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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the application of Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA

1. INTRODUCTION

1.1. Background

Directive 2014/62/EU[1] (hereafter the 'Directive') on the protection of the euro and other currencies against counterfeiting by criminal law, was adopted on 15 May 2014. Member States had to bring into force the necessary national measures in order to comply with the Directive by 23 May 2016.

The Directive was adopted under Article 83(1) of the Treaty on the Functioning of the European Union, which provides the legal basis for establishing *'minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis'*.

The Directive replaces Council Framework Decision 2000/383/JHA [2] (hereafter the 'Framework Decision') on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro.

The Framework Decision aimed at supplementing, on the territory of the European Union, the provisions of the Geneva Convention of 1929. The Geneva Convention lays down rules to ensure that severe criminal penalties and other sanctions can be imposed for counterfeiting offences and also contains rules on jurisdiction and cooperation. Following the ratification of the Geneva Convention agreed on 20 April 1929, a certain degree of approximation of national legislation against counterfeiting of currency has since taken place.

1.2. Purpose and main elements of the Directive

The Directive supplements and facilitates the application of the Geneva Convention by the Member States whereas it builds on and updates the Framework Decision with further provisions on the level of sanctions, on investigative tools and on the analysis, identification and detection of counterfeit euro notes and coins during judicial proceedings.

Denmark and the United Kingdom did not take part in the adoption and are not subject to the application of the Directive, according to Protocol 22 and 21 respectively. Ireland did opt in to the Directive.

The Directive is applicable not only to the euro but also to other currencies, whereas some of its elements are only applicable to the euro (Article 8(2) and Article 10).

The main elements of the Directive are:

[1] OJ L151, 21.5.2014, p. 1.
[2] OJ L140, 14.6.2000, p. 1.

- the criminalisation of basically three types of conduct, namely the 'production', 'distribution' and 'preparatory offences', like the production of security features (Article 3);
- the provisions on penalties introducing a maximum sanction of at least five years for distribution and maximum sanction of at least eight years for production of counterfeit currency (Article 5);
- the principle of territoriality and the extraterritorial jurisdiction (Article 8);
- the provision obliging Member States to provide for the possibility to use certain investigative tools (Article 9);
- the provision obliging Member States to ensure that the National Analysis Centres (NACs) and the Coin National Analysis Centres (CNACs) can analyse euro counterfeits also during on-going judicial proceedings for the purpose of detecting further counterfeits (Article 10).

1.3. Scope of the report

The report assesses the application of the Directive in accordance with Article 12 of the Directive which provides that the Commission shall submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with the Directive.

The description and analysis in this report are primarily based on the information that Member States provided to the Commission through the notification of national measures transposing the Directive[3].

The report focuses on the measures Member States have taken so far to implement the Directive through a transposition in their national law. It assesses whether Member States have implemented the Directive within the given timeframe, and whether national legislation achieves the objectives and fulfils the requirements of the Directive.

At the time of drafting this report, all Member States have notified transposition except Ireland.

2. GENERAL ASSESSMENT

The Commission's main objective is to ensure that all Member States transpose the requirements of the Directive in their national law to guarantee that effective and efficient

[3] Following the transposition deadline of 23 May 2016, there were nine Member States that had either not communicated any transposition measures or that had communicated only partial transposition. Thus, the Commission sent to these Member States Letters of Formal Notice for either non-communication or for partial communication.

criminal law measures protect the euro and any other currency whose circulation is legally authorised in an appropriate way in all Member States.

The Commission started to assess the compliance of national measures with the Directive as soon as Member States communicated them.

The majority of the Member States transposed in a conforming manner Article 3 and 4 of the Directive on criminalisation of certain offences, the provisions of Article 5 on penalties introducing a maximum sanction of at least five years for distribution and maximum sanction of at least eight years for production of counterfeit currency as well as the provision of Article 9 obliging Member States to provide for the possibility to use certain investigative tools.

