



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

CRIMORG 16

PUBLIC

COVER NOTE

From: Multidisciplinary Group on Organised Crime
To: Article 36 Committee

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Subject: Draft Council Recommendation on measures to protect the euro against counterfeiting

At the MDG meeting of 17 September 2003 the text of the Draft Council Recommendation on measures to protect the euro against counterfeiting was again discussed. Delegations expressed their satisfaction with the amendments made. Three minor remarks were made, which have been incorporated into the text.

DK has a parliamentary reservation on the text of the draft recommendation.

The MDG invites the Article 36 Committee to approve the draft Council recommendation and to forward it to Coreper/Council for adoption.

THE COUNCIL OF THE EUROPEAN UNION

- (1) WHEREAS Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro¹ lays down that currency denominated in euro was put into circulation as from 1 January 2002 and obliged the participating Member States to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.
- (2) WHEREAS in its Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins², the European Central Bank recommended that the Council, the Commission and the Member States consider implementing any possible measures to improve the combating of counterfeiting.
- (3) WHEREAS in its Communication of 22 July 1998 concerning the protection of the euro “Combating counterfeiting”³ the Commission proposed action to be taken on training; information and communication systems and databases; co-operation, mutual assistance, technical and operational assistance in investigations; and definition of counterfeiting activities and deterrent penalties.
- (4) WHEREAS in its Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with introduction of the euro⁴, amended by Framework Decision 2001/888/JHA of 6 December 2001⁵, the Council adopted provisions to ensure that the euro is protected in an appropriate way by effective measures under criminal law.
- (5) WHEREAS on 28 May 2001 the Council adopted Framework Decision 2001/413/JHA combating fraud and counterfeiting of non-cash means of payment¹.

¹ OJ L 139, 11.5.1998, p. 1.

² OJ C 11, 15.1.1999, p. 13.

³ COM(1998) 474 final

⁴ OJ L 140, 14.6.2000, p. 1.

⁵ OJ L 329, 14.12.2001, p. 3.

- (6) WHEREAS on 28 June 2001 the Council adopted Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting² and Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 to those Member States which have not adopted the euro as their single currency³. Those Regulations deal with exchange of information and mutual assistance, including external aspects of protection of the euro.
- (7) WHEREAS on 6 December 2001 the Council adopted Decision 2001/887/JHA on the protection of the euro against counterfeiting⁴.
- (8) WHEREAS on 17 December 2001, the Council adopted Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting ("Pericles" programme)⁵.
- (9) MINDFUL of the Council Decision⁶ adopted on 29 April 1999 that extended Europol's mandate to the fight against forgery of money and means of payment.
- (10) TAKING INTO ACCOUNT that the Council, within its competencies, has attributed, with decision 2002/187/JHA of 28 February 2002 on the setting up of Eurojust with a view to reinforcing the fight against serious crime⁷, to Eurojust the fight against counterfeiting of money and other means of payments.
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- (11) TAKING INTO ACCOUNT that the euro as the common currency of now 12 Member States is constantly developing into a global currency and therefore constitutes a primary target for organised international counterfeiting.

¹ OJ L 149, 02.06.2001, p. 1.

² OJ L 181, 4.7.2001, p. 6.

³ OJ L 181, 4.7.2001, p. 6.

⁴ OJ L 329, 14.12.2001, p. 1.

⁵ OJ L 339, 21.12.2001, p. 50.

⁶ OJ C 149, 28.05.1999, pp. 16-17 and OJ C 229, 12.08.1999, p. 14.

⁷ OJ L 63, 06.03.2002, p. 1.

- (12) HAVING REGARD of the results of the Conference, held by the German police in Munich in the framework of the "Pericles" programme in mid-November 2002, in collaboration with the European Commission (OLAF), Europol, Interpol, the European Central Bank, the German Federal Bank and Eurojust and attended by heads of the police anti-forgery units from Member States and third countries.
- (13) EXPRESSING CONCERN that the euro is being targeted also by counterfeiters from third countries;
- (14) ENDEAVOURING to avoid any increase of euro counterfeiting that would affect the smooth circulation of the euro banknotes and coins;
- (15) BEING CONVINCED that the measures to protect the euro put in place by previous instruments should be supplemented and strengthened by close co-operation between the competent authorities of the Member States.
- (16) CONSIDERING that the Member States should step up co-operation amongst themselves as well as with third countries.
- (17) BEING AWARE that the proposed measures that are addressed to police forces from the EU Member States and the Accession Countries are to some extent new but also reflect obligations deriving from agreements that have not been completely implemented, and that therefore the need for action will vary from country to country with respect to the measures proposed.

