



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 30 August 2001

at the request of the French Ministry of Economy, Finance and Industry on a draft decree relating to the marking of banknotes denominated in francs

(CON/2001/20)

1. On 6 August 2001 the European Central Bank (ECB) received a request from the French Ministry of Economy, Finance and Industry for an opinion on a draft decree (hereinafter referred to as the “draft decree”) concerning the marking by perforation of certain banknotes in francs that will be returned to credit institutions, the Post Office and the accountants of the Treasury for exchange operations between francs and euro between 1 January and 30 June 2002.
2. The ECB’s competence to deliver an opinion is based on Article 105(4) of the Treaty establishing the European Community (hereinafter referred to as the “Treaty”), the first indent of Article 4(a) of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank and the first indent of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions¹, since the draft decree relates to currency matters. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank², this opinion has been adopted by the Governing Council of the ECB.
3. The draft decree provides for the perforation of banknotes denominated in francs that will be returned to credit institutions empowered to perform a banking service in France, the Post Office and the accountants of the Treasury for exchange operations between francs and euro between 1 January and 30 June 2002. All banknotes, except the 20 francs banknote, may be subject to the perforation³. The draft decree sets forth the manner in which the banknotes are to be perforated⁴ and provides that only credit institutions empowered to perform a banking

¹ OJ L 189, 3.7.1998, p. 42.

² OJ L 125, 19.5.1999, p. 34.

³ Annex 1 to the draft decree.

⁴ Annex 2 to the draft decree.

service in France, the Post Office and the Treasury's accountants may perform such perforation⁵.

4. Pursuant to the draft decree, the perforated banknotes and banknotes in francs whose condition prevents verification of the possible presence of this perforation shall be neither exchangeable nor redeemable⁶. However, perforated banknotes may be accepted by the Banque de France or the Institut d'émission des départements d'outre-mer, acting for and on behalf of the Banque de France, when deposited at the counters of the Banque de France or the Institut d'émission des départements d'outre-mer by a credit institution, the financial services of the Post Office, the accountants of the Treasury or a company transporting funds to be credited to its account⁷. Furthermore, the draft decree provides that, except in the cases foreseen in Articles 1 and 2 of the draft decree, accepting, holding or using a perforated banknote or a banknote in francs whose condition prevents verification of this perforation shall be sanctioned by a fine⁸. The draft decree also provides that the object that has been used or was intended to be used for the offence or that is the product thereof, and the perforated banknotes or banknotes in francs whose condition prevents verification of the possible presence of this perforation, shall be confiscated⁹. Furthermore, legal persons may be held liable under criminal law for the offence of accepting, holding or using the above-mentioned banknotes¹⁰.
5. As stated in paragraph 13 of Opinion CON/2001/15 of 26 June 2001 at the request of the Nationale Bank van België/Banque Nationale de Belgique on a draft law relating to the cash changeover to the euro in Belgium, the ECB considers that national measures may be taken in the context of the withdrawal of national banknotes (including the marking or neutralisation of such banknotes). Indeed, national measures taken to facilitate the withdrawal of national banknotes are envisaged and provided for in Article 15 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro¹¹.
6. The ECB understands that the perforation of certain banknotes denominated in francs, the prohibition (except for credit institutions, the Post Office and the accountants of the Treasury in the cases laid down in Articles 1 and 2 of the draft decree) against accepting, holding and using the perforated banknotes and banknotes in francs whose condition prevents verification of the possible presence of this perforation, and the confiscation described above constitute specific security measures, which should facilitate the smooth withdrawal of banknotes denominated in francs. Insofar as the proposed measures facilitate the withdrawal of such banknotes, the ECB welcomes the draft decree.

⁵ Draft decree, Article 2.

⁶ Draft decree, Article 1.

⁷ *Ibidem*.

⁸ Draft decree, Article 3.

⁹ *Ibidem*.

¹⁰ *Ibidem*.

¹¹ OJ L 139, 11.5.1998, p. 1.

7. Based on the assumption that the perforated banknotes should be treated as mutilated banknotes, the fact that the perforated banknotes may only be exchanged at the counters of the Banque de France or the Institut d'émission des départements d'outre-mer does not infringe Article 52 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, which requires national central banks to exchange at par banknotes of all participating Member States.
8. The ECB understands that the perforated banknotes and banknotes denominated in francs whose condition prevents verification of the possible presence of the perforation will continue to be legal tender during the dual circulation period but their use and circulation will be restricted by the draft decree. In this context, the ECB notes that the *Code Monétaire et Financier* already provides for other restrictions on the use of banknotes which are legal tender for payments above a certain amount and in the context of certain transactions.
9. The ECB confirms that it has no objection to the publication of this opinion at the discretion of the competent national authority.

Done at Frankfurt am Main on 30 August 2001.

The President of the ECB

[signed]

Willem F. DUISENBERG