



OPINION OF THE EUROPEAN CENTRAL BANK
of 11 July 2014
on the reproduction of euro and forint banknotes and coins in Hungary
(CON/2014/55)

Introduction and legal basis

On 23 June 2014, the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on a draft MNB decree on the reproduction of forint and euro coins (hereinafter referred to as the ‘draft decree’). The draft decree is intended to repeal and replace the current MNB decree on the reproduction of forint and euro coins (hereinafter referred to as the ‘Decree on the reproduction of coins’) and amend the current MNB decree on the reproduction of forint and euro banknotes (hereinafter referred to as the ‘Decree on the reproduction of banknotes’).

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 first and second indents of Article 2(1) of Council Decision 98/415/EC¹, as the draft decree relates to currency matters and 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 decree

- 1.1 Article 26 of the Law on the Magyar Nemzeti Bank² provides that legal tender in circulation, or banknotes and coins withdrawn from circulation but convertible to legal tender, may only be reproduced in accordance with rules laid down by the Governor of the MNB in a decree.
- 1.2 The MNB has observed a substantial increase in the volume of medals not qualifying as legal tender being issued by commercial enterprises in Hungary. Such medals have similar characteristics to commemorative coins issued by the MNB and can easily be mistaken for legal tender. The MNB has therefore decided to adopt the draft decree in order to prevent these medals being confused with commemorative coins or any other coin that qualifies as legal tender. The draft decree will repeal the Decree on the reproduction of coins and strengthen the legal protection of banknotes by amending the Decree on the reproduction of banknotes. The overall aim of these provisions is to curb misleading business practices and protect consumers who purchase such medals.

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 Law CXXXIX of 2013 on the Magyar Nemzeti Bank.

- 1.3 The Decree on the reproduction of coins is to be repealed, and the draft decree introduces new provisions in order to:
- a) prohibit the reproduction of coins similar to forint coins, with such prohibition also extending to the use of images similar to those used on either side of forint coins and to reference being made to the Hungarian Republic on the reproduction;
 - b) prohibit the issuance of a reproduction with an identical or a similar theme as a commemorative coin issued by the MNB, for a period of one year following the issuance of such a commemorative coin;
 - c) prohibit any reproduction being referred to as a ‘coin’ or ‘commemorative coin’, in particular on its packaging or in consumer advertising;
 - d) prohibit the alteration of any design elements of a forint coin, for example by painting, engraving, gilding, or silver plating, for commercial purposes;
 - e) make the reproduction of commemorative forint coins subject to the MNB’s prior authorisation;
 - f) extend the scope of the legal provisions concerning coins to coins withdrawn from circulation but convertible to legal tender, which includes commemorative coins.
- 1.4 The scope of the Decree on the reproduction of banknotes is extended to to the reproductions of forint banknotes withdrawn from circulation but convertible to legal tender, which includes commemorative banknotes.

2. General observations

- 2.1 As observed in several previous ECB opinions³, Hungary is a Member State with a derogation pursuant to Article 139 of the Treaty. Therefore, the ECB’s requirements regarding the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes do not apply to the MNB⁴. These requirements will apply once Hungary adopts the euro and the MNB becomes a fully integrated member of the Eurosystem. The ECB welcomes the MNB’s initiative to strengthen the legal framework for forint banknote reproduction.
- 2.2 In addition to strengthening the applicable legal framework, the MNB could consider conducting a public campaign as regards the non-legal tender status of the medals issued by these commercial enterprises, in order to raise consumer awareness in this field and ensure protection of the integrity of genuine forint and euro coins as means of payment.

³ 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.

⁴ See, in particular, Opinions CON/2013/89, CON/2011/59, CON/2010/1 and CON/2008/90.

3. Specific observations

The ECB reiterates that as regards the rules applicable to the reproduction of euro banknotes, Guidelines ECB/2003/5⁵ and ECB/2013/11⁶, as well as Decision ECB/2013/10⁷ prevail over national legislation. The ECB stresses that it holds the copyright of the design of all euro banknotes. The ECB, or the NCBs on its behalf, may enforce such copyright, irrespective of the applicability of the abovementioned rules to the reproduction of euro banknotes, with regard to reproductions issued or distributed in breach of this copyright, if the Member State's legislation provides for copyright protection. To this end, Article 10(2) of the Decree on the reproduction of banknotes would benefit from being updated to include references to Guideline ECB/2013/11 and Decision ECB/2013/10.

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

Done at Frankfurt am Main, 11 July 2014.

[signed]

The President of the ECB

Mario DRAGHI

⁵ Guideline ECB/2003/5 of the European Central Bank of 20 March 2003 on the enforcement of measures to counter non-compliant reproductions of euro banknotes and on the exchange and withdrawal of euro banknotes (OJ L 78, 25.3.2003, p. 20).

⁶ Guideline ECB/2013/11 of the European Central Bank of 19 April 2013 amending Guideline ECB/2003/5 on the enforcement of measures to counter non-compliant reproductions of euro banknotes and on the exchange and withdrawal of euro banknotes (OJ L 118, 30.4.2013, p. 43).

⁷ Decision ECB/2013/10 of the European Central Bank of 19 April 2013 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (OJ L 118, 30.4.2013, p. 37).