

| Basic information  |                     |
|--|---------------------|
| <b>2008/0167(CNS)</b><br>CNS - Consultation procedure<br>Regulation  | Procedure completed |
| Protection against counterfeiting: medals and tokens similar to euro coins<br><br>Amending Regulation (EC) No 2182/2004 <a href="#">2004/0010(CNS)</a><br><br><b>Subject</b><br><br>5.20.02 Single currency, euro, euro area<br>7.30.30.10 Action against counterfeiting |                     |

| Key players                   |   |  |   |                  |
|-------------------------------|---|--|---|------------------|
| European Parliament           | <b>Committee responsible</b>                          |  | <b>Rapporteur</b>                             | <b>Appointed</b> |
|                               | <b>ECON</b> Economic and Monetary Affairs             |  | RYAN Eoin (UEN)                               | 24/09/2008       |
|                               | <b>Committee for opinion</b>                          |  | <b>Rapporteur for opinion</b>                 | <b>Appointed</b> |
|                               | <b>LIBE</b> Civil Liberties, Justice and Home Affairs |  | The committee decided not to give an opinion. |                  |
| Council of the European Union | <b>Council configuration</b>                          |  | <b>Meetings</b>                               | <b>Date</b>      |
|                               | Agriculture and Fisheries                             |  | 2917  | 2008-12-18       |
| European Commission           | <b>Commission DG</b>                                  |  | <b>Commissioner</b>                           |                  |
|                               | European Anti-Fraud Office (OLAF)                     |  | KALLAS Siim                                   |                  |

| Key events |   |  |         |
|------------|---|--|---------|
| Date       | Event   | Reference  | Summary |
| 13/08/2008 | Legislative proposal published                                  | COM(2008)0514<br> | Summary |
| 25/09/2008 | Committee referral announced in Parliament                      |  |         |
| 02/12/2008 | Vote in committee   |  | Summary |
| 03/12/2008 | Committee report tabled for plenary, 1st reading/single reading | A6-0469/2008   |         |
| 16/12/2008 | Decision by Parliament  | T6-0593/2008   | Summary |
|            |   |  |         |

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|------------|---|---|--|
| 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        | 2008/0167(CNS)   |
| Procedure type             | CNS - Consultation procedure   |
| Procedure subtype          | Legislation  |
| Legislative instrument     | Regulation   |
| Amendments and repeals     | Amending Regulation (EC) No 2182/2004 <a href="#">2004/0010(CNS)</a> |
| Legal basis                | EC Treaty (after Amsterdam) EC 123-p4                                |
| Stage reached in procedure | Procedure completed  |
| Committee dossier          | ECON/6/66066   |

| Documentation gateway   |  |   |                         |                         |
|---|--|---|-------------------------|-------------------------|
| <b>European Parliament</b>                                      |  |   |                         |                         |
| Document type   | Committee  | Reference   | Date                    | Summary                 |
| Committee draft report  |  | <a href="#">PE415.055</a>   | 29/10/2008              |                         |
| Committee report tabled for plenary, 1st reading/single reading |  | <a href="#">A6-0469/2008</a>  | 03/12/2008              |                         |
| Text adopted by Parliament, 1st reading/single reading          |  | <a href="#">T6-0593/2008</a>  | 16/12/2008              | <a href="#">Summary</a> |
| <b>European Commission</b>                                      |  |   |                         |                         |
| Document type   | Reference  | Date  | Summary                 |                         |
| Legislative proposal  | <a href="#">COM(2008)0514</a><br> | 13/08/2008  | <a href="#">Summary</a> |                         |
| <b>Other institutions and bodies</b>                            |  |   |                         |                         |
| Institution/body  | Document type  | Reference   | Date                    | Summary                 |
| ECB   | European Central Bank: opinion, guideline, report  | <a href="#">CON/2008/0045</a><br><a href="#">OJ C 283 07.11.2008, p. 0001</a> | 08/10/2008              | <a href="#">Summary</a> |

| Additional information |                      |      |
|------------------------|----------------------|------|
| Source                 | Document             | Date |
| National parliaments   | <a href="#">IPEX</a> |      |

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| European Commission | EUR-Lex |  |
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| <b>Final act</b>                                     |  |         |
| Regulation 2009/0046<br>OJ L 017 22.01.2009, p. 0005 |  | Summary |

## Protection against counterfeiting: medals and tokens similar to euro coins

2008/0167(CNS) - 08/10/2008

### OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for two Council Regulations concerning medals and tokens similar to euro coins.

On 25 September 2008, 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 2182/2004 concerning medals and tokens similar to euro coins and a proposal for a Council Regulation amending Regulation (EC) No 2183/2004 extending to the non-participating Member States the application of Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins.

**General observations:** by clarifying the specific elements of the designs on legal tender euro coins that should not be reproduced on medals and tokens that are similar to euro coins and establishing the criteria to be used by the Commission when preparing an opinion on compliance with Regulation (EC) No 2182/2004, the first proposed regulation strengthens the protective provisions laid down in the Regulation against confusion and fraud relating to medals and tokens that could be mistaken for euro coins. It also improves transparency in the Commission's decision-making process.

Since euro coins may circulate beyond the territories of the Member States that have adopted the euro, having a certain degree of protection of euro coins in Member States which have not yet adopted the euro is of importance with regards to activities, such as counterfeiting, that may impair their credibility as legal tender.

