

COUNCIL

(Acts adopted under Title VI of the Treaty on European Union)

COUNCIL RESOLUTION

of 28 May 1999

on increasing protection by penal sanctions against counterfeiting in connection with the introduction of the euro

(1999/C 171/01)

THE COUNCIL OF THE EUROPEAN UNION,

HEREBY ADOPTS THIS RESOLUTION:

Having regard to the Treaty on European Union,

A. International Convention for the Suppression of Counterfeiting Currency of 20 April 1929

Recalling Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro⁽¹⁾, which lays down that currency denominated in euro shall start to be put into circulation as from 1 January 2002 and obliges the participating Member States to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins;

1. The Council takes the view that the provisions of the International Convention for the Suppression of Counterfeiting Currency of 20 April 1929 ('1929 Convention') represent a common minimum standard for all Member States of the European Union regarding protection by penal sanctions against counterfeiting.

Noting the Commission communication of 23 July 1998 to the Council, the European Parliament and the European Central Bank on 'Protection of the euro — combating counterfeiting';

2. The Council notes with satisfaction that those Member States which are not yet parties to the Convention have declared their intention to accede to the Convention.

Noting the resolution of the European Parliament of 17 November 1998 concerning the Commission communication of 23 July 1998 to the Council, the European Parliament and the European Central Bank on protection of the euro — combating counterfeiting⁽²⁾;

3. As legal tender of the Monetary Union in accordance with Regulation (EC) No 974/98, euro banknotes and euro coins shall constitute 'currency'

(a) within the meaning of Article 2 of the 1929 Convention;

Noting the recommendation of the European Central Bank of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins⁽³⁾;

(b) within the meaning of Member States' criminal legislation on the counterfeiting of currency.

Whereas the world-wide importance of the euro means it will be particularly open to the risk of counterfeiting;

B. Legal instrument of the European Union increasing protection by penal sanctions against counterfeiting in connection with the introduction of the euro

The Council takes the view that, on the basis of the minimum standard referred to in point A.1, a binding legal instrument of the European Union should be drawn up, taking into account the following guidelines:

In view of the fact that there is already evidence of fraudulent activity with regard to the euro;

1. The activities referred to in Article 3 of the 1929 Convention and the activities covered by the future legal instrument of the European Union in respect of currency manufactured in violation of the rights of the competent authorities to issue currency should constitute criminal activities in all Member States.

Whereas it should be ensured that the euro is protected in an appropriate way in all Member States by efficient criminal law measures, even before currency starts to be put into circulation as from 1 January 2002,

2. (a) The transport and export of counterfeit currency with the intention of putting it into circulation should be a criminal activity in all Member States;

⁽¹⁾ OJ L 139, 11.5.1998, p. 1.

⁽²⁾ OJ C 379, 7.12.1998, p. 39.

⁽³⁾ OJ C 11, 15.1.1999, p. 13.

- (b) Member States are requested to consider whether other forms of holding of counterfeit currency with the intention of putting it into circulation should be made punishable.
3. Member States should ensure that:
- (a) the concept 'articles' within the meaning of Article 3(5) of the 1929 Convention also includes components of currency (such as holograms) which serve to protect against counterfeiting;
- (b) above and beyond the articles referred to in Article 3(5) of the 1929 Convention, all means may be covered which are specifically intended for the counterfeiting of currency, *inter alia*, computer programmes;
- (c) above and beyond the activities referred to in Article 3(5) of the 1929 Convention, possession, for fraudulent purposes, of means specifically intended for the counterfeiting of currency is a criminal activity.
4. Member States should, in the case of all criminal activities referred to in Article 3 of the 1929 Convention, and of those referred to in the future legal instrument of the European Union, impose the threat of effective and appropriate deterrent penal sanctions, including custodial sentences which may lead to extradition.
5. Appropriate measures should be taken to ensure that counterfeiting, at least counterfeiting of the euro, is liable to prosecution, at least in the Member States in which the euro has been adopted, irrespective of the nationality of the offender or the place where the offence was committed. The future legal instrument of the European Union should address the issue of conflict of jurisdiction.
- C. Cooperation
- The Council invites the Member States and the Commission to consider whether it is necessary to strengthen the existing measures in order to cooperate efficiently with the help of the European Central Bank and the European Police Office (Europol) for the suppression of counterfeiting of the euro.
- D. Urgent measures
- The Council calls upon the Member States to ensure that acts corresponding to those referred to in Article 3 of the 1929 Convention committed prior to 1 January 2002 in respect of the future euro banknotes and coins are punishable by means of appropriate penal sanctions.
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