



OPINION OF THE EUROPEAN CENTRAL BANK

of 27 June 2014

on the processing, distribution and protection against counterfeiting of banknotes and coins in Hungary (CON/2014/48)

Introduction and legal basis

On 4 June 2014, the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on two draft MNB decrees: (i) on the amendment of rules on the processing and distribution of banknotes, and on technical tasks relating to the protection of banknotes against counterfeiting (hereinafter the ‘draft banknote decree’); and (ii) on the amendment of rules on the processing and distribution of coins, and on technical tasks relating to the protection of coins against counterfeiting (hereinafter the ‘draft coin decree’; the draft banknote decree and the draft coin decree are hereinafter jointly referred to as the ‘draft decrees’).

The ECB’s competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the second indent of Article 2(1) of Council Decision 98/415/EC¹, as the draft decrees relate to means of payment. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

1. Purpose of the draft decrees

1.1 According to the explanatory memorandum to the draft decrees, the MNB has reviewed its decree on banknotes² and its decree on coins³ and proposes several amendments for the purposes of: (i) ensuring the sound functioning of banknote handling machines used by credit institutions, the postal service and other entities processing cash (hereinafter collectively referred to as ‘cash processors’) in verifying the authenticity and fitness of Hungarian forint banknotes; (ii) enhancing the protection of banknotes against counterfeiting; (iii) ensuring the quality of banknotes recirculated by cash processors; (iv) improving the security of banknotes and coins in circulation; and (v) ensuring the availability for retail customers of certain cash distribution activities carried

1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 MNB Decree 11/2011 (IX. 6.) on the processing and distribution of banknotes and on technical tasks relating to the protection of banknotes against counterfeiting (hereinafter the ‘decree on banknotes’).

3 MNB Decree 12/2011 (IX. 6.) on the processing and distribution of coins and on technical tasks relating to the protection of coins against counterfeiting (hereinafter the ‘decree on coins’).

out by credit institutions and the postal service. The explanatory memorandum also outlines that amendment of the decree on banknotes and the decree on coins has become necessary in the light of the recently adopted Law on the Magyar Nemzeti Bank⁴, which, inter alia, governs the MNB's authority to issue banknotes and coins, as well as its competence to protect the Hungarian forint against counterfeiting.

- 1.2 The specific amendments effected by the draft decrees include: (i) an increase to 100 per cent in the ratio of forint banknotes to be checked by cash processors using banknote handling machines successfully tested by the MNB, with an exception for banknotes that are damaged, difficult to identify, or withdrawn from circulation; (ii) the introduction of stricter rules for operators of banknote handling machines; (iii) the extension of the scope of the data reporting requirements for entities wishing to operate banknote handling machines, in order to provide the MNB with more information for monitoring purposes; (iv) the introduction of data reporting requirements for manufacturers of banknote handling machines in Hungary and distributors of banknote handling machines manufactured outside Hungary; (v) further updates to the recently amended rules applicable to the business contingency plans of credit institutions and post offices; (vi) the introduction of new rules on the exchange of banknotes and coins withdrawn from, or unfit for, circulation; and (vii) amendments necessary to reflect the amendments introduced by Decision ECB/2012/19⁵. The draft decrees also update references to applicable Hungarian legislation.

2. General observations

- 2.1 The ECB welcomes the aim of the draft decrees to facilitate the improvement of the security of banknotes and coins in circulation in Hungary, as well as the efforts of the MNB to enhance the identification of counterfeit Hungarian forint banknotes and coins, and Hungarian forint banknotes and coins unfit for circulation. Nevertheless, having regard to the fact that an amendment to the decree on banknotes was adopted earlier this year⁶, the need for a stable legal framework governing banknotes and coins must be emphasised.
- 2.2 As previously observed⁷, Hungary is a Member State with a derogation pursuant to Article 139 of the Treaty and the ECB's requirements regarding the recirculation of euro banknotes in Member States that have adopted the euro do not apply to the MNB⁸. These requirements will apply once Hungary adopts the euro and the MNB becomes a fully integrated member of the Eurosystem. In this respect, the ECB welcomes the MNB's proposed alignment of the decree on banknotes with

4 Law CXXXIX of 2013 on the Magyar Nemzeti Bank.

5 Decision ECB/2012/19 of 7 September 2012 amending Decision ECB/2010/14 on the authenticity and fitness checking and recirculation of euro banknotes (OJ L 253, 20.9.2012, p. 19).

6 See MNB Decree 2/2014 (II. 14.).

7 See Opinions CON/2013/89, CON/2011/59, CON/2008/90, CON/2006/2, CON/2005/19 and CON/2005/3. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

8 See, in particular, Opinions CON/2013/89, CON/2011/59 and CON/2008/90.

Decision ECB/2012/9 and notes that this is in accordance with a suggestion made by the ECB in a previous opinion⁹ on Hungarian banknotes.

- 2.3 The ECB reiterates its previous observations on the MNB's currency-issuing operations¹⁰ and urges the Hungarian legislator to consider addressing observations made in past ECB opinions and in the Convergence Report¹¹ which remain outstanding. This includes the avoidance of frequent changes to Hungarian legislation relating to the MNB¹².

3. Specific observations

- 3.1 Several provisions in the draft coin decree¹³ and certain provisions in the decree on coins which have not been amended relate to banknotes¹⁴. In a similar manner, certain provisions of the draft banknote decree relate to coins¹⁵. For the purposes of consistency and legal certainty, all provisions in the draft coin decree and in the decree on coins which solely relate to banknotes should, insofar as possible, be exclusively contained in the decree on banknotes, and all provisions in the draft banknote decree which solely relate to coins should be exclusively contained in the decree on coins.
- 3.2 Furthermore, the definition of 'legal tender' in the draft coin decree¹⁶ is misleading as it only makes reference to coins, whereas banknotes are also legal tender. This definition would benefit from further clarification. The corresponding definition in the decree on banknotes¹⁷ would also benefit from clarification for the similar reason that it only makes reference to banknotes.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 27 June 2014.

[signed]

The President of the ECB

Mario DRAGHI

⁹ See paragraph 3.3 of Opinion CON/2013/89.

¹⁰ See paragraph 3.2.5 of Opinion CON/2013/56 and paragraph 2.3 of CON/2013/89.

¹¹ See Opinions CON/2013/71 and CON/2013/56, as well as the ECB's Convergence Report of June 2014, in particular the assessment made under 'Issue of banknotes', p. 329.

¹² See, for example, Opinions CON/2013/56, CON/2012/43, CON/2011/104, CON/2010/91, CON2008/83 and CON/2007/14.

¹³ See points 8, 9, 11 and 14 of Article 1 of the draft coin decree.

¹⁴ See, for example, point 10 of Article 1 of the decree on coins.

¹⁵ See points 11b, 11c, 11d and 16 of Article 1 of the draft banknote decree.

¹⁶ See point 19 of Article 1 of the draft coin decree.

¹⁷ See point 23 of Article 1 of the decree on banknotes.