

Decision of the European Central Bank of 31 December 2010 on the paying-up of capital, transfer of foreign reserve assets and contributions by Eesti Pank to the European Central Bank's reserves and provisions (ECB/2010/34) (2011/23/EU)

DECISION OF THE EUROPEAN CENTRAL BANK

of 31 December 2010

on the paying-up of capital, transfer of foreign reserve assets and contributions by Eesti Pank to the European Central Bank's reserves and provisions

(ECB/2010/34)

(2011/23/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), and in particular Articles 30.1, 30.3, 48.1 and 48.2 thereof,

Whereas:

- (1) Pursuant to Article 1 of Council Decision 2010/416/EU of 13 July 2010 in accordance with Article 140(2) of the Treaty on the adoption by Estonia of the euro on 1 January 2011<sup>(1)</sup>, Estonia fulfils the necessary conditions for adoption of the euro and the derogation granted to it pursuant to Article 4 of the 2003 Act of Accession<sup>(2)</sup> will be abrogated with effect from 1 January 2011.
- (2) Article 48.1 of the Statute of the ESCB provides that the national central bank (NCB) of a Member State whose derogation has been abrogated must pay up its subscribed share of the capital of the European Central Bank (ECB) to the same extent as the NCBs of the other Member States whose currency is the euro. The weighting of Eesti Pank in the ECB's capital key is 0,1790 %, pursuant to Article 2 of Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital<sup>(3)</sup>. Eesti Pank has already paid up part of its share in the ECB's subscribed capital, pursuant to Article 1 of Decision ECB/2010/28 of 13 December 2010 on the paying-up of the European Central Bank's capital by the non-euro area national central banks<sup>(4)</sup>.
- (3) Pursuant to Article 1 of Decision ECB/2010/26 of 13 December 2010 on the increase of the European Central Bank's capital<sup>(5)</sup> the ECB's capital has been increased by EUR 5 000 000 000 from EUR 5 760 652 402,58 to EUR 10 760 652 402,58 with effect from 29 December 2010. Pursuant to Article 1 of Decision ECB/2010/27 of 13 December 2010 on the paying-up of the increase of the European Central Bank's capital by the national central banks of Member States whose currency is the euro<sup>(6)</sup> the increased capital must be paid up in three equal annual instalments.

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- (4) Accordingly, Eesti Pank should pay up the remaining parts of its share in the ECB's subscribed capital, which correspond to EUR 18 539 259,01 as follows: on 3 January 2011 an amount of EUR 9 589 259,01 which results from multiplying the ECB's subscribed capital on 28 December 2010 (EUR 5 760 652 402,58) by the capital key weighting of Eesti Pank (0,1790 %), minus the part of its share in the ECB's subscribed capital that has already been paid up in accordance with Decision ECB/2010/27 and a further amount of EUR 8 950 000,0 which results from multiplying the amount of the increase of the ECB's subscribed capital (EUR 5 000 000 000) by the capital key weighting of Eesti Pank. Eesti Pank should pay the latter amount in three equal instalments. The first instalment is to be paid up together with the amount of EUR 9 589 259,01 and the other two instalments of EUR 2 983 333,33 each two business days before the last TARGET2 operating day of 2011 and 2012.
- (5) Article 48.1, in conjunction with Article 30.1, of the Statute of the ESCB provides that the NCB of a Member State whose derogation has been abrogated must also transfer foreign reserve assets to the ECB. Pursuant to Article 48.1 of the Statute of the ESCB, the sum to be transferred is determined by multiplying the euro value at current exchange rates of the foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1 of the Statute of the ESCB, by the ratio between the number of shares subscribed by the NCB concerned and the number of shares already paid up by the NCBs of the other Member States whose currency is the euro. When determining the 'foreign reserve assets which have already been transferred to the ECB in accordance with Article 30.1', due account should be taken of previous capital key adjustments<sup>(7)</sup> pursuant to Article 29.3 of the Statute of the ESCB and the ECB capital key expansions pursuant to Article 48.3 of the Statute of the ESCB<sup>(8)</sup>. As a result, pursuant to Decision ECB/2008/27 of 12 December 2008 laying down the measures necessary for the contribution to the European Central Bank's accumulated equity value and for adjusting the national central banks' claims equivalent to the transferred foreign reserve assets<sup>(9)</sup>, the euro equivalent of the foreign reserve assets which have already been transferred to the ECB pursuant to Article 30.1 of the Statute of the ESCB is EUR 145 853 596,6.
- (6) The foreign reserve assets to be transferred by Eesti Pank should be in or be denominated in Japanese yen and gold.
- (7) Article 30.3 of the Statute of the ESCB provides that the ECB must credit each NCB of a Member State whose currency is the euro with a claim equivalent to the foreign reserve assets that it has transferred to the ECB. The provisions regarding the denomination and remuneration of the claims that have already been credited to the NCBs of the Member States whose currency is the euro<sup>(10)</sup> should also apply to the denomination and remuneration of the claims of Eesti Pank.
- (8) Article 48.2 of the Statute of the ESCB provides that the NCB of a Member State whose derogation has been abrogated must contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as