HEREBY RECOMMENDS:

1. To improve cooperation on combating currency counterfeiting of the euro, within the European Union by
 - enhancing strict controls on the availability of the paper, used for printing euro banknotes as well as alloys and blanks used for making euro coins;
 - enhancing the role of the National Central Offices referred to in Article 12 the 1929 Geneva Convention on Counterfeiting, which can conduct police investigations in accordance with national law, with the task of combating crime related to currency counterfeiting;
 - ensure adequate connections with Eurojust for the co-operation and information exchange in relation to counterfeiting of money and other means of payment in euro, within the framework of Eurojust's competencies;
 - holding regular meetings of the national authorities competent for the fight against counterfeiting (mainly National Central Offices) Europol, Eurojust and the Commission's Anti-Fraud Advisory Committee (Cocolaf);
 - co-operating, in accordance with national legislation and Article 12 and 14 of the Convention of 29 May 2000 on Mutual Assistance between Member States, throughout the European Union, on particular investigation techniques to combat counterfeiting;
 - if necessary, analysing the need for further legislation or adjustment of the Member States' existing legislation to combat counterfeiting;
 - by giving due consideration, within the administrative framework of the Council and in consultation with Europol within the scope of its competence, to the establishment of a BITMAP intelligence centre at Europol¹. This common database should contain bitmap-

¹ The BITMAP database is based on an identification of offset processes that are used, *inter alia*, for counterfeiting banknotes.

related information and it could serve as the Bitmap co-ordination centre in the European Union. The database shall contain only the relevant (technical) data on decoded bitmap-information and no information on ongoing investigations. EU Member States are asked to supply, in accordance with their national legislation, all existing Bitmap data to the Bitmap intelligence centre;

2. Based on the principle of subsidiarity, to facilitate the specialist training by involving all competent authorities at European and national level, in particular the Network of European Police Colleges (CEPOL), through:
 - training in line with the specific needs and strategies at national level, in the framework of an overall EU strategy aimed at promoting convergence of measures so as to guarantee equivalent levels of protection of the euro against counterfeiting based on the best practices;
 - continuing the extensive use of Pericles and all other programmes for training and technical assistance;
 - stepping up the training of investigating officers in the Member States and third countries through exchanges, workshops, seminars and linguistic training;
 - by considering setting up websites in Member States and at one of the European institutions in order to provide national police authorities competent for fighting currency counterfeiting (National Central Offices) in the Member States, through password protected access, with up-to-date information on currency counterfeiting. These websites shall not contain personal data.
3. To co-operate with third countries with a view to:
 - the adaptation of legislation in third countries to the regulatory framework of the EU Member States, and the promotion and support of the establishment of National Central Offices referred to in the Geneva Convention, with the task of combating crime related to currency counterfeiting ;

- the adaptation of legislation in third countries by making provision for the criminal law of third countries to be applied to foreigners and nationals alike, regardless of the law of the place where the acts were committed, in the case of the following offences and the preparatory acts thereto committed abroad: (a) counterfeiting and the circulation of counterfeit currency; (b) the production, supply and putting into circulation of currency either before the date of its legal circulation or during the period in which it is accepted as a means of exchange by the competent bodies when it has been produced using legal facilities and materials but without the permission of the competent authority or in violation of the relevant permit; and (c) debasing of coins.
 - the inclusion of currency counterfeiting investigators from third countries in the training programmes of EU Member States;
 - the establishment or improvement of co-operation channels with the authorities of third countries that are competent for criminal investigations and prosecutions as well as with other international organisations and institutions in the context of the task of Eurojust;
 - the provision of EU financial assistance in the framework of support programmes.
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