



C/2023/860

8.12.2023

Opinion of the European Economic and Social Committee on ‘A digital euro and the scope and effects of the legal tender status of banknotes and coins’

(exploratory opinion requested by the Spanish Presidency)

(C/2023/860)

Rapporteur: **Antonio GARCÍA DEL RIEGO**

Co-rapporteur: **Stefano PALMIERI**

Referral	Letter from Raúl FUENTES MILANI, Deputy Permanent Representative of Spain to the European Union, 8.12.2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	8.9.2023
Adopted at plenary	21.9.2023
Plenary session No	581
Outcome of vote	
(for/against/abstentions)	170/2/6

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) shares the goals of the digital euro project, i.e. ensuring the euro's continued role as a monetary anchor, ensuring access to public money and enhancing European strategic autonomy in the area of payments in a rapidly digitalising economy.

1.2. For the EESC, the success of the digital euro project will depend largely on it providing concrete added value, represented by: security, confidence, wide acceptance and easy accessibility without costs for citizens and economic agents. For the EESC, the objective to build the digital euro as European ‘public good’ free of charge is important. Obviously — like cash — there will be systemic costs but these should be borne by society as a whole and not by users in terms of fees for core services.

1.3. The digital euro will have a legal tender status that guarantees universal adoption and wide acceptance and, for the EESC, it will be important to have a clear European legal framework able to establish the exceptional possibility of temporary exemptions for certain (types of) payees, and to harmonise practices and standards that vary from one Member State to another.

1.4. The EESC is of the opinion that in order to ensure the complete acceptance of the digital euro by citizens and economic agents, the European institutions must clearly define the use cases of a potential central bank digital currency (CBDC) and identify appropriate design options regarding key issues (privacy and law enforcement, underlying technology, role of private sector vs. central bank). Further research, and detailed economic analysis of the implications for banking, payments, citizens and businesses will continue to be required in order for the impacts to be properly understood and to allow the potential introduction of this new form of money to be carefully designed, evaluating and comparing operational and infrastructure costs, and the potential impact on financial inclusion, the availability of cash to citizens and on EU open strategic autonomy, with the project's benefits.

1.5. The EESC encourages a broad public debate on the reasons for possible issuance of a digital euro, its merits and drawbacks, in order to make informed decisions and ensure public understanding of the project.

1.6. The EESC strongly believes that a digital euro should make the European economy more competitive globally, enable innovation and enhance EU strategic autonomy. Moreover, the digital euro could widen the availability, improve the speed, and reduce the cost of cross-border payments and allow smoother exchanges with other currency areas.

1.7. Payment service providers (PSP) licensed to operate in the Euro area — acting as intermediaries for the digital euro's distribution — will bear certain costs relating to the set-up of the digital euro's infrastructure and front-end services but equally stand to benefit, over time, from the shift of retail payments towards digital channels, which provide new opportunities for the sale of additional, value-added services. The ECB should evaluate and monitor on an ongoing basis, how and to what extent PSPs should be entitled to recoup such investment. It is also essential to ensure that the digital euro does not negatively impact financial stability, or the lending potential, provided that the funding base of credit institutions is not unduly affected. For this reason, the EESC calls for adopting the digital euro to be seen as a vital building block for the completion of the European Banking Union

1.8. For the EESC, the principle of the euro's legal tender status, both cash and digital, should be respected and harmonised rules governing the legal tender status, are important aspects of guaranteeing the usability of both forms of the euro.

1.9. The EESC calls for the proposal to undergo a competitiveness check to confirm that it has a positive impact on meeting the declared objectives and on supporting citizens, enterprises, job creation and working conditions.

