



EUROPEAN CENTRAL BANK

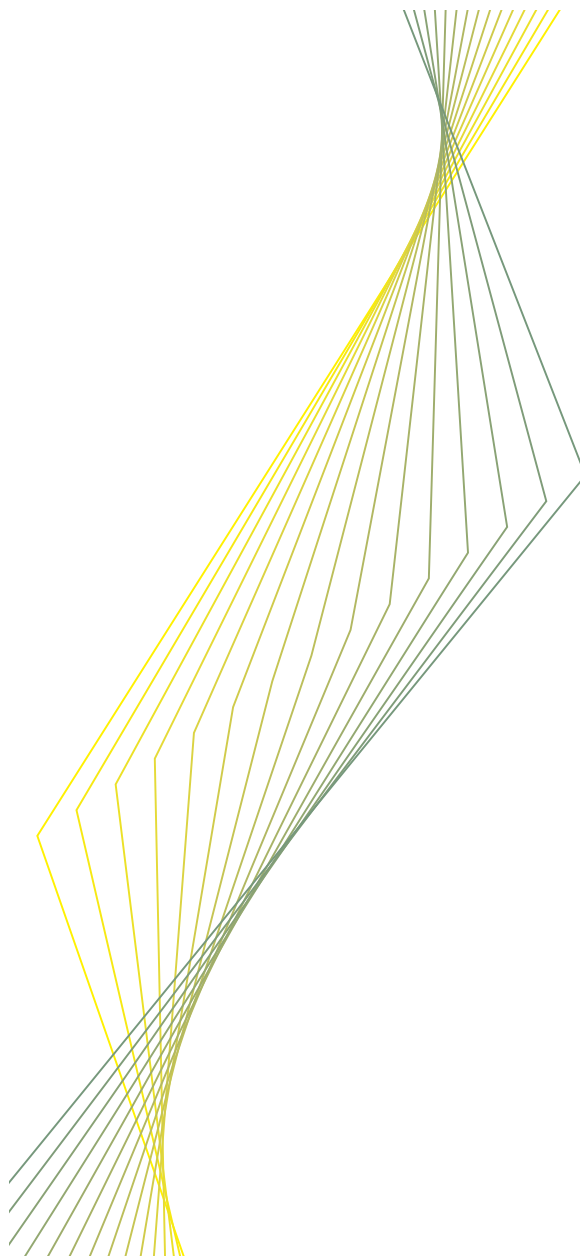


**REPORT ON THE
LEGAL PROTECTION
OF BANKNOTES IN THE
EUROPEAN UNION
MEMBER STATES**

November 1999



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EXECUTIVE SUMMARY

This Report has been prepared on the basis of two reports containing surveys and proposals made in 1997 and 1998 respectively, by the Joint Workshop on the Legal Protection of Euro Banknotes (the Joint Workshop), as mandated by the Working Group on Printing and Issuing a European Banknote (BNWG) and the Working Group of Legal Experts (WGLE).

The present Report covers various aspects of the legal regime for the protection of euro banknotes: (i) counterfeiting; (ii) copyright protection; (iii) the adoption and publication of euro banknote designs; (iv) the exchange of damaged banknotes; (v) the withdrawal of euro banknotes; (vi) banknotes issued by entities other than the ECB and the NCBs and (vii) the so-called “fancy” banknotes.

The major conclusions of the Report can be summarised as follows:

- The legal situation in all Member States with regard to **counterfeiting** is reasonably satisfactory. Subsequent adaptations of criminal law are a competence of the Member States pursuant to Article 12 of the Council Regulation on the introduction of the euro.¹ Further convergence on this topic should be addressed in the framework of intergovernmental co-operation under Title VI of the Treaty on European Union (provisions on co-operation in the fields of justice and home affairs).
- As regards **copyright protection** for euro banknotes, the Joint Workshop recommended that the © symbol should be included on the euro banknotes. The Joint Workshop also recommended uniform **reproduction rules** for euro banknotes throughout the euro area.
- Another area addressed by the Report is the need to introduce **anti-copying devices** in view of the threat of counterfeiting by way of colour copying and other reproduction machinery.
- The Joint Workshop conducted also a survey among Member States on the legal regime for the **adoption and publication of the designs of banknotes**.
- It is suggested that rules for the **redemption of damaged or mutilated banknotes** should be (i) harmonised, or even made uniform, throughout the euro area; (ii) fair and

¹ Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro.

sufficient to guarantee a high level of protection against fraud or deception; (iii) relatively easy to enforce; and (iv) made public.

- In addition, the Joint Workshop conducted a survey of existing practices and rules in Member States concerning the **withdrawal** of banknotes, and concluded that it would be advisable to outline the basic rules applicable to the future withdrawal of euro banknotes.
- The Joint Workshop has analysed the present legal regime applicable to **banknotes issued by entities other than the ECB and the NCBs**, namely by some commercial banks and local authorities. The report includes a list of distortions that such arrangements would entail in Stage Three of EMU that would require correction on a case-by-case basis. As regards the issuance of banknotes by local authorities its compatibility with the Treaty and the Statute will have to be assessed under Article 108 of the Treaty.
- Finally, the Joint Workshop concluded that the issuance of non-legal tender tokens and banknotes denominated in euro – the so-called “fancy” banknotes – might become a matter of concern, particularly during the transitional period when the euro exists as a currency without euro monetary signs. The Joint Workshop suggested that the issuance of fancy euro banknotes and coins should be deterred.

This Report consolidates and updates to the present time the responses to the surveys and proposals made by the Joint Workshop in 1997 and 1998. The reader will be able to find updated information in the annexes together with, as an appendix, the ECB Decision on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (ECB/1998/6) as amended by the ECB Decision of 26 August 1999 (ECB/1999/2), the ECB Recommendation regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7) and the amended version of the ECB Guideline on certain provisions regarding euro banknotes (ECB/1999/3).

I. LEGAL PROTECTION OF EURO BANKNOTES

A. THE CRIMINAL APPROACH: COUNTERFEITING

1. The legal situation in the Member States

The attached table (ANNEX I) provides an overview of the counterfeiting legislation in the Member States. In evaluating this survey, it should be noted that a number of general aspects of national penal law are not included. In order to provide a complete picture of the present counterfeiting legislation for comparison, it would also be necessary to consider general aspects of penal law, for example, the general criteria for an activity to be considered punishable (personal qualification of the offender, etc.), the requirements of a punishable attempt at the offence of counterfeiting, the methods and rigidity of prosecution, statutory limitations, as well as the burden and requirements of proof for the offence, particularly the subjective elements (the intention of the offender, "subjektiver Tatbestand"). Further important aspects include the interpretation of the counterfeiting legislation by the courts, such as the practice concerning sentencing ("Strafmaß") and the conditions for the discharge of custodial sentences. It should also be noted that the survey refers to both criminal law and law on administrative offences.

1.1. The scope of protection

All Member States protect banknotes that are legal tender in their country, as well as foreign banknotes, which are legal tender in other countries.² Therefore, the euro banknotes will be protected by existing legislation concerning counterfeiting in all Member States participating in Economic and Monetary Union (EMU) as well as in the non-participating Member States, since counterfeiting legislation also refers to foreign banknotes (in accordance with the Geneva Convention).

² See Article 5 of the International Convention for the suppression of Counterfeiting Currency, signed at Geneva, on 29 April 1929 (hereinafter referred to as the "Geneva Convention"): "No distinction should be made in the scale of punishments for offences referred to in Article 3 between acts relating to domestic currency on the one hand and foreign currency on the other ...".

1.2. Acts constituting the offence of counterfeiting

There is substantial similarity in national laws concerning the list of acts that constitute the offence of counterfeiting.

All Member States prohibit and punish the **counterfeiting** and **falsification** of banknotes. In some countries, falsification creating a **higher value** is punished more severely than falsification reducing the indicated value (for example, in Italy), whereas in other countries falsification in such a way that a **lower value** is created does not constitute an offence (for example, in Germany).

In all Member States, the act of **putting into circulation** counterfeit or falsified money as genuine constitutes an offence. In most cases, the act of putting into circulation counterfeit money that the offender has received in good faith entails a less severe – or no (Sweden) – punishment than the same act committed by the offender in bad faith, i.e. knowing that the money is counterfeit or false.

To **procure** counterfeit banknotes (i.e. to **accept** them from the forger), to **possess** or **transport** them is punishable in all Member States. In Sweden, there is no special counterfeit provision on this issue, but it would fall under general criminal provisions and may constitute the punishable preparation of, attempt at or complicity in the uttering of counterfeit currency or fraud.

The act of **importing** counterfeit money into the country constitutes an offence in Belgium, Spain, Italy, Luxembourg, Portugal, Finland, Denmark and the United Kingdom. In the United Kingdom, there is a special provision according to which the **export** of counterfeit banknotes is prohibited and punishable.

Most criminal codes and/or laws on administrative offences cover the **manufacture**, **possession** and **distribution** or **sale of devices** that can be used to produce counterfeit banknotes (Belgium, Germany, Greece, France, Ireland, Italy, the Netherlands, Austria, Portugal, Finland, the United Kingdom and Luxembourg). In other Member States, the act of preparing devices adapted for the purpose of counterfeiting might be considered to be attempted counterfeiting.

Additionally, in some Member States there are provisions prohibiting **the mutilation of, the stamping on or the writing on banknotes**, stating that these acts constitute a breach of administrative regulations (Greece, Ireland and the United Kingdom). Although such acts cannot

be considered to be counterfeiting, the respective provisions may be regarded as a special form of protection of banknotes.

1.3. Penalties

With reference to the gravity of penalties, counterfeiting is punishable in all Member States by **imprisonment**; in Belgium and Luxembourg some forms of counterfeiting are punishable with “réclusion” and forced labour respectively. The terms of imprisonment are different but, in summary, it can be concluded that serious cases of counterfeiting entail long-term imprisonment in all Member States. In addition, there is the possibility of imposing **fin**es in most Member States.

Maximum penalties are attributed in all Member States to the act of falsification of banknotes, and in most countries to the act of putting into circulation counterfeit banknotes in bad faith. The maximum penalties range from imprisonment for eight years (Sweden) to penal servitude for life (Ireland).

When comparing the penalties, it should be noted that in all Member States the maximum penalties are proportional to those for other serious crimes. It should also be noted that in some Member States, where the maximum penalty is very high, the application of such maximum penalties is preserved for serious cases only (for example, if counterfeiting is committed by an organised group, in France). There are also examples of provisions which expressly stipulate less severe penalties in less serious cases (for example, in Germany and Greece).

2. The desired legal situation

Is there a need for amendment in the field of counterfeiting legislation? There are differences concerning the details of prohibited and punishable acts and concerning the severity of the penalties; however, these differences cannot be seen as fundamental and should be regarded as a consequence of the balance reached within each national criminal law system. Moreover, the actual penalties can only be compared by taking into account the established practice of the courts in criminal cases. For example, reports indicate that the criminal courts in Ireland have in recent years imposed a maximum penalty of imprisonment for eight years in the event of counterfeiting, although, according to the Forgery Act, counterfeiting is punishable by penal servitude for life.

Given that all Member States provide for severe punishment in the event of a serious counterfeiting offence, it cannot be maintained from a legal perspective that there are “counterfeiting havens” within the Community.

According to the Treaty on European Union, the legislative authority in the field of criminal law remains within the Member States. However, given the fact that the euro has become a common currency throughout the participating Member States, further improvements in combating currency counterfeiting should be envisaged at the Community level (see point 4 of the ECB Recommendation regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7)).³

At present, each Member State has at its disposal a detailed national system of penalties for offences that is already well established and considered to be sufficient for the protection of banknotes in the country concerned.⁴ However, taking into account the fact that in each country these penalties are incorporated in a comprehensive and balanced penal law system, there is room for widening the scope of criminal law protection in the field of counterfeiting by means of a Community instrument (convention). Such an instrument could contribute to the determination of minimum common elements that would constitute the crime of counterfeiting in all Member States. It could also encompass a common criminal law approach concerning new forms of counterfeiting (for example, the use of computer technology).⁵

³ OJ C 11, 15.01.99.

⁴ See also Article 18 of the Geneva Convention: “the present Convention does not affect the principle that the offences referred to in Article 3 should in each country, without ever being allowed impunity, be defined, prosecuted and punished in conformity with the general rules of its domestic law.”

⁵ See point 4 of the ECB Recommendation regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7), OJ C 11, 15.01.99.

3. The risk of increased counterfeit activity

The offence of counterfeiting covers mainly the following acts:

- the duplication and falsification (alteration of value) of banknotes;⁶
- putting falsified money into circulation as genuine;
- the possession, procurement or transportation of counterfeits; and
- the manufacture and distribution of devices for the production of counterfeits.

It can be argued that, for the following reasons, counterfeiting will increase after the introduction of euro banknotes:

- (i) The geographic area in which counterfeits can be distributed and circulate will be larger than at present. Euro banknotes may be used not only within the euro area, but are also likely to be used in the non-participating Member States and in third countries. As a consequence, the overall risk of detection and conviction might also be smaller than it is at present.
- (ii) As a result of new reproduction techniques (such as advanced colour copying machines and home office (DTP) equipment), it will be easier to produce counterfeit banknotes which may be mistaken for genuine ones, especially if, during the initial period, the visible/tactile security features are not sufficiently known and properly checked by the public at large.
- (iii) The legal structures and provisions against counterfeiting in the Member States are not identical, which, under a single currency regime, might lead to an increase in counterfeiting (although it is questionable whether and, if so, to what extent existing differences in the relevant legal structures of Member States would in fact lead to an increase in the number of counterfeits after the introduction of euro banknotes).
- (iv) Since the euro banknotes will be new and unfamiliar to the public, there is a risk that counterfeit banknotes will not be recognised as such.

In addition, certain aspects concerning the investigation and prosecution of counterfeiting have to be taken into account when analysing the potential scope of the counterfeiting of euro banknotes:

⁶ For instance, the production of counterfeit banknotes using colour copiers and the creation of (counterfeit) banknotes by cutting up valid banknotes and creating further banknotes by using sections of the valid banknotes.

- (i) National authorities currently store information concerning counterfeit banknotes (and coins). However, a new arrangement for co-operation within the European System of Central Banks (ESCB) regarding, inter alia, the investigation and classification of counterfeit banknotes in Stage Three, as well as the establishment of special databases in order to protect the euro banknotes, was adopted by the ECB.
- (ii) Following the introduction of euro banknotes, there will be a need for organised co-operation between the police authorities at the EU level in the field of counterfeiting.⁷

4. The possibilities of prevention – co-operation and co-ordination

4.1. The establishment of a common investigation centre and database on counterfeit currency

The Governing Council of the ECB approved the establishment of a common investigation centre and a common database for counterfeit banknotes and coins. New types of euro counterfeit banknotes would be analysed and classified at such an investigation centre, which would be based at the ECB.⁸ The preliminary analysis to assess whether or not a specific counterfeit can be considered a new type of counterfeit or a type already encountered would be performed at the national level; counterfeits would only be sent to the centre if they were identified as being a new type. All the relevant technical and statistical data would be stored in a central database at the ECB, in order to provide information for various purposes. The information obtained could be shared with the national central banks (NCBs), with the police and, in the case of the coin counterfeits, with the mints. The common database would only cover technical and statistical data, and should be clearly distinguishable from any further databases required for the purpose of criminal prosecution.

The Governing Council of the ECB approved on 7 July 1998 (and later amended on 26 August 1999) a Guideline on certain provisions regarding euro banknotes (ECB/1999/3). This Guideline

⁷ The Joint Workshop has noted that the Council Resolution of 18 December 1997 laying down the priorities for co-operation in the fields of justice and home affairs for the period from 1 January 1998 to the date of entry into force of the Treaty of Amsterdam addresses police co-operation in “combating counterfeiting, piracy and illegal trade in works of art” in Article 4f, which would presumably cover the counterfeiting of banknotes.

⁸ The location of the analysis centre for euro coins is still to be decided.

provides for the establishment of the Counterfeit Analysis Centre (CAC) of the ESCB and the Common Currency Database.

Pursuant to Articles 3.1 and 3.2 of the above-mentioned ECB Guideline (ECB/1999/3), the Governing Council established the CAC and the Common Currency Database at its meeting on 8 April 1999.

The CAC and the Common Currency Database shall co-operate with the police forces of the participating Member States and with Europol or the European Commission regarding their respective areas of expertise.

It should be mentioned that the ECOFIN Council, at its meeting on 23 November 1998, adopted conclusions on the repression of counterfeiting of euro notes and coins, welcoming the ECB's decision to establish a centre for the analysis of counterfeit notes and to maintain a technical database for counterfeits, as well as the decision of the Member States to store data on counterfeit coins in the database maintained by the ECB.

4.2. Co-operation between the national authorities of the Member States

4.2.1 *The Schengen Agreement and Interpol*

According to the Schengen Agreement, the contracting parties undertake to ensure that their police authorities assist each other for the purposes of preventing and detecting criminal offences. Detailed rules on the co-operation of police officers have been laid down. Although the Schengen Agreement allows for co-operation in respect of counterfeiting, it cannot be considered a sufficient means of preventing and detecting offences in this field at present, since not all EU Member States are parties to the Schengen Agreement⁹ and since the provisions require the implementation of measures in order to create a fully effective system.¹⁰

Interpol was established in 1923 as a non-governmental body. Today, it acts as an intergovernmental organisation. It seeks to ensure the widest possible mutual assistance between criminal police authorities within the limits of the legislation existing in the various member

⁹ The following Member States are parties to the Schengen Agreement: Spain, Portugal, Italy, Austria, Germany, the Netherlands, Belgium, Luxembourg, France and Greece.

¹⁰ See Schengen Agreement.

countries. All EU Member States are members of Interpol and the total number of members is approximately 170 countries. The General Secretariat of Interpol co-ordinates the activities of police authorities of member countries in international affairs and centralises documentation pertaining to the suppression of international crime. The gathering of intelligence and enforcement are, however, the responsibility of the national police authorities. Interpol is currently also competent in the area of counterfeiting and might be an appropriate forum for the combating of counterfeit offences which not only affect EU Member States, but also third countries. However, the specific issues related to counterfeiting in the euro area require a different arrangement for co-operation between participating Member States.

4.2.2 The Europol Convention

The Europol Convention was based on Article K.3 of the Treaty on European Union, signed on 26 July 1995¹¹ and entered into force on 1 October 1998 after the conclusion of the national ratification procedures.

The objective of Europol is to improve the effectiveness and co-operation of the competent authorities in the Member States in preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime where there are factual indications that an organised criminal structure is involved and two or more Member States are affected by the forms of crime in question. Counterfeiting was not initially covered by the Convention, but, according to Article 2, paragraph 2, thereof, the Council of the European Union, acting unanimously, could decide to instruct Europol to deal with other forms of crime listed in the Annex to the Convention, one of which is forgery of money and other means of payment.

