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REPORT

1. on the Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting
(5551/2001 – C5-0054/2001 – 2001/0804(CNS))
2. on the Council position on a draft Council Regulation laying down measures necessary for the protection of the euro against counterfeiting
(6281/2001 – C5-0084/2001 – 2001/0208(CNS))
3. on the Council position on a draft Council Regulation extending the effects of Regulation (EC) No. .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency
(6281/2001 – C5-0084/2001 – 2001/0208(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Charlotte Cederschiöld

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 4 September 2000 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty on the proposal for a Council Regulation on the protection of the euro against counterfeiting (COM)(2000)0492 - 2000/0208(CNS)).

At the sitting of 8 September 2000 the President of Parliament announced that she had referred this proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion (C5-0441/2000).

By letter of 9 February 2001 the Council consulted Parliament pursuant to Article 39(1) of the EU Treaty on the Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting (5551/2001 – 2001/0804 (CNS)).

At the sitting of 15 February 2001 the President of Parliament announced that she had referred this Initiative to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion (C5-0054/2000).

By letter of 19 February 2001 the Council informed Parliament of a position relating to:

- a draft Council Regulation on the protection of the euro against counterfeiting (6281/2001 - 2000/0208(CNS)),

- a draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (6281/2001 - 2000/0208(CNS)).

At the sitting of 12 March 2001 the President of Parliament announced that she had referred this position to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and to the Committee on Economic and Monetary Affairs for its opinion (C5-0084/2001).

At its meeting of 14 September 2000 the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Charlotte Cederschiöld rapporteur.

It considered the Commission proposal at its meetings of 2 October 2000 and 23 January 2001.

At its meeting of 20 March 2001 the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs decided to continue its work on the basis of the texts currently under consideration within the Council.

At its meetings of 2 April 2001 and 11 April 2001, the committee considered:

- the Initiative by the Government of the French Republic with a view to adopting a Council

Decision on the protection of the euro against counterfeiting,

- the Council position on a draft Council Regulation on the protection of the euro against counterfeiting, and

- the Council position on a draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency.

At the last of these meetings the committee adopted:

1. the draft legislative resolution on the Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting unanimously with 2 abstentions.
2. the draft legislative resolution on the Council position on a draft Council Regulation on the protection of the euro against counterfeiting unanimously with 2 abstentions.
3. the draft legislative resolution on the Council position on a draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency unanimously with 2 abstentions.

The following were present for the vote: Robert J.E. Evans, acting chairman; Charlotte Cederschiöld, rapporteur; Alima Boumediene-Thiery, Ozan Ceyhun, Carlos Coelho, Giuseppe Di Lello Finuoli, Glyn Ford (for Adeline Hazan), Daniel J. Hannan, Anna Karamanou, Sylvia-Yvonne Kaufmann (for Pernille Frahm), Margot Keßler, Timothy Kirkhope, Alain Krivine (for Fodé Sylla), Baroness Sarah Ludford, Hartmut Nassauer, William Francis Newton Dunn (for Jan-Kees Wiebenga), Arie M. Oostlander (for Gérard M.J. Deprez), Elena Ornella Paciotti, Hubert Pirker, Ingo Schmitt (for Eva Klamt), Patsy Sørensen, Joke Swiebel, Anna Terrón i Cusí and Christian Ulrik von Boetticher.

On 2 October 2000 and 12 March 2001, the Committee on Economic and Monetary Affairs decided not to issue an opinion.

The report was tabled on 11 April 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

1. Initiative by the Government of the French Republic with a view to adopting a Council decision on the protection of the euro against counterfeiting (5551/2001 – C5-0054/2001 – 2001/0804(CNS))

The proposal is amended as follows:

Text proposed by the Government of the French Republic¹

Amendments by Parliament

Amendment 1 Recital 2

(2) The measures to protect the euro put in place by previous 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,

(2) The measures to protect the euro put in place by previous 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 ***with the Provisional Judicial Cooperation Unit and subsequently Eurojust, once the Decision establishing it has been adopted,*** to suppress offences involving counterfeiting of the euro,

Justification

At its meeting in Tampere on 15 and 16 October 1999 the European Council decided to set up Eurojust as a European judicial cooperation unit, the tasks of which include that of 'facilitating the proper coordination of national prosecuting authorities and of supporting criminal investigations in organised crime cases', as stated in paragraph 46 of the presidency conclusions. The Eurojust unit therefore has an essential role to play in the fight against transnational organised crime. Its importance will be such that it has been promoted to institutional status under the Treaty of Nice, as reflected in the new wording of Articles 29, 31 and 32 of the EU Treaty. However, the Treaty of Nice is still awaiting ratification by the Member States and has not yet come into force. So far, all that has been set up is a Provisional Judicial Cooperation Unit, which is presumably the forerunner of Eurojust. In legal terms, however, the Eurojust unit will not exist until it has actually been created. Hence if legislation refers to the activities of Eurojust it must clearly indicate that this applies to

¹ OJ C 75, 7.3.2001, p. 1.

some time in the future, when that entity has been legally established.

