



EUROPEAN MONETARY INSTITUTE

OPINION OF THE EUROPEAN MONETARY INSTITUTE

CON/98/08

At the request of the Belgian Ministry of Finance, under Article 109f (6) of the Treaty establishing the European Community (the “Treaty”) and Article 5.3 of the Statute of the European Monetary Institute (EMI), on a draft Law (the “draft law”) on certain rules concerning the changeover process for the introduction of the euro in Belgium.

1. On 11 March 1998 the EMI received a request for an opinion on the draft law from the Belgian Ministry of Finance. An Explanatory Memorandum was also submitted to the EMI. No English translation has been provided and the Opinion is based on the French and Flemish text of the draft law.
2. The EMI’s competence to deliver an opinion is based on Article 1.1, first indent, of the Council Decision (93/717/EC) of 22 November 1993 on the consultation of the EMI by the authorities of the Member States on draft legislative provisions, as the draft law deals, inter alia, with currency legislation.
3. The draft law aims to make the necessary adaptations to Belgian legislation, in particular with a view to the national implementation of the regulatory framework for the introduction of the euro. The draft law refers to rounding rules, replacement of reference interest rates, taxation, financial instruments, redenomination of public and private debt, financial markets, monetary policy, conversion of equity shares, dual pricing, consumer protection, social welfare system, and sanctions.
4. The EMI welcomes the initiative of the Belgian Government to prepare for the introduction of the euro, so as to ensure the timely implementation of the measures necessary or convenient for the changeover. The draft law is foreseen as a supplement to the draft EU Council regulation on the introduction of the euro, and provides for its entry into vigour in different dates for the different parts of it, some of which is intended to be effective before the start of the third stage.

5. Specific comments are the following:

(a) The EMI welcomes the legal provisions concerning rounding rules. These are foreseen as a supplement to the provisions on rounding of EU Council Regulation 1103/97, with which they are fully compatible. It deprives of any legal significance differences arising out of rounding rules in conversions between francs and euros, in accordance with Article 5 of the draft law, when these are less than one euro cent in amount. The non-compulsory administrative supervision of converter machines is welcome as a mechanism introducing certainty to consumers.

(b) The references to the rates of the National Bank of Belgium and of the Guarantee and Discount Institute, and the references to the BIBOR, are deemed to be replaced by references to the rates of the ECB and to the EURIBOR, respectively. The transitory creation of an intermediary stage where a national substitute rate would be organised, as the legislation of other Member States is currently foreseeing, is avoided. The changes intended by the draft law are therefore welcome, since they contribute to enhance the unity of the euro-wide money market and avoid the maintenance of national reference rates.

(c) The EMI welcomes the regime envisaged for re-denomination of public debt. The method chosen for that re-denomination, based on individual holdings ("*comptes des titres*"), and rounding to the euro cent, is similar to the method envisaged by many Member States (i.e. Germany, Austria, Portugal; France and The Netherlands envisage rounding to the euro unit). The enabling authority given to the Government for secondary legislation is a useful device to address specific problems that may arise. The solution given by the draft law to a problem of international private law, when addressing the re-denomination of debt securities issued under a law which is not the law of the Member State in whose currency unit the securities are denominated, which is not different from the governing law of the issue, is correct and consistent with the solution given by other Member States.

(d) The supplementary rules for the re-denomination of both public and private debt give legal certainty and clarity to economic agents. Freedom of contract is also preserved for the re-denomination exercises. A short time limit and exhaustive listing of possible legal grounds for a judicial challenge of re-denomination measures contributes to legal security. These provisions are thus welcome. It might be mentioned that other Member States have also foreseen the inclusion in this kind of legislative acts of the principle of allocation to the issuer/borrower of the costs of re-denomination.

(e) The draft law limits the characterisation as “foreign currency” to only those currencies issued by non-participating Member States and the currencies of non-EU States; this is fully consistent with the draft EU Council Regulation on the Introduction of the Euro and therefore a useful clarification. Supplementary rules on conversion of foreign currencies into euro, and viceversa, by reference to the euro exchange rates is also consistent with the unity of the foreign exchange markets of the euro area.

(f) The EMI welcomes in particular (i) the exclusion of ESCB Debt Certificates from the prospectus obligation; should other Member States adopt a similar measure, the use of that monetary policy instrument would be facilitated; (ii) the exclusion of the ECB from the category of “credit institution” subject to the banking laws of Belgium, whilst allowing it with certain prerogatives which are preserved for credit institutions; (iii) the abrogation of the right of the Treasury to issue legal tender banknotes; (iv) the abrogation of the legal right to mint ECU coins with legal tender status.

(g) The draft provisions on (i) re-denomination of corporate equity, (ii) consumer protection, and (iii) social security contributions and forms, do not raise any concern from the EMI perspective; on the contrary, these may be considered as helpful provisions facilitating the changeover process.

The EMI has no objection to this opinion being made public.

17th April 1998