2. Background

2.1. In October 2021, the ECB Governing Council launched the investigation phase of a digital euro. This phase is expected to last approximately two years, with a Governing Council decision due in autumn 2023 to move to the next phase. A decision by the ECB's Governing Council on the possible issuance of a digital euro would be taken subsequently and only after the legislative act had been adopted. The stated objectives of the Eurosystem, which comprises the ECB and the National Central Banks (NCBs), are to ensure continued monetary sovereignty and provide a monetary anchor for the euro. In the same manner, the European Commission has noted the following 'problem drivers': that in an increasingly digitalised economy, the existing form of central bank money (cash) is not available across large swathes of economic activity, there is a lack of competition in the pan-European payment market, and that foreign CBDCs or non-euro denominated stablecoins could gain market share and reduce the role of the euro⁽¹⁾. The uses prioritised would be person-to-person, e-commerce, physical Point of Sale (PoS) and government payments. Various design elements and a detailed scheme for digital euro payments are currently being worked upon by the Eurosystem.

2.2. Money is typically described as having three key functions/properties: i) *a unit of account*; ii) *it can be used as a medium of exchange, i.e. to make payments*; and iii) *it acts as a store of value*. There are also two types of money: central bank money and private money.

2.2.1. The only central bank money that is currently directly available for public use is physical cash. However, the majority of money held and used by citizens is 'private' money issued by commercial banks⁽²⁾. This private money is not backed directly by the state. Nevertheless, bank regulation and supervision and deposit insurance schemes mean that retail deposits up to EUR 100 000 are perceived as safe and equivalent to public money.

2.2.2. In many countries, electronic payments are overtaking cash as the most efficient means of payment. Currently, all digital money that is accessible by private individuals is private money (such as retail bank deposits), as individuals do not have direct access to central bank digital money.

⁽¹⁾ Currently 130 countries are exploring CBDCs, representing 98 % of the global economy. See Central Bank Digital Currency Tracker.

⁽²⁾ Overnight bank deposits currently account for more than 85 % of total money supply. See Ahnert, A., Assenmacher, K., Hoffmann, P., Leonello, A., Monnet, C. and Porcellacchia, D. (2022), 'The economics of central bank digital currency', European Central Bank working paper series, No 2713, August.

2.2.3. Traditionally, the state has been the ultimate primary provider of money. Public money is crucial to the functioning of the two-layer monetary system. Due to its nature as a central bank liability, it is seen as a safe form of money, and thus acts as an anchor for the monetary system. However, some central banks have suggested that the role of central bank money as a monetary anchor may be at risk from trends such as the shift towards digital payments, the decline in the use of cash, and the potential for new payment solutions based on private money (for instance, Big Tech expanding into payments, and the emergence of cryptocurrencies) ⁽³⁾.

2.2.4. In response to these developments, central banks around the world are considering introducing a digital version of central bank money — CBDCs ⁽⁴⁾. All major central banks today are at least investigating the potential of CBDCs. Besides the ECB, the Bank of England is currently assessing the case for a UK CBDC, as is the Federal Reserve in the USA. The People's Bank of China has launched a pilot version of a digital yuan, and the cumulative value of transactions had already surpassed 100 billion yuan as of mid-2022. A small group of countries have already started issuing their own CBDC that is widely available to the public (at the time of writing, these are Nigeria's eNaira, the Bahamas Sand Dollar and Jamaica's JAM-DEX) ⁽⁵⁾.

2.2.5. CBDCs cannot and must never be seen as akin to so-called cryptocurrencies, and particularly a type of cryptoasset known as stablecoins (which are nominally pegged to the value of a traditional reserve currency or basket of assets). This comparison is completely misleading. The price of some key cryptoassets has simply been too volatile to be widely used for payments. Even stablecoins can be vulnerable to sudden price changes, as the collapse of the Terra stablecoin in 2022 showed. To date, in most cases these cryptoassets do not appear to adequately fulfil the three functions of money described above. By contrast, CBDCs would, by definition, retain a 1:1 value relative to their physical counterparts. They would be a direct liability of the central bank, denominated in the national unit of account. They may therefore present various opportunities and potential use cases beyond physical cash.