Amendment 2
Recital 2(a) (new)

(2a) The Commission Communication of 22 July 1998 to the Council, the European Parliament and the European Central Bank on "Protection of the euro – combating counterfeiting" should be noted¹.

¹ COM(1998) 0474.

Justification

The abovementioned Commission Communication to the Council, the European Parliament and the European Central Bank described the challenges and the objectives relating to the protection of the single currency and spelt out the responsibilities of the European Central Bank, the Commission and Europol, taking as its starting point the Geneva Convention of 20 April 1929 on the suppression of currency counterfeiting. It has thus played a very important role in developing and establishing an extensive and comprehensive system for protecting the euro against counterfeiting and should therefore be mentioned, since the substance of this Initiative for a decision was already foreshadowed in the Commission Communication.

Amendment 3
Recital 2(b) (new)

(2b) The Resolution of the European Parliament of 17 November 1998 concerning the Commission Communication of 22 July 1998 to the Council, the European Parliament and the European Central Bank on "Protection of the euro - combating counterfeiting" should be noted².

² OJ C 379, 7.12.1998, p.39.

Justification

Via its Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, Parliament adopted a report (A4-0396/98; rapporteur Gerhard Schmid) containing a final resolution, in which Parliament described the action which should be taken in order to establish an effective system for protecting the euro against counterfeiting. That report should also be mentioned here since the Initiative under consideration incorporates some of the content of the resolution it contains.

Amendment 4
Recital 2(c) (new)

(2c) 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 noted³.

³ *OJ C 11, 15.1.1999, p. 13.*

Justification

The content of the abovementioned European Central Bank Recommendation has been used to improve the system for protecting the euro against counterfeiting, a system of which this Initiative for a decision forms part.

Amendment 5
Recital 2(d) (new)

(2d) 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 account⁴.

⁴ *League of Nations. Treaty series, No. 2623(1931), p. 13.*

Justification

Mention must be made of the above Convention, which is still the only international instrument specifically intended to prevent and suppress currency counterfeiting. The provisions thereof are taken into account in this Initiative and form part of the system for protecting the euro.

Amendment 6 Recital 2(e) (new)

(2e) 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 euro⁵.

⁵ OJ C 171, 18.6.1999, p. 1.

Justification

This Council resolution has been of paramount importance to the creation of the system for protecting the euro (of which this Initiative for a decision forms part), hence it must be mentioned.

Amendment 7 Recital 2(f) (new)

(2f) 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 penalties⁶.

⁶ *OJ L 140, 16.6.2000, p. 1.*

Justification

This framework decision is one of the cornerstones of the system for protecting the euro against counterfeiting. For the purposes of providing that protection, such a framework decision (which classifies the offences relating to the counterfeiting of the euro which are punished in all the Member States) has to be drawn up. This has made it possible to achieve the necessary harmonisation of the Member States' laws with a view to ensuring a uniform level of protection for the euro throughout the EU.

This Initiative for a decision takes the framework decision into account and the latter should therefore be mentioned.

Amendment 8 Recital 2(g) (new)

(2g) 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, thereof⁷.

⁷ *OJ L 316, 27.11.1995, p. 2.*

Justification

Europol will have an essential role to play in preventing counterfeiting of the euro. The Initiative for a decision takes this into account and the Europol Convention must therefore be mentioned as well.

Amendment 9
Recital 2(h) (new)

(2h) The Council Decision of 29 April 1999 extended Europol's mandate to deal with forgery of money and means of payment⁸.

⁸ *OJ C 149, 28.5.1999, p. 16.*

Justification

This Decision is indeed what authorises Europol to combat the counterfeiting of the euro. The reasons accompanying the preceding amendment apply to this one, too.

Amendment 10
Recital 2(i) (new)

(2i) Account should be taken of the conclusions of the Tampere European Council of 15 and 16 October 1999, specifically in recommendations 43, 44, 45 and 46.

Justification

The Tampere European Council constitutes an historic milestone in the fight against organised crime, including the possible counterfeiting of the euro. That Council meeting should therefore be mentioned and there should be a specific reference to the particular recommendations which are concerned with the fight against organised crime.

Amendment 11
Recital 2(j) (new)

(2j) Account should be taken of the conclusions of the Nice European

***Council on 7, 8, and 9 December 2000,
specifically in recommendation 32.***

Justification

Recommendation 32 of the conclusions to the Nice European Council stresses that 'an effective system to protect the euro against counterfeiting must be adopted as soon as possible', and it should therefore be mentioned.