However, a number of recurrent transposition issues were noted:

- With respect to Article 3(1)(d) of the Directive on preparatory offences, preparatory offences were not transposed into national law as self-standing (*sui generis*) offences. Instead, in a number of Member States, preparatory offences were regarded as attempted production offences. This would imply the intent to commit the production offence as an additional constituent element of the preparatory offences. The Directive does however, not require this element.
- Another - less frequent but important - recurrent issue occurs with respect to the transposition of Article 5 of the Directive on minimum maximum sanctions for the offences defined in Articles 3 and 4. Some Member States have established – contrary to the Directive – separate categories of minor/petty/or non-aggravated forms of the offences defined under Articles 3 and 4 of the Directive, where penalties remained below the level required by the Directive.
- Further, a large majority of the Member States whose currency is the euro did not transpose Article 8(2)(b) of the Directive requiring Member States whose currency is the euro to establish jurisdiction in cases where the counterfeit euro notes or coins were detected on their territory, but the offences defined in Articles 3 and 4 are committed outside their territory.
- Further, a large majority of the Member States did not adequately transpose Article 10 of the Directive on transmission of seized counterfeit currency to the National Analysis Centre (NAC)/Coin National Analysis Centre (CNAC). In particular, the delays for the transmission of counterfeit samples, the identification of the authority obliged to transmit them, and the purpose of the transmission (to analyse, identify and detect further counterfeit currency) were often not properly transposed.
- Article 11 of the Directive, on statistics, was in almost all Member States not transposed at all;

Given the above mentioned issues of compliance and the ones mentioned under section 3, the Commission will take every appropriate measure, including where necessary initiating

infringement proceedings pursuant to Article 258 of the Treaty on the Functioning of the European Union, to ensure conformity with the Directive throughout the European Union.

In section 3, there is an assessment with regard to transposition issues solely for the elements of the provision itself. Indirect transposition issues occurring with regard to cross-referenced provisions, like the reference in Articles 4 and 5 to Article 3, are dealt with under the cross-referenced provisions.

3. SPECIFIC POINTS OF ASSESSMENT

3.1. Definitions (Article 2)

Article 2 defines the terms 'currency' and 'legal person' for the purposes of the Directive. All Member States are conforming to the definitions of these terms. Where explicit definitions do not exist in national law, the term "currency" or "money" is used in national legislation. A number of Member States use the term "money" instead of "currency". Similarly, with regard to the term "legal person" this concept exists in all Member States and most Member States' national law define the term explicitly. A majority of the Member States explicitly exclude states, public bodies in the exercise of State authority and public international organisations from the definition of a "legal person", in conformity with the Directive.

3.2. Offences (Article 3)

Article 3 obliges Member States to ensure the criminalisation of the three main types of offences, if committed intentionally:

1) 'Production' offences: Article 3(1)(a) the fraudulent making of currency and the fraudulent altering of currency.
2) 'Distribution' offences: Article 3(1)(b) the fraudulent uttering of counterfeit currency; and (c) the import, export, transport, receiving or obtaining, with regard to counterfeit currency committed with a view to uttering the same and with knowledge that it is counterfeit.
3) 'Preparatory' offences: Article 3(1)(d) making, receiving, obtaining or possession of (i) means peculiarly adapted for the counterfeiting or altering of currency (ii) security features.

All Member States' national law demands intent for the commitment of a crime under the Directive. The Directive does not require Member States to render punishable negligent forms of the offences. No Member State's national law includes negligent forms of the offences described under the Directive.

3.2.1. Production offences — Article 3(1)(a)

Article 3(1)(a) stipulates that the fraudulent making or altering of currency, whatever means are employed, is punishable as a criminal offence.

The majority of the Member States transposed this provision in a conforming manner. Most Member States did not explicitly transpose the wording of the Directive: for the first element, "making" the following synonyms were used: forges, counterfeits, draws false currency, produces, imitates and reproduces. The element "altering" was in some cases transposed as: falsifies, forges, counterfeits. In some cases, only one general term was used comprising both actions such as counterfeiting, manufacturing.

Some Member States added an element of direct intent for further action to the constituent elements of the national criminal act. These Member State demand - next to the counterfeiting of currency - the intent of "putting the counterfeit currency into circulation as real and unaltered", "uttering (the counterfeit currency) as genuine or valid", "passing it as legal tender", "uttering (the counterfeit currency)", "using those as seemingly legitimate and authentic", "putting it in circulation" and "putting into circulation".

Two transposition issues have been identified: one Member State only criminalised large-scale values of counterfeit currency (a value of 10 times more than the monthly minimum wage in that Member State). Another Member State only criminalised the altering of currency where this results in a higher value.

3.2.2. Distribution offences — Article 3(1)(b)

Pursuant to Article 3(1)(b) the fraudulent uttering of counterfeit currency is punishable as a criminal offence if committed intentionally.