At its meeting held on 3 and 4 December 1998 the Council for Justice and Home Affairs agreed that Europol should be instructed to deal with the forgery of money and means of payment, as a form of serious international crime, in particular in view of the introduction of the euro.

At its meeting held on 12 March 1999 the Council for Justice and Home Affairs agreed to mandate its competent bodies to draw up a clear definition of forgery of money and means of payment, before formally adopting the relevant decision on the extension of Europol's mandate to include the combating of forgery of money and means of payment.

¹¹ OJ C 316, 27.11.1995, p. 1. Further Council acts and decisions on the establishment of Europol are published in the Official Journal of the European Communities C 26, 30.01.1999.

Finally, on 29 April 1999 the Council of the European Union decided to extend Europol's mandate to include the fight against the forgery of money and means of payment.¹²

The main tasks of Europol are the following (Article 3 of the Europol Convention):

- to facilitate the exchange of information between Member States;
- to obtain, collate and analyse information and intelligence;
- to notify the competent authorities of the Member States without delay of any information concerning them and of any connections between criminal offences;
- to assist investigations in the Member States by forwarding relevant information; and
- to maintain a computerised system of collected information containing relevant data.

Each Member State must establish a national unit as the sole liaison body between Europol and the competent national authorities. The national units have to supply Europol with the information and intelligence necessary and respond to Europol's request for information. In addition, Articles K.1 and K.2 as amended by the Amsterdam Treaty, should be noted (Articles 29 and 30 of the consolidated version of the amended Treaty on European Union), in particular, the new techniques of co-operation laid down in Article K.2 (2) and the new provisions on judicial co-operation, which include the establishment of minimum rules relating to constituent elements of criminal acts and to penalties in the field of organised crime (Article 31(e) of the consolidated version of the Treaty on European Union).

The Geneva Convention stipulates that "in every country ... investigations on the subject of counterfeiting should be organised by a central office". Within the meaning of the Geneva Convention, "country" is regarded as synonymous with "currency" in the above context. If this is applied to the future situation in the countries participating in Stage Three of EMU, it becomes obvious that the exchange of information and the organisation of co-operation between national law enforcement agencies may not be sufficient to suppress the counterfeiting of the euro.

Therefore, the possibility should be considered of entrusting Europol not only with the collection and redistribution of data and the analysis of the information, but also with the authority to initiate and to co-ordinate criminal investigations at the European level.

¹² Council Decision of 29 April 1999, extending Europol's mandate to deal with forgery of money and means of payment, OJ C 149, 28.5.1999, p. 16.

4.2.3 The European Commission

The role of the Commission, as stated in the Commission Communication to the Council, the European Parliament and the European Central Bank on the protection of the euro (COM (1998) 474 final, of 22.07.1998), should be ancillary to the ECB's and Europol's activities. The Commission intends to establish a Community database and information system accessible in real time to the competent authorities and based on a wide-ranging, integrated approach with the objective of improving the prevention and detection of illegal acts.

4.2.4 Conclusions regarding co-operation in the field of counterfeiting

In view of the above, the ECB has recommended (see point 5 of the ECB Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7)¹³) that consideration should be given to organising co-operation between national police forces in the field of the forgery of money and means of payment.

The decision of the Council of the European Union to extend Europol's mandate to include the fight against the forgery of money and means of payment is a substantial step in that direction. This notwithstanding, clarification of the respective responsibilities of the institutions involved in the fight against the forgery of money and means of payment should also be sought. A multiplicity of instruments and competent authorities can enhance the risk of inefficiency of action, lack of effective co-ordination and, sometimes, pernicious competition between competent authorities.

4.2.4.1 Exchange of information

The ECB will establish a database containing technical and statistical data on counterfeit euro banknotes and coins. Such data will be shared with the police with a view to supporting them in prosecuting counterfeiters. Thus, it has to be ensured by legal means that any authority involved, in most cases the police and/or the national central bank, must forward the complete set of information and all counterfeits immediately and in a secure way to the National Analysis Centre

¹³ OJ C 11, 15.01.99.

(NAC)/Coins National Analysis Centre (CNAC) and subsequently the new types of counterfeits to the Counterfeit Analysis Centre (CAC) for banknotes/European Technical and Scientific Centre (ETSC) for coins. This obligation to forward counterfeits to these centres means that the authority involved must be entitled to do so and must not be hindered by restrictions of national law.

The above must be applicable not only to euro counterfeits found in the EU Member States, but also to those received from third countries or from Interpol; to this extent the central offices of the different countries, as mentioned in Articles 12 to 15 of the Geneva Convention, and/or the Interpol General Secretariat, should be obliged to adhere to the procedures outlined above.

In addition to information which is directly related to the counterfeits, the ECB would need to be able to receive information on the outcome of police investigations in order to assess whether or not additional pieces of a counterfeit class would have to be expected, and on the outcome of court trials in order to assess whether there might be a need for initiatives with a view to ensuring the achievement of an equally high level of deterrence in all EU countries. Therefore, the ECB should be authorised to receive information, without reference to any personal data, once a counterfeiter has been arrested by the police. This information would state the related counterfeit class he/she had produced, and give details of the court sentences, linking these to the counterfeit class which had been produced by the convict.

4.2.4.2 *Co-operation*

Counterfeit banknotes and coins, which are produced and, initially, distributed in one country, are bound to migrate to other countries of the EU, or, alternatively, they might be produced in one country and put into circulation at the same time in a number of countries. Under such a scenario, it is obvious that a minimum level of co-operation between the law enforcement agencies in the different countries is necessary in order to allow an efficient investigation of the cases and prosecution of the criminals.

Europol, now having received a mandate in the field of combating counterfeiting,¹⁴ seems to be the appropriate body in this respect. Therefore, legal provisions should ensure that Europol will be provided with all relevant information and that its role in relation to other supranational

¹⁴ Council Decision of 29 April 1999, extending Europol's mandate to deal with forgery of money and means of payment, OJ C 149, 28.5.1999, p. 16.

bodies, e.g. Interpol, the European Commission and the ECB, is legally established, thus specifically including all aspects of mutual co-operation and exchange of information.

5. The harmonisation of sanctions

The ECB has the exclusive right to authorise the issue of banknotes within the euro area. It does not follow automatically, however, that imposing sanctions on the counterfeiting of such banknotes would be a Community competence.¹⁵ Counterfeiting provisions form part of criminal law, not monetary law. There is no general competence of the Community in the field of criminal law, which is an area falling within the competence of the Member States. The Community is based on the principle of limited powers in the sense that Community institutions only possess those powers conferred upon them.

However, the present question refers to the possibility of formulating legislation for the euro area in view of the adoption of a single currency. The Joint Workshop has considered this question further and concluded that there would be scope to suggest that the ECB, as an entity with responsibility for the new currency, could recommend the approximation, where necessary, of criminal rules on currency counterfeiting.

In view of the above, the ECB has issued a Recommendation to the Council of the European Union, the European Commission and the Member States,¹⁶ inviting them to examine whether a harmonisation of penal provisions on counterfeiting would seem possible. Although imposing sanctions on criminal offences falls within the competence of the Member States, it should be stressed that the Community and its Member States share the same currency and, thus, an approximation of the provisions on its protection would be helpful.

6. The detention of counterfeit banknotes

The measures to protect euro banknotes and coins could include an obligation on credit institutions to detain counterfeits. In this context, the Joint Workshop has carried out a survey in

¹⁵ See Article 12 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro (OJ L 139, 11.5.98, p. 1).

¹⁶ Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7), OJ C 11, 15.01.99.

the Member States on whether there are any requirements for credit institutions to retain banknotes suspected of being counterfeit at their counters or to equip automatic machines capable of being used for cash payments with devices that recognise and detain such counterfeits (see ANNEX II).

There are no provisions regarding the detention of counterfeit banknotes by credit institutions in 10 Member States. Only in France, Germany, Greece, Austria and Portugal are there obligations on credit institutions to detain and hand over counterfeits to the NCB or to the police. There are no special provisions on counterfeit banknotes in relation to automated teller machines in any of the Member States.

From the point of view of the ESCB, it is useful for credit institutions to be legally obliged to detain counterfeit banknotes to the extent that they are able to recognise such counterfeits, in order to prevent the counterfeit banknotes from returning into circulation, although the feasibility and effectiveness of such an arrangement may need further analysis.¹⁷ The adoption of legal provisions in national law – similar to Section 36 of the Deutsche Bundesbank Act – would be helpful and the ECB has recommended to the European institutions and to the Member States the enactment of any legal measures necessary to ensure that counterfeit euro banknotes are retained, when detected, by credit institutions and other entities receiving and handling cash, and subsequently handed over to the appropriate law enforcement authorities (see point 6 of the ECB Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7)¹⁸).

¹⁷ Practical difficulties may arise since the control criteria for sorting banknotes are defined by the owners of the ATMs and vending machines. Depending on such criteria, high quality counterfeits can be accepted and worn, but genuine banknotes rejected. In addition, one has to consider the legal problems arising from the expropriation of the *bona fide* owner when such obligation to retain counterfeits is imposed on credit institutions and on other entities receiving and handling cash.

¹⁸ OJ C 11, 15.01.99. Compare also the reference to Section 36 of the Deutsche Bundesbank Act.

B. THE CIVIL APPROACH: COPYRIGHT PROTECTION (COMPLEMENTARY TOOLS AND SETTING CRITERIA FOR LEGAL REPRODUCTIONS)

1. Copyright protection for euro banknotes

1.1. The legal situation at the Community level

1.1.1 Existing rules within the EU on copyright.

The approach to copyright in the EU was originally aimed at improving the internal market of the Community since differences in national legislation on intellectual property rights can have a negative impact on trade (see the relationship between Articles 28 and 30 of the Treaty establishing the European Community (ex Articles 30 and 36)). The European Commission's view has been to introduce the harmonisation of copyright on a gradual basis and not through all-encompassing legal texts. Accordingly, there are today a number of specific Directives with a well-defined application to certain special areas of copyright.

The 1993 Directive harmonising the term of protection of copyright and certain related rights ("the Duration Directive")¹⁹ is relevant to the copyright protection of euro banknotes to the extent that it provides for a harmonisation of the period of time during which copyright protection can be claimed. Prior to the adoption of the Duration Directive, the Berne Convention allowed for reciprocity as regards the term of protection (see Article 7(8) of the Berne Convention). Such practices have now been disallowed within the Community. As from 1 July 1995 the longest term of post mortem auctoris copyright protection, which was the German term of copyright protection for the life of the author and 70 years after his/her death, has become the term of copyright protection for literary and artistic works throughout the Community (see Article 1 of the Duration Directive). Article 10(2) of the Duration Directive provides that "[t]he terms of protection provided for in this Directive shall apply to all works and subject matter which are protected in at least one Member State, on the date referred to in Article 13(1), pursuant to national provisions on copyright or related rights or which meet the criteria for protection under Directive 92/100/EEC." The relevant date referred to in Article 13(1) is 1 July 1995.

¹⁹ Council Directive 93/98/EEC of 29 October 1993, harmonising the term of protection of copyright and certain related rights, OJ EC L 290/9 (24 November 1993).

1.1.2 The euro banknotes

Article 12 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro states that participating Member States shall ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins. However, the above-mentioned Regulation does not address the aspect of copyright protection.

The copyright protection of banknotes provides a possibility for central banks to start, on their own initiative, legal action against copyright infringements by third parties, including counterfeiters, also in cases where the criteria for criminal prosecution are not fully met. Copyright protection gives access to a wide range of sanctions under civil law. In addition, the copyright protection of euro banknotes would provide the ECB with a basis for the regime regarding the reproduction of euro banknotes, which may be permitted in Stage Three.

Article 2.1 of the ECB Decision of 7 July 1998 (ECB/1998/6) on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes as amended by the ECB Decision of 26 August 1999 (ECB/1999/2),²⁰ confirms that the copyright on the first series of euro banknotes belongs to the ECB. However, in order to ensure that the protection of banknotes under copyright rules can be adequately upheld in all Member States, the ECB has enacted a Recommendation promoting the adoption of adequate national legislation, e.g. which explicitly includes banknotes within the scope of copyright.²¹

1.2. The legal position in EU Member States

In Ireland and the United Kingdom there are express provisions granting copyright to banknotes. In most of the remaining Member States, the protection of banknotes under general copyright laws has either been declared by the courts (Denmark and Austria) or is generally claimed by the NCBs in respect of their banknotes. However, some Member States (Belgium, Luxembourg, Portugal, Italy, Greece and Spain) use administrative means to protect their banknotes from reproduction and have not had reason to claim copyright. In Belgium, the Court of Appeal in Ghent ruled against the copyright protection of banknotes in a judgement delivered on 31 January 1985. Denmark, Germany, Ireland, the Netherlands, the United Kingdom and Luxembourg print banknotes with the © symbol.

²⁰ OJ L 8, 14.1.1999, p. 36 and OJ L 258, 05.10.99, p. 29.

²¹ See 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 (ECB/1998/7) — OJ C 11, 15.1.1999, p. 13.

For more details concerning the specific situation in each Member State, see ANNEX III.

2. The use of the © sign on euro banknotes

The present format for the incorporation of the © sign on euro banknotes by a horizontal sequence of (i) the © symbol, (ii) the five national variants of the abbreviation “ECB” and (iii) the date of issue, has been developed on the basis of a legal opinion on the use of the copyright notice on euro banknotes.

The legal opinion concludes that for countries which are signatories to the revised Berne Convention (“majority countries”) a copyright notice would not be mandatory for the granting of copyright protection.²² For such majority countries, the incorporation of the © symbol on euro banknotes would not be legally required for copyright protection and, therefore, the format of the copyright notice would not have an independent legal significance. All EU Member States are parties to the Berne Convention.

With regard to the remaining contracting states of the Universal Copyright Convention²³ which have not additionally joined the revised Berne Convention²⁴ (“minority countries”), the legal

²² The Berne Convention stipulates that detailed provisions on copyright protection given to literary and artistic works shall be set out in the laws of individual signatories to the Convention. Articles 2(7) and 7(4) of the Convention provide that national laws on copyright shall specify the extent of their application to applied art. Article 9 and Article III respectively provide that national legislation shall cover the reproduction of protected works or that a form of harmonised licensing system shall apply to such reproduction. Banknote designs are not expressly addressed and national legislation may exclude official works from the scope of copyright.

Under the Berne Convention, the transfer of economic rights in respect of literary and artistic works is subject to the right of the originator to claim his/her authorship of the artistic works and to object to modifications thereto which “would be prejudicial to his/her honour or reputation” (Article 6 bis).

²³ Article III, paragraph I, of the UCC contains provisions concerning the use of the copyright symbol and stipulates that works covered by the UCC shall be acknowledged by countries which are signatories to the UCC provided that all works have been marked with the © sign in connection with the name of the copyright owner and the year of first publication and that the © sign, name and year are indicated in a manner and at a place that express the copyright reservation sufficiently.

Without the indication of the © sign at the time of first publication, the copyright will not have to be acknowledged within another contracting state whose internal legal provisions require, as a precondition for copyright protection, the fulfilment of formalities such as registration or publication. The scope of protected works is defined in Article I of the UCC and includes

opinion is that the same conclusion (whereby the format of the copyright notice has no legal significance and no legal consequence with regard to the establishment of copyright protection) would apply also to the minority countries, with the possible exception of Nicaragua. Taking the above into account, the Joint Workshop concluded that, although not legally required, this should be maintained since the format chosen for the copyright notice on the euro banknotes would provide a useful warning against reproductions and its current presentation would be legally correct and in compliance with the format and sequence which are customary world-wide.

In view of the introduction of euro banknotes on 1 January 2002 (Article 10 of Council Regulation (EC) No. 974/98 of 3 May 1998), it is further suggested that the year of first publication to be included in the copyright notice could be 2002 rather than 2001 as previously envisaged. The year 2002 would seem to be the logical date of first publication, even if there is an information campaign containing images of the euro banknote designs, which may be released to the public prior to 1 January 2002. Any such prior publication would not alter the date on which the actual banknotes are first put into circulation (although such publicity material released beforehand should contain its own copyright notice).

3. The enforcement of copyright

It is proposed that the enforcement of the copyright on euro banknotes should take place in a decentralised manner, with the assistance of the NCBs. A decentralised approach would seem to contribute favourably to the required effectiveness and speed of action. An exchange of information with the ECB and reviews of any action taken could form the basis for convergence towards uniformity of treatment.

This decentralised approach has taken the form of an ECB Guideline²⁵ addressed to the NCBs, with the following content:

works of literature, science and arts. A list of what this includes can, in turn, be found in Article I of the Berne Convention.

²⁴ Algeria, Andorra, Azerbaijan, Bangladesh, Belarus, Cambodia, Cuba, the Dominican Republic, Guatemala, Kazakhstan, Laos, Nicaragua, Saudi Arabia, Tajikistan.

²⁵ ECB Guideline of 7 July 1998 on certain provisions regarding euro banknotes, as amended on 26 August 1999 (ECB/1999/3), OJ L 258, 05.10.99, P. 32.

- the ECB would request the NCBs to prevent, within their jurisdiction, the use of the copyright on euro banknotes in other cases than those permitted by the reproduction rules, and to take adequate action against infringement of its copyright;
- if any action needs to be taken vis-à-vis a resident of a participating EU Member State, the case shall be referred to the NCB of such Member State; cases of unauthorised use of the copyright outside the participating EU Member State shall be referred to the ECB by any NCB of a participating Member State detecting such an infringement;
- with regard to legal proceedings in the relevant jurisdiction, the ECB provides the relevant NCB with the requisite capacity to act on behalf of the ECB; and
- normal agency provisions should be agreed to cover, inter alia, any information obligations of NCBs vis-à-vis the ECB, the right of the ECB to instruct the NCBs and aspects relating to legal and other costs.

Similar roles in the enforcement of the copyright to the euro banknotes could be agreed with non-participating NCBs by way of bilateral agreements since ECB Guidelines only apply to NCBs of participating Member States.

4. The reproduction of euro banknotes

4.1. The legal situation in the Member States

Innocent reproduction of euro banknotes can be defined as an activity whereby a euro banknote, or parts of such banknote, is reproduced or otherwise used by a person to create a design, picture or bill for a non-fraudulent purpose. The main fields of innocent reproduction are advertising and press. Innocent reproduction can infringe copyright and put the image of the issuer of the banknotes at stake and could lead to confusion as regards payments.²⁶ To the extent that copyright protection applies to banknotes, such protection would entail a prohibition of reproduction as a starting-point.

All Member States, except the Netherlands and Sweden, have legal provisions according to which reproductions of banknotes with legal tender status “without intention to defraud” are subject to fines or short-term imprisonment. Although such national provisions are different in nature (penal

²⁶ However, innocent reproduction may have a positive effect on stimulating the use of fiduciary money as a payment instrument by the public at large.

law or administrative law), they are to some extent similar and may be applied to prevent certain reproductions of euro banknotes.