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at 31 December of the year prior to abrogation of the derogation. The amount of this contribution is determined in accordance with Article 48.2 of the Statute of the ESCB.

- (9) By analogy with Article 3.5 of the Rules of Procedure of the European Central Bank<sup>(11)</sup>, the Governor of Eesti Pank has had the opportunity to make observations on this Decision before its adoption,

HAS ADOPTED THIS DECISION:

#### *Article 1*

#### **Definitions**

For the purposes of this Decision:

- (a) 'foreign reserve assets' means gold or cash;
- (b) 'gold' means fine troy ounces of gold in the form of London Good Delivery bars, as specified by the London Bullion Market Association;
- (c) 'cash' means the lawful currency of Japan (Japanese yen).

#### *Article 2*

#### **Extent and form of paid-up capital**

1 Eesti Pank shall pay up the remaining parts of its share in the ECB's subscribed capital, which correspond to EUR 18 539 259,01.

2 Eesti Pank shall pay to the ECB on 3 January 2011 a first instalment of EUR 12 572 592,35 by means of a separate transfer via the Trans-European Automated Real-time Gross settlement Express Transfer system (TARGET2). Eesti Pank shall pay two further instalments of EUR 2 983 333,33 each two business days before the last TARGET2 operating day of 2011 and 2012.

3 Eesti Pank shall pay to the ECB on 3 January 2011, by a separate TARGET2 transfer, the interest accrued on 1 and 2 January 2011 on the amount due to the ECB under the first sentence of paragraph 2. This interest shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

#### *Article 3*

#### **Transfer of foreign reserve assets**

1 Eesti Pank shall transfer to the ECB, with effect from 1 January 2011 and in accordance with this Article and the arrangements taken pursuant to it, an amount of foreign reserve assets denominated in Japanese yen and gold that is equivalent to EUR 145 853 596,6 as follows:

<b>Euro-equivalent amount of Japanese yen in cash</b>	<b>Euro-equivalent amount of gold</b>	<b>Aggregate euro-equivalent amount</b>
123 975 557,11	21 878 039,49	145 853 596,6

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2 The euro-equivalent amount of foreign reserve assets to be transferred by Eesti Pank under paragraph 1 shall be calculated on the basis of the exchange rates between the euro and the Japanese yen established as a result of the 24-hour written consultation procedure on 31 December 2010 between the Eurosystem and Eesti Pank and, in the case of gold, on the basis of the US dollar price of gold per fine troy ounce established in the London gold fixing at 10.30 a.m., London time, on 31 December 2010.

3 The ECB shall confirm to Eesti Pank as soon as possible the amount calculated in accordance with paragraph 2.

4 Eesti Pank shall transfer to the ECB Japanese yen in cash.

5 The transfer of cash shall take place to such accounts as are specified by the ECB. The settlement date for the cash to be transferred to the ECB shall be 4 January 2011. Eesti Pank shall give instructions to execute such transfer to the ECB.

6 The value of the gold which Eesti Pank transfers to the ECB in accordance with paragraph 1 shall be as close as possible to, but no more than, EUR 21 878 039,49.

7 Eesti Pank shall transfer the gold referred to in paragraph 1 in uninvested form to such accounts and such locations as are specified by the ECB. The settlement date for the gold to be transferred to the ECB shall be 6 January 2011. Eesti Pank shall give instructions to effect such transfer to the ECB.

8 If Eesti Pank transfers gold to the ECB with a value of less than the amount specified in paragraph 1, then on 6 January 2011 it shall transfer an amount of Japanese yen cash equivalent to the shortfall to an account of the ECB as specified by the ECB. Any such Japanese yen cash shall not form part of the foreign reserve assets denominated in Japanese yen which Eesti Pank transfers to the ECB in accordance with the left column of the table included in paragraph 1.

9 The difference, if any, between the aggregate euro-equivalent amount mentioned in paragraph 1 and the amount mentioned in Article 4(1) shall be settled in accordance with the Agreement of 31 December 2010 between Eesti Pank and the European Central Bank regarding the claim credited to Eesti Pank by the European Central Bank pursuant to Article 30.3 of the Statute of the European System of Central Banks and of the European Central Bank<sup>(12)</sup>.

