

TO: Mr Jean-Claude Trichet,
President of the ECB
CC: Mr Lucas D. Papademos,
Vice-President of the ECB

Athens, 13 March 2008

Re: Greek Government's interference with central bank independence

Dear President **Trichet**,

We would like to draw your attention to the draft law that the Greek Government brought to Parliament a few days ago with the intention to enact it as the new "Pension Law". The draft law, among other things, includes provisions that affect the status of the pension fund of the personnel of the Bank of Greece, by merging it into the main pension fund, the Social Insurance Foundation (IKA), common to other (i.e. commercial) banks.

However, there are several reasons for which this legislative initiative represents a direct interference, on the part of the Greek Government, with the independence of the central bank.

First, according to Articles 38 and 71 of its Statute, the Bank of Greece has the obligation to pay to its staff and managers their salaries, pensions and other remuneration on the terms and conditions specified by its General Council, and also to pay the required employer's contributions to personnel and pension funds. This obligation is fulfilled either directly by the Bank or through the relevant legal entities which are managed and staffed by the Bank. It is important to note that the Bank's Statute, being an integral part of an International Convention, has superior legal status relative to ordinary laws.

Second, the aforementioned obligation of the Bank to ensure the pensions of its personnel is fully recognised by legislation, including recent one. Specifically, under Articles 5 and 6 of Law 3029/2002, the pension fund of the personnel of the Bank of Greece has been exempted from the scope of the provisions whereby the pension funds of banks were to be incorporated into IKA.

More importantly, Article 18 of Law 3193/2003 explicitly reconfirmed that paying pensions to its personnel is a statutory obligation of the Bank of Greece under Articles 38 and 71 of its Statute. Specifically, this provision, being an authentic interpretation of the obligation, states that "the Bank of Greece shall continue to fully ensure, by any appropriate means, the viability of the relevant pension funds ... and the social security benefits, as laid down in the statutes of the relevant legal entities and the legislation in force; the aforementioned funds of the personnel of the Bank of Greece shall operate under their present legal status and shall remain independent".

Third, the proposed pension law is, as far as the Bank of Greece is concerned, contrary to another international convention. Indeed, according to the opinion of the ECB, interference of the State in issues regarding labour relations in national central banks has direct implications for the independence of the latter, which is **enshrined in the European Union Treaty (Article 108). Undoubtedly, consultation of the European Central Bank would be required before this draft law, or any similar**

law, can be passed, insofar as statutory provisions of the central bank (specifically Articles 38 and 71) are affected. This is explicitly stated in Council Decision of 29 June 1998 (98/415/EC), requiring that the ECB be consulted by the authorities of Member States on any proposed legislative provision regarding “national central banks” [Article 105 (4)]. It should be stressed that for this legal provision of the new law to be enacted, the statute of the Bank has to be amended according to the procedures provided for therein, and subsequently ratified by Law (Article 7 of the Bank of Greece Statute).

Fourth, the draft law envisages that the Bank of Greece will endow IKA with the amount of €3,000,000 per year. However, this would constitute a direct breach of the Treaty **prohibition of monetary financing**, given that IKA is part of general government. .

In conclusion, the proposed incorporation of the Bank of Greece employees’ Pension Fund into IKA seems to entail huge legal issues and certainly calls for an intervention on the part of the European Central Bank.

Mr Trichet, we very much appreciate your Administration's formally acknowledging the importance of the independence of the Bank of Greece. We strongly believe that the ECB is uniquely positioned to exert pressure on the Greek Government, given its competence under the Treaty. We trust that your pressure will allow for more efficient solutions that will better protect the independence of Central Banks in the long run.

Looking forward to your response, we remain,

Yours sincerely,

Bank of Greece Employees Union