



## **OPINION OF THE EUROPEAN CENTRAL BANK**

**of 29 February 2012**

**on the protection of the euro against counterfeiting  
and on the authentication of euro coins**

**(CON/2012/15)**

### **Introduction and legal basis**

On 27 January 2012, the European Central Bank (ECB) received a request from the Greek Ministry of Finance for an opinion on a draft law on measures for the protection of the euro against counterfeiting and on the authentication of euro coins.

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the first, second and third indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions<sup>1</sup>, as the draft law concerns currency matters, means of payment and the Bank of Greece. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council has adopted this opinion.

### **1. Purpose of the draft law**

- 1.1 The draft law will align the Greek legal framework for the protection of the euro against counterfeiting with the following Union legislation: (i) Article 6 of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting<sup>2</sup>; and (ii) Chapters II and IV of Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation<sup>3</sup>.
- 1.2 More specifically: (i) under Article 1 of the draft law the addressees will have to ensure that euro coins that they have received and intend to put back into circulation are subject to an authentication procedure in accordance with Article 3(1) of Regulation (EU) No 1210/2010. Following

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<sup>1</sup> OJ L 189, 3.7.1998, p. 42.

<sup>2</sup> OJ L 181, 4.7.2001, p. 6.

<sup>3</sup> OJ L 339, 22.12.2010, p. 1. Decision No 2/2047/0025 of the Minister of Finance of 7 January 2011 (FEK B 4, 7.1.2011) already aligned Greek legislation since Chapter III already applied from the date of entry into force of the Regulation, i.e. 11 January 2011 in accordance with Article 14 of Regulation (EU) No 1210/2010.

authentication, the addressees<sup>4</sup> will hand all suspected counterfeit coins over to the designated police authority, who will further them to the Coin National Analysis Centre, and they will hand over euro coins unfit for circulation to the Bank of Greece; (ii) Article 2 of the draft law designates the Bank of Greece as the competent authority to ensure compliance with the abovementioned provisions of Regulations (EC) No 1338/2001 and No 1210/2010<sup>5</sup>; (iii) Article 3 of the draft law sets out the relevant reporting obligations of the Bank of Greece and its powers to adopt the necessary instruments to facilitate the addressees' implementation of the draft law; (iv) Article 4 of the draft law sets out the fines that the Bank of Greece may impose in cases of non-compliance by the addressees with the abovementioned provisions of Regulation (EC) No 1338/2001 and No 1210/2010. Consequently, Article 5 of the draft law repeals Law No 2639/2010 of the Governor of the Bank of Greece imposing sanctions on credit institutions and bureaux de change failing to withdraw counterfeit euro coins from circulation<sup>6</sup>.

## 2. General observations

- 2.1 The draft law will lay down measures for the protection of the euro against counterfeiting and on the authentication of euro coins, in line with Article 6 of Regulation (EC) No 1338/2001 and Chapters II and IV of Regulation (EU) No 1210/2010. In this respect, the ECB welcomes the draft law as a means to further safeguard the integrity of euro coins as a means of payment and therefore maintain the general public's confidence in euro coins.
- 2.2 National authorities are not formally obliged to consult the ECB on the implementation of the Member States' obligation to take the necessary measures to ensure that breaches of Article 6(1) of Regulation (EC) 1338/2001 are subject to effective, proportionate and deterrent sanctions. However, to preserve the integrity of euro coins as means of payment, the ECB considers it beneficial to harmonise throughout the Union the national measures implementing the abovementioned obligation in relation to euro coin authentication to the extent possible, subject to national peculiarities. In this respect, the ECB welcomes the draft Greek law, which lays down effective, proportionate and deterrent sanctions.

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<sup>4</sup> According to Article 1 of the draft law, other economic agents, such as traders and casinos, will also be subject to this obligation to withdraw from circulation suspected counterfeit euro coins and hand them over to the police authority. However, these economic agents are not subject to authentication requirements; see Article 2(d) in conjunction with Article 3(1) of Regulation 1210/2010.

<sup>5</sup> In particular in terms of testing requirements for coin-processing machines provided for in Articles 4 and 5 of Regulation (EU) No 1210/2010.

<sup>6</sup> FEK B 17, 14.1.2011. The ECB was consulted on the relevant draft provisions aimed at applying the withdrawal obligation under Article 6(1) of Regulation (EC) No 1338/2001 as regards euro coins only to credit institutions and bureaux de change, as in the field of euro coins the Bank of Greece has competence only as regards the institutions it supervises, including credit institutions and bureaux de change. In that respect, paragraph 2.3 of Opinion CON/2010/87 referred to the imminent application of Regulation (EU) No 1210/2010 from 1 January 2012 to all institutions referred to in Article 6(1) of Regulation (EC) No 1338/2001.

**3. Specific observations**

Article 2 of the draft law designates the Bank of Greece as the competent authority to ensure compliance with Regulations (EC) No 1338/2001 and No 1210/2010. In view of the human and financial resources required for the performance of these tasks, the ECB has consistently expressed its concern that, when allocating additional tasks to national central banks, it must be ensured that they have sufficient human and financial resources, both in terms of quantity and quality, for all their tasks, and in particular that their capacity to perform their European System of Central Banks or Eurosystem-related tasks is not affected<sup>7</sup>.

This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 29 February 2012.

[signed]

*The President of the ECB*

Mario DRAGHI

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<sup>7</sup> See e.g. CON/2011/105.