2.2.6. The market for payment services in the EU is highly concentrated in some segments, especially card payments where EU competition authorities and legislators had to take corrective action on multiple occasions to address anti-competitive practices. Similarly, the European Commission is currently investigating the market for mobile payments, where two dominant digital platform operators own, and effectively control the relevant operating systems for mobile phones. The digital euro, protected by adequate privacy and data protection measures, could reduce the dependency of European citizens on a small number of dominant payment firms and digital platform operators and prevent further concentration in these markets.

2.3. On 28 June 2023, the European Commission adopted a legislative proposal on the establishment of the digital euro giving the ECB the exclusive right to authorise the issue of the digital euro; granting the digital euro a legal tender status (mandatory acceptance with some exemptions); mandating credit institutions to distribute the digital euro at the request of their clients (non-banks Payment Service Providers are allowed to distribute but not legally mandated; handing the ECB the ability to set limits on the use of the digital euro as a store of value and also determining and publishing the maximum fees for inter-PSP charges and merchant service charges set by the regulation; establishing that digital euro solutions should be designed in such a way as to ensure a high level of accessibility; and setting the requirements for privacy and anti-money laundering for digital euro payments, both online and offline.

2.4. The Commission also issued a legislative proposal on the scope and effects of the legal tender of euro banknotes and coins. This proposal defines the legal tender of cash as entailing mandatory acceptance, at full face value, with the power to discharge from a payment obligation. A payee shall not refuse euro cash tendered in payment unless the parties have agreed on a different means of payment or an exception applies and also sets out the conditions under which a refusal to accept euro cash would be legally possible. The proposal also establishes the obligation on Member States to ensure sufficient and effective access to cash throughout their territory, in all their regions, including urban and non-urban areas.

⁽³⁾ European Central Bank (2021), 'Central bank digital currencies: a monetary anchor for digital innovation', speech by Fabio Panetta, Member of the Executive Board of the ECB.

⁽⁴⁾ In this article we focus on 'retail' CBDCs that would be available to the general public, rather than 'wholesale' versions for use by financial institutions only.

⁽⁵⁾ CBDC Tracker (2023), 'Today's Central Bank Digital Currencies Status', last accessed 28 June 2023. See also International Monetary Fund (2023), 'Nigeria's eNaira, One Year After'.

2.5. The Spanish Ministry of Economic affairs has requested an EESC opinion on the proposal to launch a digital euro and the desirability to regulate the status of euro banknotes and coins as legal tender at EU level, the impact of both measures on financial inclusion and on the payments ecosystem and what legislative considerations should be taken into account.

2.6. The EESC greatly appreciates Spain's request, which gives the Committee the opportunity to flesh out its position on the future of the digital euro, building on its previous opinions on this subject ⁽⁶⁾.

3. General comments

3.1. In line with its previous EESC opinion on the digital euro, the EESC is pleased that the ECB and the European Commission are continuing to work towards the introduction of the digital currency. To be successful, the digital euro must be secure and maintain the confidence of users, it will have to be widely accepted and it will be easily accessible without costs for citizens and economic agents. Topics such as financial and digital inclusiveness, ensuring financial stability and making the payment system more efficient and competitive are key in the project.

3.2. The EESC notes that the Eurosystem is already well advanced in the investigation phase of a digital euro and emphasises the importance of having an in-depth and transparent public discussion on the project. The digital euro could have widespread consequences for the European society and economy and therefore it needs to be underpinned by a democratic debate to create public confidence.

3.3. The EESC believes it is important to provide a robust and adequate legal basis for the digital euro. Therefore, the EESC welcomes the Commission's legislative proposal on the digital euro. The digital euro's issuance and design must be subject to a democratic process and extensive public debate. The acceptance by the public — European citizens and businesses — of the digital euro will be critical to the adoption and ultimately the success of the digital euro. Hence, the public and civil society organisations should be made part of the discussion to ensure that the reason for the issuance and different features of the digital euro are well understood. The role of the EESC as the voice of organised civil society in Europe is crucial from the earliest stages of the implementation of the digital euro project to identify critical issues and help resolve them to maintain users' confidence.

