EUROPEAN CENTRAL BANK

EUROSYSTEM

EN **ECB-PUBLIC**

OPINION OF THE EUROPEAN CENTRAL BANK

of 23 November 2015

on the production of euro banknotes

(CON/2015/51)

Introduction and legal basis

On 7 October 2015, the European Central Bank (ECB) received a request from the Portuguese Ministry of Finance for an opinion on a draft decree-law (hereinafter the 'draft decree-law') amending the Portuguese legal framework for the production of euro banknotes.

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 third indents of Article 2(1) of Council Decision 98/415/EC[1], as the draft decree-law relates to currency matters and national central banks. 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-law

The draft decree-law amends the existing legal framework for the production of euro banknotes detailed in Decree-Law 400/99, of 14 October 1999[2]. The main purpose of the draft decree-law is to allow the Banco de Portugal (BdP), as a Eurosystem central bank with an in-house printing works, to participate in forms of mutual cooperation, either for the production of raw materials or for printing euro banknotes, between Eurosystem national central banks (NCBs) that produce euro banknotes using in-house printing works (hereinafter the 'in-house group NCBs'). In order to facilitate the participation of BdP in such forms of cooperation, the draft decree-law eliminates the requirement for the BdP to hold a qualifying majority (51% or more) of the share capital of the legal entities that produce and print euro banknotes.

2. General observations The ECB welcomes the draft decree-law as it adapts the legal framework for the production of euro banknotes to Guideline (EU) 2015/280 of the European Central Bank (ECB/2014/44)[3], in particular as regards the possibility for the in-house group NCBs to enter into forms of cooperation to improve the cost-efficiency of euro banknote production.

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1 Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

2 *Diário da República*, No 240 Series 1-A, of 14 October 1999.

3 Guideline (EU) 2015/280 of the European Central Bank of 13 November 2014 on the establishment of the Eurosystem Production and Procurement System (ECB/2014/44) (OJ L 47, 20.2.2015, p. 29).

2.2 In accordance with Articles 1(2) and 8(2) of Guideline (EU) 2015/282 (ECB/2014/44), when a separate legal entity is established, in the form of a cooperation between the in-house group NCBs, to produce euro banknotes, this entity may only be directly awarded contracts for the production of euro banknotes if it is jointly controlled by the in-house group NCBs that are party to the cooperation agreement. These provisions do not require that a certain minimum share in the capital of the legal entity concerned be held by the parties to the cooperation agreement.

2.3 Since Portuguese law still requires the BdP to hold 51% or more of the share capital of the legal entity that produces and/or prints euro banknotes, the ECB understands that this requirement must be eliminated in order to facilitate the BdP's participation in the forms of mutual cooperation between Eurosystem NCBs provided for in Guideline (EU) 2015/280 (ECB/2014/44).

3. Specific observations

3.1 According to the new Article 2 of Decree-Law 400/99, as amended by the draft Decree-Law, the activity of producing and printing euro banknotes may be carried out by the BdP, within the Eurosystem, either directly or through the limited liability company Valora – Serviços de Apoio à Emissão Monetária, SA., or any other legal entity that the BdP establishes for this purpose, or in which it acquires a capital holding.

3.2 The ECB understands the reference to 'within the Eurosystem' as meaning that the production and printing of euro banknotes, regardless of whether it is done directly by the BdP or not, must be conducted in full compliance with the Eurosystem's rules, such as those laid down by Guideline (EU) 2015/580 (ECB/2014/44).

3.3 In this respect, the ECB notes that a more precise reference to the applicable ECB Guidelines would clarify the interpretation of Article 2 of Decree-Law 400/99, as amended by the draft Decree-Law. In order to make a general reference to the applicable ECB legal framework that would take into account any future legislative changes, it may be useful to include a general reference to the Eurosystem's legal framework for the production and procurement of euro banknotes.

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

Done at Frankfurt am Main, 23 November 2015.

[signed]

The President of the ECB

Mario DRAGHI