Protection against counterfeiting: medals and tokens similar to euro coins

2008/0167(CNS) - 13/08/2008 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins.

PROPOSED ACT: Council Regulation.

CONTENT: Council Regulation 2182/2004 aims to protect euro coins against medals and tokens which are similar to euro coins. Since its adoption, the Regulation has significantly contributed to avoiding similarity between euro coins and medals/tokens, as private companies now generally comply with the definitions and the prohibitions established in the Regulation.

Experience gained during the implementation period has highlighted the need to **clarify the protective provisions and to increase transparency in the decision making process**; it is therefore necessary to modify the Regulation.

In particular, the public may be led to believe that some medals or tokens have legal tender status not only when they bear a design similar to the ones on legal tender euro coins but also when they bear distinctive parts of these designs. Such parts are notably the twelve stars of the European Union, the geographical representations and the numerals, the shapes of the edge and the edge design in the way they appear on legal tender euro coins.

The Commission proposes to define, particularly for the benefit of private operators producing medals and tokens, the specific signs which should not be reproduced on medals and tokens in the way they are depicted on legal tender euro coins. These are symbols representative of the issuing Member State's sovereignty, such as the effigies of the Head of State, the coat of arms, the Mint marks, the Mint master marks, the name and the image of the geographical representation of the country, in the specific way they appear on euro coins.

Since these protected elements are part of either the common or the national faces of euro coins, it is no longer meaningful to maintain the distinction between the two. Furthermore, in a number of cases, more extensive common elements have been included on the national sides of euro coins, such as the Treaty of Rome design or the ten years of EMU. The protective measures should therefore refer to any design appearing on the surface of medals or tokens similar to any design on legal tender euro coins.

The Regulation currently states that the Commission is competent to declare whether a design is similar to the one appearing on euro coins. The Commission's opinion should be based on the entire range of the protective provisions included in Article 2, including the interpretation of whether a metallic object should be considered as a medal/token within the meaning of the definition in Article 1(c).

The criteria on the basis of which the Commission delivers an opinion on similarity or compliance to the other provisions of the Regulation need also to be further clarified. Concretely the Commission's decision should also take into account the quantities of medals or tokens produced, the selling price, packaging, the specific inscriptions on the medals and tokens (such as the company name, the indication 'no legal tender'...), as well as the relevant advertisement. Since it has been necessary to take into consideration such criteria in practice, these criteria should be explicitly stated in the Regulation.

In declaring similarity and in considering compliance with the provision of the Regulation, the Commission has been working closely with experts from Member States, namely the counterfeit coin experts referred to under Article 4 paragraph 1 of Commission Decision of 29 October 2004 establishing the European Technical and Scientific Centre considering their expertise in visual and material analysis of coins. This consultation should continue.

Article 4 refers to derogations by authorisation, including the Commission's responsibility to declare similarity. Considering that the latter responsibility relates to the respect of the protective provisions, it is appropriate, for the sake of clarity, to transfer this under the same Article.

Economic operators may use the terms 'euro' or 'euro cent' or the euro symbol on medals and tokens under restricted conditions, inter alia, if the indication 'Not legal tender' is stamped on the obverse or the reverse of the medal or token. Considering that the risk of confusion with euro coins is greater where the medal or token bears a nominal value, the requirement related to the indication 'Not legal tender' should be limited to this circumstance.

More specifically, it is proposed to amend:

- Article 2 of Regulation 2182/2004, to clarify the protective provisions;
- Article 4 of Regulation 2182/2004, to include assessment criteria and modify the decision making procedure to be moved to Article 2;

The proposal includes a parallel Regulation modifying Regulation 2183/2004, intended to extend the effects of the modification to Member States not participating in the euro (see CNS/2008/0168).