Amendment 12
Article 1, indent 2

- "counterfeiting" or "forgery" of the euro shall mean the conduct described in Articles 3 to 5 of the Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro,

- ***offences related to*** "counterfeiting" or "forgery" of the euro shall mean the conduct described in Articles 3 to 5 of the Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro,

Justification

In matters as important as those relating to penal law, terminological precision is essential if erroneous interpretations are to be avoided, for which reason it is specified that the 'counterfeiting' or 'forgery' of the euro are offences.

Amendment 13
Article 1, indent 3

- "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;

- "competent authorities" shall mean the authorities designated by the Member States to centralise information, in particular the national central offices, ***referred to in article 12 of the Geneva Convention***, and to detect, investigate or punish the offences of "counterfeiting" or "forgery" of the euro;

Justification

The provisions of Article 12 of the Geneva Convention relate to the creation and operation of the national central offices. It should therefore be specified that these offices are those referred to in that international instrument.

Amendment 14
Article 1, indent 4

- "technical and statistical data" shall mean data as defined in Article 2 of the Council Regulation (EC) No /2001;

- "technical and statistical data" shall mean data as defined in Article 2 of the Council Regulation (EC) No /2001 ***of ..., laying down measures necessary for the protection of the euro against forgery;***

Justification

The Regulation to which this indent refers is the one under which the measures needed to protect the euro against counterfeiting should be defined and established. It is also the subject of the second and third parts of this report and it should in any event be mentioned in the text in the interests of legislative rigour and in order to prevent any uncertainty.

Amendment 15
Article 2(a)

(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 Regulation (EC) No /2001;

(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 Regulation (EC) No /2001 ***of..., laying down measures necessary for the protection of the euro against forgery;***

Justification:

The Justification to Amendment 14 applies here, too.

Amendment 16
Article 2(b)

(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 Regulation (EC) No /2001.

(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 Regulation (EC) No /2001 ***of..., laying down measures necessary for the protection of the euro against forgery,***

Justification:

The amendment is justified by the same reasons as those set out under Amendment 14.

Amendment 17
Article 4(3)

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.

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 ***the Provisional Judicial Cooperation Unit, and subsequently with Eurojust, once the Decision establishing it has been adopted,*** 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.

Justification:

The amendment is justified by the same reasons as those set out under Amendment 1.

Amendment 18
Article 5

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 2000/383/JHA, or the offences referred to in Article 3 of the Geneva Convention, irrespective of the currency counterfeited.

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 2000/383/JHA, ***of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro***⁹ or the offences referred to in Article 3 of the Geneva Convention, irrespective of the currency counterfeited..

⁹ ***OJ L 140, 16.6.2000, p. 1.***

Justification:

In the interests of greater legislative rigour, the date upon which the framework decision was published and the area it covers must be specified.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting (5551/2001 – C5-0054/2001 – 2001/0804(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting (5551/2001¹),
 - having regard to Article 34(2)(c) of the EU Treaty,
 - having been consulted by the Council pursuant to Article 39(1) of the EU Treaty (C5-0054/2001),
 - having regard to Rules 106 and 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0120/2001),
1. Approves the Initiative by the Government of the French Republic as amended;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to the Initiative by the Government of the French Republic;
 4. Instructs its President to forward its position to the Council, the Commission and the Government of the French Republic.

¹ OJ C 75, 7.3.2001, p.1.

LEGISLATIVE PROPOSAL

2. Council position on a draft Council Regulation laying down measures necessary for the protection of the euro against counterfeiting (6281/2001 - C5-0084/2001 - 2000/0208(CNS))

The proposal is amended as follows:

Text proposed by the Council

Amendments by Parliament

Amendment 19 Recital 7

7. The counterfeiting analysis centre (CAC) established and managed under the auspices of the ECB, ***in accordance with its Guideline¹***, centralises the classification and analysis of technical data relating to counterfeit notes.

7. The counterfeiting analysis centre (CAC) established and managed under the auspices of the ECB, centralises the classification and analysis of technical data relating to counterfeit notes ***at European level. Member States shall designate or establish a National Analysis Centre.***

1 European Central Bank Guideline of 26 August 1998 on certain provisions regarding euro banknotes, as amended on 26 August 1999 (ECB/1999/3) (OJ L 258, 5.10.1999, p. 32).

Justification:

There is no need to make any reference to the specific guideline or guidelines which provide a basis for the running of the Counterfeiting Analysis Centre, since those guidelines may subsequently change. Stating that the Counterfeiting Analysis Centre is established and managed by the European Central Bank is enough to enable a logical deduction to be made to the effect that the Centre will operate in accordance with the Bank's guidelines.

On the other hand, it should be pointed out that, in addition to the Frankfurt-based Counterfeiting Analysis Centre, each Member State (including those which are not involved in monetary union) should set up a National Centre for the Analysis of Counterfeit Banknotes.

