

EUROPEAN CENTRAL BANK

DECISION OF THE EUROPEAN CENTRAL BANK

of 3 December 2001

amending Decision ECB/2001/7 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes

(ECB/2001/14)

(2002/12/EC)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty establishing the European Community 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,

Whereas:

- (1) Decision ECB/2001/7 of 30 August 2001 on the denominations, specifications, reproduction, exchange and withdrawal of euro banknotes ⁽¹⁾ establishes a common regime under which national central banks (NCBs) of participating Member States exchange mutilated or damaged legal tender euro banknotes.
- (2) It is appropriate to amend Article 3 of Decision ECB/2001/7 in order to clarify that the exchange of legal tender euro banknotes will only take place under certain conditions as well as to introduce an explicit obligation on the part of NCBs to refuse to exchange legal tender euro banknotes where they know or have sufficient reason to believe that a criminal offence has been committed or that the banknotes have been intentionally mutilated or damaged.
- (3) It follows from Guideline ECB/1999/3 of 7 July 1998 on certain provisions regarding euro banknotes, as amended on 26 August 1999 ⁽²⁾ that NCBs may in some cases retain the mutilated or damaged banknotes which are presented for exchange. Furthermore, it is acknowledged that the principles of Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting ⁽³⁾, which obliges credit and other institutions to withdraw from circulation banknotes which they know or have sufficient reason to believe to be counterfeit, apply by analogy also to NCBs. Nevertheless, it is deemed necessary, for the purposes of clarity, to expressly mention in the context of this Decision that NCBs are obliged to withhold against acknowledgement of receipt all mutilated or damaged banknotes in connection with which they know or have sufficient reason to believe that a criminal offence has been committed, whether counterfeiting or some other criminal offence, such as theft or robbery. It should be clearly stated that the mutilated or damaged banknotes will be withheld as evidence and will be presented to the competent authorities to initiate or to support an ongoing criminal investigation. If the competent authorities do not decide otherwise, the banknotes which have been withheld as evidence will be returned to the applicant at the end of the investigation. The applicant may subsequently resubmit the banknotes to the NCB for exchange. Furthermore, it is appropriate to introduce an obligation for NCBs to withhold the presented banknotes, where they know or have sufficient reason to believe that the banknotes have been intentionally mutilated or damaged, in order to avoid the return of such banknotes into circulation or to prevent the applicant from presenting such banknotes to another NCB for exchange.

⁽¹⁾ OJ L 233, 31.8.2001, p. 55. Consolidated version published in OJ C 6, 9.1.2002.

⁽²⁾ OJ L 258, 5.10.1999, p. 32.

⁽³⁾ OJ L 181, 4.7.2001, p. 6.

- (4) It is deemed necessary to introduce a fee in order to allow NCBs to receive compensation for the labour-intensive analysis they perform. Therefore, it is appropriate to replace the existing Article 3(2)(e) of Decision ECB/2001/7 with an autonomous provision containing the conditions for the imposition of the fee. It is acknowledged that a distinction should be made between members of the general public and professional banknote handlers which have damaged euro banknotes by using anti-theft devices, and that only the latter should be charged, considering that the fee is deemed to be an appropriate means to encourage the proper handling of anti-theft devices by all professional banknote handlers.
- (5) A minimum number of euro banknotes, the exchange of which is not subject to a fee, should be determined in order to avoid insignificant charges for the exchange of only a few euro banknotes. In addition, euro banknotes which have been mutilated or damaged in bulk due to the use of anti-theft devices should be presented for exchange in sets of not less than 100 banknotes,

HAS ADOPTED THIS DECISION:

Article 1

Amendment to Article 3

Article 3 of Decision ECB/2001/7 is replaced by the following:

'Article 3

Exchange of mutilated or damaged euro banknotes

1. NCBs of participating Member States shall, upon request, and under the conditions laid down in paragraph 2, 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 legal tender euro banknotes shall be granted under the following conditions:

- (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) written explanations of the kind of stain, contamination or impregnation when ink-stained, contaminated or impregnated banknotes are presented;
- (c) a written statement on the cause and kind of neutralisation when banknotes are submitted by professional banknote handlers, such as credit institutions as defined in Article 1(1)(a) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (*), as amended by Directive 2000/28/EC (**) (hereinafter referred to as "credit institutions"), cash in transit companies and bureaux de change, if the banknotes have been discoloured by activated anti-theft devices.

3. Where NCBs know or have sufficient reason to believe that a criminal offence has been committed or that the banknotes have been intentionally mutilated or damaged, they shall refuse to exchange them.

Where NCBs know or have sufficient reason to believe that a criminal offence has been committed, they shall withhold against acknowledgement of receipt the mutilated or damaged banknotes as evidence to be presented to the competent authorities to initiate or to support an ongoing criminal investigation. Unless otherwise decided by the competent authorities, the banknotes shall be returned to the applicant at the end of the investigation and shall thereafter qualify for exchange. Where NCBs know or have sufficient reason to believe that the banknotes have been intentionally mutilated or damaged, they shall withhold the banknotes, in order to avoid the return of such banknotes into circulation or to prevent the applicant from presenting them to another NCB for exchange.

(*) OJ L 126, 26.5.2000, p. 1.

(**) OJ L 275, 27.10.2000, p. 37.

Article 2

Introduction of Article 3a

The following Article 3a is inserted into Decision ECB/2001/7:

Article 3a

Establishment of a fee for the exchange of mutilated or damaged euro banknotes

1. NCBs shall charge professional banknote handlers, such as credit institutions, cash in transit companies and bureaux de change, a fee when they request NCBs in accordance with Article 3(1) to exchange legal tender euro banknotes that have been mutilated or damaged by using anti-theft devices.
2. The fee shall amount to 10 cent per mutilated or damaged euro banknote.
3. The fee shall only be charged if at least 100 mutilated or damaged euro banknotes are exchanged. The fee shall be charged for all exchanged banknotes.
4. No fee shall be charged where euro banknotes have been mutilated or damaged in connection with attempted or committed robbery or theft.

Article 3

Final provision

This Decision shall enter into force on 1 January 2002.

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

Done at Frankfurt am Main, 3 December 2001.

The President of the ECB

Willem F. DUISENBERG
