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EUROPEAN CENTRAL BANK

EUROSYSTEM

OPINION OF THE EUROPEAN CENTRAL BANK

of 9 December 2010

on certain new provisions on cash currency circulation

(CON/2010/89)

Introduction and legal basis

On 23 November 2010, the European Central Bank (ECB) received a request from Národná banka Slovenska for an opinion on the draft decree amending Decree of Národná banka Slovenska No 607/2008 Coll. of 16 December 2008 on certain details regarding cash currency circulation and on amendments to certain decrees (hereinafter the 'draft Decree').

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 Decree relates to currency matters, means of payment and Národná banka Slovenska. 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

The main purpose of the draft Decree is to delete provisions of Decree No 607/2008 Coll. under which Národná banka Slovenska implemented the Framework for the detection of counterfeits and fitness sorting by the credit institutions and other professional cash handlers (hereinafter 'the Framework') against the background of Slovakia's adoption of the euro. As of 1 January 2011, the Framework will be replaced by Decision ECB/2010/14 of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes[2]. For this reason, it is no longer necessary to maintain those provisions of Decree No 607/2008 Coll. which implemented the Framework's provisions on authenticity and fitness checking. In order to introduce a Single Euro Payments Area (SEPA) standard, it is also proposed to delete the requirement to have lodgements of euro banknotes that are faced and oriented. Finally, the draft Decree aims at introducing a number of amendments to reflect the practical needs of cash currency circulation.

1 OJ L 189, 3.7.1998, p. 42.

2 OJ L 267, 9.10.2010, p. 1.

2. General observations

2.1 The ECB notes that in Slovakia currently only Národná banka Slovenska exchanges incomplete mutilated and damaged euro banknotes. The draft Decree extends this obligation to commercial banks, provided that only a negligible part of the euro banknote is missing[3]. In this respect, the ECB notes that any euro banknote with its length reduced by 6 mm or more or its width reduced by 5 mm or more is considered to be 'unfit' and therefore unsuitable for recirculation in accordance with Decision ECB/2010/14[4]. Types of banknote handling machines successfully tested by a national central bank which check euro banknotes for fitness must be able to detect and separate 'unfit' banknotes which are 'unfit' on the basis of the specifications mentioned above. The recirculation of 'unfit' banknotes, both via banknote handling machines and over the counter following checks for fitness by trained staff members, should therefore be prevented.

2.2 Article 4(2) of Decree No 607/2008 Coll. provides that incomplete banknotes are replaced by Národná banka Slovenska in accordance with the rules applicable in the euro area. However, if an amendment to Article 4(1) is adopted, commercial banks will also be obliged to exchange incomplete euro banknotes to a limited extent. For this reason, the ECB suggests amending Article 4(2) accordingly.

3. Specific observations

3.1 The new Article 3(6) of Decree No 607/2008 Coll. extends the applicability of provisions on the withholding procedure for counterfeit banknotes and coins to banknotes and coins that shall not be exchanged. The ECB understands that this provision may address cases where less than 50 % of a euro banknote is presented or where banknotes and coins are unidentifiable as a result of damage. There is, however, scope for a misunderstanding that, unlike banknotes and coins under new Article 3(6), counterfeit euro banknotes and coins can actually be exchanged, although this clearly cannot be the case. The ECB therefore suggests that this new provision should rather refer to 'other' situations in which an exchange is not possible in order to clarify that withholding of counterfeit banknotes is an option.

3.2 The ECB also recommends that the references to 'banks and cash handlers' in Decree No 607/2008 Coll., as amended by the draft Decree, are replaced by a reference to 'cash handlers' within the meaning of Decision ECB/2010/14.

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3 Pursuant to the proposed amendment, negligible part shall mean a missing part that reduces length or also width of a euro banknote by not more than 10 mm, whilst the difference shall be always measured in relation to the nominal length or also nominal width of the euro banknote.

4 See Annex IIIa, point 7 in connection with Article 2(11) of Decision ECB/2010/14.

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

Done at Frankfurt am Main, 9 December 2010.

[signed]

The President of the ECB

Jean-Claude TRICHET