The large majority of the Member States have transposed this provision of the Directive. In many Member States, the terminology used in the transposing laws slightly differs from the Directive: instead of "uttering" frequently, the term "putting" or "bringing into circulation" is used. Other Member States used the terms "deals with" and "distributes", "transfer", "distribute" or "use".

Transposition issues occur in two Member States: one Member State limits criminalisation to cases where the counterfeit currency that is put into circulation and the perpetrator knows he obtained counterfeit currency before putting it in circulation. This is an additional condition limiting the scope of the provision that can also not be justified as being covered by the option under Article 5(5). In another Member State, criminalisation is conditional upon the value of distributed counterfeits that must amount to at least 10 minimum salaries.

3.2.3. Distribution offences — Article 3(1)(c)

Pursuant to Article 3(1)(c) the import, export, transport, receiving or obtaining of counterfeit currency with a view to uttering the same and with knowledge that it is counterfeit, is punishable as a criminal offence if committed intentionally.

The large majority of the Member States transposed this provision. The many elements of the provision are not always literally or explicitly transposed. Instead, in many instances, different language is used or broader terminology comprising several of the individual actions described in the Directive.

Issues of conformity arise in three Member States where the elements of import, export, receiving and obtaining are not covered at all.

The requirement of committing 'with the knowledge that it is counterfeit' has been explicitly transposed in two Member States. In the other Member States this element is inferred by the broader context taking account also the general provisions of national penal law.

3.2.4. Preparatory offences — Article 3(1)(d)

Pursuant to Article 3(1)(d) the fraudulent making, receiving, obtaining or possession of (i) instruments, articles, computer programs and data, and any other means peculiarly adapted for the counterfeiting or altering of currency; (ii) or security features, such as holograms, watermarks or other components of currency which serve to protect against counterfeiting, is punishable as a criminal offence if committed intentionally.

The Directive requires the preparatory offences under Article 3(1)(d) to be transposed as self-standing offences, which means they cannot be covered by a general provision on aiding, abetting, attempt or incitement or by reference to the main offences laid down in Article 3 of the Directive. Twelve Member States did not transpose any of the offences listed in Article 3(1)(d) of the Directive as self-standing offences, but require that the main offences of production and distribution laid down in Article 3 are also committed. One Member State did not transpose Article 3(1)(d) at all.

With regard to the "fraudulent making, receiving, obtaining or possession", issues occur in two Member States as in one case, the elements "receiving and obtaining" are not fully covered by the term "procuring for oneself" and in the second case, these elements are not mentioned at all in the national legislation and could not be inferred.

Besides the issue of not having transposed Article 3(1)(d) of the Directive as self-standing offences, some Member States have further issues with regard to indent (i) of Article 3(1)(d).

3.2.5. Use of legal facilities - Article 3(2)

Pursuant to Article 3(2) the criminal liability of conduct as referred to under Article 3(1)(a), (b), (c) is extended to cases where legal facilities or materials are used to manufacture currency, but rights or conditions under which competent authorities may issue notes or coins have been violated.

While a majority of the Member States transposed this provision, mostly explicitly, four Member States did not transpose this provision. A number of other Member States' national transposition measures lack clarity as no reference is made to the violation of the rights or the conditions under which competent authorities may issue notes or coins or without reference to all conduct specified in Article 3(1)(a), (b) and (c) of the Directive. Some Member States – contrary to the Directive – limit criminal liability to the conduct of persons who are authorised to produce legal currency.

3.2.6. Not yet issued notes and coins - Article 3(3)

Under Article 3(3) all forms of conduct specified in Article 3(1) and (2) of the Directive shall be also punishable with regard to notes and coins not yet issued, but designated for circulation as legal tender.

The majority of the Member States transposed this provision, mostly explicitly. Five Member States did not transpose this provision at all.

3.3. Incitement, aiding, abetting, attempt (Article 4)

Article 4(1) stipulates to criminalise incitement, aiding and abetting in relation to all offences under Article 3 of the Directive.

Pursuant to Article 4(2) attempt shall also be punishable as a criminal offence but only with regard to production and distribution offences, thus not for preparatory offences.

The majority of the Member States' general part provisions of their respective criminal codes comply with these requirements. Few Member States have inserted a specific reference to criminalise attempt under every individual offence as described under the Directive.

3.4. Sanctions for natural persons (Article 5)

Article 5(1) obliges Member States to ensure effective, appropriate and dissuasive criminal sanctions on all forms of the offences under Articles 3 and 4 of the Directive.

