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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	31 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 371 final
Subject:	Proposal for a Council Regulation extending to the non-participating Member States the application of Regulation (EU) No .../2018 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (the "Pericles IV" programme)

Delegations will find attached document COM(2018) 371 final.

Encl.: COM(2018) 371 final



EUROPEAN
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Brussels, 31.5.2018
COM(2018) 371 final

2018/0219 (APP)

Proposal for a

COUNCIL REGULATION

**extending to the non-participating Member States the application of
Regulation (EU) No .../2018 establishing an exchange, assistance and training
programme for the protection of the euro against counterfeiting for the
period 2021-2027 (the ‘Pericles IV’ programme)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

This proposal provides for a date of application as of 1 January 2021 and is presented for a Union of 27 Member States, in line with the notification by the United Kingdom of its intention to withdraw from the European Union and Euratom based on Article 50 of the Treaty on European Union received by the European Council on 29 March 2017.

The Pericles programme is an exchange, assistance and training programme for the protection of the euro against counterfeiting. The programme was established by Council Decision 2001/923/EC of 17 December 2001 and its effects were extended to the EU Member States that had not adopted the euro as their currency by Council Decision 2001/924/EC of 17 December 2001. Subsequent amendments to these basic acts by Council Decisions 2006/75/EC, 2006/76/EC, 2006/849/EC, 2006/850/EC, Regulation (EU) No 331/2014 and Council Regulation (EU) 2015/768¹ have extended the duration of the programme until 31 December 2020.

In its proposal (COM(2018)369), based on Art 133 of the TFEU, the Commission proposes to continue the Pericles programme under the post-2020 Multiannual Financial Framework.

Article 139 of the Treaty on the Functioning of the European Union provides that measures governing the use of the euro referred to in Article 133 thereof shall not apply to the Member States with derogation.

However, the exchange of information and staff and the assistance and training measures implemented under the Pericles programme should be uniform throughout the Union and the requisite measures should therefore be taken to ensure the same level of protection for the euro in the Member States that do not have the euro as their official currency. The active role of non-participating Member States under the current extension of the Pericles 2020 programme is relevant and significant. The National bank of Croatia, for instance, organised a series of conferences under the title "Balkan network for euro protection" gathering experts from South East Europe to reinforce the protection of the euro against counterfeiting in this area, known for its distribution and production of euro counterfeits.

This proposal should extend the Pericles programme to the Member States of the European Union not yet using the euro as their single currency.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Union's legislation concerning the protection of the euro against counterfeiting falls within the scope of Article 133 of the Treaty on the Functioning of the European Union (TFEU). This provision provides that the European Parliament and the Council, acting in accordance with the ordinary legislative procedure shall, after consultation of the European Central Bank, lay down the measures necessary for the use of the euro as the single currency. This provision is applicable only to Member States which have adopted the euro as their single currency.

This proposal is based on Article 352 of the TFEU, which is the legal basis for extending the application of the Pericles programme to Member States which have not adopted the euro as their single currency.

¹ Council Regulation (EU) 2015/768 of 11 May 2015 extending to the non-participating Member States the application of Regulation (EU) No 331/2014, [OJ L121, 14.5.2015, p. 1.](#)

- **Subsidiarity (for non-exclusive competence)**

This proposal complies with the principle of subsidiarity. The protection of the European single currency as a public good has a clear transnational dimension, and therefore euro protection goes beyond the interest and the responsibility of individual EU Member States. Considering the cross-border circulation of the euro and the deep involvement of international organised crime in euro counterfeiting (production and distribution), national protection frameworks need to be complemented by an EU initiative to ensure homogeneous national and international cooperation, and to face possible emerging transnational risks.

- **Proportionality**

- The proposed Regulation is necessary, suitable and appropriate for achieving the desired end. It proposes to efficiently strengthen cooperation among the Member States and between the Commission and the Member States, without restricting Member States' capability to protect the euro against counterfeiting. Action at Union level is justified as it clearly assists Member States in collectively protecting the euro and encourages the use of common Union structures to increase cooperation and information exchange between competent authorities².

Choice of the instrument

A Regulation is considered the appropriate legal instrument to define the framework on the protection of the euro against counterfeiting. It is in continuity with Council Regulation (EU) 2015/768 of 11 May 2015 extending to the non-participating Member States the application of Regulation (EU) No 331/2014 of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme).

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

The Commission carried out an ex ante evaluation (SWD(2018)281) in the context of preparing the Regulation (EU) No .../2018 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period beyond 2020 (the 'Pericles IV programme'). The evidence collected and presented as part of this ex ante evaluation is directly transferrable to the present proposal.

Stakeholders were consulted on the protection of the euro against counterfeiting as part of the Public consultation on EU funds in the area of security.

4. BUDGETARY IMPLICATIONS

The legislative financial statement attached to this proposal for a Council Regulation sets out the budgetary implications and the human and administrative resources needed. This financial statement on budgetary implications is identical - except for the legal basis - to the financial statement for the proposal on a European Parliament and Council Regulation (EU) No .../2018 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting beyond 2020 (the 'Pericles IV programme').

² As stated in recital 13 of Regulation (EU) No 331/2014 of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme), [OJ L 103, 5.4.2014, p. 1](#).

5. OTHER ELEMENTS

- Implementation plans and monitoring, evaluation and reporting arrangements

Not applicable

- Explanatory documents (for directives)

Not applicable

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extending to the non-participating Member States the application of Regulation (EU) No .../2018 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (the 'Pericles IV' programme)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 352 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the consent of the European Parliament³,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Regulation (EU) No .../2018 establishing the 'Pericles IV programme'⁴ provides that it is applicable in the Member States in accordance with the Treaties. Article 139 of the Treaty on the Functioning of the European Union provides that measures governing the use of the euro referred to in Article 133 thereof shall not apply to the Member States with a derogation.
- (2) However, the exchange of information and staff and the assistance and training measures implemented under the Pericles IV programme should be uniform throughout the Union. The requisite measures should therefore be taken to ensure the same level of protection for the euro in the Member States that do not have the euro as their official currency.

HAS ADOPTED THIS REGULATION:

Article 1

The application of Regulation (EU) No .../2018 shall be extended to Member States other than the participating Member States as defined in point (a) of Article 1 of Council Regulation (EC) No 974/1998⁵.

Entities from those Member States shall be considered eligible for funding when they are competent authorities within the meaning of Article 9 of Regulation (EU) No ... /2018 establishing the 'Pericles IV programme'.

³ OJ C..., p.

⁴ See page ... of this Official Journal.

⁵ [OJ L 139, 11.5.1998, p. 1.](#)

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President