In all Member States except one,²⁷ there is a possibility of legally reproducing banknotes.

The specific conditions existing in Member States for the permitted reproduction of national banknotes refer to the size of the reproduction (Belgium, Germany, Ireland, Luxembourg, the Netherlands, Spain, Portugal, Finland and the United Kingdom), the material on which the reproduction is made (Belgium, Luxembourg, the Netherlands and Portugal), the reproduction angle (Ireland and the United Kingdom), the coverage of parts of the banknote which is reproduced (Ireland, the Netherlands, Spain and Finland), limitations with regard to colours (Belgium, Ireland, Luxembourg, the Netherlands and Portugal), one-sided reproduction (Ireland, the Netherlands, Spain, Portugal and Finland), the purpose of the reproduction (Ireland, Spain, Finland, Austria and the United Kingdom) and signatures, which may not be reproduced (Belgium, Luxembourg and Ireland).

The current national situation is summarised, country by country, in ANNEX IV and in ANNEX V.

4.2. Proposed measures

The widespread practice of authorising, under pre-determined rules, innocent reproductions and the foreseeable difficulties in implementing a total prohibition have led the Joint Workshop to propose a regime for permitted reproductions of euro banknotes under certain specified conditions.

The proposed regime for permitted reproductions of euro banknotes should be a unified regime which shall be applied in a decentralised manner, but in the same way throughout the euro area, and it should be a regime of general permission of reproductions falling within the rules and meeting certain specified conditions. The reproduction rules are published in the Official Journal of the European Communities (see the ECB Decision of 7 July 1998 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes (ECB/1998/6) as

²⁷ Italy is the only country with a total prohibition on reproduction. In any event, the situation changed as from 1 January 1999 with the entry into force of Article 4 of the Legislative Decree No. 43 of 1998. Article 4, paragraph 4, of the Legislative Decree added a last paragraph to Article 142 of the Decree 204 of 1910, which states that the prohibition on the reproduction of banknotes "shall not apply in the cases permitted by Community provisions or by the ECB with reference to banknotes denominated in euro".

amended by the ECB Decision of 26 August 1999 (ECB/1999/2))²⁸ and are aimed at creating a harmonised system of reproduction rules throughout the euro area.

The reproduction rules should be enforced through copyright action: if a person does not comply with the rules, the ECB and/or the relevant NCB should be able to commence legal proceedings against such a person and seize the unauthorised reproductions. In this sense, the enforcement of copyright can be viewed as part of an effective reproduction regime for euro banknotes.

C. THE MATERIAL APPROACH: ANTI-COPYING DEVICES FOR REPRODUCTION EQUIPMENT

Colour copiers, scanners and other reproduction equipment can produce copies of banknotes that are sufficiently realistic to mislead members of the public. With present day and emerging reproduction technologies, this problem can be expected to intensify further. Even an extremely rapid development of the security aspects of banknote production technology is unlikely to bring about a solution that is adequate to meet the scale of the threat.

The desirable situation would be one where no colour photocopying machines and other reproduction equipment could be manufactured, imported, sold, or otherwise transferred within the EU unless the equipment in question had incorporated devices to prevent the reproduction of banknotes.

At present there are no legal provisions in any Member State requiring the introduction of anti-counterfeiting devices in colour photocopying or scanning machinery.²⁹

Outside the Community, Singapore has introduced legislation to ban the import of photocopiers that do not have anti-counterfeiting devices. This legislation has been in effect since 1 May 1997.

Virtually all modern, advanced colour copying machines are manufactured by Japanese companies, which are members of, and represented by, the Japanese Business Machines Association (JBMA). In general, two parallel approaches have been followed in respect of, inter alia, colour copying machines: a co-operative approach through discussions with the JBMA and a legislative

²⁸ OJ L 258, 05.10.99, p. 29.

²⁹ According to information submitted by the members of the Working Group of Legal Experts, in Finland, however, Suomen Pankki has entered into two forms of agreement that have been in effect since the 1970s.

approach, which would ban the sale and import of reproduction equipment which does not incorporate banknote anti-copying devices.

The legislative approach was considered by the Joint Workshop to be a parallel exercise to the “co-operative approach”, under which voluntary agreements with colour copier manufacturers would achieve the aim of having colour copiers equipped with anti-copying devices. The Joint Workshop, however, realises that legislation (i) is technically difficult to elaborate and could perhaps become rapidly obsolete, (ii) will be difficult to enforce and (iii) is easy to overcome by counterfeiters and could therefore be seen rather as an expression of policy objectives and determination than as an effective tool in itself.

However, the following should also be noted:

1. The co-operative approach has proved effective as far as high quality colour copiers are concerned, where the production is highly concentrated.
2. It is therefore important to supplement the co-operative action by a legislative one. Within the European Union, such action could be based on Articles 94 or 95 of the EC Treaty (ex Articles 100 and 100a), because it would help to avoid the disruption of the single market through the adoption of national, possibly divergent, standards and rules.
3. Community legislation could be supplemented by an international approach based on commercial policy (Article 133 of the EC Treaty (ex Article 113)), in conformity with World Trade Organisation rules, which allow restrictions to trade based on public policy considerations.
4. The standards imposed by the legislation should be adaptable to rapidly evolving techniques. The ECB could act as a catalyst in order to promote international co-operation in meeting those new challenges, but it has to dispose of its own means.

It would be desirable for the legislative position and any consequent rules to be uniform throughout the EU. Such rules could protect the euro, as well as other currencies, and should be common for the EU in order to be compatible with the internal market and the EU exclusive competence with regard to commercial policy and customs union. This is a matter that concerns all Member States, irrespective of their future situation with regard to EMU.

In view of the above, the ECB has recommended (see point 7 of the ECB Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7)³⁰) the enactment of Community legislation in parallel with the preparation of an international convention which would make compulsory the installation of technical devices in colour copiers and machinery capable of graphic reproduction – whether manufactured in the Community or imported from outside – that would permit the identification of banknotes and impede their reproduction.

II. LEGAL ASPECTS OF FIDUCIARY CIRCULATION

A. ADOPTION AND PUBLICATION OF EURO BANKNOTE DESIGNS

The Member States apply different formulas for granting an official seal for the adoption and issuance of banknotes (see ANNEX VI). In eight Member States (Austria, Germany, Greece, Spain, France, Finland, Belgium and Sweden), it is for the NCB itself to adopt the formal decision on a banknote model and then announce this decision by publishing it in the Official Gazette. In four Member States (Ireland, Luxembourg, the Netherlands and the United Kingdom), there are no legal rules or prescriptions concerning the adoption and publication of new banknote designs. In these Member States, the adoption and publication of new banknote designs for banknotes issued by the NCB fall within the competence of the NCB and there are de facto (i.e. non-statutory) procedures and practices in relation thereto. In three other Member States, an official seal is legally necessary. In Portugal, the features of new banknotes denominated in escudos are approved by a date to be fixed in special ordinance by a Decree Law on a proposal from the Banco de Portugal. The features of euro banknotes are approved according to Article 106 of the EC Treaty (ex Article 105a) and Article I of the ECB Decision of 7 July 1998 (ECB/1998/6) on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes as amended by the ECB Decision of 26 August 1999 (ECB/1999/2).³¹ In Italy, a Decree by the Ministry of the Treasury (upon the advice of the Banca d'Italia), and its publication in the Official Gazette, is needed. In Denmark, a practice has been developed according to which the Board of the Academy of Fine Arts and the Danish Society of the Blind are consulted. Furthermore, denominations, text and form need the approval of the Royal Bank Commissioner.

³⁰ OJ C 11, 15.01.99.

³¹ OJ L 8, 14.1.1999, p. 36 and OJ L 258, 05.10.99, p. 29.

In order to achieve a single legal regime for euro banknotes, some of these national rules on the adoption of new banknote designs and on the issuance of national banknotes, which require the intervention of authorities outside the ECB, would have to be abolished or adapted.³²

B. EXCHANGE OF DAMAGED OR WORN BANKNOTES

1. The legal situation in the Member States

All Member States have a regime for the redemption of damaged banknotes. In some Member States there are express legal provisions regarding the exchange of mutilated banknotes. In Germany, Finland, Italy, Luxembourg and Austria such legal provisions oblige NCBs to exchange damaged or mutilated banknotes according to conditions provided by law. In Greece, the Bank of Greece exchanges damaged or mutilated banknotes on the basis of its own regulatory provisions. In Sweden, Sveriges Riksbank may exchange such banknotes under rules established by the Sveriges Riksbank Act. In the Netherlands, De Nederlandsche Bank is not obliged by national legislation to exchange partially damaged banknotes. Nevertheless, it operates internal rules for such exchange. Under the Portuguese legal system, the exchange of mutilated banknotes is linked to the provisions related to the issuance monopoly of the Banco de Portugal. In the other Member States, the exchange of damaged banknotes is not covered expressly by legislation. In such Member States, the NCBs are not obliged to exchange mutilated banknotes, but they have developed certain practices within this field (e.g. Danmarks Nationalbank and the Bank of England) or internal rules (e.g. the Banque de France). In Spain, the legal basis for the exchange of mutilated banknotes is a contractual clause included in a form that the presenter has to sign.

The current national legal provisions with regard to the exchange of damaged or mutilated banknotes differ significantly among the 15 Member States (see ANNEX VII). Even in those cases where legal provisions are similar or nearly identical, there are varying national practices to be taken into account. Therefore, it can be concluded that the legal regime concerning the exchange of damaged banknotes is far from being standardised throughout EU Member States. Nevertheless, some legal patterns recur.

³² In Italy, rules providing for the intervention of the Ministry of the Treasury for the adoption and publication of banknotes were repealed as from 1 January 1999.

The most common method is **the so-called 50% arrangement**. According to this system, the NCB will exchange mutilated banknotes if more than half of the banknote (partly required: in one piece) is presented. This method is applied with certain minor differences in the following countries: Denmark, Germany, Spain, France, Italy, Luxembourg, Austria, Finland and the United Kingdom.

Another widespread rule is **the two-thirds method**, which means that the face value of the torn banknote is exchanged if more than two-thirds of the banknote is existing, 50% of the face value is exchanged if more than one-third but less than two-thirds is preserved and no exchange is paid if less than one-third is presented. This rule is applied – with small deviations – in Belgium, Portugal, Sweden and Ireland.

De Nederlandsche Bank follows an **“eighth approach”**. Reimbursement takes place in relation to the multiple of two-eighths of the banknote. In Greece the full face value of the damaged banknote is exchanged if more than 70% of the original is preserved. If more than 40% and less than 70% is preserved, the Bank of Greece will exchange half the face value and no exchange is accepted if less than 40% of the original is preserved.

2. The desired situation

The legal regime for the exchange of damaged euro banknotes should be harmonised throughout the whole euro area, including exchange fees, if any. The lack of such harmonisation may bring about a type of “damaged banknote tourism” to the NCB offering the best conditions or a “banknote exchange competition” between the legal provisions of the NCBs. Any such development seems to be clearly incompatible with Monetary Union itself and particularly with the idea and the legal concept of a single currency.

The following features for harmonised rules have been proposed:

- the rules must be fair and must guarantee a high level of protection against fraud or deception;
- the rules should be relatively easy to enforce, which would also be advisable in order to ensure a completely uniform application throughout the euro area; and
- the rules should take into account existing national regimes of EU Member States.

3. The means of achieving the desired situation

Laying down the rules and criteria for the exchange of damaged banknotes would establish a regime for the rights of banknote holders vis-à-vis the NCB. To a certain extent, such a regime may also affect private parties to a payment; creditors may be more willing to accept damaged banknotes insofar as these are redeemable for complete banknotes.

The existing rules on banknote exchange grant banknote holders the right to exchange damaged banknotes, although the content of these rules may offer a certain amount of discretion to the NCB in assessing the particular case. As regards the importance of such rules for the general public, the Joint Workshop has suggested that any regime for the exchange of damaged banknotes should be transparent.

Accordingly, the Joint Workshop has proposed that the ECB should adopt provisions regarding the exchange of mutilated or damaged banknotes and establishing the general conditions for such an exchange, and that such provisions should be published in the Official Journal of the European Communities.

The regime is now established in Article 3 of the ECB Decision of 7 July 1998 (ECB/1998/6) on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes as amended by the ECB Decision of 26 August 1999 (ECB/1999/2).³³ According to such Article, the NCBs of participating Member States shall, upon request, exchange mutilated or damaged legal tender euro banknotes in the following cases:

- (a) when more than 50% of the banknote is presented;
- (b) when 50% or less of the banknote is presented if the applicant can prove that the missing parts have been destroyed.

The exchange of mutilated or damaged banknotes requires the fulfilment of the following conditions (see Article 3.2 of the ECB Decision of 7 July 1998 (ECB/1998/6) as amended by the ECB Decision of 26 August 1999 (ECB/1999/2)):

- (a) identification of the applicant in cases of doubt as to the applicant's legal title to the banknotes and the authenticity of the banknotes;

³³ OJ L 8, 14.1.1999, p. 36 and OJ L 258, 05.10.99, p. 29.

- (b) upon reasonable suspicion that a criminal offence has been committed or that the banknote has been intentionally mutilated or damaged, written explanations with regard to the cause of the mutilation or damage and what has become of the missing parts of the banknote;
- (c) written explanations of the kind of stain, contamination or impregnation when ink-stained, contaminated or impregnated banknotes are presented;
- (d) a written statement on the cause and kind of neutralisation when banknotes are submitted by credit institutions if they have been discoloured by activated anti-theft devices;
- (e) payment by the applicant of the fee that the ECB may establish in cases of labour-intensive analysis by NCBs.

4. The right to retain mutilated banknotes

4.1. The legal situation in the Member States

In Greece and the Netherlands there are legal provisions that entitle the NCB to retain damaged banknotes or banknote fragments, the exchange of which has been refused. Nevertheless, in the case of the Netherlands it is not certain whether such action would be upheld if a court has to rule whether the banknote should be restored to the owner or not. In Portugal the legal basis for the right of the Banco de Portugal to retain such banknotes or banknote fragments is formed by the provisions related to the issuance monopoly, while in Spain it is a contractual clause included in the form that the presenter has to sign. In some Member States (Denmark, Italy, Germany and Luxembourg), mutilated banknotes or fragments of banknotes are, as a rule, “cancelled” and returned to the presenter. In Austria, incomplete banknotes unfit for redemption are returned. In other Member States (Sweden and the United Kingdom), there is a practice whereby these banknotes are not returned to the presenter. The public generally accepts this practice without challenge. In France, the internal rules regarding the exchange of mutilated banknotes are drafted so as to avoid exchanging counterfeits or a collage of several genuine notes. Thus, dubious mutilated banknotes are not exchanged under the French rules. With the NCB being the national expert in the domain of banknote counterfeits, if the NCB does not acknowledge a banknote (or fragments) as genuine, it is deemed to be a fake and it may be retained.

4.2. The legal situation at the Community level

It is doubtful whether Community law (in particular Article 106 (1) of the EC Treaty (ex Article 105a) and Article 16 of the Statute of the ESCB) provides a suitable legal basis for the ECB and NCBs within the euro area to retain mutilated euro banknotes or fragments of such banknotes, the exchange of which has been refused.

In this context, the Joint Workshop has suggested that, subject to any legal constraints, participating NCBs shall retain mutilated banknotes for destruction following a given period of time unless a legal cause demands their conservation or their restitution to the applicant. The matter is covered in the ECB Guideline on certain provisions regarding euro banknotes, as amended on 26 August 1999 (ECB/1999/3),³⁴ which is addressed to the participating NCBs. Pursuant to Article 2.2 of such ECB Guideline, “when implementing the ECB Decision ECB/1998/6 and subject to any legal constraints, NCBs shall destroy any mutilated banknotes or the pieces thereof after a period of six months, unless there are legal grounds for them to be preserved or returned to the applicant”.

C. WITHDRAWAL

1. The legal situation in the Member States

In some Member States (Spain, Ireland, Luxembourg, Belgium, Austria, Germany, Portugal, the United Kingdom and Finland), it is for the NCB itself to determine the withdrawal and exchange of a banknote type or series. In other Member States, the withdrawal is decided by the Parliament (Sweden), or a final decision or approval by a governmental authority (the Netherlands, Greece, Italy, Denmark and France).

Once the decision has been adopted, banknotes are withdrawn according to the requirements, procedures and conditions of publication provided by national legal regimes ([see ANNEX VIII](#)).

³⁴ OJ L 258, 05.10.99, p. 32.

According to the legislation of some Member States, the banknote legal tender status ceases to apply after the expiry of the withdrawal period (Spain, Austria, Germany, Greece and Portugal), and in Finland, the United Kingdom and Luxembourg, when the NCB decision on the annulment of their validity enters into force. In the other Member States, the expiry date of the banknotes' legal tender status is fixed by law (Sweden), by a governmental authority (the Netherlands, Denmark, Italy and France), or not at all because there is no such final expiry date (Ireland).

With regard to the regime for banknotes presented for redemption, once they have been withdrawn, the NCBs must exchange such banknotes:

- for an unlimited period: Belgium, Spain, Ireland and the United Kingdom;
- for established periods: the Netherlands: 30 years; Austria: maximum of 20 years; Portugal: 20 years; Greece: 10 years; France: 10 years; Finland: 10 years from the date of entry into force of the decision on the annulment of the banknote validity; and Italy: 10 years after their legal tender status has been withdrawn;
- for periods decided by the issuer in Luxembourg;
- in Germany and Sweden, the respective NCB is allowed, but not obliged, to replace banknotes that have become invalid;
- in Denmark withdrawn banknotes lose validity 12 months from the date on which the banknote ceases to be legal tender. However, Denmark's Nationalbank has the right to redeem the notes after this time, if justified by circumstances.

2. The legal situation at the Community level

From 31 December 2001 under Articles 13 and 16 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro, national banknotes will be redeemed against euro banknotes according to the withdrawal procedures of the relevant Member States. According to Article 106 (1) of the EC Treaty (ex Article 105a) and Article 16 of the Statute of the ESCB, the ECB shall have the exclusive right to authorise the issuance of banknotes within the Community. Since the ECB is entitled to authorise the issuance of euro banknotes, it should also be able to decide upon the withdrawal of the same. Therefore, the ECB will also be responsible for the withdrawal of euro banknotes. Article 4 of the ECB Decision of 7 July 1998 (ECB/1998/6) on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes as

amended by the ECB Decision of 26 August 1999 (ECB/1999/2)³⁵ outlines the basic features of the withdrawal regime applicable to euro banknotes; the withdrawal of a euro banknote type or series will be regulated by a specific decision of the Governing Council published for general information in the Official Journal of the European Communities and other media. This decision will cover, as a minimum, the following aspects:

- the euro banknote type or series to be withdrawn from circulation;
- the duration of the exchange period;
- the date on which the euro banknote type or series will lose its legal tender status;
- the treatment of the euro banknotes presented once the withdrawal period is over and/or they have lost their legal tender status.

