

## III

(Preparatory acts)

## EUROPEAN CENTRAL BANK

## OPINION OF THE EUROPEAN CENTRAL BANK

of 16 August 2018

on a proposal for a regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles IV programme')

(CON/2018/35)

(2018/C 378/03)

**Introduction and legal basis**

On 25 June 2018 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (the 'Pericles IV programme')<sup>(1)</sup> (hereinafter the 'proposed regulation').

The ECB's competence to deliver an opinion is based on Article 133 of the Treaty on the Functioning of the European Union, pursuant to which, without prejudice to the powers of the ECB, the European Parliament and the Council lay down measures necessary for the use of the euro as the single currency, after consultation with the ECB. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.

**1. General observations**

- 1.1. The ECB notes that the proposed regulation will replace the legal basis of the current Pericles 2020 programme, which was established by Regulation (EU) No 331/2014 of the European Parliament and of the Council<sup>(2)</sup>, from 1 January 2021, in order to continue the Pericles programme to the end of 2027.
- 1.2. The ECB reiterates its view that the Pericles programme is a useful contribution to the activities already carried out by the ECB, Europol and national authorities in the fight against counterfeiting of euro banknotes and coins<sup>(3)</sup>. The ECB is confident that the Pericles IV programme will continue to contribute to preserving the integrity of euro banknotes.
- 1.3. The ECB underlines its active involvement in the fight against counterfeiting. In particular, the ECB develops banknote designs and security features for euro banknotes that allow the general public and experts to distinguish genuine banknotes from counterfeits and which act as a deterrent to counterfeiters.
- 1.4. Since 2013, banknotes of the Europa series have been introduced gradually. To prepare for the launch of banknotes with upgraded security features, the ECB and the national central banks of the Eurosystem offer a wide range of information to banknote equipment manufacturers and suppliers, as well as commercial banks, retailers and others that use banknote equipment or handle cash on a daily basis. In addition, the ECB provides training programmes and training materials to complement professional cash handlers' training. Furthermore, information on the design and security features is made available to the general public after the launch of a new banknote series.

<sup>(1)</sup> COM(2018) 369 final.

<sup>(2)</sup> Regulation (EU) No 331/2014 of the European Parliament and of the Council of 11 March 2014 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme) and repealing Council Decisions 2001/923/EC, 2001/924/EC, 2006/75/EC, 2006/76/EC, 2006/849/EC and 2006/850/EC (OJ L 103, 5.4.2014, p. 1).

<sup>(3)</sup> See paragraph 1 of Opinion CON/2006/35 of the European Central Bank of 5 July 2006 at the request of the Council of the European Union on two proposed Council decisions on the exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme) (OJ C 163, 14.7.2006, p. 7) and paragraph 1.1 of Opinion CON/2012/17 of the European Central Bank of 2 March 2012 on a proposal for a regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles 2020' programme) (OJ C 137, 12.5.2012, p. 7). All ECB opinions are published on the ECB's website at [www.ecb.europa.eu](http://www.ecb.europa.eu)

- 1.5. Moreover, the ECB analyses new counterfeit types at its Counterfeit Analysis Centre (CAC) and uses the knowledge gained to better advise law enforcement authorities. The CAC coordinates the dissemination of all known technical and statistical data on euro counterfeits to all relevant parties.
- 1.6. Counterfeiters are making increasing use of digital imaging hardware and software. In response, the Central Bank Counterfeit Deterrence Group, of which the ECB is a member, supports and uses technologies such as counterfeit deterrence systems, which prevent the capture or reproduction of images of protected banknotes.

