

Basic information	
2007/0192A(CNS) CNS - Consultation procedure Regulation	Procedure completed
Euro: protection against counterfeiting Amending Regulation (EC) No 1338/2001 2000/0208(CNS) Subject 5.20.02 Single currency, euro, euro area 7.30.30.10 Action against counterfeiting	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		DEPREZ Gérard (ALDE)	02/12/2008
	Former committee responsible		Former rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		DÍAZ DE MERA GARCÍA CONSUEGRA Agustín (PPE-DE)	05/11/2007
	Committee for opinion		Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs		The committee decided not to give an opinion.	
	Former committee for opinion		Former rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs		DOS SANTOS Manuel (PSE)	23/10/2007
Council of the European Union	Council configuration		Meetings	Date
	Agriculture and Fisheries		2917	2008-12-18
European Commission	Commission DG		Commissioner	
	European Anti-Fraud Office (OLAF)		KALLAS Siim	

Key events

Date	Event	Reference	Summary
17/09/2007	Legislative proposal published	COM(2007)0525 	
29/11/2007	Committee referral announced in Parliament		
29/05/2008	Vote in committee		
05/06/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0230/2008	
17/06/2008	Decision by Parliament	T6-0280/2008	
17/06/2008	Results of vote in Parliament		
24/10/2008	Amended legislative proposal for reconsultation published	14533/2008	Summary
12/11/2008	Formal reconsultation of Parliament		
02/12/2008	Vote in committee		Summary
11/12/2008	Committee report tabled for plenary, reconsultation	A6-0499/2008	
16/12/2008	Decision by Parliament	T6-0588/2008	Summary
16/12/2008	Results of vote in Parliament		
18/12/2008	Act adopted by Council after consultation of Parliament		
18/12/2008	End of procedure in Parliament		
22/01/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/0192A(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1338/2001 2000/0208(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 123-p4
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/69735

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE405.735	30/04/2008	
Committee opinion	ECON	PE402.930	08/05/2008	
Amendments tabled in committee		PE406.042	14/05/2008	

Committee report tabled for plenary, 1st reading/single reading		A6-0230/2008	05/06/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0280/2008	17/06/2008	
Committee final report tabled for plenary, reconsultation		A6-0499/2008	11/12/2008	
Text adopted by Parliament after reconsultation		T6-0588/2008	16/12/2008	Summary

Council of the EU

Document type	Reference	Date	Summary
Amended legislative proposal for reconsultation	14533/2008	24/10/2008	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2007)0525 	17/09/2007	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2007/0042 OJ C 027 31.01.2008, p. 0001	17/12/2007	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2009/0044 OJ L 017 22.01.2009, p. 0001	Summary
Corrigendum to final act 32009R0044R(01) OJ L 104 23.04.2015, p. 0052	

Euro: protection against counterfeiting

2007/0192A(CNS) - 24/10/2008 - Amended legislative proposal for reconsultation

On 17 September 2007, the Commission submitted to the European Parliament and the Council a proposal for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting (please refer to the summary dated 17/09/2007 in this procedure file).

The Commission proposal is based on Article 123(4) of the EC Treaty and the European Parliament delivered its opinion on 17 June 2008.

Following the discussions held on its proposal within the Council, the Commission suggested adding **Article 308 of the Treaty as a legal basis**.

In this context, the Working Party on Combating Fraud reached agreement on the present regulation and the parallel regulation on the extension of measures provided for Member States which have not adopted the euro as their single currency (see [CNS/2007/0192B](#)).

In addition to the change of legal basis, the Commission proposal has been reviewed in the following areas:

- obliging credit institutions and any other related institutions to withdraw from circulation all euro notes and coins received by them which they know or have sufficient reason to believe to be counterfeit and hand them over to the competent national authorities;
- ensuring that circulating euro notes and coins are authentic: to that end, credit institutions, other payment service providers and other economic agents involved in the processing and distribution of notes and coins should check the authenticity of the euro notes and coins they receive before they put them back into circulation, except where they come from other establishments or persons themselves subject to obligatory checks or where they have been taken from the authorities authorised to issue them. Other economic agents, such as traders and casinos, should also be subject to these obligations where they supply, on a secondary basis, automated teller machines (cash dispensers), but they may not be involved beyond these secondary activities. In order to comply with the obligation to check for authenticity, these economic agents nevertheless need time to adapt their internal functioning;
- ensuring the appropriate adjustment of equipment is a prerequisite for checking the authenticity of euro notes and coins. In order to adjust the equipment used for the checks for authenticity it is essential that the necessary quantities of counterfeit notes and coins are available at the places where testing is conducted. It is, therefore, important to permit the transporting of counterfeit notes and coins between competent national authorities as well as institutions and bodies of the European Union.

