

II

(Acts adopted pursuant to Title VI of the Treaty on European Union)

COUNCIL

Initiative by the Government of the French Republic with a view to adopting a Council Decision on the protection of the euro against counterfeiting

(2001/C 75/01)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the initiative by the French Republic⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro⁽³⁾ lays down that currency denominated in euro shall start to be put into circulation as from 1 January 2002 and obliges the participating Member States to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.
- (2) The 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,

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purposes of this Decision:

- 'counterfeit notes' and 'counterfeit coins' shall mean notes and coins defined as such by Article 2 of the Council

Regulation (EC) No .../2001 of ..., laying down measures necessary for the protection of the euro against forgery⁽⁴⁾,

- '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⁽⁵⁾,
- 'competent authorities' shall mean the authorities designated by the Member States to centralise information, in particular the national central offices, and to detect, investigate or punish the offences of 'counterfeiting' or 'forgery' of the euro,
- 'technical and statistical data' shall mean data as defined in Article 2 of the Council Regulation (EC) No .../2001,
- 'Geneva Convention' shall mean the International Convention for the Suppression of Counterfeiting Currency, signed at Geneva on 20 April 1929.

Article 2

Expert analysis of coins and notes

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

- (a) the necessary expert analyses of suspected counterfeit notes are carried out by the National Analysis Centre (NAC) designated pursuant to Article 4(1) of Regulation (EC) No .../2001;
- and
- (b) the necessary expert analyses of suspected counterfeit coins are carried out by the National Coin Analysis Centre

⁽¹⁾ OJ C ...

⁽²⁾ OJ C ...

⁽³⁾ OJ L 139, 11.5.1998, p. 1.

⁽⁴⁾ OJ L ...

⁽⁵⁾ OJ L 140, 14.6.2000, p. 1.

(NCAC) established or designated pursuant to Article 5(1) of Regulation (EC) No .../2001.

Article 3

Forwarding of the results of expert analyses

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

Article 4

Obligation to communicate information

1. Member States shall ensure that the national central offices referred to in Article 12 of the Geneva Convention communicate to Europol, through the national units, relevant centralised information on criminal investigations into forging of the euro, including information obtained from third countries.

2. The list of information to be communicated shall be drawn up by the Member States. It shall include the particulars of the dossier, the particulars of the forgery, the circumstances in which the forgery was discovered, the context of the seizure and the links with other dossiers.

3. The competent authorities of the Member States shall exchange with the Provisional Judicial Cooperation Unit and subsequently with Eurojust, once the Decision establishing it has been adopted, all relevant information concerning criminal investigations in order to help establish the facts and ensure effective action against counterfeiting of the euro. Europol and Eurojust shall provide the competent authorities of the Member States with all necessary technical assistance in order to facilitate coordination of investigations undertaken and to improve and facilitate cooperation between the competent investigative and prosecuting bodies of the Member States.

Article 5

Previous convictions

Every Member State shall recognise the principle of the recognition of previous convictions under the conditions prescribed by its domestic law and, under those same conditions, shall recognise for the purpose of establishing habitual criminality final sentences handed down in another Member State for the offences referred to in Articles 3 to 5 of the Council Framework Decision 2000/383/JHA, or the offences referred to in Article 3 of the Geneva Convention, irrespective of the currency counterfeited.

Article 6

Entry into force

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

Done at ...

For the Council

The President

⁽¹⁾ OJ C 316, 27.11.1995, p. 2.