3.4. Like cash, the digital euro shall have a legal tender status by law, and it will be important to have a clear legal framework. It is necessary to harmonise practices and standards that vary from one Member State to another. The current legal framework provides for high-level principles on the effect of the legal tender status, and on exceptions to the principle of mandatory acceptance of cash payments. Practices and rules vary across Member States, hence the EESC welcomes the co-legislators' plans to ensure a harmonised approach to rules across the Union and suggests that strong legal guidance be provided on what should be considered permissible exemptions.

3.5. The digital euro should make the EU more competitive, as it should open new payment opportunities with less dependence on non-European payment solutions. To back up that reasoning, the EESC calls for the proposal to undergo a competitiveness check.

4. Specific comments

4.1. The EESC agrees with the proposed two-tier distribution model of the digital euro meaning that the Eurosystem will issue the digital euro and it will be distributed by authorised intermediaries, i.e. licenced Payment Service Providers, and in order to guarantee fast and universal adoption and wide public acceptance, by certain authorised public bodies too. The availability of the digital euro through public authorities is critical to its credibility as a form of public money. Public-sector distribution channels must therefore be credible and effective.

4.2. The EESC is of the opinion that financial and digital inclusion are essential aspects that need to be taken into due account in the digital euro project, especially considering that, in the near future, the Governing Council of the ECB may decide to move to a next phase, in which it will develop and test, amongst other things, the technical solutions necessary to provide and distribute a digital euro. As a central bank liability, the digital euro should be available universally, without restrictions and exemptions, to European citizens and businesses. The EESC believes that the Eurosystem should continue conducting specific work on the topic of inclusion, together with all the relevant stakeholders (including consumers and the

⁽⁶⁾ Opinion of the European Economic and Social Committee on 'A Digital Euro' (own-initiative opinion) (OJ C 75, 28.2.2023, p. 22).

financial sector) with a specific round table focused on financial inclusion and the digital euro ⁽⁷⁾. The digital euro will offer consumers an additional choice over current electronic payments, knowing that their payments will be accepted throughout the euro area. It is important that the protection of consumers and their interests is always guaranteed. The topic of digital inclusion, such as access to and knowledge to use digital devices, should be taken into consideration in this work as the digital euro will by nature be a digital means of payment. All costs relating to financial and digital inclusion aspects should also be assessed and proposals put forward on how to cover those costs.

4.3. The EESC is of the opinion that, with reference to the retail payments landscape, the rapid changes that characterise this sector require the Eurosystem to promote innovation, paying attention to the connected risk profiles and their mitigation. The digital euro should promote innovation in end-user applications and improve the payment experience. For example, by supporting programmability, the digital euro has the potential to lower entry barriers, foster competition, and allow new types of products and services to be developed.

4.4. It will be crucial that the legal tender status of the digital euro prevents merchants from being overcharged by intermediaries. While the EESC believes that the digital euro would allow for more competitive fees, this principle would ensure that fees for merchants cannot exceed the current levels for comparable means of payment ⁽⁸⁾.

4.5. The digital euro could have an impact on the current European payments ecosystem which has not yet been accurately estimated. The digital euro is planned to cover many of the cases relating to daily payments, where electronic payment means are already currently available. The EESC believes that, to be successful and widely adopted, it must be clear to users what the differentiating and/or value-added factors are compared to the existing means of payment. The EESC believes it should be carefully examined whether a temporary system of compensation should be envisaged for the intermediaries distributing the digital euro.

4.6. At the same time as the digital euro project, the development of instant payments is also highly prioritised by the authorities and the Commission issued a proposal for a Regulation on instant payments in October 2022. In many instances, the digital euro could cover some of the same cases as instant payments-based payment solutions. The EESC understands that any overlap or duplicative investment should be avoided and the relationship between these two important initiatives should be fully clarified by the authorities, not least because the adoption of digital money could radically transform the international monetary/financial system, with significant implications for the European and global economy.