Amendment 20 Recital 9

9. Provision has been made for the ETSC

9. Provision has been made for the ETSC

to be established *on a temporary basis* as a distinct administrative entity within the Paris Mint on the basis of an exchange of letters between the President of the Council and the French Minister for Finance of 28 February and 9 June 2000; its tasks must be defined in this Regulation; the future status and the permanent headquarters of the ETSC will be decided by the Council in due course.

to be established as a distinct *and independent* administrative entity within the Paris Mint on the basis of an exchange of letters between the President of the Council and the French Minister for Finance of 28 February and 9 June 2000; its tasks must be defined in this Regulation; the future status and the permanent headquarters of the ETSC will be decided by the Council in due course.

Justification:

The European Technical and Scientific Centre responsible for the analysis and classification of counterfeit euro coins must from the very start be set up on a permanent rather than a temporary basis, since the currency which it will be required to protect is also permanent in nature. It must be a distinct and independent administrative entity within the Paris Mint, although euro coins will, pursuant to Article 106 of the EC Treaty, be issued by the Member States, even though ECB approval regarding the volume of issue will be required.

Amendment 21

Recital 11

11. It is necessary to provide that credit institutions and any other establishments involved in the sorting and distribution to the public of notes and coins as a professional activity, including those whose activity consists in exchanging notes or coins, such as bureaux de change, shall be under an obligation to withdraw from circulation euro notes and coins which they know or have sufficient reason to believe to be counterfeit and hand them over to the competent national authorities. In addition, it is necessary to provide for the Member States to take steps so that sanctions they consider appropriate are imposed in the event of non-compliance by the said establishments with their obligations.

11. It is necessary to provide that credit institutions and any other establishments involved in the sorting and distribution to the public of notes and coins as a professional activity, including those whose activity consists in exchanging notes or coins, such as bureaux de change, shall be under an obligation to *make appropriate checks on the authenticity of euro notes and coins which they receive and to* withdraw from circulation euro notes and coins which they know or have sufficient reason to believe to be counterfeit and hand them over to the competent national authorities. In addition, it is necessary to provide for the Member States to take steps so that sanctions they consider appropriate are imposed in the event of non-compliance by the said establishments with their obligations.

Justification:

Entities whose main activity involves handling coins and banknotes should develop an initial system for checking the possible counterfeit nature of notes and coins so as to be able, as far as possible, to guarantee the authenticity of the notes and coins which members of the public receive from or pay into them.

Amendment 22

Recital 16

16. The measures provided for by this Regulation are ***not to affect*** the power of the Member States to apply national criminal law for the purposes of protecting the euro against counterfeiting,

16. The measures provided for by this Regulation are ***without prejudice*** to the power of the Member States to apply national criminal law for the purposes of protecting the euro against counterfeiting,

Justification:

The expression 'without prejudice to' is the one which is traditionally used in such cases for the purpose of specifying the areas in which a regulation will or will not be applicable.

Amendment 23

Article 3(1)

1. Technical and statistical data relating to counterfeit notes and counterfeit coins discovered in the Member States shall be gathered and indexed by the competent national authorities. These data shall be communicated to the European Central Bank for storage and processing.

1. Technical and statistical data relating to counterfeit notes and counterfeit coins discovered in the Member States shall be gathered and indexed by the competent national authorities. These data shall be communicated to the ***Counterfeiting Analysis Centre (CAC)*** of the European Central Bank for storage ***in the counterfeit currency database (CCD) of the European System of Central Banks (ESCB)***, and processing.

Justification:

Article 3 of the European Central Bank's guideline of 26 August 1998 on certain provisions regarding euro banknotes (as amended on 26 August 1999¹) provided, under the aegis of the ECB, for the establishment of the ESCB's Counterfeit Analysis Centre based in Frankfurt, whose task is to centralise the technical analysis of and the data relating to the counterfeiting

of euro banknotes, and the creation of the ESCB's counterfeit Currency Database.

¹ *OJ L 258, 5.10.1999, p. 32.*

Amendment 24
Article 3(2)

2. The European Central Bank shall gather and store technical and statistical data relating to counterfeit notes and counterfeit coins discovered in non-member countries.

2. The ***Counterfeiting Analysis Centre (CAC)*** of the European Central Bank shall gather and store technical and statistical data relating to counterfeit notes and counterfeit coins discovered in non-member countries.

Justification:

This amendment is justified by the same reasons as those set out under Amendment 23.

Amendment 25
Article 4(2)

2. The competent national authorities shall permit the examination by the NAC of suspected counterfeit notes and shall without delay provide it with the necessary examples requested by the NAC of each type of suspected counterfeit note for analysis and identification and such technical and statistical data as are in their possession. The NAC shall send the European Central Bank every new type of suspected counterfeit note corresponding to the criteria adopted by the European Central Bank.

