EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 20 July 2011

on cash recycling and the protection of national and foreign legal tender against counterfeiting

(CON/2011/59)

Introduction and legal basis

On 3 June 2011, the European Central Bank (ECB) received a request from the Magyar Nemzeti Bank (MNB) for an opinion on two MNB Governor draft decrees: (i) on the processing and distribution of banknotes and on technical tasks relating to the protection of banknotes against counterfeiting (the 'draft banknote decree'), and (ii) on the processing and distribution of coins, and on technical tasks relating to the protection of coins against counterfeiting (the 'draft coin decree'; the draft banknote decree and the draft coin decree are hereinafter jointly referred to as the 'draft decrees') .

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union 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[1], as the draft decrees relate 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 decrees

According to the explanatory memorandum, the draft decrees are justified by the increasing risk of counterfeit forint banknotes, the MNB's practical experience with the application of the decrees currently in force[2], the need for a legal framework to assess and manage the operational risks of cash distribution, and the obligation to harmonise national legislation with the Union regulations on the protection of euro banknotes and euro coins against counterfeiting.

To that end, the draft decrees, *inter alia*, provide:

- from 1 January 2012, only the banknote handling machines tested by the MNB meeting the relevant requirements may be operated,

1 OJ L 189, 3.7.1998, p. 42.

2 Decree No 2/2009 (I. 23.) of the Governor of the MNB on the processing and distribution of banknotes, and on technical tasks relating to the protection of banknotes against counterfeiting and Decree No 3/2009. (I. 23.) of the Governor of the MNB on the processing and distribution of coins, and on technical tasks relating to the protection of coins against counterfeiting.

- from 1 January 2012, the annual ratio of checked forint banknotes conducted by cash processing providers with banknote handling machines successfully tested by the MNB will increase from 80% to 90%,
- banknotes rejected by staff-operated banknote handling machines, which may sometimes provide a lower level of security, that prove to be genuine during the subsequent manual authenticity check may not be re-circulated, but will be delivered as unfit banknotes to the MNB,
- from 1 January 2013, branches of credit institutions and the postal service may only recirculate forint banknotes received as supplies if the authenticity and fitness check of the annual ratio of the received forint banknotes is carried out with a banknote handling machine successfully tested by the MNB, the ratio of the checked forint banknotes by a successfully tested banknote handling machine has increased year by year until it reaches 90% in 2017 and only forint banknotes deposited in the specific branch and re-circulated over the counter may be checked manually,
- the credit institutions and the postal service shall accept small amounts of unfit forint banknotes and coins for denomination exchange in return for a limited fee.

2. General comments

2.1 As already stated in ECB Opinion CON/2008/90[3], since Hungary is a Member State with a derogation pursuant to Article 139 of the Treaty, the ECB's requirements regarding the recirculation of euro banknotes in Member States that have adopted the euro do not apply to the MNB. These requirements will apply to the MNB once Hungary adopts the euro and the MNB becomes a fully integrated member of the Eurosystem. However, in this respect, the ECB welcomes the MNB's alignment of Decree No 2/2009 with Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes[4].

2.2 Under Article 128 of the Treaty, the ECB has the exclusive right to authorise the issue of banknotes within the Union, whereas coins are issued by euro area Member States subject to the ECB's approval of their volume. Consequently, the ECB's regulatory competence concerns only banknotes.

3. Specific observations

Pursuant to Article 21(1) of the draft banknote decree, credit institutions and the postal service may charge a fee for the exchange of fit or unfit forint banknotes to different denominations of fit forint banknotes or coins. As regards the euro currency, the ECB considers that the replacement of euro banknotes, whether fit or unfit for circulation, should, as a general rule, be free from any handling fees.

3 Available on the ECB's website at www.ecb.europa.eu.

4 OJ L 267, 9.10.2010, p. 1.

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

Done at Frankfurt am Main, 20 July 2011.

[signed]

The President of the ECB

Jean-Claude TRICHET