#### *Article 4*

##### **Denomination, remuneration and maturity of the claims equivalent to the contributions**

1 With effect from 1 January 2011, and subject to the specifications in Article 3 regarding the settlement dates of the transfers of foreign reserve assets, the ECB shall credit Eesti Pank with a claim denominated in euro, equivalent to the aggregate euro amount of its contribution of foreign reserve assets. This claim corresponds to EUR 103 115 678,01.

2 The claim credited by the ECB to Eesti Pank shall be remunerated from the settlement date. The interest accruing shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equivalent to 85 % of the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

3 The claim shall be remunerated at the end of each financial year. Each quarter the ECB shall inform Eesti Pank of the cumulative amount.

4 The claim shall not be redeemable.

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## Article 5

### Contributions to the ECB's reserves and provisions

1 With effect from 1 January 2011 and in accordance with Article 3(5) and (6), Eesti Pank shall contribute to the ECB's reserves, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account at 31 December 2010.

2 The amounts to be contributed by Eesti Pank shall be determined in accordance with Article 48.2 of the Statute of the ESCB. The references in Article 48.2 to 'the number of shares subscribed by the central bank concerned' and 'the number of shares already paid up by the other central banks' shall refer to the weighting of Eesti Pank, and the NCBs of the other Member States whose currency is the euro in the ECB's capital key, pursuant to Decision ECB/2008/23.

3 For the purposes of paragraph 1, 'the ECB's reserves' and 'provisions equivalent to reserves' shall include the ECB's general reserve fund, balances on revaluation accounts and provisions for foreign exchange rate, interest rate, credit, market price and gold price risks.

4 At the latest on the first working day following the Governing Council's approval of the ECB's annual accounts for the year 2010, the ECB shall calculate and confirm to Eesti Pank the amount to be contributed by Eesti Pank under paragraph 1.

5 On the second working day following the Governing Council's approval of the ECB's annual accounts for the year 2010, Eesti Pank shall, via TARGET2, pay to the ECB:

- a the amount due to the ECB under paragraph 4; and
- b the interest accrued from 1 January 2011 until the payment date on the amount due to the ECB under paragraph 4.

6 Any interest accruing under paragraph 5(b) shall be calculated on a daily basis, using the actual over-360-day method of calculation, at a rate equal to the marginal interest rate used by the Eurosystem in its most recent main refinancing operation.

## Article 6

### Competencies

1 To the extent necessary, the ECB's Executive Board shall issue instructions to Eesti Pank to further specify and give effect to any provision of this Decision and to provide for appropriate remedies to address any problems that may arise.

2 Any instruction issued by the Executive Board under paragraph 1 shall be promptly notified to the Governing Council, and the Executive Board shall comply with any decision of the Governing Council thereon.

## Article 7

### Final provision

This Decision shall enter into force on 1 January 2011.

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Done at Frankfurt am Main, 31 December 2010.

*The President of the ECB*

Jean-Claude TRICHET

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- (1) [OJ L 196, 28.7.2010, p. 24.](#)
- (2) Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded ([OJ L 236, 23.9.2003, p. 33](#)).
- (3) [OJ L 21, 24.1.2009, p. 66.](#)
- (4) See page 56 of this Official Journal.
- (5) See page 53 of this Official Journal.
- (6) See page 54 of this Official Journal.
- (7) Decision ECB/2003/17 of 18 December 2003 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital ([OJ L 9, 15.1.2004, p. 27](#)), and Decision ECB/2008/23 of 12 December 2008 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital ([OJ L 21, 24.1.2009, p. 66](#)).
- (8) Decision ECB/2004/5 of 22 April 2004 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital ([OJ L 205, 9.6.2004, p. 5](#)) and Decision ECB/2006/21 of 15 December 2006 on the national central banks' percentage shares in the key for subscription to the European Central Bank's capital ([OJ L 24, 31.1.2007, p. 1](#)).
- (9) [OJ L 21, 24.1.2009, p. 77.](#)
- (10) Pursuant to Guideline ECB/2000/15 of 3 November 1998 as amended by the Guideline of 16 November 2000 on the composition, valuation and modalities for the initial transfer of foreign-reserve assets, and the denomination and remuneration of equivalent claims ([OJ L 336, 30.12.2000, p. 114](#)).
- (11) Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank ([OJ L 80, 18.3.2004, p. 33](#)).
- (12) Not yet published in the Official Journal.

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