III. BANKNOTES ISSUED BY ENTITIES OTHER THAN THE NCBS

A. THE PRESENT SITUATION

1. Banknotes issued by commercial banks

In all Member States but the United Kingdom, the NCB has the exclusive right to issue banknotes.³⁶ Due to historical reasons, the legislation in the United Kingdom does not grant exclusive rights to the NCB in respect of banknote issuance.

Three banks in Scotland and four in Northern Ireland issue pound sterling-denominated banknotes. These banknotes do not have legal tender status, but represent some 10% of the total amount of Bank of England banknotes in circulation.

³⁵ OJ L 8, 14.1.1999, p. 36 and OJ L 258, 05.10.99, p. 29.

³⁶ Pursuant to the entry into force of the Law of 23 December 1998 (1 January 1999) concerning the monetary status and the Banque centrale du Luxembourg, notes issued by the Banque Internationale à Luxembourg have lost their legal tender status. In a recent modification of the Articles of Incorporation of the Banque Internationale à Luxembourg, all references to the note-issuing activity were deleted. The value of BIL notes in circulation is constantly decreasing (EUR 660,000 as at end-July 1999.)

Bank	Amount in circulation (in millions of GBP)	Number of banknotes
<i>Scottish banks (end-1995)</i>	<i>1,771</i>	<i>172,179,000</i>
<i>Northern Ireland banks (end-1996)</i>	<i>881</i>	<i>59,477,000</i>
TOTAL	2,652	231,656,000

The UK Acts of 1845 and 1928 set forth the issuing rules for Northern Irish and Scottish banks, which may be summarised as follows:

- Commercial banks are allowed to issue banknotes up to a ceiling without coverage of any kind. This ceiling is very low (less than 0.2% of total circulation): the “fiduciary issue” for Northern Irish banks amounts to GBP 2.1 million and the “circulation authorised by certificates” for Scottish banks is set at GBP 2.7 million.
- Banknotes issued above such amount have to be covered by gold and silver coins or by Bank of England banknotes deposited at certain nominated offices or set aside at the Bank of England. The Northern Irish banks place such cover only over the weekend, while the Scottish banks provide broadly continuous cover.
- The Bank of England banknotes held are included in the banknote circulation figures published by the Bank of England.

The commercial banks adjust their respective cover every weekend; before close of business they send, by means of electronic transfer, the countervalue of the banknotes issued. The Bank of England created special “giant” banknotes of GBP 1 million face value to facilitate this cover. The Bank of England has no control over this matter and only gives effect to the transactions initiated by the note-issuing banks. The Register of Bank Returns in the Stamp Office (part of the Inland Revenue) effects control and supervision by statute, under the ultimate jurisdiction of the Treasury.

2. Banknotes issued by local authorities

In one specific case local authorities in the Community are entitled to issue banknotes: Gibraltar. This is a territory of the Community outside the Customs Union, the Common Agricultural

Policy and the taxation co-operation directives.³⁷ Since 1934 its local authorities have issued banknotes denominated in the local pound (Gibraltar pound), which is at par with the pound sterling. These banknotes are issued in conformity with local statutes, are legal tender in that territory and are not covered at the Bank of England. The monetary income belongs to the local authorities ("Currency Note Income Account"). If and when the United Kingdom adopts the single currency, Article 106 (1) of the EC Treaty (ex Article 105a (1)) will apply and the euro banknotes issued by the ECB or the NCBs will be the only legal tender banknotes in Gibraltar.

B. DISTORTIONS THAT MAY RESULT FROM THE ISSUANCE OF NON-LEGAL TENDER BANKNOTES BY NON-NCBS IN STAGE THREE OF EMU

1. Questions related to monetary policy and monetary financing to the public sector

The note-issuing entities, which do not fully cover their banknote circulation, could be immunised from the effects of the ECB's monetary policy. The transmission of monetary impulses to the economy will be distorted in areas of high circulation of "local" banknotes.

Note-issuing banks are not prohibited from financing regional and local authorities, while NCBs are not permitted to do so pursuant to Article 101 (1) of the EC Treaty (ex Article 104 (1)).³⁸ Some local bodies could therefore obtain monetary financing through such commercial banks.

In the opinion of the Joint Workshop, the issuance of uncovered banknotes by non-NCB public sector bodies raises concerns in relation to the prohibition of monetary financing and of privileged access of the public sector to money markets, as established in Articles 101 and 102 of the EC Treaty (ex Articles 104 and 104a).

³⁷ Article 299 (4) of the EC Treaty (ex Article 227) "The provisions of this Treaty shall apply to the European territories for whose external relations a Member State is responsible."

³⁸ "Overdraft facilities or any other type of credit facility with the ECB or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments."

2. Questions related to competitive distortions

Commercial banks having the privilege of banknote issuance enjoy a franchise that other credit institutions do not since they may gain seignorage. They retain a certain margin for managing their liquidity, may obtain seignorage, use as profits the amount of non-redeemed banknotes which have been withdrawn from circulation, and could provide monetary financing to public sector customers and advertise their services through their banknotes. In the opinion of the Joint Workshop, such a system gives rise to competitive distortions as it favours those banks which benefit from such a privilege. Article 2 of the Statute of the ESCB stipulates the objective to pursue an “open market economy with free competition, favouring an efficient allocation of resources”.

3. Questions related to public acceptability

Different designs from different issuers for the same denominations of euro banknotes could give rise to confusion in the general public outside the territories where they are issued. However, provided that such banknotes would not be widely circulated outside those territories, as is currently the case, this should not constitute a major problem.

4. Distortions in monetary income calculations

Non-NCB issuers of banknotes obtain a seignorage profit³⁹ if all or part of the issue is not fully covered by NCB banknotes. Such seignorage will not fall under Article 32 of the Statute of the ESCB, at least for the uncovered circulation of commercial banknotes. This situation leads to distortions in the calculation of monetary income: any seignorage excluded from Article 32 of the Statute of the ESCB entails the contribution of the respective NCB to the pooled income being reduced for that amount.⁴⁰ Part of the liability base for monetary income allocation would escape income pooling, and thus ESCB calculations would be distorted.

³⁹ On the other hand, they will incur some costs for printing, distributing and sorting these banknotes.

⁴⁰ In compliance with Article 32.2 “Subject to Article 32.3, the amount of each national central bank’s monetary income shall be equal to its annual income derived from its assets held against notes in circulation and deposit liabilities to credit institutions. These assets shall be earmarked by national central banks in accordance with guidelines to be established by the Governing Council.”

5. Questions related to statistical reporting

Banknotes issued by non-NCBs do not represent central bank money. This distinction has to be borne in mind when elaborating monetary aggregates. The “banknotes in circulation figure”, which forms part of the monetary aggregates, is to be calculated on a daily basis. Thus, the circulation of banknotes in Scotland and in Northern Ireland would have to be calculated on a daily basis (instead of on a weekly basis as is now the case).

C. LEGAL ASPECTS

In accordance with Article 106 (1) of the EC Treaty (ex Article 105a (1)) and Article 16 of the Statute of the ESCB, any issue of banknotes must be authorised by the ECB. The last sentence of Article 16 states that the ECB shall respect as far as possible existing practices regarding the issuance and design of banknotes.

It has been argued that Article 16, second paragraph, of the Statute of the ESCB supporting current practices means that all banknote-issuing institutions should be allowed to continue their activities in Stage Three. Such interpretation would not seem legally correct. Both Article 106 (1) of the EC Treaty (ex Article 105a) and Article 16, first paragraph, of the Statute, give the ECB the exclusive right to authorise banknote issuance; such an exclusive right allows a certain scope for discretion and would not entail an obligation on the part of the ECB to authorise automatically the issuance of banknotes by non-ESCB entities. The objectives of the ESCB are clearly established in Article 2 of the Statute of the ESCB and provide for the primacy of Community objectives over national, local or private interests.

The new environment for EMU would not allow an automatic extension of current regimes without any change. Current laws enabling banknotes to be issued by non-NCBs provide detailed rules concerning the issuance, the design and the legal regime applicable to such banknotes; the competence for the regulation of currency is transferred in Stage Three to the Community level, leaving no room for exclusively national arrangements.

In addition, any continuation of existing practices would under all circumstances have to accommodate a complex set of corrective measures in order to avoid the distortions described above. Therefore, the issuance by such non-ESCB entities of euro banknotes will, in any event, require legislative action adjusting the arrangements for the new environment. Article 16, second

paragraph, of the Statute of the ESCB cannot be read as entailing a legal right to continue banknote issuance by non-ESCB entities.

The ECB could either refuse authorisation or authorise the issuance of non-legal tender banknotes on a case-by-case basis.

As regards the issuance of banknotes by public authorities other than the ECB or the NCBs, as is the existing practice in Gibraltar, its compatibility with the EC Treaty and the Statute of the ESCB will have to be assessed under Article 109 of the EC Treaty (ex Article 108) if the United Kingdom notifies the Council that it intends to move to the third stage.

In view of the negative effects mentioned above any authorisation should be conditional on due satisfaction of the concerns indicated above.

Having regard to the above, the ECB has issued a Recommendation addressed to the Council of the European Union, the European Parliament, the Commission of the European Communities and the Member States⁴¹ where it is recommended that Member States should avail themselves of the legal means necessary to ensure due compliance with the prohibition on the issuance of unauthorised banknotes, as laid down in Article 106 (1) of the EC Treaty (ex Article 105a). It is also recommended that existing national legislation protecting the exclusive right of national central banks to issue national banknotes should, where necessary, be adapted before 2002 to cover the exclusive right conferred on the ECB by the Treaty with regard to banknotes (see point 2 of the ECB Recommendation of 7 July 1998 (ECB/1998/7)).

D. THE RELATED ISSUE OF "FANCY" BANKNOTES

Non-legal tender banknotes are notes, which may be totally whimsical, or which may imitate real banknotes and could be mistaken for real banknotes, and which are issued with the purpose of being used as means of payment (so-called fancy banknotes). Fancy banknotes can be drawn up in a national currency or in euro, in a foreign currency, or in a fancy currency. Fancy banknotes may affect the credibility afforded to legal tender banknotes among the general public. Two types of non-legal tender banknotes may be identified; both can be referred to as fancy banknotes.⁴²

⁴¹ ECB Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7), OJ C 11, 15.01.99.

⁴² Three Scottish banks and four Northern Irish banks enjoy a legal privilege to issue non-legal tender banknotes under certain strict limitations and the control of the Register of Bank

The first type refers to monetary tokens in the form of banknotes capable of being used in payments in replacement of banknotes authorised by law; to fall within this category the fancy banknotes must be issued in large quantities and should be widely used and generally accepted in an indefinite area as if they were legal tender banknotes. Such banknotes would put the banknote monopoly of the central bank at risk.

The second type refers to banknotes which are not reproductions or imitations and therefore cannot be mistaken for legal tender euro banknotes, but which from their outward appearance look like “banknotes” so that one may doubt whether such notes are authorised paper money. Such notes might affect the credibility afforded to legal tender banknotes among the general public and might lead to confusion as regards payments.

The references in the following text to fancy banknotes should be read as referring to these two types of non-legal tender banknotes.

1. National experiences of fancy banknotes

Some Member States have experienced fancy euro banknotes or coins (although other such projects may exist).

- (i) In Germany, there has been one case in 1996 of temporary and local issuance of euro coins authorised by the Ministry of Finance and irrelevant in economic significance (“Euro Waldkirch”). Because of local restriction and the limited duration, the “experiment” did not infringe Section 35 of the Deutsche Bundesbank Act. Some private companies mint “euro coins” and offer them to the public via newspapers and other media.
- (ii) France has experienced initiatives involving fancy ECU/euro banknotes since 1993. The Banque de France is opposed to these initiatives, which are often taken at the local level and frequently sponsored by the European Commission. Due to their appearance (which is very different from the real banknotes) and their purposes (they are not intended to replace the notes), these initiatives are not formally contrary to French law.

Returns. These banknotes have their own designs and are not included in the reference to fancy banknotes.

- (iii) Belgium has also received requests for approving the issuance of fancy euro banknotes and coins during the transitional period, some of which have cross-border implications (in the framework of the “Coopération transfrontalière dans les Flandres du Westhoek” with France and in the framework of the “Euro 2000” with the Netherlands), which have been systematically discouraged.

Such fancy banknote projects, and also fancy euro coin issuance, may soon take on a new dimension in several Member States.⁴³ It has been stressed that such banknotes would have a negative effect on the positive image of the euro and would advertise the euro and the ECB in an adverse way, especially during the changeover.

2. National protection against fancy banknotes

There are three types of national provisions which may deter the issuance and circulation of fancy banknotes: (i) legal provisions concerning the central bank monopoly on issuing banknotes as enforced by criminal provisions, (ii) legal provisions concerning the central bank monopoly as enforced through administrative fines and (iii) specific rules against fancy banknotes. Copyright and reproduction rules may also deter the issuance of fancy euro banknotes, but only if their appearance is more or less similar to genuine euro banknotes; hence, to the extent that copyright rules protect banknotes, the euro banknote designs will be protected against imitations.

In all Member States (with the exception of Luxembourg and the United Kingdom), the issuance of banknotes is an NCB legal monopoly. This monopoly is enforced by criminal law provisions in 13 Member States (France, Belgium, Denmark, Germany, Ireland, Austria, the Netherlands, Greece and Portugal – whereby Portugal has a dual sanction regime on the matter, both criminal and administrative⁴⁴ – Finland, Sweden, Italy and the United Kingdom); Spain has a purely administrative regime: offenders may pay an NCB administrative fine; in Portugal the mere reproduction or imitation of banknotes denominated in escudos (as opposed to counterfeiting and forgery/change of face value), without the intention of putting the reproduced banknotes into

⁴³ And outside the Community, e.g. in 1996 the Channel Islands issued euro coins redeemable against legal tender notes.

⁴⁴ The referred dual sanction regime (administrative and criminal law provisions) is only applicable to national banknotes denominated in escudos. Banknotes denominated in euro will only benefit from criminal law protection and from the protection granted by applicable Community rules.

circulation, is administratively punishable with a fine. The Banco de Portugal may seize banknotes denominated in escudos and euro banknotes and other technical means that have been used to commit criminal or administrative offences.

Accordingly, and as further indicated in ANNEX IX, Member States have legal provisions which may be used to protect their respective NCBs' monopoly on issuing national banknotes against fancy banknotes.

E. PROPOSED MEASURES

Although the national rules of some Member States (whereby banknotes which may be used instead of legal tender are prohibited) might apply to fancy euro banknotes, in other Member States (notably France) there is uncertainty as regards the application of national rules as protection against fancy euro banknotes before the introduction of the euro as legal tender.

The existence of the euro currency without euro banknotes and coins during a transitional period, starting on 1 January 1999, might trigger the extensive use of fancy euro banknotes and coins; many transactions will be denominated in euro but will have to be settled in national banknotes and coins, and this might favour the use of fancy banknotes and coins, especially if these are issued by solvent entities.

Having regard to the above, the ECB has recommend that Member States and Community institutions should not promote but rather discourage and strictly control the issuance, holding and use of non-legal tender euro banknotes and coins, in particular prior to 1 January 2002.⁴⁵

⁴⁵ See point 1 of the ECB Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins (ECB/1998/7), OJ C 11, 15.01.99.

ANNEX I

COUNTERFEITING: THE LEGAL SITUATION IN THE MEMBER STATES

MS	Act	Intention, conditions	Object	Penalty
Belgium	Counterfeiting, falsification		banknotes (issued with authorisation by national or foreign law)	forced labour of 15 to 20 years
	Participating in putting into circulation or in the attempt to put into circulation	in concert with the forger	counterfeit banknotes	— " —
	Participating in the introduction into Belgium or in the attempt to introduce into Belgium	— " —	— " —	— " —
	Procurement and putting into circulation or attempting to put into circulation	knowingly	— " —	imprisonment of one to five years
	Receipt, procurement	with the intention of putting counterfeit money into circulation	— " —	imprisonment of six months to three years
	Attempt to commit the offence mentioned above	— " —	— " —	imprisonment of three months to one year
	Putting into circulation	having received them in good faith, but subsequently having discovered that they are counterfeit	— " —	imprisonment of one month to one year and fine

MS	Act	Intention, conditions	Object	Penalty
	Counterfeiting, falsification — " — Receipt, procurement for own use Manufacturing, sale, distribution	with fraudulent intent	matrices, printing forms and other objects which may be used to counterfeit Belgian and foreign banknotes matrices, printing forms and other objects which may be used to counterfeit Belgian and foreign banknotes prints and other objects that are similar to banknotes	"réclusion" imprisonment of eight days to one year imprisonment of eight days to three months and/or fine
Denmark	Counterfeiting, falsification, debasement Procurement for own or for others' use Forgery consisting of reducing the value of legal tender Putting into circulation	with a view to putting counterfeit money into circulation as legal tender — " — — " —	money (both Danish and foreign banknotes) counterfeit, falsified or debased money money counterfeit, falsified or debased money	imprisonment of up to 12 years (for debasement up to 4 years) imprisonment of up to 12 years imprisonment of up to four years imprisonment of up to 12 years

MS	Act	Intention, conditions	Object	Penalty
	Putting into circulation	received in good faith	counterfeit, falsified or debased money	simple detention or fine
	Fabrication, import, putting into circulation	(without the intention mentioned above)	objects that have a likeness to money	fine
Germany	Counterfeiting	intention of introducing into circulation as genuine or making this possible	money and money of foreign currency area	imprisonment of not less than one year (maximum of 15 years); in less serious cases: not exceeding five years or fine
	Procurement	intention of introducing into circulation as genuine or making this possible	counterfeit money and counterfeit foreign money	— " —
	Falsification so that a higher value is created	— " —	money	— " —
	Introduction into circulation as genuine		counterfeit money which the offender has counterfeited, falsified or procured for his own use	— " —
	Introduction into circulation as genuine		counterfeit money	imprisonment not exceeding five years or a fine
	Planning to counterfeit money by means of production, procurement, offering for sale, safekeeping or transferring to a third party		plates, printing forms, printed matter, printing blocks, negatives, matrices which may be used for the purpose of counterfeiting; paper which resembles type of paper intended for production of money/foreign money	imprisonment not exceeding five years