The European Parliament needs to be consulted again.

Euro: protection against counterfeiting

2007/0192A(CNS) - 17/12/2007

OPINION OF THE EUROPEAN CENTRAL BANK at the request of the Council of the European Union on a proposal for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting.

On 23 October 2007, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting.

General observations: the ECB recently issued Recommendation ECB/2006/13 on the adoption of certain measures to protect euro banknotes more effectively against counterfeiting. In that Recommendation, it takes the stance that while, generally, criminal law and the rules of criminal procedure do not fall within the competence of the Community, they may do so when necessary to ensure the effectiveness of Community law. The ECB specifically recommended that the Commission should 'consider proposing an **extension of the powers of national analysis centres for counterfeits (NACs) and of national central banks (NCBs)** that are not NACs, so that they may retain identified and analysed examples of counterfeit notes and also request and legitimately transport such notes intra-EU for the purposes of testing.

In principle, the ECB welcomes any use of a **first pillar act** adopted under the Treaty to protect the euro against counterfeiting, rather than a third pillar act based on police and judicial cooperation in criminal matters, as first pillar acts provide the only appropriate legal means for protecting the euro against counterfeiting within the framework of the Community's economic and monetary union.

Specific observations: the proposed broadening of the scope of the title of Article 4 of the Regulation, so as to impose an obligation to transmit new and old classes of counterfeit notes for purposes other than identification, partially follows the ECB Recommendation. However, the proposed amendment to Article 4(2) does not prevent suspected counterfeit notes from being used or retained in criminal proceedings, thus contradicting the broadening of the scope of the title thereof and jeopardising the effectiveness of the amended provision. To ensure the protection of the euro against counterfeiting, **the ECB and the NCBs should, as a rule, be entitled to receive samples of banknotes used or retained as evidence in criminal proceedings**, the sole exception being when this is impossible, taking into account the quantity and type of seized counterfeits.

The proposed amendment to Article 6(1) of the Regulation imposes upon 'credit institutions, and any other institutions engaged in the sorting and distribution to the public of notes and coins as a professional activity' the obligation to ensure that the notes and coins they receive are checked for authenticity and counterfeits are detected. While the object of the obligation is clear and desirable, the wording leaves out of its scope other organisations which operate self-service devices supplying euro banknotes to the public, even if not as a professional activity. A **broader definition** would thus be the most adequate solution.

Moreover, the proposed Regulation adds to Article 6(3) of the Regulation a provision requiring the Member States to make the laws, regulations and administrative provisions for applying the aforementioned obligation of credit and other institutions, and to adopt them by 31 December 2009 at the latest. The ECB is of the opinion that, as the ECB and the Commission are responsible for laying down the procedures underpinning this obligation, it is **the ECB and the Commission that should stipulate the deadlines** for their implementation, both for practical and legal reasons. It is therefore suggested that this deadline should be deleted from the proposed Regulation.

As regards the **inclusion of coins under the scope** of the Regulation on the same level as banknotes, the ECB would observe that this approach could have the drawback of endangering retail payment in Member States, as the technical feasibility of the proposed checking requirement for coins is yet uncertain.

Lastly, as it is not completely clear whether the reference of Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those **Member States which have not adopted the euro as their single currency** to Regulation (EC) No 1338/2001 is a dynamic one, there is a need for another proposal for a Regulation, extending to non euro area Member States the effects of the proposed Regulation, in particular as regards the amendments to Articles 4 and 5.

