SCECBU
Standing committee of european central bank unions

Paris, 14th January 2020

Mrs. Christine LAGARDE
President of the ECB
Sonnemannstraße 20,
60314 Frankfurt am Main,
Germany

Dear Mrs President,

It has come to the attention of the Executive Bureau of SCECBU that the Greek Government has recently passed new legislation regarding tax disincentives for the use of cash. The ECB was requested for an Opinion by the Greek Ministry of Finance on these amendments, which was published on the 20th of November 2019 (CON/2019/39). In this Opinion the ECB tackles the issue of further limitations proposed by the Greek Government on cash payments for consumer-to-business transactions (i.e. lowering the margin for the legal use of cash per transaction from €500 to €300) in a clear manner, defending the cash payment system. As a result, the Greek Government dropped this proposed amendment.

However, the ECB leaves to "competent authorities" to assess "whether the remaining restrictions on cash payments are proportionate and compatible with the legal tender status of euro banknotes, in order to ensure that the effects of these measures do not go beyond what is necessary for achieving the objective of combating tax evasion". This, we interpret, applies to the indirect restriction imposed by the Greek Government, that requires taxpayers to conduct a certain amount of their expenses by means of electronic payments according to a minimum quota of 30% of their annual income, or face a 22% penalty tax on the difference if the above minimum quota of e-payments is not reached.

The above restriction, however, will (a) have a negative impact on savings in Greece and thus on deposits in the Greek banks, (b) have a huge negative impact on the use of cash in Greece and (c) have minimal effect on the goal of combating tax evasion, contrary to what the Greek Government claims.

It must be made clear that the 30% quota is calculated on the taxpayer's income before any tax is applied (except for the very small "solidarity tax"), therefore, it is calculated on income that is not actually available to the taxpayer for spending. For gross (pre-tax) incomes of € 20,000 the actual available income for spending after tax is applied is about 13% less; for € 30,000 it is about 20% less; for € 40,000 it is about 25% less and so on.

The restriction imposed does not require that a particular quota of the actual transactions a taxpayer conducts be paid via electronic means of payment, but, in effect, it requires that taxpayers spend at least 30% of their gross income (as defined in the previous paragraph) via e-payments, regardless if they actually need to spend that much at all, or face additional penalty tax for not spending.

It is also worth noting that several major categories of expenses, such as rent and loans, are not included in the 30% quota, however, they usually constitute a significant portion of a taxpayer's expenses in Greece.

The points examined in the previous paragraphs clearly show that the capability for the average Greek taxpayer to accumulate savings is severely restricted by the application of the 30% quota. Even if all taxpayers choose not to spend more than they need, which will result in many of them not being able to reach the 30% quota and thus be liable to the 22% penalty tax on the difference, their savings capability is reduced by the respective amount of the penalty tax. In fact, this is just the most optimistic case for savings, since most taxpayers are expected simply to consume more than they need or would normally want to, thus reducing their savings capabilities much more than the amount of the penalty tax. The impact on deposits on an already heavily traumatized banking system caused by the financial crisis can roughly be estimated from a few hundred million to a few billion euros.

The enormous negative impact on the use of cash in Greece is also evident from the points above. In fact, only rent payments are sometimes still conducted in cash. The vast majority of loans and taxes are paid by electronic means and if the 30% quota is added to that, its is easily derived that the Greek taxpayer's capability for cash payments is severely restricted. There is a provision in this new legislation that if a taxpayer has to pay more than 60% of his/her gross income in taxes, loans and rents, provided that these payments are made electronically, then the 30% quota goes down to 20%, meaning that at least 80% of these taxpayers' payments have to be made electronically. This also means that if taxes, loans and rents amount to 59% of the taxpayer's gross income, a minimum of even 89% of the transactions may be required to be paid via electronic means of payment.

The Greek Government claims that these restrictions are meant to combat tax evasion. This could not be further from the truth. Most of the transactions regarding the acquisition of goods and services, such as food, clothing, utilities etc. are with large businesses and organizations that always issue the tax documents (receipts or other) required by law, irrespective of the means of payment. It is impossible in Greece for a super market chain, a department store or a utility company not to issue such documents. On the other hand, rents, which are not included in what constitutes an expenditure for the 30% quota to be achieved, are easily subject to tax evasion. Moreover, the requirement that tax and loan payments be made electronically in order for a taxpayer to be eligible for the lessened 20% quota, as seen in the previous paragraph, would suggest that the Greek state is suspicious of itself being a tax-evading culprit and that banks are not issuing the proper receipts of payment for loans, which is impossible.

If the Greek Government wished to combat tax evasion effectively it should have focused specifically on areas of the economy which are well known for such illegal practices, especially small businesses, freelancers, independent contractors, landlords etc., irrespective of the means of payment. Rather than imposing a penalty tax, the Government should reward taxpayers that contribute to the end of combating tax evasion, respecting at the same time their constitutional rights.

Compelling arguments about the invalidity of the Greek government's claims regarding the effectiveness of these restrictions on combating tax evasion can be found in the Report on the Bill "Tax reform with growth dimension for the Greece of tomorrow" of the Scientific Service of the Greek Parliament (ΑΔΑ 02-0670/4.12.2019, Notes on Article 7, pages 10-14), where a significant part of the ECB's Opinion is quoted. We have included the relative excerpt from this document translated in English as an attachment to this letter, together with the original complete document in Greek, in case the ECB wishes to perform its own translation. In that document one can also see how these restrictions are in fact a taxation on non-consumption (non-realization of expenses), which violates fundamental civil rights protected by the Greek Constitution.

In light of all of the above and bearing in mind all the arguments on the protection of the use of cash demonstrated by the ECB in its Opinion (CON/2019/39) and also in its Opinion (CON/2019/41) on the use of cash in the case of Sweden, we ask the ECB to take a clear and firm stand against this piece of legislation, defending once more the cash payment system. We remain at your disposal for any additional information or clarification you may need on the subject.

Best Regards

Thierry DESANOIS
President