



Yves MERSCH

*Member of the Executive Board*

**[COURTESY TRANSLATION<sup>1</sup>]**

Mrs Loreta Graužinienė  
Chairperson of the Parliament  
Gedimino ave. 53  
01109 Vilnius  
Lithuania

24 November 2014

Dear Mrs Graužinienė,

It has come to the attention of the European Central Bank (ECB) that a law amending the Law on Lietuvos bankas was adopted on 18 September 2014 by the Parliament of Lithuania and came into force on 24 September 2014<sup>2</sup>. The law aims to implement Recommendation ESRB/2011/3 of the European Systemic Risk Board of 22 December 2011 on the macro-prudential mandate of national authorities<sup>3</sup> and designates Lietuvos bankas as the macro-prudential authority in Lithuania and sets out its duties in this regard.

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<sup>4</sup> requires national authorities to consult the ECB on draft legislative provisions concerning matters that fall within its competence. Issues related to national central banks (Lietuvos bankas) and rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and markets are expressly listed among the areas on which the ECB should be consulted.

The implementation by national authorities of ESRB recommendations cannot be considered as provisions the exclusive purpose of which is the transposition of Union directives into the law of Member States and, therefore, do not fall under the exception provided for under Article 1(2) of Decision 98/415/EC. Moreover, ECB opinions are without prejudice to the conclusions of the follow-up assessment of ESRB recommendations, which the ESRB prepares in accordance with Article 17 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Sys-

---

<sup>1</sup> The official ECB letter is addressed in the official language of the concerned Member State.

<sup>2</sup> Registry of Legal Acts, 23-09-2014, No 2014-12712.

<sup>3</sup> OJ C 41, 14.2.2012, p. 1.

<sup>4</sup> OJ L 189, 3.7.1998, p. 42.

temic Risk Board<sup>5</sup>.

In the present matter, the ECB was duly consulted on an earlier version of the draft law on 29 May 2013 and issued its opinion CON/2013/45 on 26 June 2013<sup>6</sup>. After this consultation with the ECB, however, the draft law was amended by the Parliament at a late stage in the legislative process in July 2014 through the insertion of a new Article 52bis setting out Lietuvos bankas' accountability towards the Parliament.

The law, including the new Article 52bis, was adopted by the Parliament on 17 July 2014, but not signed by the President of Lithuania. Instead, the President of Lithuania provided an alternative wording for the new Article, including a provision requiring Lietuvos bankas to report to the Budget and Finance Committee of the Lithuanian Parliament. On 18 September 2014, the Parliament adopted the law with the amendments suggested by the Parliament, as changed by the President. Hence, the ECB was consulted on an early version of the draft law implementing this ESRB recommendation, but not on the new provisions of the law regarding Lietuvos bankas' reporting to the Parliament.

The standard for the assessment of whether or not the ECB should be consulted on amendments to draft legislation on which the ECB has already been consulted is whether the new provisions represent substantive amendments which affect the essence of the draft legislation. The amendments to the Lithuanian law, as changed by the Lithuanian President and included in the law when ultimately adopted, do not require the treatment of the matter as a breach of the obligation to consult the ECB.

Please note however that, in such situations, the ECB is available to assist and respond quickly to any queries regarding the need to consult the ECB. Moreover, according to paragraph 4.1, Section 2, of Recommendation ESRB/2011/3, the ESRB Secretariat stands ready to assist Member States in their follow-up to the Recommendation with regard to the national measures taken to implement the Recommendation. The ECB invites the Lithuanian authorities to consider the above observations and invitation for enhanced communication and cooperation as regards any doubts concerning consultations with the ECB.

Yours sincerely,

[signed]

Yves Mersch

Cc: Ms D. Grybauskaitė, President of Lithuania

Mr V. Vasiliauskas, Governor of Lietuvos bankas

Mr R. Šadžius, Minister of Finance

---

<sup>5</sup> OJ L 331, 15.12.2010, p. 1.

<sup>6</sup> All ECB opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).