

Yves Mersch
Member of the Executive Board

[COURTESY TRANSLATION¹]

Mr Andrej Šircelj
Minister for Finance
Župančičeva ulica 3
1001 Ljubljana
Slovenia

2 April 2020

Dear Mr Šircelj,

Thank you for your letter dated 18 March 2020, addressed to the President of the European Central Bank (ECB), informing the ECB about a draft legislative proposal on intervention measures relating to deferred payments of borrowers' obligations (the 'draft law'), which the Ministry of Finance prepared as a response to the COVID-19 outbreak. The ECB understands that following notification the draft law underwent certain changes, was adopted on 20 March 2020 and came into force on 29 March 2020.

In your letter you took the position that, due to the urgency of the matter and its subject matter, no formal consultation process with the ECB was required.

The ECB understands that the initial aim of the draft law was to contribute to resolving the liquidity problems of companies that would arise due to the COVID-19 outbreak. However, following amendments during the parliamentary procedure, the scope of the draft law was changed so that it now applies to all borrowers, including consumers, who are affected by the COVID-19 outbreak. The ECB understands that pursuant to the draft law payments of the credit obligations of those borrowers that are going to face difficulties due to the pandemic will be deferred for a 12-month period. The ECB further understands that the draft law does not include any assistance from the State to credit institutions granting a deferral of payment obligations. The draft law also designates Banka Slovenije as the general supervisory body that would be responsible for monitoring the implementation of the draft law.

The ECB was competent to be consulted on the draft law based on the Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and Article 2(1) of Council Decision 98/415/EC², which require national authorities to consult the ECB on draft legislative provisions concerning matters that fall within its fields of competence, including: (1) national central banks (in this case, Banka Slovenije), (2) rules applicable to financial institutions insofar as they materially influence the stability of financial institutions and

¹ The official ECB letter is addressed in the official language of the concerned Member State.

² 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).

markets, and (3) ECB tasks concerning the prudential supervision of credit institutions pursuant to Article 127(6) of the Treaty.

The ECB fully understands and acknowledges that the draft law was adopted using a fast track procedure with the aim of avoiding serious difficulties in the economy and for the consumers due to the pandemic. The ECB supports actions by the Member States intended to mitigate the grave consequences of the pandemic and understands the urgency of these actions.

However, the ECB notes that the draft law could potentially have a negative impact on the capital and liquidity positions of Slovenian banks. The ECB in particular notes that compared to legislation introducing moratoria in other Member States, the draft law: (1) applies to all borrowers and all kind of loans, (2) applies for a 12-month period, and (3) does not include any objective criteria specifying which borrowers are deemed to face financial difficulties due to the pandemic and should be eligible for deferral of payment obligations. In addition, the ECB is concerned because the draft law lacks any form of State assistance to the credit institutions concerned and thus shifts the entire burden of the intervention measure to the banking sector.

As regards the new task imposed on Banka Slovenije of supervising the implementation of the draft law, the ECB notes that the principle of financial independence, according to which Member States may not put their national central banks (NCBs) in a position where they have insufficient resources to carry out both their ESCB-related tasks and their national tasks, from an operational and financial perspective. Furthermore, the ECB notes that when allocating new tasks to NCBs, each NCB should have sufficient financial and human resources at its disposal to ensure that the new tasks can be carried out without an adverse impact on the NCB's financial or operational capacity to perform its ESCB tasks.

While fully appreciating the urgency of the situation, the ECB would appreciate the Ministry of Finance giving due consideration to the above observations by honouring the obligation to consult the ECB in the future, where applicable, and in particular with respect to any changes to the draft law.

Yours sincerely,

[signed]

Cc: Mr B. Vasle, Governor, Banka Slovenije

Mr P. Gentiloni, Commissioner for Economy, European Commission

Mr L. Romero Requena, Director-General Legal Service, European Commission

Encl. Guide to consultation of the ECB by national authorities regarding draft legislative provisions