4.7. The EESC is of the opinion that due consideration should also be given to the role of BigTechs in the European payments market and a level playing field should be guaranteed for the different participants in the field of the digital euro. The digital euro project should assess the risks of potentially increasing the power and market share of BigTechs in European payments in view of the goal of enhancing European strategic autonomy and privacy of the citizens.

4.8. The legal tender status of the digital euro included in the Commission legislative proposal, with harmonised rules for when merchants need to accept the digital euro mandatorily, is welcomed. The requirements on acceptance could provide for the exceptional possibility of temporary exemption for certain (types of) payees in specific, carefully considered situations. The EESC proposes a gradual deployment of the digital euro with an ambitious pre-set schedule to facilitate adoption by merchants with the final goal of universal mandatory acceptance of the digital euro.

4.9. The legal tender status is crucial to achieve the digital euro objectives. In any case, the EESC is of the opinion that, in general, the adoption of a digital euro should be accompanied mostly by the acceptance of users (consumers and businesses). The success of the digital euro depends on security, confidence, wide acceptance and easy accessibility without costs for citizens and economic agents. The real challenge of the digital euro is cultural, not only technological or legal. For this reason, it is important to ensure in all EMU countries that there is an adequate flow of information and training for European citizens and economic actors (SMEs, etc.), capable of making them understand the usefulness of the digital euro project.

4.10. For the EESC, the objective to build the digital euro as European 'public good' free of charge is important. Obviously — like cash — there will be systemic costs but these should be borne by society as a whole and not by users in terms of fees for core services.

⁽⁷⁾ Digital financial inclusion, ECB.

⁽⁸⁾ Panetta F., 2023, *A digital euro: widely available and easy to use*.

4.11. Legal tender status for the digital euro should not be understood as meaning the absence of limits on holding and using it. This is currently the case with the legal tender of cash, as currently in some Member States people cannot pay cash over a certain threshold. For the EESC, it is important that the functioning of the digital currency is standardised for all countries in the same way as the harmonisation of these thresholds. Limits on cash usage do not hinder the concept of legal tender status which implies a general obligation of acceptance. The EESC is of the view that this principle should continue to apply when considering the legal tender status of a digital euro.

4.12. The EESC believes it is crucial to safeguard financial stability and financing of the economy. Therefore, it should be ensured that the lending potential of credit institutions, and hence their funding base, is not unduly affected. For this purpose, the ECB should initially set a limit for digital euro holdings, which would not interfere with the usability of the digital euro as a means of payment, thanks to the waterfall and reverse waterfall mechanism. It is essential to start introducing the digital euro gradually while establishing a pre-set calendar that leads to full application in the short term.

4.13. In the online model, transaction settlement relies on permanent connectivity to the ledger, which acts as a unique source of accurate information. In the offline model, which can be deactivated by the user, transactions are settled locally between payer and payee without relying on connectivity to the ledger. For users, it represents the closest approximation to physical cash and it offers an opportunity to expand the availability of services. The EESC considers that since the offline model may imply risks, usually related to the so-called 'double spending problem' or to the risk of counterfeiting, safeguards have to be put in place to develop concrete technical solutions for the digital euro launch. In such a way, the digital euro will provide EU citizens with an additional value beyond what existing online and offline digital payment services already offer. In order to avoid illicit activities being conducted using the digital euro, the EESC believes it is important, for both online and offline transactions, to ensure adequate application of anti-money laundering/counter-terrorist financing rules, and the same efforts to tackle tax evasion, as with current digital payment means. It should be guaranteed that supposedly increased privacy through offline transactions does not stimulate illicit activities.

Brussels, 21 September 2023.

The President
of the European Economic and Social Committee
Oliver RÖPKE