

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 26 November 2009

on the position to be taken by the European Community regarding the renegotiation of the Monetary Agreement with the Republic of San Marino

(2009/904/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 111(3) thereof,

Having regard to the recommendation from the Commission,

Having consulted the European Central Bank,

Whereas:

- (1) The Community has the competence for monetary and exchange rate matters as of the date of the introduction of the euro.
- (2) The Council is to determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matter.
- (3) The Italian Republic, on behalf of the Community, concluded on 29 November 2000 a Monetary Agreement with the Republic of San Marino.
- (4) In its conclusions on 10 February 2009 the Council invited the Commission to review the functioning of the existing agreements and to consider possible increases in the ceilings for coin issuance.

- (5) The Commission concluded in the Communication on the functioning of the Monetary Agreements with Monaco, San Marino and Vatican that the Monetary Agreement with the Republic of San Marino in its present form needs to be amended with a view to ensuring a more consistent approach in the relations between the Community and the countries having signed a monetary agreement.

- (6) The Monetary Agreement with the Republic of San Marino should therefore be renegotiated as soon as possible so that the new regime enters into force on 1 January 2010, together with the new rules on the modalities of introduction of euro coins set by the Commission Recommendation of 19 December 2008 on common guidelines for the national side and the issuance of euro coins intended for circulation⁽¹⁾, endorsed by the Council in its conclusions of 10 February 2009,

HAS ADOPTED THIS DECISION:

Article 1

The Italian Republic shall notify the Republic of San Marino of the need to amend the existing Monetary Agreement between the Italian Republic, on behalf of the European Community, and the Republic of San Marino (hereinafter 'the Agreement') at the earliest possible date and offer renegotiation on the relevant provisions of the Agreement.

Article 2

The Community shall seek the following changes in the renegotiation of the Agreement with the Republic of San Marino:

⁽¹⁾ OJ L 9, 14.1.2009, p. 52.

(a) The Agreement shall be concluded between the Community and the Republic of San Marino. The text of the agreement shall be a codified text of the current agreement with the amendments.

(b) The Republic of San Marino shall undertake to adopt all appropriate measures, through direct transpositions or possibly equivalent actions:

— for the application of all relevant Community banking and financial legislation, in particular legislation relating to the activity and supervision of the institutions concerned;

— for the application of all relevant Community legislation on the prevention of money laundering, on the prevention of fraud and counterfeiting of cash and non-cash means of payment, on medals and tokens and on statistical reporting requirements.

The Republic of San Marino shall ensure that all relevant Community banking and financial legislation is implemented in its territory before 1 January 2015. The Agreement shall contain an annex detailing the deadlines for the adoption of such measures.

(c) The method for determining the ceiling of issuance of San Marino euro coins shall be revised. The new ceiling shall be calculated using a method which will combine a fixed part aimed at avoiding excessive numismatic speculation on San Marino coins by satisfying the demand of the collector coin market and a variable part, calculated as the average per capita coin issuance of the Republic of Italy in the year $n-1$ multiplied by the number of inhabitants of the Republic of San Marino.

(d) A Joint Committee shall be established in order to monitor the progress in the implementation of the Agreement. It shall be composed of representatives of the Republic of San Marino, the Republic of Italy, the Commission and the ECB. It shall have the possibility to revise each year the fixed part with a view to taking into account inflation and the evolution of the collector market. It shall adopt decisions unanimously. The Joint Committee shall adopt its own rules of procedure.

(e) The euro coins of the Republic of San Marino shall be minted by the Istituto Poligrafico e Zecca dello Stato. The Republic of San Marino shall however have the possibility to take another contractor among the European Union mints striking euro coins, with the agreement of the Joint Committee. The volume of coins issued by the Republic of

San Marino shall be added to the volume of coins issued by the Republic of Italy for the purpose of the ECB approval of the total volume of the issuance.

(f) The Court of Justice of the European Communities shall be elected as the body in charge of settling disputes which may arise from the application of the Agreement.

If the Community or the Republic of San Marino consider that the other Party has not fulfilled an obligation under the Monetary Agreement, it may bring the matter before the Court of Justice. The judgment of the Court of Justice shall be binding on the Parties, which will take the necessary measures to comply with the judgment within a period to be decided by the Court of Justice in its judgment. In case the Community or the Republic of San Marino fail to take the necessary measures to comply with the judgment within the period, the other Party can terminate immediately the Agreement.

Article 3

The negotiations with the Republic of San Marino shall be conducted by the Italian Republic and the Commission on behalf of the Community. The Italian Republic and the Commission are empowered to initial the Agreement on behalf of the Community. The ECB shall be fully associated with the negotiations and its agreement shall be required on issues falling in its field of competence. The Italian Republic and the Commission shall submit the draft Agreement to the Economic and Financial Committee (EFC) for opinion.

Article 4

Upon the initialling of the Agreement, the Commission shall be entitled to conclude the Agreement on behalf of the Community, unless the EFC or the ECB is of the opinion that the Agreement should be submitted to the Council.

Article 5

This Decision is addressed to the Italian Republic, the Commission and the ECB.

Done at Brussels, 26 November 2009.

For the Council
The President
J. BJÖRKLUND