



**COUNCIL OF
THE EUROPEAN UNION**

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COVER NOTE

from : Mr Pierre VIMONT, Permanent Representative of France
date of receipt : 22 December 2000

to : Mr Javier SOLANA, Secretary-General of the Council of the European Union

Subject : Communication from the Government of the French Republic
– Initiative by the Government of the French Republic for the adoption by the Council of a draft Council Decision on the protection of the euro against counterfeiting¹

Sir,

Pursuant to Article 34 (2) of the Treaty on European Union, I enclose herewith a proposal from the Government of the French Republic for the adoption by the Council of a Decision on the protection of the euro against counterfeiting.

¹ The French delegation has announced that an explanatory note on this initiative will follow shortly, in the form of an addendum to this document.

I should be most grateful if you would arrange for its publication in the Official Journal, in accordance with Article 17 of the Council's Rules of Procedure, and send it to the European Parliament for its Opinion.

(Complimentary close).

(s.) Pierre VIMONT

**DRAFT COUNCIL DECISION ON THE PROTECTION
OF THE EURO AGAINST COUNTERFEITING**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31 and Article 34(2)(c) thereof,

Having regard to the initiative by the French Republic,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro lays down that currency denominated in euro shall start to be put into circulation as from 1 January 2002 and obliges the participating Member States to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.
- (2) The Commission communication of 23 July 1998 to the Council, the European Parliament and the European Central Bank on "Protection of the euro – combating counterfeiting" should be noted.
- (3) The proposal for a Council Regulation on the protection of the euro against counterfeiting submitted by the Commission on 26 July 2000 (No 2000/0208) should be noted.
- (4) The Resolution of the European Parliament of 17 November 1998 concerning the Commission communication of 23 July 1998 to the Council, the European Parliament and the European Central Bank on "Protection of the euro – combating counterfeiting" should be noted.
- (5) The Recommendation of the European Central Bank of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins should be noted.

- (6) The provisions of the International Convention of 20 April 1929 for the Suppression of Counterfeiting Currency, and in particular the central offices established by that Convention, should be taken into account.
- (7) Account should be taken of the Council Resolution of 28 May 1999 on increasing protection by penal sanctions against counterfeiting in connection with the introduction of the euro, and in particular of point C thereof inviting the Member States and the Commission to consider whether it is necessary to strengthen the existing measures in order to cooperate efficiently with the help of the European Central Bank and Europol for the suppression of counterfeiting of the euro.
- (8) Account should be taken of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, which ensures effective and appropriate protection under criminal law by harmonising charges and penalties.
- (9) Account should be taken of the Council Regulation of ...laying down measures necessary for the protection of the euro against counterfeiting or forgery.
- (10) Account should be taken of the Convention of 26 July 1995 on the establishment of a European Police Office (Europol), and in particular Article 28(1), point 23, thereof.
- (11) The Council Decision of 29 April 1999 extended Europol's mandate to deal with forgery of money and means of payment.
- (12) Account should be taken of the conclusions of the Tampere European Council (recommendation 46).
- (13) The measures to protect the euro put in place by the above instruments should be supplemented and strengthened by provisions ensuring close cooperation between the competent authorities of the Member States, the European Central Bank, the national central banks, Europol and Eurojust to suppress offences involving counterfeiting of the euro.

Article 1

Definitions

For the purposes of this Decision:

- "counterfeit notes" and "counterfeit coins" shall mean notes and coins defined as such by Article 2 of the Council Regulation of [...] laying down measures necessary for the protection of the euro against forgery;
- "counterfeiting" or "forgery" of the euro shall mean the conduct described in Articles 3 to 5 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro;
- "competent authorities" shall mean the authorities designated by the Member States to centralise information, in particular the national central offices, and to detect, investigate or punish the offences of "counterfeiting" or "forgery" of the euro;
- "technical and statistical data" shall mean data as defined in Article 2 of the Council Regulation of [...] laying down measures necessary for the protection of the euro against forgery;
- "Geneva Convention" shall mean the International Convention for the Suppression of Counterfeiting Currency, signed at Geneva on 20 April 1929, and in particular the central offices established by that Convention.

Article 2

Expert analysis of coins and notes

Member States shall ensure that in the context of criminal investigations into counterfeiting of the euro:

- (a) the necessary expert analyses of suspected counterfeit notes are carried out by the National Analysis Centre (NAC) designated pursuant to Article 4(1) of the Regulation on the protection of the euro;

and

- (b) the necessary expert analyses of suspected counterfeit coins are carried out by the National Coin Analysis Centre (NCAC) established or designated pursuant to Article 5(1) of the Regulation on the protection of the euro.

Article 3

Forwarding of the results of expert analyses

Member States shall ensure that the results of the analyses carried out by the NAC and the NCAC in accordance with Article 2 are communicated to Europol in accordance with the Convention establishing a European Police Office (Europol Convention) in cases where the investigations relate to the forms of organised crime referred to in Article 2(1) of that Convention.

Article 4

Obligation to communicate information

1. Member States shall ensure that the national central offices referred to in Article 12 of the Geneva Convention communicate to Europol, through the national units, relevant centralised information on criminal investigations into forging of the euro, including information obtained from third countries.
2. The list of information to be communicated shall be drawn up by the Member States. It shall include the particulars of the dossier, the particulars of the forgery, the circumstances in which the forgery was discovered, the context of the seizure and the links with other dossiers.
3. The competent authorities of the Member States shall exchange with the Provisional Judicial Cooperation Unit and subsequently with Eurojust, once the Decision establishing it has been adopted, all relevant information concerning criminal investigations in order to help establish the facts and ensure effective action against counterfeiting of the euro. Europol and Eurojust shall provide the competent authorities of the Member States with all necessary technical assistance in order to facilitate coordination of investigations undertaken and to improve and facilitate cooperation between the competent investigative and prosecuting bodies of the Member States.

Article 5
Previous convictions

Every Member State shall recognise the principle of the recognition of previous convictions under the conditions prescribed by its domestic law and, under those same conditions, shall recognise for the purpose of establishing habitual criminality final sentences handed down in another Member State for the offences referred to in Articles 3 to 5 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro, or the offences referred to in Article 3 of the Geneva Convention, irrespective of the currency counterfeited.

Article 6
Entry into force

This Decision shall enter into force on the day of its publication in the Official Journal.

