EUROPEAN CENTRAL BANK

EUROSYSTEM

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OPINION OF THE EUROPEAN CENTRAL BANK

of 14 June 2022

on payment to Central Bank of Ireland in respect of certain IMF-related transactions

(CON/2022/21)

Introduction and legal basis

On 29 May 2022 the European Central Bank (ECB) received a request from the Irish Minister for Finance for an opinion on draft legislative provisions revising the Bretton Woods Agreements (Amendment) Bill 2022 (hereinafter the 'draft legislative provisions').

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 third indent of Article 2(1) of Council Decision 98/415/EC[1], as the draft legislative provisions relates to the Central Bank of Ireland (CBI). 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 legislative provisions

1.1 The draft legislative provisions revise a draft law on which the ECB has previously opined but which, at the date of this opinion, has not ultimately been enacted, regarding Ireland's adherence to the New Arrangements to Borrow with the International Monetary Fund (IMF)[2]. The draft legislative provisions empower the Minister for Finance to make a payment out of the Irish Government's Central Fund to the CBI, with the total amount not exceeding EUR 6 600 000.

1.2 The draft legislative provisions relate to certain historical transactions between Ireland and the IMF relating to the IMF's 'deferred charges adjustment'[3], the IMF's 'SCA-1 account'[4], the IMF's 'Somalia Administered Account'[5], and the IMF's 'Sudan Administered Account'[6] (hereinafter collectively referred to as the 'historical transactions'), and following which the CBI financed payments to certain IMF trust funds to finance debt relief for Somalia and Sudan. A share of the transferred proceeds was payable to the CBI and the amount specified in the draft legislative provision is intended to empower the Minister for Finance to reimburse the CBI.

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 See Opinion CON/2022/1. All ECB Opinions are published on EUR-Lex.

3 As referred to in Section V 2(b) of Decision No. 8348-(86/122) on 'Income Position - Principles of "Burden Sharing", Income Target for FY 1987 and FY 1988, Rate of Charge, and Rate of Remuneration', which was adopted by the Executive Board of the International Monetary Fund on 25 July 1986, as amended from time to time.

4 The first Special Contingent Account established by Decision No. 8619-(87/90), which was adopted by the Executive Board of the International Monetary Fund on 17 June 1987.

5 The account established by Decision No.16626-(19/103), which was adopted by the Executive Board of the International Monetary Fund on 18 December 2019.

6 The account established by Decision No.17042-(21/46), which was adopted by the Executive Board of the International Monetary Fund on 10 May 2021.

1.3 As noted in the Minister's consultation request, the CBI's reimbursement facility is intended to remedy participations which were not compatible with the monetary financing prohibition contained in Article 123(1) of the Treaty.

2. Monetary financing prohibition

2.1 Article 123(1) of the Treaty prohibits the national central banks of the Member States (hereinafter the 'NCBs') from granting overdraft facilities or any other type of credit facility to public authorities and bodies of the Member States. This prohibition is, however, subject to certain exemptions contained in Council Regulation (EC) No 3603/93.[7] In particular, Article 7 of Regulation (EC) No 3603/93 provides that the financing by NCBs of obligations falling upon the public sector vis-à-vis the IMF is not regarded as a 'credit facility' within the meaning of Article 123(1) of the Treaty. Recital 14 of Regulation (EC) No 3603/93 clarifies the rationale behind this exemption, stating that it is appropriate to authorise the financing by NCBs of obligations falling upon the public sector vis-à-vis the IMF because such financing 'results in foreign claims which have all the characteristics of reserve assets'. Therefore, the exemption contained in Article 7 of Regulation (EC) No 3603/93 must be interpreted in line with this rationale.[8]

2.2 Where the IMF invites Member States to contribute non-refundable resources to IMF debt relief programmes through transactions such as the historical transactions referred to in paragraph 1.2 of this opinion, the financing of their contribution by the NCBs will not result in any foreign claims.[9] Consequently, the CBI's financing of the historical transactions does not fall under the exemption laid down in Article 7 of Regulation (EC) No 3603/93, and is therefore not compatible with the monetary financing prohibition.

2.3 Against this backdrop, the ECB welcomes the fact that the draft legislative provisions provide for corrective action in the form of the reimbursement to be made by the Minister for Finance to the CBI of the resources contributed in connection with Ireland's participation in the historical transactions referred to in paragraph 1.2 of this opinion.[10]

This opinion will be published on EUR-Lex.

Done at Frankfurt am Main, 14 June 2022.

[signed]

The President of the ECB
Christine LAGARDE

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7 Council Regulation (EC) No 3603/93 of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty (OJ L 332, 31.12.1993, p. 1).

8 See Opinions CON/2005/29, CON/2013/16, CON/2017/4 and CON/2021/39. With regard to the issue of NCBs' financing of IMF quota increases, see Opinions CON/2011/97, and CON/2012/65.

9 See paragraph 2.9 of Opinion CON/2021/39 and paragraph 2.2 of Opinion CON/2021/23.

10 See also paragraph 2.10 of Opinion CON/2021/39.