Under Article 5(2), the offences referred to in point (d) of Article 3(1) (**preparatory offences**), in Article 3(2) and in Article 3(3) in relation to point (d) of Article 3(1), shall be punishable by a maximum sanction which provides for imprisonment.

Under Article 5(3), the offences referred to in point (a) of Article 3(1) **(production offences**) and in Article 3(3) in relation to conduct referred to in point (a) of Article 3(1) shall be punishable by a maximum term of imprisonment of at least eight years.

Under Article 5(4), the offences referred to in points (b) and (c) of Article 3(1) (**distribution offences**) and in Article 3(3) in relation to conduct referred to in points (b) and (c) of Article 3(1) shall be punishable by a maximum term of imprisonment of at least five years.

3.4.1. Effective, proportionate and dissuasive sanctions - Article 5(1)

Compliance with Article 5(1) was measured against:

a) the level of sanctions of equivalent criminal offences such as counterfeiting of non-cash means of payment or money laundering;
b) other types of offences in the respective national law that provide for the same level of sanctions.

All Member States were in line with these general evaluation criteria. Effective, proportionate and dissuasive sanctions under the Directive require, however, also compliance with the level of sanctions as defined under Articles 5(2) to (4).

3.4.2. Maximum sanction of imprisonment for preparatory offences - Article 5(2)

Almost all Member States provided for imprisonment as a sanction for preparatory offences.

3.4.3. Minimum maximum sanction of eight years - Article 5(3)

With regard to Article 5(3) – (production offences), thirteen Member States have correctly transposed the Directive, *i.e.* these Member States have provided for a maximum term of at least eight years of imprisonment for some of the cases set out by the Directive in the national law.

Transposition issues occur in a number of Member States providing for a maximum sanction of at least eight years only for "severe" forms of the production offence and/or providing for maximum sanctions below eight years for "minor" cases and/or for cases where mitigating circumstances apply. Definitions of what is a "severe" or a "minor" case respectively in which case mitigating circumstances apply, exist in some of these Member States, and in others not. In any event, the Directive does not restrict the maximum sanction of eight years to only certain (severe or not minor) categories of the offences referred to in Article 5(3).

3.4.4. Minimum maximum sanction of five years - Article 5(4)

With regard to Article 5(4) – (distribution offences), eleven Member States have complied with the provision, *i.e.* they have provided for a maximum term of five years of imprisonment for the referenced distribution offences.

In a number of Member States, similar transposition issues as described above under Article 5(3) occur: some Member States provide for maximum terms of less than 5 years of imprisonment, or provided for less than five years of imprisonment for "minor" or "very minor" cases or under "mitigating" circumstances. One Member State applies lower than five years imprisonment of a maximum sanction for offences related to the distribution of counterfeit metallic coins as low as a maximum of six months or a fine and a maximum of

one year of imprisonment. One Member State does not provide for imprisonment for the receipt of counterfeit currency.

3.4.5. The optional clause (received without knowledge/ passes on with knowledge) - Article 5(5)

Pursuant to Article 5(5), with regard to the offences referred to in point (b) of Article 3(1) – (distribution offences), Member States may provide for effective, proportionate and dissuasive criminal sanctions other than that referred to in Article 5(4) of this Article, including fines and imprisonment, if the counterfeit currency was received without knowledge but passed on with the knowledge that it is counterfeit. Eighteen Member States made use of this option.

Among those Member States which applied this option, various sanctions may be applied instead of those imposed in paragraph 4, such as different (lower) terms of imprisonment, fines or other forms of restrictions.

3.5. Liability of legal persons (Article 6)

Article 6(1) sets out the obligation for the Member States to ensure legal persons can be held liable for the offences referred to in Articles 3 and 4, if committed for their benefit by persons holding particular responsibilities within the legal entity namely:

a) power of representation of the legal person
b) an authority to take decisions on behalf of the legal person
c) an authority to exercise control within the legal person.

Article 6(2) stipulates liability of the legal person also when the offence under Article 3 and 4 was made possible by a lack of control or supervision by a person referred to in Article 6(1).

Article 6(3) stipulates that criminal liability of a legal person shall not exclude criminal liability of a natural person having committed an offence under Articles 3 and 4.

3.5.1. Liability of legal persons - Article 6(1)

All Member States have schemes in place ensuring that legal persons can be held liable for these criminal offences.

