



**OPINION OF THE EUROPEAN CENTRAL BANK**  
**of 8 December 2008**  
**at the request of Národná banka Slovenska**  
**on a draft decree regarding cash currency circulation**  
**(CON/2008/86)**

**Introduction and legal basis**

On 10 November 2008 the European Central Bank (ECB) received a request from Národná banka Slovenska (NBS) for an opinion on a draft decree on certain details regarding cash currency circulation and on amendments to certain decrees (hereinafter the 'draft decree').

The ECB's competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community and the first and second indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions<sup>1</sup>, 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**

The draft decree is a technical implementing measure to be adopted pursuant to Articles 17b(5), 17e(5) and 17f(10) of the Law of the National Council of the Slovak Republic No 566/1992 Coll. on Národná banka Slovenska. It aims to regulate the processing of euro banknotes and coins, the withdrawal of counterfeit, mutilated or damaged euro banknotes, and in particular to implement the Framework for the detection of counterfeits and fitness sorting by credit institutions and other professional cash handlers<sup>2</sup> (hereinafter the 'Framework'), thereby also contributing to a smooth euro changeover in Slovakia from 1 January 2009. In detail, the draft decree: (i) defines the most frequently used terms in connection with euro banknotes and coins; (ii) regulates the handling, sorting and packaging of euro banknotes and coins by banks or professional cash handlers; and (iii) provides for the procedures for withdrawal of altered or counterfeit euro banknotes and coins and euro banknotes or coins that are suspected of being counterfeit, altered, damaged, mutilated or illegally produced.

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

<sup>2</sup> See the ECB document entitled '*Recycling of euro banknotes: framework for the detection of counterfeits and fitness sorting by credit institutions and other professional cash handlers*' as agreed by the ECB's Governing Council on 16 December 2004, which is available on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).

## 2. General observations

- 2.1 The ECB welcomes the fact that NBS is implementing the Framework by means of the draft decree, as this will contribute to a high level of harmonisation within the Eurosystem in the field of euro banknotes and coins and assist Slovakia's legal convergence in that field. Under the transitional regime for the implementation of the Framework in the new participating Member States (hereinafter the 'Transitional regime') approved by the ECB's Governing Council in December 2004, NBS as a national central bank (NCB) of a new participating Member State from 1 January 2009, should adopt the Framework '... as soon as possible, at the latest within 12 months of the date on which euro banknotes and coins acquire the status of legal tender in the relevant new participating Member State.' Since the intended date of entry into force of the draft decree is 1 January 2009, Slovakia will comply with the requirements of the Transitional regime.
- 2.2 Under Article 106 of the Treaty, the ECB has the exclusive right to authorise the issue of banknotes within the Community. Coins are issued by the Member States subject to approval by the ECB of the volume of the issue. Consequently, as a general principle, the Eurosystem's regulatory competence only concerns banknotes. Moreover, as far as the accession of NCBs to the Eurosystem is concerned, the ECB supports a clear and consistent separation between national rules relating to banknotes and rules relating to coins<sup>3</sup>. The ECB is therefore of the view that the draft decree would benefit from introducing a consistent internal separation between the rules concerning euro banknotes and the rules concerning euro coins<sup>4</sup>.
- 2.3 Since the draft decree also regulates issues that fall outside the scope of Community law, in particular the legislative framework of the European System of Central Banks and the ECB, this opinion focuses on those provisions of the draft decree: (i) that do fall within the scope of Community law; (ii) that fall under the ECB's competence; and (iii) that are of a legal rather than a purely technical nature. Moreover, the ECB would like to underline that pursuant to Article 10 of the Treaty it is the Slovak authorities' responsibility to take all appropriate measures to ensure the fulfilment of their obligations arising out of the Treaty or resulting from action taken by the institutions of the Community, including those taken within the framework of the Eurosystem.

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<sup>3</sup> See paragraph 2.3 of ECB Opinion CON/2007/28 of 25 September 2007 at the request of the President of Narodowy Bank Polski on a draft ordinance on the method and procedure for counting, sorting, packaging and labelling packaging units of banknotes and coins, and in conducting activities related to the supply of banknotes and coins to banks; paragraph 2.2 of ECB Opinion CON/2008/36 of 5 August 2008 at the request of Latvijas Banka on a draft regulation on lats banknotes and coins; and paragraph 2 of ECB Opinion CON/2008/47 of 9 October 2008 at the request of Sveriges Riksbank on a draft Regulation on the redemption of banknotes and coins.

<sup>4</sup> Currently the draft decree does not separate the rules on euro banknotes and coins at all.

### 3. Specific observations

- 3.1 In addition to implementing the Framework, Slovakia will also have to comply with Community and ECB legal acts in the field of euro banknotes<sup>5</sup>. Although it has no further specific comments of a legal nature on the draft decree, the ECB reemphasises that the responsibility for ensuring that the draft decree complies fully with the Eurosystem legal framework in this regard remains with the consulting authority.
- 3.2 Pursuant to Council Decision 2008/608/EC of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009<sup>6</sup>, Slovakia fulfils the necessary conditions for adoption of the euro and its derogation under Article 4 of the Act of Accession<sup>7</sup> will be abrogated with effect from 1 January 2009. Since the date of entry into force of the draft decree either coincides with the date of the euro introduction in Slovakia or is postponed until 1 January 2010 pursuant to Section V thereof, it would be advisable for reasons of legal clarity to delete any references in the draft decree<sup>8</sup> to those Community law provisions which will become obsolete once the euro is introduced in Slovakia<sup>9</sup>.

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

Done at Frankfurt am Main, 8 December 2008.

[signed]

*The President of the ECB*

Jean-Claude TRICHET

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<sup>5</sup> Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 4.7.2001, p. 6); Decision ECB/2003/4 of 20 March 2003 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (OJ L 78, 25.3.2003, p. 16); Guideline ECB/2003/5 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); Council Regulation (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins (OJ L 373, 21.12.2004, p. 1); Commission Recommendation of 27 May 2005 concerning authentication of euro coins and handling of euro coins unfit for circulation (notified under document number C(2005) 1540) (OJ L 184, 15.7.2005, p. 60); and the ECB document entitled '*Data Collection from Credit Institutions and other Professional Cash Handlers under the Framework for Banknote Recycling*', which is available on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu).

<sup>6</sup> Council Decision of 8 July 2008 in accordance with Article 122(2) of the Treaty on the adoption by Slovakia of the single currency on 1 January 2009 (OJ L 195, 24.7.2008, p. 24).

<sup>7</sup> Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ L 236, 23.9.2003, p. 33).

<sup>8</sup> See footnote 1 to the draft decree.

<sup>9</sup> From the date of introduction of the euro in Slovakia, Council Regulation (EC) No 1339/2001 of 28 June 2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (OJ L 181, 4.7.2001, p. 11) will no longer apply.