

EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 15 August 2003

at the request of the Council of the European Union on a proposal for a Council Decision concerning the analysis and cooperation with regard to counterfeit euro coins (COM(2003) 426 final)

(CON/2003/16)

(2003/C 202/10)

1. On 30 July 2003 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a Council Decision concerning analysis and cooperation with regard to counterfeit euro coins (COM(2003) 426 final) (hereinafter the 'proposed decision').
2. The ECB's competence to deliver an opinion is based on the first indent of Article 105(4) of the Treaty establishing the European Community and the first indent of Article 4(a) of the Statute of the European System of Central Banks and of the European Central Bank, since the proposed decision contains provisions with a bearing on cooperation with regard to counterfeit euro coins. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council of the ECB has adopted this opinion.
3. The main objective of the proposed decision is to ensure the continuity and independence of the protection of euro coins against counterfeiting. This will be achieved by allocating the responsibility to the Commission to ensure the functioning of the European Technical and Scientific Centre (the 'ETSC') and the coordination of the activities of the competent Member States' technical authorities to protect the euro coins against counterfeiting. Article 5(2) of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting ⁽¹⁾, as complemented by Council Regulation (EC) No 1339/2001 of 28 June 2001 ⁽²⁾ (hereinafter the 'Council Regulation') provides for the analysis and classification of counterfeit euro coins by the Coin National Analysis Centres in each of the Member States and by the ETSC. The ETSC has carried out its tasks on a temporary basis at the French Mint with administrative support and management provided by the Commission, as laid down in an exchange of letters between the President of the Council and the French Minister for Finance of 28 February and 9 June 2000. A status report prepared under the responsibility of the EU Mint Directors has expressed its satisfaction with the work carried out by the ETSC. The report concluded that the location at which the ETSC carries out its activities is appropriate and that the Commission ensures the appropriate administrative and institutional setting in terms of efficiency and independence.
4. The ECB shares the EU Mint Directors' positive view of the work that the ETSC has accomplished so far. It also agrees that the need for continuity and independence of the protection of euro coins against counterfeiting requires a final decision regarding the location of the ETSC. Against this background, the ECB broadly welcomes and supports the proposed decision that the Commission shall ensure the functioning of the ETSC and the coordination of Member States' technical activities to protect euro coins against counterfeiting. In this context, the ECB notes that the expression 'competent technical authorities' used in the proposed decision's sole Article is unclear. It recommends replacing this with the term 'competent national authorities', as defined in Article 2(b) of the Council Regulation.
5. The ECB notes that Article 5(4) of the Council Regulation also requires the ETSC to communicate the final results of its analyses of counterfeit euro coins, *inter alia*, to the Commission and the ECB, according to their respective areas of responsibility. In turn, the ETSC shall have access to the technical and statistical data on counterfeit euro coins stored at the ECB. The ECB would like to draw attention to the fact that, in cooperation with the Commission and ETSC, it is responsible for putting the relevant arrangements in place implementing Article 5(4) of the Council Regulation.

⁽¹⁾ OJ L 181, 4.7.2001, p. 6.

⁽²⁾ OJ L 181, 4.7.2001, p. 11.

6. Finally, the ECB notes that the Commission intends to adopt a subsequent decision implementing the responsibility given to it in the proposed decision. The ECB will issue a separate opinion on this decision once the Commission has consulted it thereon.
7. This opinion shall be published in the *Official Journal of the European Union*.

Done at Frankfurt am Main, 15 August 2003.

*Member of the Executive Board
of the ECB*

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Gertrude TUMPEL-GUGERELL