## 2. Specific observations

- 2.1. Pursuant to Article 4(2) of the proposed regulation, the European Commission takes into account relevant measures undertaken by other competent entities, in particular the ECB and Europol, when implementing the Pericles IV programme in cooperation with the Member States. The ECB encourages the Commission to fully exploit the ECB's experience in conducting training and providing information on euro banknotes and to provide for the full involvement of the ECB in this respect.
- 2.2. Moreover, referring to the well-functioning cooperation among the stakeholders of the Pericles IV programme, the ECB reiterates its view that it would be beneficial if the Commission liaised with and involved the ECB and Europol when preparing the work programmes to be funded under the programme, in particular to jointly examine initiatives, thus avoiding possible duplication and overlaps between this programme, other relevant programmes and the ECB's training activities<sup>(1)</sup>. Such cooperation would also facilitate the application of an aligned strategy against euro counterfeiting and fraud. Therefore, Article 10 of the proposed regulation should be amended to provide for advance consultation of the principal parties involved, including the ECB and Europol, by the Commission in relation to the work programmes. The Commission should give the ECB sufficient time to familiarise itself with the documentation in relation to the work programmes to be set up in accordance with Article 10<sup>(2)</sup>.
- 2.3. Article 12 of the proposed regulation requires that the Commission will provide annual information on the results of the Pericles IV programme. Article 13 provides for an interim evaluation during, and a final evaluation after, the programme. While the conclusions of the evaluations accompanied by the Commission's observations are to be communicated to the European Parliament, the Council and the ECB, the annual information is to be communicated only to the European Parliament and the Council. The ECB also notes that the Communication on the mid-term evaluation of the Pericles 2020 programme was submitted only to the European Parliament and the Council<sup>(3)</sup>. The ECB emphasises the need (1) for it to be regularly involved in the preparation of the evaluation reports during the programme to reflect the measures it has taken and its active involvement in the fight against counterfeiting; (2) for feedback from entities actively participating in relevant measures alongside the Commission to be appropriately included in the evaluation reports and communications; and (3) for it to be kept regularly informed in future about the programme. Consequently, the ECB recommends amending Articles 12(3) and 13(3) of the proposed regulation in order to ensure that the ECB is provided both with annual information on the results of the programme and with interim evaluations of the programme.
- 2.4. Article 11 of the proposed regulation provides for delegation to the Commission, which is in particular empowered to adopt delegated acts to develop the provisions for a monitoring and evaluation framework in accordance with Article 12(2). The ECB notes that this power is already provided for in Article 14 of Regulation (EU) No 331/2014. However, the ECB also notes that Article 133 of the Treaty requires that the ECB is consulted before measures necessary for the use of the euro as the single currency are laid down. This obligation is not limited to the proposed regulation, but also applies to delegated acts that deal with areas of competence defined in the basic legislative act. The ECB is consulted on the proposed regulation in accordance with Article 133 of the Treaty and, consequently, should also be consulted prior to the adoption of any delegated act provided for in Article 12(2) of the proposed regulation since these are implementing measures for the purpose of protecting the euro against counterfeiting and as such are necessary for the use of the euro as the single currency. In the context of Article 11(4), which requires the Commission to consult experts designated by each Member State before adopting a delegated act, the ECB recommends that the Commission should also formally consult the ECB.

<sup>(1)</sup> See paragraph 8 of Opinion CON/2005/22 of the European Central Bank of 21 June 2005 at the request of the Council of the European Union on two proposed Council decisions on the exchange, assistance and training programme for the protection of the euro against counterfeiting (the 'Pericles' programme) (OJ C 161, 1.7.2005, p. 11), paragraph 2.2 of Opinion CON/2006/35 and paragraph 2.4 of Opinion CON/2012/17.

<sup>(2)</sup> See paragraph 2.5 of Opinion CON/2012/17.

<sup>(3)</sup> See recital 6 of the proposed regulation.

Where the ECB recommends that the proposed regulation is amended, specific drafting proposals are set out in a separate technical working document accompanied by an explanatory text to this effect. The technical working document is available in English on the ECB's website.

Done at Frankfurt am Main, 16 August 2018.

*The President of the ECB*

Mario DRAGHI

---