2. The competent national authorities shall permit the examination by the NAC of suspected counterfeit notes and shall without delay provide it with the necessary examples requested by the NAC of each type of suspected counterfeit note for analysis and identification and such technical and statistical data as are in their possession. The NAC shall send ***the Counterfeiting analysis Centre (CAC)*** of the European Central Bank every new type of suspected counterfeit note corresponding to the criteria adopted by the European Central Bank.

Justification:

The reasons set out under Amendment 23 are also valid for this amendment.

Amendment 26
Article 5(1) a) (new)

(5(1)a) The Council shall establish the European Technical and Scientific Centre (ETSC) for the technical analysis and the classification of counterfeit euro coins at European level.

Justification:

It is very important for the establishment of the European Technical and Scientific Centre (the task of which will be to centralise technical analysis and the data relating to the counterfeiting of euro coins) to be enshrined in a legal act with the status of Regulation and not just in an agreement based on an exchange of notes between the President of the Council and the French Finance Minister.

Amendment 27
Article 6(1)

1. Credit institutions, and any other institutions engaged in the sorting and distribution to the public of notes and coins as a professional activity, including establishments whose activity consists in exchanging notes and coins of different currencies, such as bureaux de change, shall be obliged to withdraw from circulation all euro notes and coins which they know or have sufficient reason to believe to be counterfeit. They shall immediately hand them over to the competent national authorities.

1. Credit institutions, and any other institutions engaged in the sorting and distribution to the public of notes and coins as a professional activity, including establishments whose activity consists in exchanging notes and coins of different currencies, such as bureaux de change, shall be obliged to withdraw from circulation all euro notes and coins which they know or have sufficient reason to believe to be counterfeit. They shall immediately hand them over to the competent national authorities. ***To that end, they shall make appropriate checks on the authenticity of euro notes and coins which they receive.***

Justification:

The justification to Amendment 21 also applies to this amendment.

Amendment 28
Article 11

11. *As far as possible* the provisions laid down in Articles 3, 4, 7, 8 and 9 of this Regulation shall apply to notes denominated in euro which have been produced with the use of lawful facilities or equipment in violation of the provisions in accordance with which the competent authorities may issue currency, or uttered in violation of the conditions in accordance with which the competent authorities may utter currency and without the consent of those authorities.

11. The provisions laid down in Articles 3, 4, 7, 8 and 9 of this Regulation shall apply to notes denominated in euro which have been produced with the use of lawful facilities or equipment in violation of the provisions in accordance with which the competent authorities may issue currency, or uttered in violation of the conditions in accordance with which the competent authorities may utter currency and without the consent of those authorities.

Justification:

It is obvious that the law must be applied with due regard to the particular circumstances of each specific case, for which reason the first phrase of this article is superfluous.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council position on a draft Council Regulation laying down measures necessary for the protection of the euro against counterfeiting (6281/2001 – C5-0084/2001 – 2001/0208(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 0492¹),
 - having been consulted by the Council, pursuant to Article 308 of the EC Treaty (C5-0441/2000),
 - having regard to the Council position (6281/2001 – C5-0084/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0120/2001),
1. Approves the Council position, subject to Parliament's amendments;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to its position;
 4. Instructs its President to forward this position to the Council and Commission.

¹ OJ C 337, 28.11.2000, p. 264.

LEGISLATIVE PROPOSAL

3. Council position on a draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (6281/2001 – C5-0084/2001 – 2000/0208(CNS))

The proposal is approved.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council position on a draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (6281/2001 – C5-0084/2001 – 2000/0208(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 0492¹),
 - having been consulted by the Council pursuant to Article 308 of the EC Treaty (C5-0441/2000),
 - having regard to the Council position (6281/2001 - C5-0084/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0120/2001),
1. Approves the Council position;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to its position;
 4. Instructs its President to forward this position to the Council and Commission.

¹ OJ C 337, 28.11.2000, p. 264.

EXPLANATORY STATEMENT

I. INTRODUCTION

At the beginning of the 1990s, following the fall of the Berlin Wall in 1989 and the reunification of Germany, the German Chancellor, Helmut Kohl, the French President, François Mitterrand, and the then President of the Commission, Jacques Delors, considered the creation of the single currency to be essential.

Their decision to create such a currency was primarily a political option motivated by the determination of the all the parties involved to 'anchor' West Germany and thus preserve a lasting peace in Europe.

However, there were also other, powerful reasons of a more pragmatic economic nature which led ineluctably to the birth of a single currency for the European Union.

The Treaty on the European Single Act, which came into force in July 1987, signalled the intention to create within the European Union an internal area without frontiers by drawing up a detailed legal framework for the establishment of a single market in goods, services and capital and guaranteed freedom of movement for persons.

However, a single market cannot operate efficiently in economic terms if it is fragmented on account of the fact that a different national currency is in use in each Member State.