However, in the context of the 'procedures to be defined by the European Central Bank' to which the proposed Regulation will include a reference in Article 6(1) of amended Regulation (EC) No 1338/2001, the ECB is best placed to decide upon the implementation of its procedures in relation to euro banknotes. In this respect and in the light of the limits of the geographic area in which the euro is legal tender, the ECB decided in July 2006 that these procedures will become effective in newly participating Member States once they adopt the euro.

Euro: protection against counterfeiting

2007/0192A(CNS) - 16/12/2008 - Text adopted by Parliament after reconsultation

The European Parliament adopted, by 518 votes to 9 with 32 abstentions and, on a renewed consultation, adopted a legislative resolution under the consultation procedure approving the Council's draft for a Council Regulation amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting.

The report had been tabled for consideration in plenary by Gérard **DEPREZ** (ALDE, BE) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

Euro: protection against counterfeiting

2007/0192A(CNS) - 18/12/2008 - Final act

PURPOSE: to amend Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting.

LEGISLATIVE ACT: Council Regulation (EC) No 44/2009 amending Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting.

CONTENT: to recall, [Council Regulation \(EC\) No 1338/2001](#) requires credit institutions and any other related institutions to withdraw from circulation all euro notes and coins received by them which they know or have sufficient reason to believe to be counterfeit and hand them over to the competent national authorities.

It is important to ensure that circulating euro notes and coins are authentic. To that end, credit institutions, other payment service providers and other economic agents involved in the processing and distribution of notes and coins should check the authenticity of the euro notes and coins they receive before they put them back into circulation.

Other economic agents, such as traders and casinos, should also be subject to these obligations where they supply, on a secondary basis, automated teller machines (cash dispensers), but they may not be involved beyond these secondary activities.

In order to comply with the obligation to check for authenticity, these economic agents nevertheless need time to adapt their internal functioning. As regards notes, the procedures laid down for Member States which have adopted the euro as a single currency may also cover the suitability of the checked notes for circulation.

Appropriate adjustment of the equipment is a prerequisite for checking the authenticity of euro notes and coins. In order to adjust the equipment used for the checks for authenticity it is essential that the necessary quantities of counterfeit notes and coins are available at the places where testing is conducted. It is, therefore, appropriate to permit the transporting of counterfeit notes and coins between competent national authorities as well as institutions and bodies of the European Union.

This Regulation amends Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting as follows:

Obligation to transmit counterfeit coins: the Regulation stipulates that for the purpose of facilitating the checking for authenticity of circulating euro coins, the transporting of counterfeit coins between the competent national authorities as well as the institutions and bodies of the European Union shall be permitted. During transportation, the counterfeit notes shall be accompanied at all times by transport orders received for that purpose from the abovementioned authorities, institutions and bodies.

Classification of coins: the ETSC shall analyse and classify every new type of counterfeit euro coin. To that end, the ETSC shall have access to the technical and statistical data stored at the ECB on counterfeit euro coins. The ETSC shall communicate the relevant final results of its analysis to the competent national authorities and, according to its areas of responsibility, to the European Central Bank.

Obligations relating to credit institutions engaged in the processing and distribution to the public of notes and coins: credit institutions, and, within the limits of their payment activity, other payment service providers, and any other institutions engaged in the processing and distribution to the public of notes and coins, including: (i) establishments whose activity consists in exchanging notes and coins of different currencies, such as **bureaux de change**; (ii) **transporters of funds**; (iii) other economic agents such as traders and casinos engaged on a secondary basis in the processing and distribution to

the public of notes via automated teller machines (cash dispensers), within the limit of these secondary activities, shall be obliged to ensure that euro notes and coins which they have received and which they intend to put back into circulation are checked for authenticity and that counterfeits are detected.

For euro notes, this check shall be carried out in line with procedures defined by the ECB. The institutions and economic agents referred to in the Regulation shall be obliged to withdraw from circulation all euro notes and coins received by them which they know or have sufficient reason to believe to be counterfeit. They shall immediately hand them over to the competent national authorities.

Non-euro Member States: in Member States that do not have the euro as their single currency, checks on the authenticity of euro notes and coins shall be carried out either by trained personnel, or by a machine for handling banknotes and coins that is on the list published by the European Central Bank, for banknotes, or by the Commission, in the case of coins.

APPLICATION: 31.12.2011.

ENTRY INTO FORCE: 23.01.2009.