The ECB also makes a number of **specific observations:**

**Similarity of the design appearing on the surface of medals and tokens:** compared to Article 2(c) of Regulation (EC) No 2182/2004, the new Article 2(1)(c) of the first proposed regulation describes in more detail the designs or parts thereof appearing on the surface of euro coins which may not be reproduced on medals and tokens. To enhance the protective character of this provision, the ECB recommends including an **express reference to the euro symbol and to the terms 'euro' and 'euro cent'** in the new Article 2(1)(c)(i);

**Transparency in the decision-making process:** according to the explanatory memorandum to the first proposed regulation, the Commission has been working closely with counterfeit coin experts. However, the first proposed regulation only refers to 'consultation with the Member States'. As a result, the ECB recommends that an express reference to the counterfeit coin experts be included in the new Article 2(2);

**Derogations by authorisation:** the ECB considers that appropriate wording should be added in this respect. Moreover, in order to enhance transparency and improve legal certainty, the new Article 4 would benefit from more comprehensive and/or illustrative wording on the general criteria to be applied by the Commission when authorising a derogation.

**Application of the first proposed regulation to Monaco, San Marino and the Vatican City :** under monetary agreements with France and Italy, Monaco, San Marino and the Vatican City are entitled to issue euro coins which have the status of legal tender and have specific artistic features on their national side. Because the visual characteristics of these euro coins are different from the visual characteristics of the euro coins issued by each of the Member States that have adopted the euro, the euro coins issued by Monaco, San Marino and the Vatican City should also benefit from the protective provisions laid down in the first proposed regulation.

**Consultation of the ECB on the second proposed regulation:** unlike the first proposed regulation, the preamble to the [second proposed regulation](#) does not refer to the ECB's opinion. In view of the fact that both proposed regulations fall within the ECB's fields of competence, the preamble to the second proposed regulation should be amended to refer to the ECB's opinion.

## Protection against counterfeiting: medals and tokens similar to euro coins

2008/0167(CNS) - 16/12/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 550 votes to 9 with 41 abstentions and adopted a legislative resolution under the consultation procedure approving the proposal for a Council regulation amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins.

The report had been tabled for consideration in plenary by Eoin **RYAN** (UEN, IE) on behalf of the Committee Economic and Monetary Affairs.

# 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 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](#)).

# Protection against counterfeiting: medals and tokens similar to euro coins

2008/0167(CNS) - 18/12/2008 - Final act

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

LEGISLATIVE ACT: Council Regulation (EC) No 46/2009 amending Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins.

CONTENT: [Council Regulation \(EC\) No 2182/2004](#) prohibits those medals and tokens similar to euro coins. Experience gained implementing the prohibition of medals and tokens similar to euro coins has highlighted the need to clarify the protective provisions and to make the decision-making process more transparent.

It is for this reason that the Council has adopted an amending Regulation. The main issues can be summarised as follows:

**Amendments to protective provisions:** given that the public may be led to believe that some medals and tokens have legal tender status, not only when they bear a design similar to euro coins but also when they bear certain elements of the designs on euro coins, the amending Regulation stipulates that the production and sale of medals and tokens, and their importation and distribution for sale or for other commercial purposes, shall be prohibited in the following circumstances: (a) when the terms “euro” or “euro cent” or the euro symbol appear on their surface; (b) when their size is inside the reference band; or (c) when a design appearing on their surface is similar to: (i) any design, or parts thereof, appearing on the surface of euro coins, including in particular the terms “euro” or “euro cent”, the 12 stars of the European Union, the image of the geographical representation and the numerals, in the way depicted on euro coins; or (ii) those symbols representative of national sovereignty of Member States, as depicted on euro coins, including in particular the effigies of the Head of State, the coat of Arms, the Mint marks, the Mint master marks, the name of the Member State; (iii) the edge shape or the edge design of euro coins; or (iv) the euro symbol.

**Comitology amendments:** 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, including the interpretation of whether a metallic object should be considered as a medal/token within the meaning of the definition set out in the Regulation. The Commission, after having consulted the counterfeit coin experts referred to in Commission Decision 2005/37/EC of 29 October 2004 establishing the European Technical and Scientific Centre (ETSC) and providing for coordination of technical actions to protect euro coins against counterfeiting, should specify whether the protective provisions referred to in Regulation (EC) No 2182/2004 have been respected and whether a metallic object is a medal/token.

**Derogations by authorisation:** the Regulation stipulates that the Commission may grant specific authorisations to use the terms “euro” or “euro cent” or the euro symbol on the surface of medals and tokens, under controlled conditions of use, in cases where no risk of confusion exists. In such cases, the economic operator concerned within a Member State shall be clearly identifiable on the surface of the medal or token and, when the medal or token bears an associated nominal value, the indication “Not legal tender” must be stamped on the obverse or the reverse of the medal or token.’

The Regulation also states that medals and tokens bearing the terms “euro” or “euro cent” or the euro symbol without an associated nominal value shall not be prohibited when their size is outside the reference band, unless a design similar to one of the elements referred to in the Regulation (the effigies of the Head of State, the coat of arms, etc) appears on their surface’.

ENTRY INTO FORCE: 11.02.2009.