A single currency is therefore an essential component in the creation of a genuine economic area without internal frontiers and it will also enable other, no less important objectives to be achieved: it will allow a long-term employment policy to be conducted and will infuse the European Union with a monetary strength which matches its economic status as the world's leading industrial, trading and financial power.

Some while later, as a reflection both of the above-mentioned political determination and of the economic imperative (the introduction of a single currency) upon which the satisfactory operation of the market depended, the Maastricht Treaty was signed by the Heads of State and Government in February 1992. The centrepiece of this treaty was the decision to adopt a single currency which, at the European Council held in Madrid on 15 and 16 December 1995, was christened the 'euro'.

The euro is a political act. It is a symbol of European identity and as other historical precedents demonstrate, it will in turn be a catalyst for further political and economic changes in Europe which cannot as yet be foreseen.

Everyone has heard of the *Zollverein*, the famous Customs Union of German states which was set up in 1834 with Prussia as its anchor, which involved a monetary union with its own currency (the *thaler*) and which led in 1871 to the creation of the German Reich.

Less well-known but equally long-lived was the Latin Monetary Union which existed from 1865 to 1925 and within which Belgium, France, Greece, Italy and Switzerland all used the *franc germinal*.

Similarly, the Scandinavian Monetary Union within which Sweden, Norway and Denmark shared a common currency (the 'crown') between 1873 and 1931 also had considerable importance and significant repercussions.

II. THE ADVANTAGES AND CHALLENGES OF USING THE EURO

On 1 January 1999 an unprecedented historic event occurred : the euro came into being and replaced the national currencies of 11 Member States.

However, the general public continues to believe that national currencies still exist and that the euro does not, since there are not as yet any euro coins or notes, whereas national currencies remain in circulation.

Even though notes and coins issued in euros will not appear until 1 January 2002, the fact of the matter is quite clear: the national currencies of 11 Member States have disappeared and are now no more than non-decimal subdivisions of the euro, just as the cent is a decimal subdivision of the dollar.

The euro has already led to increased trade and has lessened the risks involved in currency exchange with countries in other parts of the world, facilitated unification of the market in goods, encouraged exchange-rate stability and eased labour and capital mobility.

The euro has protected businesses against the effects of the devaluations carried out in other countries and has signalled an end to competitive devaluations between countries which now share the same currency.

The Europe-wide use of the euro has already brought economic stability which has encouraged economic growth and increased consumption and investment, and consequently led to the creation of new jobs in all the EU Member States.

The euro has required the Member States to put their public finances in order. This has led to a reduction in interest rates, which is a prerequisite for reviving investment and long-term growth – these being the driving forces behind the process of job creation.

The euro has helped to maintain stable prices and uniform interest rates, which has had a welcome effect on the distribution of economic and financial resources.

The power to issue currency has historically been one of the hallmarks of a sovereign political entity, together with responsibility for external relations and the maintaining of an army.

From 1 January 2002, when euro notes and coins will come into circulation in the participating Member States, 300 million EU citizens will be united on a daily basis by virtue

of the fact that they have in their pockets one and the same currency with the same name, the same markings and the same value, issued by the same monetary authority with the backing of the same Community institutions.

From all of this will surely emerge an extremely powerful instrument which will provide impetus propelling the people of Europe irreversibly and irremediably towards even closer union.

III. THE RISK OF COUNTERFEIT EUROS

The risk that the euro may be counterfeited when it begins to circulate in the form of coins and notes is very high.

Firstly, the euro is already (and will in future be so to a much greater extent) an international reserve and transaction currency. This will increase its distribution and also its attractiveness to counterfeiting organisations. The euro will be in open competition with the dollar for the title of the world's most counterfeited currency.

Secondly, the huge improvements in technology which are taken advantage of by criminal organisations are another major counterfeiting risk factor. The use of increasingly sophisticated computer and reproduction equipment means that counterfeiting is nowadays much less complex than it used to be and is accessible even to small-scale criminals.

A further problem stems from the complex arrangement of the European Union and its Member States. Although internal frontiers have been abolished, thus allowing criminals to move around freely throughout the European Union, there are still 15 national borders which the police forces and the judiciaries of the 15 EU Member States are scarcely allowed to cross.

The euro runs a particular risk of being counterfeited at the time when it is introduced into circulation and during the period when it will circulate alongside the old national notes and coins (January and February 2002). People will be unfamiliar with euro notes and coins and huge numbers of national notes and coins will have to be converted into euros.

The difficulties of identifying counterfeiting will be increased by the fact that euro notes and coins will be produced in a number of different places and that the Member States may use different manufacturing, printing and minting techniques, even though uniform technical-security standards have been laid down.

Furthermore, euro coins in each participating Member State will have two faces: one common and the other unique to that Member State. This will make it more difficult for them to be recognised by users in the other Member States in which the coins circulate and will be an additional source of confusion.

