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SECOND REPORT

on the proposal for a Council framework decision on combating fraud and counterfeiting of non-cash means of payment
(SN 3040/2000 – C5-0265/2000 – 1999/0190(CNS))

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

Rapporteur: Gerhard Schmid

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)

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PROCEDURAL PAGE

By letter of 4 February 2000 the Council consulted Parliament, pursuant to Article 39(1) of the EU Treaty, on the proposal for a Council framework decision on combating fraud and counterfeiting of non-cash means of payment (COM(1999) 438 - 1999/0190 (CNS)).

At the sitting of 14 February 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 the Committee on Economic and Monetary Affairs for its opinion (C5-0066/2000).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Gerhard Schmid rapporteur at its meeting of 25 October 1999.

The committee considered the Commission proposal and the draft report at its meetings of 6 December 1999, 22 March 2000 and 11 April 2000.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Graham R. Watson, chairman; Robert J.E. Evans and Bernd Posselt, vice-chairmen; Jan Andersson (for Margot Keßler), Alima Boumediene-Thiery, Michael Cashman, Charlotte Cederschiöld, Carmen Cerdeira Morterero (for Sérgio Sousa Pinto), Ozan Ceyhun, Gérard M.J. Deprez, Olivier Duhamel, Daniel J. Hannan, Jorge Salvador Hernández Mollar, Anna Karamanou, Timothy Kirkhope, Alain Krivine (for Pernille Frahm), Jean Lambert (for Patsy Sörensen), Baroness Sarah Ludford, Marjo Tuulevi Matikainen-Kallström (for Thierry Cornillet), William Francis Newton Dunn (for Ewa Klamt), Elena Ornella Paciotti, Hubert Pirker, Martine Roure (for Gerhard Schmid), Ingo Schmitt (for Carlos Coelho), Martin Schulz, Joke Swiebel, Anna Terrón I Cusí and Gianni Vattimo.

The opinion of the Committee on Economic and Monetary Affairs was attached.

The report was tabled on 13 April 2000 (A5-0107/2000).

At the sitting of 17 May 2000, the matter was referred back to the committee pursuant to Rules 68(3) and 144 of the Rules of Procedure.

By letter of 30 May 2000 the Council forwarded a revised text to Parliament (SN 3040/2000 – 1999/0190 (CNS)).

At the sitting of 13 June 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 the Committee on Economic and Monetary Affairs for its opinion (C5-0265/2000).

The committee confirmed the appointment of Gerhard Schmid as rapporteur at its meeting of 5 June 2000.

The committee considered the second draft report at its meetings of 5 June and 21 June 2000.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Graham R. Watson, chairman; Robert J.E. Evans vice-chairman; Mary Banotti, Maria Berger (for Margot Keßler), Christian von Boetticher, Alima Boumediene-Thiery, Marco Cappato, Michael Cashman, Carmen Cerdeira Morterero (for Joke Swiebel), Ozan Ceyhun, Carlos Coelho, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Olivier Duhamel, Francesco Fiori (for Marcello Dell'Utri pursuant to Rule 153(2)), Eveleyne Gebhardt (for Gerhard Schmid), Daniel J. Hannan, Adeline Hazan (for Anna Karamanou), Christopher Heaton-Harris (for Timothy Kirkhope pursuant to Rule 153(2)), Ewa Klamt, Alain Krivine (for Pernille Frahm), Klaus-Heiner Lehne (for Thierry Cornillet), Baroness Sarah Ludford, Francesco Musotto (for Enrico Ferri), Hartmut Nassauer, Elena Ornella Paciotti, Ana Palacio Vallelersundi (for Charlotte Cederschiöld), Hubert Pirker, Martin Schulz, Sérgio Sousa Pinto, Anna Terrón I Cusí, Alexandre Varaut (for Mogens N.J. Camre), Gianni Vattimo, Dominique Vlasto (for Bernd Posselt) and Jan-Kees Wiebenga.

On 19 June 2000 the Committee on Economic and Monetary Affairs decided not to deliver an opinion.

The second report was tabled on 21 June 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the sitting at which the report will be considered.

LEGISLATIVE PROPOSAL

Proposal for a Council framework decision on combating fraud and counterfeiting of non-cash means of payment (SN 3040/2000 - C5-0265/2000 – 1999/0190(CNS))

The proposal is approved.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council framework decision on combating fraud and counterfeiting of non-cash means of payment (SN 3040/2000 – C5-0265/2000 – 1999/0190(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Council proposal (SN 3040/2000)¹,
 - having regard to Article 34(2)(b) of the EU Treaty,
 - having been consulted by the Council pursuant to Article 39(1) of the EU Treaty (C5 - 0265/2000),
 - having regard to Rule 67 and Rule 106 of its Rules of Procedure,
 - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Economic and Monetary Affairs (A5-0107/2000),
 - having regard to the second report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0176/2000),
1. Approves the Council proposal;
 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 amend the proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission.

¹ OJ C not published.

EXPLANATORY STATEMENT

The EP pointed out the very great need for action in this field in the report it adopted on 15 May 1998 on arrangements for the better exchange of information in respect of payment card crime².

Worldwide transactions using payment cards amount to approximately USD 2000 billion. Losses as a result of the various types of payment card fraud are between 0.1% and 0.2% of turnover, so that about USD 3 billion is taken out of normal economic circulation each year through criminal misappropriation. Approximately 25% of all losses are incurred by issuers in the EU. Credit card crime is usually organised. Fraud with Eurocheques also causes considerable losses (1995: ECU 41 million).

The crime rate in Europe with regard to other non-cash means of payment is not very high at present, but it will increase with the growing use of pre-paid cards and remote electronic banking.

In all Member States, criminal legislation in relation to payment instruments is based on the concept of 'forgery' and 'counterfeiting'. However, these terms do not have the same meaning in all Member States' criminal law. As regards traditional paper instruments (for example cheques), the legal situation is considerably more disparate, although the counterfeiting of banknotes and coins is in principle a criminal offence in all EU Member States. There are, nevertheless, blatant differences in the legal assessment of the forgery of payment cards. In addition, in some countries the mere possession or the theft of a forged means of payment are not considered an offence, this only occurring where that means of payment is intentionally used. Most Member States have no laws expressly relating to payment card crime, so they usually rely on existing legislation, drafted for more conventional deceptions using documents, which is not fully adapted to technological innovations. These differences in Member States' legal systems lead to considerable difficulties in the cross-border investigation and prosecution of fraud involving non-cash means of payment.

² OJ C 167, 1.6.1998, p. 304.