The large majority of the Member States restricted the criminal liability of legal persons to offences committed by persons holding certain responsibilities within the legal entity, in line with the Directive. While a number of Member States transposed the Directive literally or almost literally, others – instead of describing the responsibilities – chose to describe positions and functions within the legal entity (such as a manager, board or statutory body member, senior official or similar). In these cases, according to the respective national laws,

the relevant positions are paired with a right or power to represent the legal person respectively to take decisions and exercise control within the legal person.

Few Member States chose very general terms like "rulers", "persons in charge", "persons acting on behalf of the legal person" or applied a "doctrine of reasonable attribution" to establish the liability of the legal persons.

3.5.2. Criminal liability of legal persons in cases of lack of supervision or control - Article 6(2)

The majority of the Member States transposed Article 6(2).

3.5.3. Criminal liability of legal persons not to exclude liability of natural persons - Article 6(3)

The large majority of the Member States transposed Article 6(3).

3.6. Sanctions for legal persons (Article 7)

Article 7 stipulates that Member States shall establish effective, proportionate and dissuasive sanctions for legal persons that shall include criminal or non-criminal fines. Member States may provide for other non-pecuniary sanctions. The Article contains in its letters (a) to (e) non-exhaustive options for such additional sanctions.

Compliance with Article 7 was measured against:

a) the level of sanctions of equivalent criminal offences such as counterfeiting of non-cash means of payment or money laundering
b) other types of offences in the respective national law that provide for the same level of sanctions.

With regard to a) the level of sanctions of equivalent offences should be in the range of the counterfeiting offences under the Directive. With regard to b) offences providing for the same level of sanctions as the counterfeiting offences under the Directive should be equivalent or similar to counterfeiting offences with respect to the gravity or danger to public goods or interests.

Where – as in most Member States – the level of fines was not linked to the benefit of the crime or to the turnover of the legal entity, and where the level of fines was considered to be low, the optional sanctions were taken into account. Where further cumulative sanctions (*e.g.* exclusion from entitlement to public benefits, judicial winding-up etc.) other than fines were provided for in the respective national law, the sanction system in that Member State was – in principle – considered to be in conformity with the requirements of the Directive.

Against these criteria, the large majority of the Member States transposed Article 7 of the Directive. Only one Member State did not link the level of fines to the benefit obtained through the criminal offence and did not provide for cumulative sanctions other than fines.

3.7. Jurisdiction (Article 8)

Article 8(1) obliges Member States to establish jurisdiction over offences referred to in Articles 3 and 4 according to:

a) the principle of territoriality (offences committed in whole or in part on the territory of the Member State)
b) the active personality principle (offences committed by a national of the Member State)

Article 8(2) provides for extraterritorial jurisdiction and obliges Member States whose currency is the euro to establish jurisdiction also when the offence is committed abroad, at least if the offence relates to the euro and

a) if the offender is found on the territory of the Member State and not extradited
b) if the counterfeit currency is found on the territory of the Member State

Article 8(2) second sub-paragraph provides that with regard to production offences (Article 3(1)(a)) and offences related to production offences (under Article 3(2) and (3) and Article 4), these Member States shall ensure that their extraterritorial jurisdiction is not made conditional on the criminalisation of the acts at the place where they are committed.

3.7.1. Territoriality principle - Article 8(1)(a)

All Member States established the principle of territoriality as set out in Article 8(1)(a) by explicit general provisions that criminal offences committed in whole on their territory fall under their jurisdiction. Most Member States' national law contain explicit provisions extending jurisdiction also to offences committed "in part" on national territory. In other Member States, not distinguishing between "whole" or "part", coverage of both alternatives could be inferred.

Almost all Member States transposed correctly the active personality principle as set out in Article 8(1)(b). Generally, Member States require the offender to be a national at the time of the offence being committed. Some Member States extend their jurisdiction also to persons who acquired their nationality after the criminal offence had been committed.

Issues with regard to Article 8(1)(a) occur, for example, where according to the transposing law, acts committed partly on national territory are excluded from national jurisdiction if the offender is present abroad.

3.7.2. Extraterritorial jurisdiction - Article 8(2)

The large majority of the Member States whose currency is the euro transposed Article 8(2)(a). Most Member States have explicitly referred to all elements of the Directive's provision including the fact that the offender is not extradited. In the other Member States existing jurisdictional provisions are considered broad enough to comprise all elements of Article 8(2)(a).