MS	Act	Intention, conditions	Object	Penalty
	All acts listed above	committed without fraudulent intent		breach of administrative regulations → fine
	Uttering without authority		monetary tokens capable of being used in payments in place of authorised banknotes	imprisonment not exceeding five years or fine
	Use for payments		— " —	— " —
	Uttering without authority	through negligence	— " —	imprisonment not exceeding six months or fine
Greece	Counterfeiting, alteration	with the intent to put counterfeit money into circulation as genuine	Greek or foreign paper money	imprisonment of 5 to 20 years and pecuniary penalty; in less serious cases imprisonment of no less than three months and pecuniary penalty
	Procurement for own use	— " —	counterfeit or altered money	— " —
	Putting into circulation as genuine	intentionally	counterfeit money	— " —
	— " —	intentionally, but having received it in good faith	— " —	imprisonment of 10 days to six months
	Preparation or procurement for own use	with the intent to commit the offence of counterfeiting	any moulds, tools or means useful for counterfeiting	imprisonment of 10 days to three years and pecuniary penalty

MS	Act	Intention, conditions	Object	Penalty
	Printing, reprinting and putting into circulation		all kinds of printed paper bearing images, designs or marks of banknotes in circulation, even if dimension is different from the original banknotes	imprisonment of 10 days to one year and pecuniary penalty; can be doubled in the event of repetition
	Adding words, phrases, pictures and numbers	for any purpose	original banknotes	imprisonment of one to six months and pecuniary penalty
Spain	Counterfeiting, alteration		national and foreign money, being legal tender	imprisonment of eight to 12 years
	Introduction into country		counterfeits or altered money	— " —
	Putting into circulation	in concert with the forger	— " —	— " —
	Possession	destined for issue	— " —	less severe than the penalty mentioned above
	Receipt	in bad faith, with the intention of putting it into circulation	— " —	— " —
	Using counterfeit or altered money but subsequently discovering that it is counterfeit	having received it in good faith	— " —, if the apparent value is higher than ESP 50,000	imprisonment of nine to 12 weekends and fine
	reproduction in advertisements	without prior authorisation or beyond the limits of a given authorisation	banknotes	breach of administrative regulations → fine

MS	Act	Intention, conditions	Object	Penalty
France	Counterfeiting, alteration		money, national or foreign, that is legal tender	imprisonment of up to 30 years and fine
	Transportation		— " —	imprisonment of up to 10 years and fine; committed by an organised group: imprisonment of up to 30 years and fine
	Putting into circulation		— " —	— " —
	Possession	with a view to putting it into circulation	counterfeits, altered money	— " —
	Counterfeiting, alteration		money that has ceased to be legal tender	imprisonment of up to five years and fine
	Putting into circulation		non-authorized money capable of being used in place of authorised banknotes in France	— " —
	Use and possession without authorisation		instruments that can be used to produce banknotes	imprisonment of up to one year and fine
	Production, sale and putting into circulation		tokens and instruments that can be mistaken for genuine national or foreign banknotes	— " —
	Putting into circulation	having received it in good faith, but subsequently discovering that it is counterfeit	counterfeit or altered money	fine

MS	Act	Intention, conditions	Object	Penalty
Ireland	Mutilation; writing, stamping and impressing on; perforation		a legal tender note, both foreign and national	fine
	Counterfeiting	with the intention that it may be used as genuine	money	penal servitude for life
	Possession, passing on	knowingly	counterfeits	penal servitude of up to 14 years
	Possession		banknote paper, equipment for making counterfeits	penal servitude of up to seven years
	Making, causing to be made, use, uttering		any document purporting to be or resembling a banknote or part of a banknote	fine and/or imprisonment not exceeding 12 months

MS	Act	Intention, conditions	Object	Penalty
Italy	Counterfeiting, alteration so that a higher value is created		national and foreign money	Imprisonment of three to 12 years; fine
	Introduction into the country	effected in agreement with the forger or with an intermediary	counterfeit and altered money	— " —
	Possession, putting into circulation		— " —	— " —
	Preparation		equipment serving to produce banknotes (i.e. attempted counterfeiting)	between one and two-thirds of the penalties mentioned above
	Alteration so that a lower value is created		national and foreign money	imprisonment of up to five years and fine
	Putting into circulation	having received it in good faith; but subsequently having discovered that it is counterfeit	counterfeits, altered money	imprisonment of up to six months and fine

MS	Act	Intention, conditions	Object	Penalty
Luxem- bourg	Counterfeiting, falsification		banknotes which are legal tender in Luxembourg	forced labour of 15 to 20 years
	Putting into circulation	in concert with the forger	foreign banknotes which are legal tender	forced labour of 10 to 15 years
		— " —	counterfeit banknotes which are legal tender in Luxembourg	forced labour of 15 to 20 years
	Introduction into Luxembourg	in concert with the forger	foreign banknotes which are legal tender	forced labour of 10 to 15 years
		in concert with the forger	counterfeit foreign banknotes which are legal tender in Luxembourg	forced labour of 15 to 20 years
	Putting into circulation	having received counterfeit money in good faith and others having checked it	foreign banknotes which are legal tender	forced labour of 10 to 15 years
		having received it in bad faith	counterfeit banknotes which are legal tender	imprisonment of one month or one year and/or fine
Procurement <u>and</u> putting into circulation		counterfeit banknotes	imprisonment of one to five years	
Manufacture, sale, distribution		printed paper or objects that are similar to banknotes	imprisonment of eight days to three months and/or fine	

MS	Act	Intention, conditions	Object	Penalty
The Netherlands	Counterfeiting	with the intention of uttering or causing the uttering	banknotes, both Dutch and foreign	imprisonment of up to nine years or fine
	Uttering		banknotes that the offender has counterfeited him/herself or the falseness of which was known to him/her on receipt	— " —
	Possession, with intent to import into the Netherlands		— " —	— " —
	Uttering	with the intention of uttering or causing the uttering	falsified, counterfeit or damaged banknotes	imprisonment of up to three months or fine
	Possession, manufacturing of objects		objects that can be used for counterfeiting	imprisonment of up to four years and fine
	Production, distribution, possession of the object of distribution		printed matter or other objects with an appearance similar to banknotes or coins	fine
Austria	Imitation or falsification, acceptance from the forger		documents resembling the Oesterreichische Nationalbank's banknotes	fine
	Manufacture, distribution without authorisation		printing blocks or other devices intended for the production of documents resembling the Oesterreichische Nationalbank's banknotes	— " —
	Manufacture, acquisition without authorisation	with the intention that it is put into circulation as genuine	money, national or foreign	imprisonment of one to 10 years

Putting into circulation as genuine, to procure for own use	in bad faith	counterfeit money	imprisonment of up to five years
Putting into circulation as genuine	having received it in good faith	— " —	imprisonment of up to one year or fine
Manufacture, procurement for own or others' use, sale	with the intention of enabling one of the above-mentioned offences	instruments or tools capable of being used for the commitment of such offence	imprisonment of up to two years

MS	Act	Intention, conditions	Object	Penalty
Portugal	Counterfeiting	for the purpose of putting into circulation as legal tender	banknotes which are legal tender in Portugal or abroad	imprisonment of two to 12 years
	Forgery, change of the face value of legal banknotes to higher value	— " —	— " —	imprisonment one to five years
	Putting into circulation, introduction	in concert with the agent who committed the acts mentioned above	— " —	respective penalties mentioned above
	Putting into circulation as legal tender or intact, introduction		counterfeit, forged banknotes, as legal tender or intact	imprisonment of up to five years
	— " —	discovering that it is counterfeit after having received it	— " —	fine to be paid over 240 days
	Acquisition, taking in deposit, importing into Portugal, on one's own account or on behalf of a third party	with the purpose of introducing or putting into circulation	counterfeit or forged banknotes, as legal tender or intact	imprisonment of up to three years or a fine
	Reproduction, imitation	without authorisation	banknotes denominated in escudos, in whole or in part, by any technical means	breach of administrative regulations → fine and seizure and destruction of the reproductions, imitations, plates, matrices and other technical equipment.

MS	Act	Intention, conditions	Object	Penalty
Finland	Preparation	in order to pass it on as negotiable	false money; money refers to banknotes that are officially negotiable means of payment in Finland or another country	imprisonment of four months to four years, in less serious cases up to two years; if the counterfeiting involves a considerable amount or face value of false or falsified money or if the offence is committed in a particularly methodical manner: imprisonment of two to 10 years
	Falsification	— " —	money	— " —
	Import, procurement, receipt, transfer to a third party	in order to pass it on as negotiable, knowing that it is false or falsified	false money, falsified money	— " —
	Preparation, import, procurement, receipt	for the intention to commit a counterfeiting offence	a device or supplies suitable for committing such an offence	imprisonment of up to two years or fine
	Transfer to a third party	knowing that it is false or falsified, but having received it as negotiable, in order to have it passed on once again	false or falsified money	imprisonment of up to one year or fine
	Possession without acceptable reason		false or falsified money	imprisonment of up to six months or fine
	Preparation or production for distribution among the public		a form, mark, picture or other object that is deceptively similar to negotiable money	imprisonment of up to one year or fine

MS	Act	Intention, conditions	Object	Penalty
Sweden	Reproduction or other falsification	(requires intent on the part of the offender)	banknote(s) or coin(s) valid within or outside Sweden	imprisonment of up to four years; if deemed a minor offence: imprisonment of up to six months or fine; if deemed a serious offence: imprisonment of two to eight years
	Putting into circulation	(requires intent on part of the offender and that the activity implies jeopardy of proof)	counterfeit banknotes or coin(s)	offender shall be sentenced as if he/she had produced the falsification him/herself
	Distribution among the public	(requires intent on the part of the offender)	anything that may be easily mistaken for valid banknotes or coin(s)	fine
	attempt at or preparations for committing the offence of counterfeiting, or the use of a falsified item and omission to reveal counterfeiting (would probably cover the storage of counterfeit banknotes in a database, ready to be printed)	(requires intent on the part of the offender)		will be sentenced within the stated range of penalties for the crime committed

MS	Act	Intention, conditions	Object	Penalty
The United Kingdom	Printing, stamping, impressing any words, letters or figures		any banknote	penalty not exceeding level I on the standard scale
	Making a counterfeit	intending that he/she or a third party shall pass or tender it as genuine	currency notes, i.e. banknotes issued in the United Kingdom or in another country	offence: fine and/or imprisonment of up to six months/10 years
	— " —	without lawful authority or excuse	— " —	offence: fine and/or imprisonment of up to six months/two years
	Passing or tendering as genuine	knowing or believing that it is counterfeit	any item which is a counterfeit of a currency note	offence: fine and/or imprisonment of up to six months/10 years
	Delivery to a third party	knowing or believing that it is counterfeit with the intention that he/she or another shall pass or tender it as genuine	— " —	— " —
	Having in custody or under control	with the intention of using it for the purpose of making a counterfeit of a currency note in order to pass or tender it as genuine	any item	— " — — " —

	<p>Making or having in custody or under control</p> <p>Reproduction on any substance, whether or not in the actual dimensions</p> <p>Importing, landing, unloading, exporting</p>	<p>knowingly and without lawful authority or excuse</p> <p>without authorisation</p> <p>without consent of the Treasury</p>	<p>any item which has been specially designed or adapted for the making of a counterfeit</p> <p>any British currency note or part of it</p> <p>counterfeit of a currency note</p>	<p>offence: fine and/or imprisonment of up to six months/two years</p> <p>offence: fine</p>
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ANNEX II

THE DETENTION OF COUNTERFEIT BANKNOTES: A COMPARATIVE ANALYSIS

	Is there an obligation on credit institutions to detain counterfeits?	Treatment of automated teller machines
BE	No obligation on credit institutions to detain counterfeit currency. No provisions on detaining counterfeit currency, only prohibition on putting into circulation in bad faith counterfeits which were received in good faith.	Counterfeits which do not meet the specific control criteria set by the owners of the equipment are rejected. Automated vending machines reject notes that do not fulfil the control criteria set by the owners of the equipment.
DK	Credit institutions will indirectly be required to detain counterfeit banknotes since a rejection of the banknotes will be covered by the prohibition on putting counterfeit banknotes into circulation.	Manufacturers of automated teller machines receive information on certain security features of banknotes; they are, however, not obliged to incorporate respective recognition devices.
DE	Credit institutions shall detain forged or falsified banknotes and coins or those that are suspected of being counterfeit; counterfeits shall be handed over to the police; banknotes and coins suspected of being counterfeit shall be submitted to the Deutsche Bundesbank for examination (Section 36 of the Deutsche Bundesbank Act).	Section 36 of the Deutsche Bundesbank Act also applies to automated teller machines.
FR	Anyone who has received counterfeit or forged currency is obliged to deliver it to the Banque de France (not to the police), which is authorised to retain possession of the forgeries and may proceed to destroy them (penalty in the event of infringement of this obligation: fine).	No obligations with regard to automated teller machines; counterfeits are rejected.
ES	Counterfeits are normally detained by credit institutions, but there is no respective obligation.	No provisions concerning automated teller machines used by credit institutions.
GR	According to a circular of the Bank of Greece, cashiers have to detain counterfeits and to call in the police; the relevant procedure provided for in the Code of Penal Procedure is subsequently followed.	No provisions governing this matter.

IE	No legal obligation on credit institutions to detain counterfeit currency.	
IT	Private banks are not obliged to detain counterfeits, but often do so; public employees, however, must detain counterfeits.	No provisions on special devices to be incorporated in automated teller machines.
LU	General prohibition on putting into circulation tokens recognised as counterfeits; therefore credit institutions risk incurring sanctions if they do not detain checked currency.	As yet no discussion on automated teller machines; counterfeits are rejected.
NL	No obligation to detain.	No discussion on automated teller machines; counterfeits will be refused.
AT	Credit institutions are obliged to withhold for examination and verification banknotes coming into their hands in any way whatsoever which are suspected of being counterfeit or having been tampered with. If banknotes are found to be counterfeit or to have been tampered with, they are confiscated.	No provisions on automated teller machines; counterfeits are rejected.
PT	According to a directive issued by the Banco de Portugal, credit institutions and financial companies are not allowed to return banknotes suspected of being false to the person who has presented them.	Automated teller machines are not equipped with devices to recognise counterfeits.
FI	There are no specific legal provisions requiring, for example, credit institutions to detain counterfeit money (banknotes and coins, also including foreign counterfeit money) in Finland. According to Finnish practice, counterfeit money will be handed over to the police. The possession of counterfeit money is prohibited by the Finnish Penal code (Chapter 37, Section 6).	There are no specific provisions concerning automated teller machines. Counterfeit money will be handed over to the police.
SE	No obligation to detain.	No provisions addressing the issue of counterfeits in connection with automated teller machines.
UK	No provisions requiring credit institutions to detain counterfeits; only general prohibition on putting into circulation banknotes recognised as being counterfeit.	No provisions on automated teller machines; counterfeits are rejected.

ANNEX III

THE SITUATION AS REGARDS COPYRIGHT IN THE MEMBER STATES

Country	Copyright laws	Use of the copyright symbol: ©
Belgium	<p>Statute Law of 30 June 1994 on copyright.</p> <p>Case law The Court of Appeal in Ghent ruled on 31 January 1985 against copyright for banknotes.</p>	No
Denmark	<p>Statute The Danish Copyright Act No. 194 of 11 March 1997 as amended by Act No. 407 of 26 June 1998.</p> <p>Case law The copyright for banknotes was confirmed by the Supreme Court (Højesteret) in 1997.</p>	In the past, only the Danish DKK 100 banknotes contained a mention of copyright. Since March 1997 Danmarks Nationalbank has introduced the first banknote of a new series of banknotes to include a copyright sign.
Germany	<p>Statute The German Copyright Act.</p> <p>Case law Apart from a judgement of the Landgericht Hamburg (1977), granting copyright protection to Austrian banknotes, there is no jurisprudence on the issue of copyright and banknotes.</p>	In accordance with the announcement of the issue of Deutsche Bundesbank notes with copyright notice (notice No. 3001/81), the Deutsche Bundesbank issues banknotes on which the copyright notice "© Deutsche Bundesbank" is positioned, together with the year in which the issue of the banknotes was announced in the federal gazette.
Greece	<p>Statute Copyright is governed in Greece by Law 2121/1993, which covers every original intellectual creation of speech, art or science expressed in every possible form (Article 2), including database storage.</p>	No
Spain	<p>Statute The Spanish intellectual property law is governed by the Legislative Royal Decree 1/1996, of 12 April, which approved a consolidated law on this matter.</p> <p>Case law No significant jurisprudence on the application of copyright to banknotes.</p>	No use of the copyright symbol: © on Spanish banknotes.
France	Articles L122-4, L122-5, L332-1, L335-2 and L335-4 of the Intellectual Property Code. There is no text expressly regarding the copyright of the Banque de France.	No
Ireland	<p>Statute Section 57 of the Irish Copyright Act of 1963 contains provisions regarding the copyright for Irish legal tender notes, consolidated banknotes and Irish coins.</p>	Yes
Italy	<p>Statute In Italian law, copyright is governed by Articles 2575 ff of the Civil Code and by Law 633 of 22 April 1941 and subsequent amendments, as well as by the international conventions that Italy has ratified. Special sectoral laws are also envisaged.</p>	No
Luxembourg	Article 1 of the Law of 16 February 1892, as modified, prohibits the reproduction of monetary designs under the form of banknotes. The Banque centrale du Luxembourg allows, however, the reproduction of banknotes under certain conditions.	Yes

<p>The Netherlands</p>	<p>Statute According to the Dutch Copyright Act 1912, copyright is “the exclusive right of the creator of a work ... or of his assignee(s) to divulge and to multiply this, except limitations, laid down by the law”. According to the Copyright Act’s explanatory memorandum, the contents of the Dutch copyright rules are in line with the definitions of the vast majority of national copyright acts and the Berne Convention.</p> <p>Case law In 1990 the magazine “Aktueel” published an article entitled “Make money yourself”. The article contained detailed instructions on how to counterfeit banknotes using a colour copier. In addition, the author related how he had successfully passed these counterfeits as genuine banknotes. In summary proceedings De Nederlandsche Bank demanded, among other things, a ban on the publication and destruction of the entire issue. The claim, based on various grounds (e.g. Article 9.2 and Article 10 of the Bank Act 1948, according to which the Bank supplies banknotes for circulation and has the sole right to issue banknotes, the Bank’s copyright, Article 208 and Article 209 of the Criminal Code), was granted.</p>	<p>A copyright notice – © 19.. De Nederlandsche Bank N.V. – is placed on Dutch banknotes. This is not required under the Dutch Copyright Act 1912.</p>
<p>Austria</p>	<p>Statute The Austrian Copyright Act. In addition, the Oesterreichische Nationalbank Act, Article 87/8, provides that “anyone who, without authorisation of the Oesterreichische Nationalbank, manufactures or distributes copies of its banknotes in circulation or of parts thereof or who manufactures or distributes documents resembling the Bank’s notes shall, provided that the Act does not constitute the crime of forging public credit instruments or some other offence carrying a more severe penalty, be guilty of an offence subject to administrative jurisdictions.”</p> <p>Case law Pursuant to a ruling of the Austrian Supreme Court (“Oberster Gerichtshof”, OGH) dated 10 June 1975, banknotes issued by the Oesterreichische Nationalbank constitute a “Werk der bildenden Kunst” in the sense of Article I of the Austrian Copyright Act, and therefore enjoy copyright protection.</p>	<p>No</p>
<p>Portugal</p>	<p>Statute Although there are no specific provisions regarding banknotes, the general rules of the Portuguese Copyright Code seem applicable.</p>	<p>No</p>
<p>Finland</p>	<p>Statute Finland’s current copyright law (404/61) has been in effect since 1961.</p> <p>Case law So far, Suomen Pankki has not taken legal action in respect of its copyright.</p>	<p>No</p>
<p>Sweden</p>	<p>Statute Copyright provisions are included in the Act (1960:729) on copyright for literary and artistic work.</p> <p>Case law There is no Court judgement in Sweden on the issue of the application of copyright law to banknotes.</p>	<p>No</p>
<p>The United Kingdom</p>	<p>Statute Copyright, Designs and Patents Act 1988.</p>	<p>All British banknotes issued by the Bank of England bear the © symbol and its copyright in the banknote attributed to the Governor and Company of the Bank of England. This appears on both sides of the banknote.</p>

