EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 21 August 2013

on the handling and recirculation of euro banknotes and coins

(CON/2013/65)

Introduction and legal basis

On 16 July 2013, the European Central Bank (ECB) received a request from Latvijas Banka for an opinion on a Regulation on the handling and recirculation of euro banknotes and coins (hereinafter the 'draft regulation').

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, second and third 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 regulation relates to currency matters, means of payment and Latvijas Banka. 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 regulation

1.1 The main objective of the draft regulation is to implement the requirements of Regulation (EC) No 1338/2001 of the Council of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting[2], Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation[3], and Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes[4].

1.2 To that end, the draft regulation lays down, inter alia, the procedure for the registration and control of the activities of companies engaged in the handling and recirculation of euro banknotes and coins, the requirements relating to machines used to process euro banknotes and coins and relating to the quality of the processing of euro banknotes, and the procedures for reporting data concerning the machines used to process euro banknotes and coins and the volumes of processed euro banknotes and coins.

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1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 181, 4.7.2001, p. 6.

3 OJ L 339, 22.12.2010, p. 1.

4 OJ L 267, 9.10.2010, p. 1.

2. General observations

2.1 The draft regulation imposes obligations on cash handlers and seeks to safeguard the integrity of euro banknotes and coins as a means of payment. The ECB generally welcomes the draft regulation and is confident that its provisions will ensure the preservation of euro banknotes and coins in circulation and therefore maintain the general public's confidence in euro banknotes and coins.

2.2 The ECB considers it essential that any draft legislation should clarify the primacy and direct application of Union law on the authentication of euro banknotes and coins and the handling of euro banknotes and coins unfit for circulation. For consistency reasons, the ECB favours the use of direct references to Regulation (EC) No 1338/2001, Regulation (EU) No 1210/2010 and Decision ECB/2010/14 or, alternatively, reproduction of their provisions without any alterations or additions.

2.3 In addition, although national authorities are not formally obliged to consult the ECB on the implementation of the Member States' obligation to take the necessary measures to ensure that breaches of Article 6(1) of Regulation (EC) No 1338/2001 are subject to effective, proportionate and deterrent sanctions, the ECB believes it is beneficial to harmonise throughout the Union the national measures implementing the abovementioned obligation to the extent possible, subject to national peculiarities[5].

3. Specific observations

3.1 Annexes 2 to 4 to the draft regulation are drafted based on Annex I, Annex III and Appendix 1 to Decision ECB/2010/14. The ECB notes that Decision ECB/2010/14, including its annexes and appendices, is amended by Decision ECB/2012/19 of 7 September 2012 amending Decision ECB/2010/14 on the authenticity and fitness checking and recirculation of euro banknotes[6], and these amendments need to be reflected in the draft regulation and its annexes in particular. The ECB further notes that the draft regulation does not mirror Annexes IIa and IIb of Decision ECB/2010/14, which should be implemented to provide for criteria for classification and treatment of euro banknotes by customer-operated machines and by staff-operated machines.

3.2 Paragraphs 29 and 30 of the draft regulation make specific reference to cash management IT systems (CashSSP and One Gate), thus appearing to limit the choice of technology that may be used. These paragraphs should be redrafted to avoid reference to specific tools.

5 Paragraph 2.4 of Opinion CON/2011/105.

6 OJ L 253, 20.9.2012, p. 19.

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

Done at Frankfurt am Main, 21 August 2013.

[signed]

The Vice-President of the ECB

Vítor CONSTÂNCIO