Moreover, during the period when both the euro and the national currencies are in circulation, all banks in the euro area will be required to change any quantity of any national currency into

euros, which means that the risk of counterfeited euros will be compounded by the risk of counterfeited national currencies.

Lastly, a further risk which should not be overlooked is that of 'political' counterfeiting. The euro is a prime symbol of the European Union, for which reason it may be the number-one target of enemy countries or terrorist movements.

IV. THE NEED FOR A COMPREHENSIVE PREVENTION POLICY - ASPECTS OF THE ARRANGEMENTS FOR COMBATING THE COUNTERFEITING OF THE EURO

There will be huge scope for disseminating the euro which will go beyond all frontiers, both within the European Union and between it and the outside world. The euro was born to play an international role.

Hence the arrangements for protecting the euro against counterfeiting must take this new dimension into account by creating a comprehensive legal framework involving all the EU Member States, institutions and bodies and also relevant international organisations.

In its efforts to prevent counterfeiting of the euro the European Union is not starting from scratch, since it already has to hand certain international instruments which were created in order to combat currency counterfeiting, and also the apparatus set up by the Member States through their internal legal structures.

The only international instrument which is designed to prevent and punish currency counterfeiting is the Geneva Convention of 30 April 1929¹, which has been ratified by all the Member States. However, this purely intergovernmental agreement is incapable of providing effective protection for the euro since such protection (which represents a Community interest) calls for the establishment of mechanisms which are by definition Community ones.

At national level the Member States have over time adopted legislation which varies enormously from one country to another and which is naturally unable to ensure effective action against the counterfeiting of a currency which is common to all. The criminal law in force in the various Member States differs greatly as regards action to combat counterfeiting, since it is highly advanced in certain countries and significantly less so in others.

On account of the above-mentioned shortcomings (both national and international) which prevent effective action being taken against counterfeiting of the euro, the European Council meeting in Nice from 7 to 9 December 2000 stated in conclusion 32 that 'an effective system to protect the euro against counterfeiting must be adopted as soon as possible in 2001'.

Such a system had already been identified by the Commission in its Communication to the Council, the European Parliament and the European Central Bank entitled 'Protection of the Euro - combating counterfeiting'².

¹ Compilation of the Treaties of the League of Nations No 2623, page 372, 1931.

² COM(98)474 final, 27.07.1998.

The four main components of this protection system are:

(a) Training

This is necessary on account of the fact that the euro is something new and that people will be unfamiliar with the notes and coins. Training should be targeted comprehensively, at Member State and Community level and at the workplace, and should also include the leaders of the applicant countries.

The Commission has almost finished drawing up an ambitious five-year training programme aimed at the appropriate sectors.

In view of the interests which are at stake, your rapporteur urges the Commission and the Council to approve the above programme as quickly as possible.

(b) Information system

The arrangements for protecting the euro against counterfeiting will be based primarily on information, which will fall into two categories.

The first of these concerns technical information such as data collection, manufacturing methods and the technical features of counterfeits, and will be the responsibility of the Counterfeiting Analysis Centre set up under the auspices of the European Central Bank.

The second concerns administrative, customs and police information intended to assist the gathering of data relating to counterfeiting, at both strategic and operational level.

The legislative provisions with which this report is concerned are an essential factor in the establishment of a legal framework at Union level which will enable the above-mentioned information system to be introduced.

(c) Cooperation

The introduction of the euro and the disappearance of national currencies will be paralleled by a shift from the protection of certain national interests to the protection of a Community interest. This involves developing forms of cooperation and coordination between the players in the Member States which will be responsible for combating any counterfeiting of the euro (banks, the police, the judiciary) and the relevant EU bodies and institutions (ECB, OLAF, Europol).

Accordingly, the legislative proposals with which this report is concerned regulate cooperation and mutual assistance between the relevant Member State and EU bodies in order to protect the Euro against counterfeiting.

(d) Protection under criminal law

In view of the limitations and the lacunae which, from a penal point of view, are a feature

both of international instruments (the Geneva Convention) and of the legal systems of the individual Member States, it was clear from the start that a specific instrument within the third pillar would have to be devised for the purpose of strengthening the penal framework relating to criminal liability, penalties and mutual assistance in legal matters, with a view to achieving a uniform level of protection throughout the Union.

To this end the Council's framework decision of 29 May 2000¹ on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro has already been adopted. On 17 February 2000, Parliament expressed its views on the matter by means of a report², the draft version of which was drawn up by your rapporteur.

V. THE LEGISLATIVE PROPOSALS

The legislative proposals for the protection of the euro against counterfeiting with which this report is concerned are three in number and they are mutually complementary.

The proposals fill the EU's legal vacuum as regards the legal basis of two of the four basic components of the euro protection system, i.e. information and cooperation/mutual assistance.