ANNEX IV

THE REPRODUCTION OF NATIONAL BANKNOTES

COUNTRY	Legal basis of the prohibition	Criminal offence/penalty or administrative penalty	Possibility of licit reproduction?	Previous authorisation given by the NCB?	NCB internal rules?	Are these rules public?
BELGIUM	Copyright + Law 11/6/1889, prohibiting the putting into circulation of confusing documents	Y	Y	N	Y	Y (Official Gazette, 22/6/76).
DENMARK	Copyright.	Criminal/fine.	Y	N	Only as guidance.	Y
GERMANY	Copyright + Law on breaches of administrative regulations.	Administrative fine.	Y	Y	Y	Y
GREECE	Copyright (Law 2121) + Decree 127.	Criminal/one year + EUR 1,900 fine + indemnity for the NCB.	Y	Y	N	Y
SPAIN	NCB Act (Article 15-4) + Monetary Circular No. 1/1995	Administrative fine up to EUR 6,200.	Y	Y	Y	Y
FRANCE	Copyright.	Criminal/one year + EUR 15,400 fine + indemnity for the NCB.	Y	N	Y	N
IRELAND	Copyright, Forgeries Act, Central Bank Act	Criminal.	Y	Y	Y	Y
ITALY	Bank of Issue Law of 1910 .	Administrative/EUR 5 to 50 fine.	N	N	N	
LUXEMBOURG		No penalty, except if fraud or intention to commit fraud.	Y	Y/N	Y	Y
NETHERLANDS	Copyright + criminal law.	Maximum EUR 2,500 fine.	Y	N	Y	Y
AUSTRIA	Copyright + Oesterreichische Nationalbank Act (Article 87/8).	Administrative/EUR 2,200 fine or one month's imprisonment.	Y	Y	N	N
PORTUGAL	Banco de Portugal Act (Article 9-10-11)	Administrative/from EUR 100 to EUR 2,500 fine (physical persons) or from EUR 250 to EUR 30,600 fine (legal persons).	Y	Y/N	Y	Y
FINLAND	Copyright.		Y	Y	Y	Y
SWEDEN	Possibly copyright (no internal rules).	Criminal.	Y	N	N	N/A
UNITED KINGDOM	Forgery and Counterfeiting Act 1981 + copyright.	Criminal.	Y	Y	Y	Y

ANNEX V

THE REPRODUCTION OF BANKNOTES THE LEGAL SITUATION IN DETAIL IN THE MEMBER STATES

BELGIUM

The reproduction of Belgian banknotes has to be carried out in conformity with the criteria published in the Communiqué of the Ministry of Finance and the Nationale Bank van België/Banque Nationale de Belgique, Belgian Official Gazette, 22 June 1976.

DENMARK

Danish banknotes are protected by the Danish Copyright Act No. 194 of 11 March 1997 as amended by Act No. 407 of 26 June 1998.

The Danish Copyright Act offers protection to the design of euro banknotes if the design is protected under any international convention.

GERMANY

The Deutsche Bundesbank claims the copyright on the banknotes it issues.

The Deutsche Bundesbank issued a notice which concerns the reproduction of banknotes for advertising and other purposes. The notice is published in the Federal Gazette.

GREECE

The design of a banknote, as a form of applied art, is protected by Copyright Law 2121/1993 as an original creation.

Reproduction is permitted by law only for the private use of the reproducer. There are special provisions regarding reproduction for educational or scholastic purposes.

The Legislative Decree 127/1946 states that “it is prohibited for commercial, industrial, advertising or other purposes to print, reprint and put into circulation all kinds of printed paper bearing images, designs or marks of banknotes in circulation, even if such images and designs do not bear much resemblance to or have different dimensions from the original banknotes, or even if they are printed on one side only”.

The Bank of Greece does not have any reproduction rules.

No reproduction without a prior authorisation given by the Bank of Greece.

SPAIN

The Banco de España has, so far, not claimed the copyright for the banknotes it issues.

Article 15.4 of the Banco de España Law 13/1994, as amended by Law 12/1998, states that “any advertisement using all or part of the design of notes or coins which are or were legal tender is submitted to prior authorisation of the Banco de España ...”.

The Banco de España issued a monetary circular in 1995 regarding innocent reproductions. This regulation has been published. Offenders are subject to a fine imposed by the Banco de España.

No reproduction without a prior authorisation given by the Banco de España.

FRANCE

The design of a banknote, as a form of applied art, is protected by Articles L1224 and L335-2 of the Intellectual Property Code.

Reproduction is permitted by law for the private use of the reproducer, for humour and caricature.

IRELAND

Article 57 of the Copyright Act of 1963 states that “the copyright in legal tender notes issued ... by the Central Bank of Ireland ... shall be perpetual and shall belong to the Bank”.

The Central Bank of Ireland issues a notice which concerns the reproduction of banknotes for advertising and other purposes.

No reproduction is permitted without a prior authorisation given by the Central Bank of Ireland.

ITALY

The question of protection of banknotes by copyright has never arisen, in that Italian law used to contain extremely strict public law regulations governing the reproduction of banknote designs. In fact the original text of Article 142 of the Decree 204 of 1910 prohibited the manufacture, the issuance and the circulation, for any purpose whatsoever, of any kind of note or printed matter that imitates or simulates, in whole or in part, the face or reverse of banknotes. Therefore, it was deemed that there was no possibility of any licit reproduction, and that reproduction could not be authorised by the Banca d'Italia.

The situation changed on 1 January 1999, when Article 4 of the Legislative Decree No. 43 of 1998 entered into force. Article 4, Paragraph 4, of the Legislative Decree added a last paragraph to Article 142 of the Decree 204 of 1910, which states that “the preceding paragraphs shall not apply in the cases permitted by Community provisions or by the ECB with reference to banknotes denominated in euro”.

LUXEMBOURG

A distinction is to be made between L1892 and rules published by the Banque centrale du Luxembourg. Copyright law is applicable.

The reproduction rules established by Banque centrale du Luxembourg are published in the official gazette.

THE NETHERLANDS

De Nederlandsche Bank holds the copyright for the banknotes it issues (Copyright Act of 1912).

De Nederlandsche Bank publishes a notice regarding reproduction rules.

AUSTRIA

The Austrian supreme court granted the protection of the local copyright law to banknotes (decision of 1975).

Article 87/8 of the Oesterreichische Nationalbank Act prohibits the manufacture and distribution of copies of all or parts of the Austrian notes in circulation when the Oesterreichische Nationalbank has not granted its authorisation.

No reproduction is permitted without prior authorisation given by the Oesterreichische Nationalbank.

PORTUGAL

It is expected that the national copyright should protect banknotes.

Article 9 of the Organic Law of the Banco de Portugal states that “the imitation or reproduction in whole or in part, by any technical means, of banknotes denominated in escudos shall be prohibited as well as the distribution of such imitations or reproductions”.

The Banco de Portugal notes that euro banknotes are not protected by Article 9, but rather by Article 2 of the ECB Decision of 7 July 1998 (ECB/1998/6) on the

denominations, specifications, reproduction, exchange and withdrawal of euro banknotes as amended by the ECB Decision of 26 August 1999 (ECB/1999/2).

The reproduction rules have been made public.

The reproduction of euro banknotes depends on prior authorisation to be given by the Banco de Portugal pursuant to Article 2.3 of the ECB Decision of 7 July 1998 (ECB/1998/6) as amended by the ECB Decision of 26 August 1999 (ECB/1999/2).

As regards banknotes denominated in escudos, the Banco de Portugal may fine offenders. As regards banknotes denominated in escudos as well as euro banknotes, the Banco de Portugal may seize and destroy the reproductions without resorting to any court proceedings.

FINLAND

Finland's current copyright law (404/61 of 1961) protects banknotes.

Suomen Pankki issues a notice on reproduction.

No reproduction is permitted without prior authorisation given by Suomen Pankki.

SWEDEN

If considered to be an artistic piece of work, banknotes may be partly protected by copyright law (Law 729 of 1960), but they may be reproduced for all purposes without the prior consent of Sveriges Riksbank. Reproduction cannot be prohibited, but AB Tumbra Bruk, the Riksbank's wholly owned subsidiary, may claim compensation.

THE UNITED KINGDOM

The Bank of England owns the copyright on its notes.

The Forgery and Counterfeiting Act states that “it is an offence for any person, unless the relevant authority has previously consented in writing, to reproduce on any substance whatsoever, and whether or not on the correct scale, any British currency note or any part of a British currency note.”

The Bank of England publishes a notice on reproduction.

No reproduction is permitted without prior authorisation given by the Bank of England.

ANNEX VI

THE ADOPTION AND PUBLICATION OF NEW NATIONAL BANKNOTES DESIGNS. A COMPARATIVE ANALYSIS.

Member State	Legal basis	Procedures and requirements	Need for adaptation
Denmark	Danmarks Nationalbank Act, Section 8.	The denominations, text and form have to be approved by the Royal Bank Commissioner (Minister of Economic Affairs). Furthermore, a practice should be followed according to which the Board of the Academy of Fine Arts and the Danish Society for the Blind are consulted.	The question is not relevant since Denmark is not participating in Monetary Union from the start of Stage Three.
Germany	Section 14, paragraph 1, and Section 33 of the Deutsche Bundesbank Act.	The Deutsche Bundesbank has to announce – in the event of the introduction of new banknotes upon the decision of the Central Bank Council – in the Federal Gazette the denominations and the distinguishing features of banknotes. The announcement is signed by two representatives of the Bundesbank in the official part of the Federal Gazette. The same text as published in the Federal Gazette is published as a notice by the Deutsche Bundesbank.	There is no need for adaptation of Sections 14 and 33 of the Deutsche Bundesbank Act as far as the announcement of the denominations and the distinguishing features of banknotes is concerned.

Ireland	Central Bank Act, 1989 Section 118.	There are no statutory procedures and requirements for the adoption and publication of new banknote designs. The issue of a new banknote is notified directly to the commercial banks. The public is informed through notices in national newspapers and other media.	No legal adaptation is required.
Greece	Law 3424/1927. Statutes of the Bank of Greece, Articles 2 and 55, paragraphs 1, 66, 67 and 68.	It is possible to deduce from Article 67 of the Statutes that the Bank of Greece has the absolute discretion to change the form of the banknotes, with the sole obligation of publishing the new form in the Official Gazette. Hence it could be maintained that the Bank of Greece is also the sole competent authority to decide on design.	A new legislative provision related to the issuance of the euro, amending the Statutes of the Bank of Greece is required, if the euro banknotes were adopted by a Decision of the Governing Council of the ECB.
Spain	Article 15.2 of the Banco de España Act (Law 13/1994).	The Governing Council of the Banco de España decides on the number of peseta banknotes in circulation, their denominations and features, which have to be published in the Official Gazette.	Spanish legislation has been adapted (Law 12/1998).
France	Article 5, first indent, of the Statute of the Banque de France (Law of 4 August 1993). Article 40 of the Decree of 3 December 1993.	In order to issue a new banknote and to grant it legal tender, a decision of the "Conseil Général" of the Banque de France and its publication in the "Journal Officiel" are needed.	Article 5 of the Law of 4 August 1993 has been adapted (Law 12/05/98).

Italy ⁴⁶	Article 4, third paragraph of the Royal Decree 204 of 28 April 1910. Article 1, first paragraph of the Presidential Decree 811 of October 1981. Article 20, Nos. 1 and 2 of the Royal Decree 1,076 of 11 June 1936.	The characteristics of the banknotes are established by a decree issued by the Ministry of the Treasury upon the advice of the Banca d'Italia. This decree is published in the "Gazzetta Ufficiale".	Article 4 of the Royal Decree 204, d.p.r. 811 and Article 20, point 1 of the Royal Decree 1,067 of 11 June 1936 are inconsistent with the Treaty and Statute requirements.
Belgium	Organic Law, Article 8.	Approval of the design and the text by the Finance Minister.	Any reference to the issue of banknotes will disappear from the Organic Law. It will be directly governed by Community law (Treaty, Article 105a; Statute of the ESCB, Article 16).
Luxembourg	There are no legal rules or prescriptions concerning the adoption and publication of new designs of banknotes issued by the Banque centrale du Luxembourg.	The adoption of new banknote designs falls within the general competence of the management of the Banque centrale du Luxembourg. De facto, new designs are submitted by the management to the Council of the Banque centrale du Luxembourg and a description of them is always published in the Official Gazette as general information.	It is assumed that the de facto procedures can be maintained. If compulsory rules (e.g. for publication of the new designs) are introduced, their implementation in Luxembourg would probably not encounter any difficulties.

⁴⁶ The amendments to the provisions that regulate the Banca d'Italia, which were enacted within the legal convergence exercise, implied the repeal or the amendment of the provisions indicated above. In particular, Article 4, third paragraph of the Royal Decree 204 of 28 April 1910 and the Presidential Decree 811 of 9 October 1981 were repealed by Article 4, paragraph 2, of the Legislative Decree No. 43 of 1998; Article 20, Nos. 1 and 2, of the Royal Decree 1,076 of 11 June 1936 was amended by Article 1, paragraph 4, of the Presidential Decree of 24 April 1998, according to the provisions of the Treaty and of the Statute of the ESCB.

The Netherlands	Sections 3 (1d) and 6 of De Nederlandsche Bank Act (1999 Act).	There are no statutory procedures and requirements for the adoption and publication of new banknote designs. The issue of a new banknote is announced to the commercial banks through the Netherlands Association of Banks (NVB) and to the public in the newspapers as well as the Government Gazette.	The adaptation of the Netherlands legislation on this matter has already been provided for in the proposal for the new De Nederlandsche Bank Act 1998 (The Bank Bill). De Nederlandsche Bank will still have the task of putting banknotes into circulation and will retain the right to issue banknotes. However, this right will no longer be described as exclusive.
Austria	Oesterreichische Nationalbank Act 1984, Articles 21/9 and 61/4.	A decision of the Executive Board of the Oesterreichische Nationalbank (Article 32) and the publication of a precise description of the note in the Official Gazette (Article 87/4 lit. a par. 3) are required.	The Austrian legislation has been adapted.
Portugal	Article 8.1 of the Organic Law of the Banco de Portugal.	The denominations, plates and characteristics of the banknotes shall be approved by a Decree Law, on a proposal from the Banco de Portugal.	This legislation has been adapted. According to the Law amending the Organic Law of the Banco de Portugal, Article 8 will apply only to escudo banknotes and will be revoked when such banknotes cease to be legal tender.
Finland	Currency Act (Sections 6 and 15). Currency Repeal Act (Section 2). The Act on Suomen Pankki.	Suomen Pankki decides on the face values and physical characteristics of banknotes. These decisions are published in the Statutes of Finland. Under the Suomen Pankki Act, such decisions are made by the Board.	The Currency Act has been repealed by the Currency Repeal Act, but Sections 6 and 15 remain in force during the transitional period.

<p>Sweden</p>	<p>Chapter 5, Section 1 of the Sveriges Riksbank Act.</p>	<p>The decision to adopt a new banknote is adopted by the Governing Board of Sveriges Riksbank, which also decides to issue an announcement describing the banknote to be published in the Swedish Statute Book. It is thereby announced from which date the new banknote will be put into circulation.</p>	<p>The present legislation will need to be adapted.</p>
<p>United Kingdom</p>	<p>There are no legislative provisions governing the adoption or publication of banknote designs.</p>	<p>UK banknotes are promissory notes of the Bank of England and, although British legislation permits the Government, inter alia, to restrict the amount and denominations of the notes the Bank of England may issue, the Bank is not subject to any legal requirements relating to their designs. In practice, the approval is a collaborative process, and the Bank of England consults a wide range of official bodies and public interest groups on a non-statutory basis before designs are finalised.</p>	<p>Given the absence of any UK legislative provisions on banknote design, the adoption of the final design of euro banknotes by an ECB decision should not, in itself, require any adaptation of UK legislation, although it may well necessitate some changes to the Bank's non-statutory consultation procedures.</p>

ANNEX VII

THE EXCHANGE OF DAMAGED OR WORN NATIONAL BANKNOTES: A COMPARATIVE ANALYSIS

	Legal basis	Rules for redemption		
		Part of banknote presented	Payment	Fees
BELGIUM	Internal rules	>2/3 1/3 to 2/3 0 to 1/3	100% 50% 0	Fees can be charged for special manipulations
DENMARK	No legal provisions	>50% 50% <50% or depending on proof of destruction	100% 50% 0	none
GERMANY	Section 14 of the Deutsche Bundesbank Act	>50% up to 50% - if destruction of missing part proven - if destruction not proven	100% 100% 0	none
GREECE	Article 3 of the Legislative Decree of 1946, Article 70 of the Statute of the Bank of Greece	>70% >40% to 70% <40%	100% 50% 0	
SPAIN	Internal rules	>50%	100%	none
FRANCE	Statute of the Banque de France	>50%	100%	5% to 10% of value
IRELAND	Central Bank Act 1989	>66% and one serial number >33% and one serial number <33%	100% 100% after 3-6 months 0	none
ITALY	Internal rule	>50%	100%	none
LUXEMBOURG	Article 20 of the Central Bank Act 1998	>50% up to 50% - if destruction of missing part proven - if destruction not proven	100% 100% 0	none

THE NETHERLANDS	Article 27) of De Nederlandsche Bank Act 1998	>7/8 >5/8 but <7/8 >3/8 but <5/8 >1/8 but <3/8 <1/8	100% 75% 50% 25% 0	none, except in certain special cases
AUSTRIA	Article 87/7 of the Oesterreichische Nationalbank Act	>50% <50% - if destruction of missing part proven - if destruction not proven	100% 100% 0	yes, in limited, special cases
PORTUGAL	Internal rules	$\geq 2/3$ <2/3	100% 0%	none
FINLAND	Article 11 of the Currency Act	>50% 50% <50%	100% 50% depending on proof of destruction	none, unless the banknotes have been stained by an accidental explosion of a dye charge
SWEDEN	Sveriges Riksbank Act of 1988	$\geq 2/3$ >1/3	100% 50%	normally none, except where time-consuming examination is required
THE UNITED KINGDOM	No legal provisions	>50% and - up to four pieces - minimum 1/3 of the signature of the Chief Cashier - the whole sentence "I promise to pay ..." - once complete series index and serial number - at least two whole letters or figures in either corner	100%	

ANNEX VIII

THE WITHDRAWAL OF NATIONAL BANKNOTES. A COMPARATIVE ANALYSIS.

