

# Protection of the euro and other currencies against counterfeiting by criminal law

2013/0023(COD) - 09/07/2019 - Follow-up document

The Commission presented a report on the application of Directive 2014/62/EU on the protection of the euro and other currencies against counterfeiting by criminal law.

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. Member States had to bring into force the national measures necessary to comply with the Directive by 23 May 2016 at the latest.

## Added value

The Commission considers that, 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.

## *Transposition in their national law*

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.

The report noted that 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.

In general, the majority of the provisions of the Directive have been transposed by most Member States. 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 ;
- 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;
- 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;

- 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);
- lastly, Article 11 of the Directive, on statistics, was in almost all Member States not transposed at all.

### ***Improved application***

In conclusion, the assessment shows that there is currently no need to revise the Directive, but that its application needs to be improved. The Commission shall continue to assess Member States' compliance with the Directive and shall take every appropriate measure to ensure conformity with its provisions throughout the European Union.