

# Central Bank independence - General

## Art 108 EC:

- **For ESCB-related tasks**
- **ECB or NCBs (any member of their decision-making bodies): not seek nor take instructions from EC institutions or bodies, from Gvts of MS or from any other body**
- **EC institutions and bodies and Gvts of MS: not seek to influence the members of the decision-making bodies of the ECB or of the NCBs**

# Central Bank independence - General

## Art 108 EC

**The concept of central bank independence includes various types of independence to be assessed separately**

- *institutional*
- *functional*
- *personal*
- *financial*

# Central Bank independence - Institutional

- **Prohibition on giving instructions**
- **Prohibition on approving, suspending, annulling or deferring decisions**
- **Prohibition on censoring decisions on legal grounds**
- **Prohibition on participating in decision-making bodies of an NCB with a right to vote**
- **Prohibition on ex ante consultation on an NCB's decision**
- **Discharge of duties of members of NCB's decision-making bodies**

# Central Bank independence - Functional

- Functional independence requires:
  - *a primary objective determined with clarity & legal certainty*
  - *the necessary means & instruments to achieve this objective, independently of any other authority*
- The primary objective of price stability is best served by a fully independent institution with a precise definition of its mandate
- Fully compatible with holding the NCB accountable for its decisions
  - *important aspect in enhancing confidence in its independent status*
  - *entails transparency & dialogue with third parties*

# Central Bank independence - Personal

- **minimum term of office for Governors (5 years)**
- **two sole grounds for dismissal of Governors**
  - *No longer fulfils the conditions required for the performance of his duties*
  - *guilty of serious misconduct*
- **security of tenure for members (other than Governors) involved in ESCB-related tasks**
- **right of judicial review**
- **safeguard against conflict of interest**

# Central Bank independence - Financial

**Able to autonomously avail itself of sufficient financial resources to fulfil its mandate (i.e. to perform the ESCB related tasks expected of it by the Treaty & by the Statute).**

**This relates to:**

- the determination of the NCB's budget**
- its accounting rules**
- the distribution of its profits**
- the NCBs capital**
- other financial provisions**
- financial liability for supervisory authorities**

# The ESCB's objectives

**The objectives of an NCB must be compatible with the objectives of the ESCB**

## The ESCB's objectives

**“The primary objective of the ESCB shall be to maintain price stability”.**



## The ESCB's objectives

**“Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2 [of the Treaty]”.**

# The ESCB's objectives

## Article 2 EC - EC tasks:

- **harmonious, balanced & sustainable development of economic activities**
- **high level of employment & of social protection**
- **...**
- **sustainable & non-inflationary growth**
- **high degree of competitiveness & convergence of economic performance**
- **...**
- **raising of the standard of living & quality of life**
- **economic & social cohesion & solidarity among MS**

## The ESCB's objectives

**References to the Gvt policy or to specific macroeconomic objectives are not incompatible**

**But primacy of the first objective & definition of the second objective of Article 105 EC need to be respected**

## The integration into the ESCB – General

**All necessary provisions (i.e. provisions related to stage II, independence, objectives & integration issues) need to be in place by the date of accession**

**But integration-related provisions need to enter into force/effect only at the date on which the country adopts the single currency**

# The integration into the ESCB - General

## Art 14.3 ESCB:

- « NCBs are an integral part of the ESCB and shall act in accordance with the guidelines & instructions of the ECB ».

# The integration into the ESCB – General

**The ECB has regulatory powers in  
several areas  
(Art 110.1 EC)**

**This power needs to be respected  
in the NCB's legislation**

# The integration into the ESCB - General

## **Art 14.4 ESCB:**

National central banks may perform functions other than those specified in the ESCB Statute

# The integration into the ESCB

## Monetary policy

- **Art 105.2 EC: the ESCB defines and implements the monetary policy of the Community**
- **Art 12 ESCB : monetary policy decisions are made by the ECB's Governing Council**



# The integration into the ESCB

## Foreign exchange policy and operations

- **Art 105.2 EC:**

**The ESCB conducts forex operations consistent with provisions of Art 111 EC**

- **Art 111.1 & 2 EC:**

**The Council may conclude formal agreements on an exchange-rate system for the euro in relation to non-Community currencies (in an endeavour to reach a consensus...)**

**The Council formulates general orientations for exchange-rate policy in relation to third currencies (without prejudice to the primary objective of price stability).**