Member State	Legal basis	Procedures and requirements for the withdrawal of banknotes	Legal regime of the banknotes presented for exchange once the exchange period has expired and/or their legal tender status has ceased ("old banknotes")
Denmark	Danmarks Nationalbank Act (Act No. 116) of 7 April 1936, Section 8.	The Ministry of Trade, Industry and Shipping (now the Ministry of Economic Affairs) gives its permission to the withdrawal, after which the notes cease to be legal tender from the date fixed by ordinance from the Ministry.	The withdrawn notes lose their validity as against the NCB 12 months from the date on which the banknotes cease to be legal tender. However, the Bank shall have the right to redeem the notes also after this time if circumstances justify it.
Germany	- Section 14, paragraphs 2 and 3, of the Deutsche Bundesbank Act. Section 33 of the Deutsche Bundesbank Act.	The Bundesbank is entitled to call in banknotes in an autonomous manner; there are no legal preconditions for calling in notes, and no involvement or participation of other authorities is required. The Bundesbank also determines the date on which the withdrawn notes become invalid. The calling in of notes is published in the Federal Gazette.	The Bundesbank is not required to replace notes that have become invalid. It may specify a period of time during which it will exchange "old" banknotes which have become invalid. However, until now the Bundesbank has not set any time limits for the exchange of "old" banknotes. The Bundesbank exchanges all banknotes that have been issued since 1948 at their face value.

Greece	- Articles 27 (1) and 68 of the Statute of the Bank of Greece.	<p>According to the Statutes of the Bank of Greece, questions concerning the withdrawal of the banknotes are subject to the decision of the Bank of Greece which determines and makes public the period of exchange. After the expiry of this period, the notes cease to be legal tender, except at the Bank of Greece. In practice, the procedure is the following:</p> <ul style="list-style-type: none"> - The Bank of Greece submits to the Minister of Finance a document asking for its agreement on the proposed withdrawal. - A decision of the Board of Directors of the Bank of Greece is taken. - The above decision is published, via the Ministry of Finance, in the Government Gazette. - A circular concerning the withdrawal of the specific note is issued by the Cashiers' Department. - The above decision is published in the daily press and announced by the electronic media. - The above announcement is sent to the competent authorities of foreign banks and Interpol is informed. 	Two years after the expiry of the latest date publicly announced for the calling in of a series of notes (a period which can vary from case to case and is set separately by the Bank of Greece), the Bank may deduct from the note circulation account the number of the notes of the series then outstanding and unpaid, and the notes shall no longer be considered to be in circulation. 10 years after the expiry of the above-mentioned date, these notes shall be considered to be no longer capable of redemption and the bearers of the same shall have no valid claim whatsoever arising therefrom.
Spain	Article 15.3 of the Law on the Autonomy of the Banco de España (Law 13/1994 of 1 June 1994).	When the Banco de España decides to withdraw from circulation or exchange peseta banknotes belonging to a certain type or series, it must publish this decision in the National Official Gazette, specifying the period for the exchange, which may not be less than five years.	Once the exchanged period has expired, non-exchanged peseta banknotes shall no longer be considered legal tender, shall cease to be accepted as a valid means of payment, and shall be written off the Banco de España's liabilities. However, if they are presented for exchange once the established deadline has passed, the Banco de España shall perform the exchange.
France	- Article 5 of the Act of 4 August 1993 on the Status of the Banque de France.	The legal tender of a particular type of banknote may be withdrawn by Decree upon a proposal made by the Banque de France.	The Banque de France shall remain under the obligation to exchange the notes concerned for other types of legal tender banknotes at its counters for a period of 10 years after their withdrawal.

Ireland		When a new series of banknotes is introduced in Ireland, banknotes from the previous series are withdrawn from circulation through the banking system. National legislation does not have a time limit on the legal status of banknotes issued by the Central Bank of Ireland.	There are no legal time limits for the exchange of old banknotes for new banknotes.
Italy	Bank of issue decree, Article 4, second paragraph. Decree 811 of October 1981. ⁴⁷ Law No. 96 of 7 April 1997	According to national legislation, a decree issued by the President of the Republic regulates the exchange of damaged and worn banknotes, as well as their non-acceptance and destruction. Decree 811 of 1981, ²⁶ issued on this basis, was also applied to the destruction of banknotes that ceased to have legal tender status. Each time that the legal tender status of a banknote was withdrawn by a Ministry of Treasury Decree, the Banca d'Italia issued internal regulations in order to cover it. Banks other than NCB are not obliged to accept, exchange or withdraw old notes, although banks usually accept those banknotes and consign them to the Banca d'Italia. As a rule notes that ceased to be legal tender are annulled on the day of their withdrawal at the counters of the Banca d'Italia. Then, they are gathered together and destroyed, on the premises of the Banca d'Italia or its branches, under the control of the Minister of Treasury. ⁴⁸	The banknotes that ceased to be legal tender are exchangeable at the counters of the Banca d'Italia for a period of 10 years. At the end of such 10-year period, such banknotes are barred.
Belgium	Organic law, Article 9 (bearing only on financial arrangements with the Treasury).	Autonomous decision of the Nationale Bank van België/Banque Nationale de Belgique. The note ceases to be legal tender at the date fixed by the Nationale Bank van België/Banque Nationale de Belgique.	The Nationale Bank van België/Banque Nationale de Belgique exchanges without any time limit withdrawn banknotes which are presented to it. After a date fixed by the Nationale Bank van België/Banque Nationale de Belgique and reimbursement by the Treasury of banknotes which are still in circulation, the exchange takes place for the account of the Treasury.
Luxembourg	Banque centrale du Luxembourg Law of 23 December 1998, Article 20.	The terms and conditions of issuance and withdrawal are fixed by the Banque centrale du Luxembourg. According to the practice followed in the past, the Banque centrale du Luxembourg (the former Institut Monétaire Luxembourgeois) published a statement in the Official Gazette announcing the withdrawal of a note and containing all relevant information (expiry date of legal tender status, expiry date of exchange period).	No time limit is foreseen for the exchange of withdrawn banknotes. Any later exchange of the withdrawn notes will be performed.

⁴⁷ Decree 811 of 9 November 1981 was repealed by Article 4, paragraph 2 of Legislative Decree No. 43 of 1998.

⁴⁸ The control of the Minister of the Treasury ceased on 1 January 1999.

The Netherlands	Section 27.3 of De Nederlandsche Bank Act 1998.	De Nederlandsche Bank may after authorisation by Royal Decree (i.e. the minister responsible together with the Queen), call in any banknotes issued by it. The authorisation also stipulates the period of time during which the banknotes can be presented in order to be exchanged. The call for exchange has to be published at least once in the Dutch Government Gazette.	After the period of time in which the banknotes can be presented for exchange has expired, banknotes can only be exchanged at De Nederlandsche Bank's head office and only after examination has shown there to be good and sufficient reason to agree to the application for exchange. The right to demand the exchange of withdrawn banknotes lapses 30 years after the period in which they can be presented.
Austria	Central Bank Act 1984, Articles 87/6.	The General Council determines the period after expiry of which the withdrawn banknotes shall cease to be legal tender.	Banknotes that have been or will be withdrawn after 1 January 1999 can be exchanged for legal tender banknotes at the Oesterreichische Nationalbank without time limits. Other banknotes (with a date of withdrawal before 1 January 1999) can be exchanged for legal tender at the Oesterreichische Nationalbank during a period of 20 years.

Portugal	Article 9.2 of the Organic Law of the Banco de Portugal.	The Banco de Portugal determines and announces the period for the exchange of banknotes of any denomination or plate to be withdrawn from circulation. A public announcement is made concerning the period for exchange (in which the banknotes keep their legal tender status) and the subsequent period during which they will only be received and paid by the Banco de Portugal. To that end, the relevant information is delivered both externally (within the country and abroad) and internally. Once the period for withdrawal has been fixed, banknotes in the Banco de Portugal's possession as well as those which are received by it, no longer circulate. After such period has expired, only the Banco de Portugal is entitled to receive withdrawn notes.	After the expiry of the withdrawal period, the banknotes shall cease to be legal tender and shall be withdrawn from circulation, but the Banco de Portugal shall be bound to exchange them over the subsequent period of 20 years.
Finland	Sections 14 and 15 of the Currency Act. Currency Repeal Act. - The Act on Suomen Pankki.	According to national law, decisions as to which banknotes shall no longer be legal tender shall be made by Suomen Pankki. Decisions of Suomen Pankki in reference to this subject are published in the Statutes of Finland at least six months before they enter into force unless special reasons determine otherwise.	Suomen Pankki is obliged to redeem at face value banknotes that have been deemed no longer to be legal tender for a period of 10 years from the date of entry into force of such decision.
Sweden	- Chapter 9, Section 13, of the Constitution Act. - Chapter 5, Section 4, second paragraph, of the Sveriges Riksbank Act.	The Parliament, on a proposal by Sveriges Riksbank, adopts a law stating that a banknote shall cease to be legal tender. According to current Swedish practice, a transitional period between the announcement and the day on which a banknote ceases to be legal tender is about three years. However, Parliament is not in any way bound by this practice and may choose any time limit it deems appropriate.	According to the national law, in special circumstances, Sveriges Riksbank may redeem banknotes and coins that have ceased to be legal tender. Consequently, no time limit for redemption has been laid down by law. Sveriges Riksbank's practice is very generous in that it accepts, in principle, any reasonable explanation for late applications. Any application has to be accompanied by a fee of SEK 75.
The United Kingdom	Section 1 (5) of the Currency and Banknotes Act 1954. Section 3 (4) of the Currency Act 1983.	The Bank of England calls in banknotes by giving one month's notice in the London, Edinburgh and Belfast Gazettes and on payment of their face value. Any notes in respect of which such a notice has been so given cease to be legal tender on the expiry of the notice. There are no time limits within which withdrawn banknotes must be exchanged.	The "writing off" of an amount from the total amount of notes issued by the NCB does not affect the Bank of England's liability to pay out any banknote which has ceased to be legal tender. The Bank of England pays the full face value of old notes presented to it without time limits.

ANNEX IX

FANCY BANKNOTES: A COMPARATIVE ANALYSIS

COUNTRY	Existence of fancy banknotes/coins? When/where/ how much?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
BELGIUM	From time to time.	Not during the transitional period.	The Nationale Bank van België/Banque Nationale de Belgique or the Treasury usually examines the projects in order to give an opinion on their feasibility under the law.	Monetary Statute, Articles 4 and 6 §1. Law 11/6/1889 prohibiting the putting into circulation of confusing documents.	<p><u>Article 4:</u> Only a law may authorise the issuance of a monetary sign purporting to circulate in the public as a means of payment.</p> <p><u>Article 6 §1:</u> Sanctions of one month to a year and a fine of BEF 26 to BEF 1,000.</p> <p>Article 2 of Law 11/6/1889: eight days' to three months' detention and/or fine of BEF 26 to 1,000 (x 200 days).</p>
DENMARK	No.			Danmarks Nationalbank Act Articles 169 and 170 of the Penal Code.	<p>Danmarks Nationalbank has the sole right to issue notes.</p> <p>Article 169: Any person who fabricates, imports or puts into circulation objects which, by their form and appearance, bear a striking outward likeness to money or to any security intended for general circulation shall be liable to a fine.</p> <p>Article 170: Any person who unlawfully fabricates, imports or puts into circulation bills payable to bearer purporting to be used as legal tender in a smaller or wider circulation, or which may be expected to be used in such manner, shall be liable to a fine or to simple detention for any term not exceeding three months. This provision shall not apply to foreign banknotes.</p>

COUNTRY	Existence of fancy banknotes/coins? When/where/ how much ?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
GERMANY	From time to time, fancy <u>coins</u> are issued by private parties.	No authorisation is given. Some issuers contact the Ministry of Finance or the "Bundes-schulden-verwaltung" (Federal Debt Administration) before issuing these coins.		Deutsche Bundesbank Act; Act on breaches of administrative regulations.	<p>Section 35 of the Deutsche Bundesbank Act Unauthorised uttering and use of monetary tokens (1) A term of imprisonment not exceeding five years or a fine will be imposed on anybody who:</p> <ol style="list-style-type: none"> 1. utters without authority monetary tokens (stamps, coins, notes or other instruments capable of being used in payments in place of the coins or banknotes authorised by law) or non-interest-bearing bearer debt securities even if they are not denominated in Deutsche Mark; 2. uses for payment objects of the type specified in point 1 above that have been uttered without authority. <p>(2) The attempt is punishable. (3) If the offence described in point 2 of sub-section (1) above has been committed through negligence, the punishment will be a term of imprisonment not exceeding six months or a fine not exceeding 180 daily rates.</p>

COUNTRY	Existence of fancy banknotes/coins? When/where /how much ?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
GERMANY					<p>Section 128 of the Act on breaches of administrative regulations:</p> <p>128. Production or dissemination of printed matter or reproductions resembling paper money</p> <p>(1) An act in breach of administrative regulations is committed by anybody who:</p> <ol style="list-style-type: none"> 1. produces or disseminates printed matter or reproductions which, owing to their nature, are liable: <ol style="list-style-type: none"> (a) to be mistaken for paper money or securities of equivalent status in payment transactions (Section 151 of the Penal Code); or (b) to be used for producing paper of this kind which is liable to be mistaken for genuine paper; or 2. produces, procures for him/herself or for a third party, offers for sale, keeps in safe custody, transfers to a third party or imports into the area in which this Act is law plates, printing forms, printed matter, printing blocks, negatives, matrices or similar devices which, owing to their nature, are liable to be used for the production of the printed matter or reproductions described in point 1 above.

COUNTRY	Existence of fancy banknotes/coins? When/where/ how much?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
GREECE		No.		Legislative Decree 127/1946.	It is prohibited for commercial, industrial, advertising or other purposes to print, reprint and put into circulation all kinds of printed paper bearing images, designs or marks of banknotes in circulation, even if such images and designs do not bear much resemblance to or have different dimensions from the original banknotes, or even if they are printed on one side only.
SPAIN				Law 13/1994 on Autonomy of the Banco de España.	Article 15.4: the Banco de España has the exclusive right to issue banknotes in pesetas which, without prejudice to the legal regime on coins, will be the sole means of payment that is legal tender in Spain with full and unlimited releasing power.
FRANCE	Yes, (banknotes and coins) in limited areas.	Coins: yes.	Coins: the Treasury.	Articles 442-4 and 442-6 of the Penal Code.	Any person who unlawfully puts into circulation monetary signs purporting to replace the notes and coins which are legal tender in France shall be liable to detention for five years and to a fine of EUR 77,000. The making, selling or distribution of artefacts, handouts or bills deceptively similar to French or foreign banknotes or coins is punished with one year of jail and a fine of EUR 15,400.
IRELAND	None.	No.	Permission not given.	Central Bank Act.	<u>Article 8</u> : If any person makes, or causes to be made, or uses for any purpose whatsoever, or utters any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, a banknote or part of a banknote, he/she shall be guilty of an offence under this subsection and shall (...).

COUNTRY	Existence of fancy banknotes/coins? When/where/ how much?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
ITALY	No.			Article 2004 of the Civil Code, Articles 140 and 141 of the Bank of Issue Decree, Article 347 of the Penal Code.	Article 2004: A negotiable instrument containing an obligation to pay a certain sum of money cannot be issued to a bearer except in the case provided for by law. Article 140: Any person who issues notes which are not manufactured and circulated in compliance with Article 4 (of the Issue Decree) or recirculates notes intended to be burnt or annulled, is punished with imprisonment of three to ten years and with temporary disqualification from holding public office. Article 347: Any person who encroaches on a public function or on the powers inherent in a civil service is punished with imprisonment of up to two years. The same punishment will apply to the public official or to the civil servant who continues to exercise his/her function or his/her powers, with the knowledge of the measures which stop or suspend such function or powers. The conviction is published. Article 141: Legal persons and associations not subject to the Decree and natural persons who issue notes or other equivalent securities, payable to the bearer at sight, are subject to a fine, the amount of which is equal to the value of notes or other securities issued.
LUXEMBOURG	Euro coins as collector's items.	Neither authorised nor forbidden.		Law of 1892, but does not apply to notes and coins which are completely fancy (i.e. not similar to genuine notes and coins).	Article 1: The making, selling or distribution of handouts, bills deceptively similar to national or foreign banknotes is punished.
THE NETHERLANDS	Not an issue as yet.				

COUNTRY	Existence of fancy banknotes/coins? When/where/how much?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
AUSTRIA		No.		Oesterreichische Nationalbank Act.	The Oesterreichische Nationalbank has the exclusive right to issue banknotes in schillings, which, without prejudice to the legal regime on coins, will be the sole means of payment that are legal tender in Austria with full and unlimited discharging effect.
PORTUGAL				Article 9 of the Organic Law of the Banco de Portugal.	<u>Article:</u> The imitation or reproduction, in whole or in part, by any technical means, of banknotes denominated in escudos shall be prohibited as well as the distribution of such imitations or reproductions.
FINLAND		No.		Penal Code.	"A person who prepares or produces for distribution among the public or distributes among the public a form, mark, picture or other object that is deceptively similar to negotiable money shall be sentenced for circulation of imitation money to a fine or to imprisonment" (Chapter 37, Section 7).

COUNTRY	Existence of fancy banknotes/coins? When/where/ how much?	Are these notes or coins authorised?	Which is the authority giving permission?	Nature of provision allowing/prohibiting these notes?	Text of the provision
SWEDEN	No.	N/A.	N/A.	Penal code as regards counterfeiting and falsification of <u>valid</u> banknotes.	Chapter 14, Section 6: A person who counterfeits a banknote or a coin valid within or outside Sweden or otherwise forges a banknote or a coin shall be sentenced for counterfeiting currency to imprisonment of up to four years. Chapter 14, Section 10: A person who, in a case other than as described in Section 9 (uttering of forged banknotes), distributes generally something that may easily be mistaken for a valid banknote, coin or other official token of value, shall be sentenced to pay a fine for illegal distribution of imitations.
THE UNITED KINGDOM				Forgery and Counterfeiting Act 1981.	It is an offence for any person, unless the relevant authority has previously consented in writing, to reproduce on any substance whatsoever, and whether or not on the correct scale, any British currency note or any part of a British currency note.

