EUROPEAN CENTRAL BANK

# OPINION OF THE EUROPEAN CENTRAL BANK

**at the request of the Austrian Ministry of Finance under Article 105 (4), second indent, of the Treaty establishing the European Community and Article 4 (a), second indent, of the Statute of the European System of Central Banks and of the European Central Bank on a draft Federal Act by way of which measures in the field of currency in connection with the issuance of euro banknotes and coins are adopted (Euro Act), and the Austrian Coinage Act of 1988 and the Central Bank Act of 1984 are amended**

**CON/00/14**

1. On 24 May 2000 the European Central Bank (ECB) received a request from the Austrian Ministry of Finance on a draft Federal Act by way of which measures in the field of currency in connection with the issuance of euro banknotes and coins are adopted (Euro Act), and the Austrian Coinage Act of 1988 and the Central Bank Act of 1994 are amended.

2. The ECB's competence to deliver an opinion is based on Article 2(1) first and third indents, of Council Decision (98/415/EC) of 29 June 1998 on the consultation of the EC B by national authorities regarding draft legislative provisions, as the legislative proposal contains provisions concerning currency matters and national central banks. In accordance with Article 17.5, first sentence, of the Rules of Procedure of the ECB, this ECB Opinion has been adopted by the Governing Council of the ECB.

3. The objectives of the draft Federal Act are to adapt national legal provisions in order to (i) shorten the period of dual circulation of banknotes and coins to two months, (ii) arrange the changeover of the government budget to euro, (iii) amend national monetary law which conflicts with Community law and repeal it where it has become obsolete, (iv) establish the legal basis for the issuance of euro and cent coins, and (v) adopt additional banknote protection in the Central Bank Act.

4. The ECB notes that according to the draft Federal Act the period of dual circulation of euro and Austrian schilling banknotes and coins ends at midnight on 28 February 2002 by withdrawing the legal tender status of Austrian schilling banknotes and coins from that date. This provision

is in accordance with the joint Declaration of the Council of the European Union concerning the introduction of euro banknotes and coins of 8 November 1999, according to which the transitional period of dual circulation of euro banknotes and coins and national banknotes and coins of the individual EU Member States is to last between four weeks and two months.

5. The ECB welcomes that those provisions in Austrian legislation which have become obsolete are explicitly repealed by the draft Federal Act.

6. The ECB notes that the description of the legal tender status of euro banknotes and coins in Article I (1) (a), (b) and (d) of the draft Federal Act would not be necessary from a legal perspective. As stated correctly in the explanatory memorandum to the draft Federal Act, euro banknotes issued by the ECB and the national central banks of the Member States participating in the euro area, as well as the euro or cent coins issued by these Member States (competent mints) intended for circulation and in compliance with the measures laid down by the Council in accordance with Article 106(2) of the EC Treaty, are already legal tender in Austria by virtue of the provisions in Articles 10 and 11 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro. Therefore, no standardisation competencies are conferred upon the national legislator in this respect. Hence, the ECB understands that these provisions have only been referred to in the draft Federal Act for reasons of clarity.

7. The ECB notes that according to Article II (4) of the draft Federal Act (now Article 9 (2) of the Austrian Coinage Act), the Münze Österreich Aktiengesellschaft shall, in order to inform the general public, immediately announce in the "Amtsblatt" ("Official Journal") of the "Wiener Zeitung" issues of euro and cent coins made available by other Member States participating in Stage Three of Economic and Monetary Union without a derogation which are legal tender in all the Member States taking part in the third stage of Economic and Monetary Union. For the same reason, the Münze Österreich Aktiengesellschaft is according to Article II (5) of the draft Federal Act (now Article 10 (5) of the Austrian Coinage Act) obliged to announce in the "Amtsblatt" ("Official Journal") of the "Wiener Zeitung" withdrawals of coins in other Member States.

8. The ECB notes that according to Article II (5) of the draft Federal Act (now Article 10 (4) of the Austrian Coinage Act), for coins withdrawn from circulation in other Member States, where only a limited exchange period is provided for by the national rules of the issuing Member State, the obligation on the part of the Münze Österreich Aktiengesellschaft and the Oesterreichische Nationalbank to exchange such coins shall cease three weeks before the end of

this exchange period. The ECB understands from the explanatory memorandum to the draft Federal Act that this obligation of the Münze Österreich Aktiengesellschaft and the Oesterreichische Nationalbank refers to the period during which such coins can be exchanged in the Member State which has withdrawn the coins after the coins have lost their legal tender status. The ECB notes that this provision represents the first determining such a period.

9. The ECB understands that the provision of the draft Federal Act on legal tender euro and cent coins would probably not cover legal tender euro and cent coins that could be issued in the future by San Marino, the Vatican and Monaco, if a decision was to be taken to entitle these countries to issue such coins.

10. The ECB welcomes that according to Article III of the draft Federal Act a provision to enhance the legal protection of banknotes is incorporated in the Central Bank Act, following a recommendation of the ECB of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7). The ECB notes, that according to this provision, the issuance and use of documents for payment purposes which are similar to banknotes, denominated in euro and intended for circulation, shall – to the extent that the act does not constitute a set of facts amounting to a punishable act falling within the competence of the courts and is not subject to a more severe punishment under other penal administrative provisions – be deemed an administrative infringement and shall be punished by the district administrative authority by the imposition of a fine of up to EUR 3,000.

11. The ECB confirms that it has no objection to this ECB Opinion being made public by the competent national authorities at their discretion.

Done at Frankfurt am Main on 28 June 2000.

The Vice President of the ECB

[signed]

Christian Noyer