period agreed or stipulated by law (e.g. where the employment contract is terminated with immediate effect) and to situations where an employee does not have a bank account.

3.3 In addition, the ECB notes that the draft law does not require employees who do not already have a bank account to open one for the payment of their wages; such employees would still be entitled to have their wages paid in cash. In this context, the ECB also notes that while the failure to include in the accounting documents a receipt (or other form of documentation of cash payment of wages) signed by the employee would constitute an accounting violation punishable by a fine under the draft law, the payment of wages in cash would not of itself constitute a punishable violation or crime.

3.4 The ECB further notes that, according to the explanatory memorandum, cash payments and the holding of large amounts of cash are not typical business practices in Finland.

3.5 In addition, the ECB acknowledges that the Finnish Ministry of Employment and the Economy has conducted a thorough analysis of the expected economic effects of the restrictive measures on cash payments of wages laid down in the draft law[7]. According to this analysis, the draft law would result in a very small increase of costs for a minority of employers, whereas there would be no increase in costs for the majority of employers, as payment of wages into a bank account is already standard practice in Finland.

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7 See a special section in the explanatory memorandum dedicated to the expected economic effects of the limitation of payments of wages in cash.

3.6 Against this background, the ECB is of the view that the proposed restrictions on cash payments as described above appear to be proportionate to the objectives pursued by the draft law.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 8 February 2013.

[signed]

The President of the ECB

Mario DRAGHI