APPENDIX

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

(ECB/1998/7)⁴⁹

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the "Statute") and in particular to Article 34.1 thereof;

- (1) Whereas the Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro⁵⁰ provides for a three-year transitional period between the date of introduction of the euro and the issuance by the European System of Central Banks (hereinafter referred to as the "ESCB") and the Member States of euro banknotes and coins;
- (2) Whereas some institutions and economic agents have issued monetary tokens and banknotes denominated in euro which are without legal tender status; whereas such phenomena are likely to increase as the date for putting euro banknotes and coins into circulation approaches, in some cases with the bona fide purpose of familiarising the public with the new single currency;
- (3) Whereas the issuance of non-legal tender euro banknotes or coins, even if effected for the purpose of educating the population in advance of the forthcoming changeover to the euro, may give rise to bad practice, fraud and errors, affecting in particular the elderly or the poorly informed;
- (4) Whereas most Member States have legislation in place which stipulates that the issuance of monetary tokens and banknotes denominated in the national currency unit is restricted to the national monetary authorities; whereas Article 105a (1) of the Treaty establishing the European Community (hereinafter referred to as the "Treaty") states that: "The ECB shall have the exclusive right to authorise the issuance of banknotes within the Community. The ECB and the national central banks may issue such banknotes. The banknotes issued by the ECB and the national central banks shall be the only such banknotes to have the status of legal tender within the Community"; whereas the legal system of Member States should ensure that the unauthorised issuance of banknotes cannot take place;
- (5) Whereas, for the purposes of this Recommendation, non-legal tender banknotes and coins are to be understood as those banknotes and tokens which are either loosely based on the designs for legal tender euro banknotes or coins, or imitate real banknotes or coins and

⁴⁹ OJ C 11 of 15 January 1999, p. 13.

⁵⁰ OJ L 139 of 11 May 1998, p. 1ff.

could be mistaken for real banknotes or coins, and are issued with the purpose of being used as means of payment within a limited area, for a limited period of time or for a limited number of goods or services, or which could otherwise create confusion in the field of payments since they are widely distributed;

- (6) Whereas the changeover to the euro means, in the field of banknotes, that a complete new set of banknote designs and denominations will have to be put in circulation and shall have legal tender status within a geographical area which transcends the current territorial limits within which national banknotes are used; whereas the novelty of the designs means that the general public will not initially be familiar with the new denominations and designs of the euro banknotes and coins; whereas the legal regime applying to counterfeiting within this extended area of banknote circulation differs from one Member State to another; whereas euro banknotes will also be held as reserves outside the geographical boundaries of the Monetary Union, thus leading to a wider geographical scope of circulation; whereas this combination of factors might contribute to an increase in the risk of banknote counterfeiting in the periods prior to and following the date of issuance of the euro banknotes;
- (7) Whereas the risks of counterfeiting are likely to increase given the technological means currently available for banknote reproduction; whereas technical devices are now available to detect banknotes in colour copying and scanning machinery and to impede their reproduction; whereas euro banknotes will be equipped with the technological features necessary to ensure the effectiveness of such technical devices; whereas legal means ought to be considered to impose such technical devices on colour copiers and scanning machinery within the European Community in order to protect economic agents from the increased risks of banknote counterfeiting; whereas the Council Resolution of 18 December 1997 which lays down the priorities for co-operation in the field of justice and home affairs for the period from 1 January 1998 to the date of entry into force of the Treaty of Amsterdam⁵¹ gave priority to combating the use of new technology for criminal purposes and to using such technology to combat crime;
- (8) Whereas the efforts to prevent counterfeiting concern both the Community, by virtue of its competence in respect of the single currency, and the Member States, by virtue of their competence in the sphere of criminal law and policies to combat organised crime;
- (9) Whereas, however, the ESCB has a vested interest in taking all the steps necessary to ensure a smooth transition to the full introduction of the euro and the acceptance of euro banknotes by the public; whereas such an interest requires formulating a recommendation which lays down certain policy objectives, whilst leaving the competent authorities of the European Union and of the Member States to consider such objectives and to adopt the appropriate measures for their implementation;
- (10) Whereas the Council of the European Union and the Member States should consider the forthcoming issuance of single currency banknotes as an event that ought to lead to a review of the current policies adopted by Member States to combat counterfeiting;
- (11) Whereas Article K.1 of the Treaty on European Union provides for the co-operation of police forces to prevent and combat serious forms of international crime; whereas

⁵¹ OJ C 11 of 15 January 1998, p. 1ff.

Article 2, paragraph 2, of the Europol Convention of 26 July 1995⁵² requires a unanimous decision by the Council of the European Union to instruct the European Police Office to deal with the forgery of money and means of payment; whereas the European Commission could also be entrusted with such co-operation between national police forces in the field of the forgery of money and means of payment; whereas such co-operation should ideally be fully established before euro banknotes and coins are introduced;

HAS ADOPTED THIS RECOMMENDATION:

1. Member States and Community institutions should not promote but rather discourage and strictly control the issuance, holding and use of non-legal tender euro banknotes and coins, in particular prior to 1 January 2002.
2. Member States should avail themselves of the legal means necessary to ensure due compliance with the prohibition on the issuance of unauthorised banknotes, as laid down in Article 105a (1) of the Treaty. Existing national legislation protecting the exclusive right of national central banks to issue national banknotes should, where necessary, be adapted before 2002 to cover the exclusive right conferred on the ECB by the Treaty with regard to banknotes.
3. Member States should ensure that banknote designs may legally benefit from copyright protection.
4. The Council of the European Union, the European Commission and the Member States should consider a review of current policies to combat counterfeiting, with the aim of establishing such a campaign as a matter of common interest, evaluating the need for harmonisation of penal laws in the field of counterfeiting, achieving increased institutional, judicial and police co-operation, drawing up new conventions to this end, seeking to strengthen co-ordination with non-EU governments and organisations, analysing the new technological means available for counterfeiting banknotes and carrying out or considering any other possible measures.
5. Consideration should be given to organising co-operation between national police forces in the field of the forgery of money and means of payment, either through the European Police Office (Europol) or the European Commission, and to involving the ECB in such tasks.
6. The European Commission and the Member States should consider proposing any legal measures necessary to ensure that counterfeit euro banknotes are retained, when detected, by credit institutions and other entities receiving and handling cash, and subsequently handed over to the appropriate law enforcement authorities.
7. Community legislation should be considered which would make compulsory the installation of technical devices in colour copiers and machinery capable of graphic reproduction - whether manufactured in the Community or imported from outside - that would permit the identification of banknotes and impede their reproduction.

⁵² OJ C 316 of 27 November 1995, p. 2ff.

In order to ensure that a similar regime is followed in other countries, it is recommended that an international convention be prepared in parallel.

8. This Recommendation is addressed to the Council of the European Union, the European Parliament, the Commission of the European Communities and the Member States.
9. This Recommendation will be published in the Official Journal of the European Communities.

Done at Frankfurt am Main on 7 July 1998.

The President of the ECB
Willem F. Duisenberg

*DECISION
OF THE EUROPEAN CENTRAL BANK
of 7 July 1998*

*ON THE DENOMINATIONS, SPECIFICATIONS, REPRODUCTION, EXCHANGE
AND WITHDRAWAL OF EURO BANKNOTES
(ECB/1998/6)⁵³*

as amended by the ECB Decision of 26 August 1999 (ECB/1999/2)⁵⁴

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the "Treaty") and in particular to Article 106 (1) thereof and to Article 16 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the "Statute");

Having regard to Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro⁵⁵ and in particular to Articles 10 and 16 thereof;

- (1) Whereas the provisions of Article 106 (1) of the Treaty, Article 16 of the Statute and Article 10 of Council Regulation (EC) No. 974/98 of 3 May 1998 on the introduction of the euro require more precise details on the denominations and specifications of the euro banknotes; whereas such details may be provided by means of a Decision of the Governing Council of the European Central Bank, published for general information in the Official Journal of the European Communities;
- (2) Whereas Council Regulation (EC) No. 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation⁵⁶ stipulates that the denominations of the euro coins will range from 1 cent to e2; whereas the denominations of the euro banknotes should take into account the denominations of the euro coins;
- (3) Whereas the present Decision takes into account the preparatory work carried out by the European Monetary Institute (hereinafter referred to as the "EMI") and, in particular with regard to the banknote designs, the results of a Europe-wide competition between banknote designers; whereas such preparatory work included consultations with European associations of several categories of banknote users in order to take into account their specific visual and technical requirements and to facilitate the recognition and acceptance of the new banknote denominations and specifications by users; whereas the European Central Bank (hereinafter referred to as the "ECB") is the recipient of the copyright on the designs of the euro banknotes, originally held by the EMI;

⁵³ OJ L 8, 14.01.1999, p. 36.

⁵⁴ OJ L 258, 5.10.1999, p. 29.

⁵⁵ OJ L 139, 11.05.1998, p. 1 ff.

⁵⁶ OJ L 139, 11.05.1998, p. 6 ff.

- (4) Whereas it is necessary to establish some common guiding principles according to which the commercial reproduction of the designs of banknotes will be permitted; whereas the ECB shall have recourse to the national central banks (hereinafter referred to as the “NCBs”) of participating Member States for ad hoc authorisation to reproduce banknote designs; whereas, as a general policy, reproduction of the banknote designs to which this Decision refers shall be authorised, inter alia, for educational purposes;
- (5) Whereas a common regime under which the NCBs of participating Member States are prepared to exchange mutilated or damaged euro banknotes needs to be established; whereas the need to establish a common regime also applies to the final withdrawal of banknotes when these are to be replaced by new banknotes; whereas the publication of announcements in the Official Journal of the European Communities may be accompanied by other means of publication that may facilitate due acknowledgement by the general public;

HAS DECIDED AS FOLLOWS:

Article 1

Denominations and specifications

1. The first series of euro banknotes will include seven denominations in the range of e5 – e500, depicting the theme “Ages and styles of Europe”, with the following basic specifications.

Face value (e)	Dimensions	Dominant colour	Design
5	120 x 62 mm	Grey	Classical
10	127 x 67 mm	Red	Romanesque
20	133 x 72 mm	Blue	Gothic
50	140 x 77 mm	Orange	Renaissance
100	147 x 82 mm	Green	Baroque and Rococo
200	153 x 82 mm	Yellow-Brown	Iron and glass architecture
500	160 x 82 mm	Purple	Modern 20th century architecture

2. The seven denominations in the euro banknote series bear the representation of gateways and windows on the recto and bridges on the verso. All seven denominations are typical of the different European artistic periods referred to above. Other elements of the designs

include: the symbol of the European Union; the name of the currency in the Roman and Greek alphabets; the initials of the European Central Bank in their official language variants; the © symbol to indicate the copyright protection; and the signature of the President of the ECB.

Article 2 *Reproduction*

1. The copyright on the banknotes specified in Article 1 of this Decision belongs to the ECB.
2. The reproduction of all or part of a banknote specified in Article 1 of this Decision is authorised without recourse to a specific procedure in the following cases:
 - (a) for photographs, drawings, paintings, films, and generally for any type of image in which the focus is not the banknotes or reproductions themselves, and which do not provide a close-up view of the banknote designs;
 - (b) for reproductions which are more than 125% or less than 75% of both the length and the width of the respective banknote as specified in Article 1 of this Decision, irrespective of the material used for the reproduction.
3. Any other reproduction of all or part of a banknote has to be authorised by (i) the NCB of the participating Member State in which the applicant is located, under delegation from and in accordance with the policies of the ECB, or (ii) the ECB, for applicants located outside the participating Member States.
4. General authorisation of reproductions under the above rules may be cancelled in the event of a conflict with the unalienable moral rights of the author of the banknote designs.

Article 3 *Exchange of mutilated or damaged banknotes*

1. NCBs of participating Member States shall, upon request, exchange mutilated or damaged legal tender euro banknotes in the following cases:
 - (a) when more than 50% of the banknote is presented;
 - (b) when 50% or less of the banknote is presented if the applicant proves that the missing parts have been destroyed.
2. The exchange of mutilated or damaged banknotes shall require:
 - (a) identification of the applicant in cases of doubt as to the applicant's legal title to the banknotes and the authenticity of the banknotes;
 - (b) upon reasonable suspicion that a criminal offence has been committed or that the banknote has been intentionally mutilated or damaged, written explanations with

regard to the cause of the mutilation or damage and what has become of the missing parts of the banknote;

- (c) written explanations of the kind of stain, contamination or impregnation when ink-stained, contaminated or impregnated banknotes are presented;
- (d) a written statement on the cause and kind of neutralisation when banknotes are submitted by credit institutions if they have been discoloured by activated anti-theft devices;
- (e) payment by the applicant of the fee that the ECB may establish in cases of labour-intensive analysis by NCBs.

Article 4

Withdrawal of banknotes

The withdrawal of a euro banknote type or series will be regulated by a Decision of the Governing Council published for general information in the Official Journal of the European Communities and other media. This Decision will cover, as a minimum, the following points:

- the euro banknote type or series to be withdrawn from circulation;
- the duration of the exchange period;
- the date on which the euro banknote type or series will lose its legal tender status;
- the treatment of the euro banknotes presented once the withdrawal period is over and/or they have lost their legal tender status.

Article 5

Final provision

This Decision shall be published in the Official Journal of the European Communities.

Done at Frankfurt am Main on 7 July 1998.

The President of the ECB
Willem F. Duisenberg

GUIDELINE OF THE EUROPEAN CENTRAL BANK
of 7 July 1998

ON CERTAIN PROVISIONS REGARDING EURO BANKNOTES
as amended on 26 August 1999
(ECB/1999/3)⁵⁷

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community (hereinafter referred to as the “Treaty”) and in particular to Article 106 (1) thereof;

Having regard to Articles 12.1, 14.3 and 16 of the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the “Statute”);

Having regard to ECB Decision ECB/1998/6 of 7 July 1998 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes⁵⁸ as amended by the ECB Decision of 26 August 1999 (ECB/1999/2)⁵⁹ (hereinafter referred to as “ECB Decision ECB/1998/6”);

- (1) Whereas the copyright on the designs of the euro banknotes was received by the European Central Bank (ECB) from the European Monetary Institute (EMI); whereas such copyright needs to be administered and enforced, inter alia, in all participating Member States according to the individual national legal systems, and this situation warrants entrusting such functions to the national central banks (NCBs);
- (2) Whereas, in order to enhance the protection of euro banknotes against counterfeiting, it appears advisable to establish a Counterfeit Analysis Centre (CAC), in which the resources of the NCBs of the participating Member States and of the ECB could be pooled, and which would require the establishment of certain rules within the European System of Central Banks (ESCB);
- (3) Whereas, in order to widen the acknowledgement by the general public of any decision taken by the ECB to withdraw types or series of banknotes, in addition to the official publication of that decision by the ECB in the Official Journal of the European Communities, it is deemed to be appropriate to make announcements in the national media and for this task to be entrusted to the NCBs;
- (4) Whereas, in accordance with Articles 12.1 and 14.3 of the Statute, ECB Guidelines form an integral part of Community law;

⁵⁷ OJ L 258, 5.10.1999, p. 32.

⁵⁸ OJ L 8, 14.01.1999, p. 36.

HAS ADOPTED THIS GUIDELINE:

Article 1

Enforcement of copyright

1. The NCBs shall take all necessary and feasible measures, according to their national legal systems, to ensure that there is no breach of the copyright of the euro banknote designs held by the ECB.
2. Whenever an NCB becomes aware of unauthorised reproduction of euro banknotes having occurred on its national territory, it shall take immediate action to ensure that such reproduction ceases and that any copies produced in this manner are withdrawn, and shall inform the ECB without delay.
3. The Executive Board of the ECB may issue instructions on whether or not the situation requires the initiation of civil or criminal proceedings against the person responsible for the reproduction. For the conduct of legal proceedings, the ECB shall have recourse to the NCBs: it shall instruct them accordingly and provide them with the necessary powers of attorney. All legal costs shall be borne by the ECB.
4. The NCBs shall inform the ECB of any specific authorisation to reproduce the euro banknote designs granted under ECB Decision ECB/1998/6.

Article 2

Exchange of mutilated or damaged banknotes

1. The NCBs shall duly implement ECB Decision ECB/1998/6.
2. When implementing ECB Decision ECB/1998/6, and subject to any legal constraints, NCBs shall destroy any mutilated banknotes or the pieces thereof after a period of six months, unless there are legal grounds for them to be preserved or returned to the applicant.
3. The NCBs shall appoint a single organ or body to adopt decisions on the exchange of mutilated or damaged banknotes for the cases foreseen in Article 3.1 (b) of ECB Decision ECB/1998/6, and shall inform the ECB accordingly.

Article 3

Counterfeit Analysis Centre and Counterfeit Currency Database

1. The Counterfeit Analysis Centre (CAC) and the Counterfeit Currency Database (CCD) of the ESCB will be established by and run under the aegis of the ECB. The establishment of the CAC is intended to centralise the technical analysis of and data relating to the counterfeiting of the euro banknotes issued by the ECB and the NCBs. All relevant technical and statistical data concerning the counterfeiting of euro banknotes shall be centrally stored in the CCD.

⁵⁹ OJ L 258, 5.10.1999, p. 29.

2. The location of the CAC and the CCD shall be Frankfurt am Main. The Governing Council shall appoint the head of the CAC, approve its budget and organise its staffing and resources.
3. Subject to legal constraints, the NCBs shall provide the CAC with originals of new types of counterfeit euro banknotes in their possession, for the purposes of technical investigation and central classification. The preliminary assessment of whether a specific counterfeit belongs to a classified type or to a new category shall be carried out by the NCBs.
4. All the technical data within the CCD shall be available to the ECB and to the NCBs of participating Member States. The CAC shall co-operate with the police forces of the participating Member States, with Europol and with the European Commission, as appropriate, regarding their respective areas of expertise. The individual staff members of the CAC may appear in judicial proceedings to offer technical expertise in cases of counterfeiting, if requested. Any contacts established by the CAC with individual national authorities shall be effected together with the relevant NCB.

Article 4

Withdrawal of banknotes

The NCBs shall announce the withdrawal of a euro banknote type or series decided by the Governing Council in national newspapers at their own cost, following any instructions that may be issued by the Executive Board.

Article 5

Final provisions

This Guideline is addressed to the national central banks of participating Member States and shall have immediate effect.

This Guideline shall be published in the Official Journal of the European Communities.

Done at Frankfurt am Main on 26 August 1999.

On behalf of the Governing Council of the ECB
Willem F. Duisenberg