The large majority of the Member States did not transpose Article 8(2)(b) at all.

The majority of the Member States transposed Article 8(2) second subparagraph. Either, jurisdiction is established (explicitly or not) irrespective of whether the offence is criminalised in the state where the offence was committed, or an explicit exception from the general principle of double criminality has been made for criminal offences referred to in the Directive and transposed into national law.

Transposition issues occur in some Member States, which apply the double criminality principle to the offences under the Directive, *i.e.* always require that the acts constitute also an offence at the place where they were committed. In another Member State, the double criminality requirement is only exempted where the offence violates the Member States' interests or where the offender cannot be extradited.

3.8. Investigative tools (Article 9)

Article 9 obliges Member States to take the necessary measures to ensure that effective investigative tools, such as those that are used in organised crime or other serious crime cases, are available to persons, units or services responsible for investigating or prosecuting the offences referred to in Articles 3 and 4.

In most Member States, it depends on the level of penalties available for a certain crime category whether or not the most intrusive investigative measures can be used. Other Member States' legislation explicitly refers to crimes to which certain investigative measures apply.

Investigative measures available for serious crimes in all Member States are interception of communications, secret surveillance including electronic surveillance, monitoring of bank accounts and other financial investigations. There are other investigative tools available in individual or several Member States, according to their national law.

The majority of the Member States transposed this provision. Issues occur where certain investigative tools are applicable to credit institution, payment service providers and other economic operators referred to in Article 6(1) of Regulation 1338/2001 but not to other "persons" (*e.g.* natural and legal persons).

In some Member States, the preparatory offences in Article 3(1)(d) of the Directive do not qualify for serious-crime-investigative measures at all or qualify for only some of the available serious-crime-investigative measures. Few Member States have – contrary to the

Directive – introduced "petty" forms of the crimes under the Directive that do not qualify – according to their national law – for the use of investigative tools used for serious crime cases.

3.9. Obligation to transmit counterfeit euro notes and coins for analysis and detection of counterfeits (Article 10)

Article 10 requires competent authorities in the Member States to permit during criminal proceedings without delay the examination of counterfeit euro-notes and coins by the National Analysis Centres (NACs) and Coin National Analysis Centres (CNACs) for analysis, identification and detection of further counterfeits. The competent authorities should transmit the necessary samples without delay and at the latest once a final decision concerning the criminal proceedings would have been reached.

Only seven Member States transposed this provision into their national law. The large majority of the Member States did not adequately transpose this provision. While some Member States did not transpose this provision at all, most Member States had issues with the complete transposition of the individual elements of the provision. Most transposition issues occur with regard to (i) the delay in which counterfeit currency must be transmitted and (ii) the purposes (analysis, identification and detection of further counterfeits) for which the counterfeit currency should be examined.

3.10. Statistics (Article 11)

Article 11 sets out the obligation for the Member States to transmit statistical data to the European Commission at least every two years.

The large majority of the Member States did not transpose this provision at all or not adequately. In 2018, at the request of the Commission the majority of the Member States transmitted statistical material – as contained in their national databases. In some Member States the accuracy of the statistical data as well as the coordination among different Member States' authorities to collect these data could be further improved.

4. CONCLUSIONS

The Directive was introduced with a view to reinforcing the legal framework with provisions on the level of sanctions, on investigative tools and on the analysis, identification and detection of counterfeit euro notes and coins during judicial proceedings.

Overall, the Directive provides EU added value by raising the level of protection not only of the euro but also of other currencies against counterfeiting by criminal law measures with

enhanced provisions on the level of sanctions, on investigative tools and on the analysis, identification and detection of counterfeit euro notes and coins during judicial proceedings.

The majority of the Member States transposed in a conforming manner Articles 3 and 4 of the Directive on criminalisation of certain offences, the provisions of Article 5 on penalties introducing a maximum sanction of at least five years for distribution and maximum sanction of at least eight years for production of counterfeit currency as well as the provision of Article 9 obliging Member States to provide for the possibility to use certain investigative tools.

The assessment shows that there is currently no need to revise the Directive but that its application should be improved. In general, the majority of the Directive's provisions have been transposed by the majority of the Member States. However, almost all Member States have transposition issues with one or several provisions, as indicated in the previous sections.

The Commission will continue to assess Member States' compliance with the Directive and will take every appropriate measure to ensure conformity with its provisions throughout the European Union.