# The integration into the ESCB

## Holding and managing foreign reserves

- **Art 105.2 EC:**

***The ESCB conduct foreign exchange operations consistent with operations of Art 111 EC***

- **Art 105.3 EC:**

***Gvt's forex reserves limited to working balances***

- **Art 30 ESCB:**

***Transfer of foreign reserves assets to the ECB***

- **Art 31 ESCB:**

***ECB approval and guidelines on operations above certain limits***

# The integration into the ESCB

## The right to authorise the issue of banknotes and coins

- The ECB has the exclusive right to authorise:
  - *the issue of euro banknotes (Article 106(1))*
  - *the volume of euro coins (Article 106(2)) in the euro area*
- The Council adopts decisions on denominations and technical specifications of euro circulation coins (not a national competence) (Article 106(2))

# The integration into the ESCB

## Functions, operations and instruments of monetary control

- **Open market and credit operations (Art 18 ESCB)**
- **Minimum reserves (Art 19 ESCB)**
- **Other instr. of monet. control (Art 20 ESCB)**
- **ESCB and the payment systems (Art 105.2 EC)**
- **Clearing & payment systems (Art 22 ESCB)**
- **External operations (Art 23 ESCB)**

# The integration into the ESCB Financial provisions

- **Accounting (Art 26 ESCB)**
- **Auditing (Art 27 ESCB)**
- **ESCB monetary income of NCBs (Art 32 ESCB)**
- **Allocation of profit and losses (Art 33 ESCB)**

# The integration into the ESCB

## Other issues

- **Art 105.4 EC: ECB consultation**
- **Art 105.5 EC : ESCB contribution to smooth conduct of policies relating to:**
  - *prudential supervision*
  - *stability of the financial system*
- **Art 5.4 ESCB: statistics**
- **Art 6.2 ESCB : international cooperation**
- **Art 15.3 ESCB: reporting commitments**
- **Art 38 ESCB : professional secrecy**
- **Art 34.3 ESCB: sanctions**

# Introduction of the euro and legal framework for the use of the euro

## Regulation No 1103/97 on certain provisions relating to the introduction of the euro

- Replacement of the ECU by the euro (1 : 1)
- Confirmation of continuity of legal instruments
- Technical rules on the conversion rate
- Rounding rules for conversions of participating currency units into euro unit, or from a participating currency unit into another

# Introduction of the euro and legal framework for the use of the euro

## **Council Decision (2000/427/EC) on the adoption of the euro by Greece of the single currency**

- Confirms that Greece fulfils the conditions for the adoption of the single currency
- Abrogates Greece's derogation
- "Model" for future euro-area entrants
- Different procedure for 11 first-wave euro-area entrants (cf. Council Decision 98/317/EC) has become obsolete



# Introduction of the euro and legal framework for the use of the euro

## Regulation No 974/98 on the introduction of the euro

- Amended by Regulation No 2169/2005 to prepare for the enlargement of the euro area
- Integrated approach covering all current “ins” and all future euro-area entrants
- Adds obligation for banks to exchange national cash for euro cash free of charge during dual circulation period

# Introduction of the euro and legal framework for the use of the euro

## Regulation No 974/98 on the introduction of the euro

- New changeover scenarios in addition to transitional period scenario:
  - “Big bang” scenario
  - “Big bang” scenario combined with “phasing-out” period
- Up to each individual euro-area entrant to choose appropriate scenario; for each country, scenario will then be laid down in Regulation No 974/98

# Introduction of the euro and legal framework for the use of the euro

## Regulation No 2866/98 on the conversion rates between the euro and the currencies of the Member States adopting the euro

- Adopts conversion rates
- Expressed as 1 euro
- Six significant figures  
e.g. 1 euro = 40.3399 Belgian francs

# Legislation on euro notes and coins

## **Regulation No 975/98 on denominations and technical specifications of euro coins for circulation**

- Provides for eight denominations of euro coins:  
2 and 1 euro, 50, 20, 10, 5, 2 and 1 cent
- Sets technical specifications:  
Diameter, thickness, weight, shape, colour,  
composition (alloy) and form of edge

# Sanctions on issuing of notes and coins

## Art 106.1 EC: banknotes

The ECB has the exclusive right to authorise the issue of banknotes within the Community

The ECB and NCBs may issue such notes

The banknotes issued by the ECB & NCBs are the only such notes to have the status of legal tender within the Community

# Sanctions on issuing of notes and coins

## Art 106.2: coins

**MS may issue coins subject to approval by the ECB of the volume of the issue.**

**The Council may harmonise denominations & technical specifications of all circulation coins if necessary for smooth circulation within the EC**