The system which is being created to protect the euro against counterfeiting has its legal bases in both the first and third of the EU's pillars.

Your rapporteur considers this legislative dichotomy between the two pillars to be unjustifiable from the viewpoint of the general interests of the people of Europe, particularly in the case of such an important issue as protecting the common interest represented by the euro.

For this reason your rapporteur once again urges the Commission and the Council to reach a unanimous agreement pursuant to Article 42 of the EU Treaty, so that all the measures referred to in Article 29 of that Treaty on police and judicial cooperation in criminal matters can be included in Title IV of the EC Treaty. This would enable appropriate decisions for the settlement of issues for which other kinds of measures are unsuitable to be adopted in a unitary fashion.

(a) The first legislative proposal

This proposal is an Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting.

The purpose of the proposal is to ensure that one of the key players in the system designed to protect the euro (namely Europol) receives the information which it needs in order to perform its tasks. Furthermore, it establishes the principle whereby all the Member States accept the principle of the recognition of previous convictions, which has raised the legal question as to

¹ OJ L 140, 14.06.2000, p.1.

² A5-0020/2000, 31.01.2000.

whether or not such a principle calls for legislative harmonisation and should therefore be regulated by means of a framework decision rather than a decision, as provided for in Article 34 of the EU Treaty.

Your rapporteur has tabled 19 amendments. Ten of these (Amendments 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11) serve to include a reference to an omitted text. Some of the texts are technical in nature, others more political or legislative but all of them should be taken into account if the origins and the content of the legislative initiative are to be understood. The others (Amendments 1, 12, 13, 14, 15, 16, 17, 18 and 19) correct terminological or conceptual imprecisions.

(b) The second legislative proposal

This proposal is part of the position sent to Parliament by the Council and it contains the Council Regulation on the protection of the euro against counterfeiting.

The legal basis of the proposal is the third sentence of Article 123(4) of the EC Treaty, since protection of the euro as a tangible aspect of economic and monetary union is mainly a question of Community interest, even though Title VI instruments have of course had to be used in order to improve protection of the currency under criminal law.

According to well-founded (though debatable) opinion, the legal basis selected to underpin this Regulation enables the scope thereof to be extended only to those Member States which have adopted the euro as a single currency.

Within the Community legal framework the proposal is preventive in nature and is based on the establishment of a system for the exchange of information and for cooperation and mutual assistance, these being two basic features of the general euro-protection scheme mentioned earlier.

The proposal specifies the information relating to the gathering of technical and statistical data concerning counterfeit notes and coins (methods and technical features of the manufacturing process, amounts seized, etc.,) and the bodies which are required to provide information, to cooperate and to offer mutual assistance: the EU Member States, bodies and institutions, third countries and international organisations.

Your rapporteur notes that the provisions contained in the Council position are designed to ensure effective protection of the euro, and this is to be welcomed.

However, your rapporteur considered that 12 amendments (numbered from 19 to 30) should be tabled.

The first of these (No 19) reflects the need to specify that there exists at EU level a Counterfeiting Analysis Centre and, within each Member State, a National Counterfeiting Analysis Centre.

Amendments 20 and 28 stipulate that the European Technical and Scientific Centre for the technical analysis and the classification of counterfeit coins should be established as an

independent entity within the Paris Mint.

Your rapporteur also believes that, in order to protect the interests of the general public, entities which are engaged in the daily handling of notes and coins for their clients should carry out suitable checks on the authenticity or falsity of the notes and coins which they receive. This is the purpose of Amendments 11 and 21.

The text of the proposal should also make it clear that the European Central Bank's Counterfeiting Analysis Centre is the body to which information should be sent and that such information is to be stored in the Counterfeit Currency Database. This is the purpose of Amendments 25, 26 and 27.

Amendment 22 has been tabled because your rapporteur considers there to be no need to refer directly to any exception in order to protect personal data affecting individuals' fundamental right to privacy, since the relevant Community law already protects and exempts these data.

(c) The third legislative proposal

This proposal also forms part of the position sent by the Council to Parliament and it contains the draft Council Regulation extending the effects of Regulation (EC) No .../01 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency.

In order to avoid a possible appeal to the Court of Justice, a decision has been taken to propose a parallel regulation based on Article 308 of the EC Treaty which will extend the provisions of the first regulation (which is based on Article 123 of the EC Treaty) to the Member States which have not adopted the euro as a single currency.

In this case your rapporteur considers that, instead of proposing two parallel regulations, it would have been preferable to draw up a single proposal for a regulation with a dual legal basis (Articles 123 and 308 of the EC Treaty), so that the scope thereof could simply be extended to all the EU Member States.

Lastly, since this third legislative proposal has essentially the same content as the second one (already discussed), your rapporteur has not tabled any amendments since the ones which were tabled to the second legislative proposal will, if they are accepted, also be incorporated into the third one.