



EUROPEAN CENTRAL BANK

EUROSYSTEM

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ECB-PUBLIC

OPINION OF THE EUROPEAN CENTRAL BANK

of 11 July 2016

on the method and procedure for counting, sorting, packaging and labelling of banknotes and coins

(CON/2016/36)

Introduction and legal basis

On 13 June 2016 the European Central Bank (ECB) received a request from the President of Narodowy Bank Polski (NBP) for an opinion on a draft ordinance of the President of NBP on the method and procedure to be used in counting, sorting, packaging and labelling packages of banknotes and coins, and in conducting activities related to the supply of banknotes and coins to banks (hereinafter the 'draft ordinance').

The ECB's competence to deliver an opinion is based on Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union and the second indent of Article 2(1) of Council Decision 98/415/EC¹, as the draft ordinance relates to means of payment. 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. Purpose of the draft ordinance

- 1.1 The draft ordinance is intended to replace Ordinance No 19/2007 of the President of NBP of 24 October 2007 on the method and procedure to be used in counting, sorting, packaging and labelling packages of banknotes and coins, and in conducting activities related to the supply of banknotes and coins to banks², on which the ECB commented in Opinion CON/2007/28³.
- 1.2 Particularly in view of the need to update and adapt the legal provisions to new solutions and technologies used in the banking sector, the draft ordinance introduces (1) certain reporting requirements for banks regarding amounts of banknotes and coins subject to currency management processes, (2) banknote fitness assessment criteria, and (3) requirements for banknote handling machines, including the method for classifying banknotes by these machines and the requirement to conduct tests on these machines, at which a representative of NBP may be present. The draft ordinance also implements certain solutions aimed at improving the safety of cash circulation.

¹ Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

² Published in Dz. Urz NBP of 2015, item 8.

³ See Opinion CON/2007/28. All ECB opinions are published on the ECB's website at www.ecb.europa.eu.

- 1.3 In addition, the draft ordinance contains provisions relating to foreign currency. The definition of that term means that the provisions of the draft ordinance dealing with foreign currency apply to the euro. This includes rules on the method and procedure for counting, sorting, packaging, labelling, lodgement and withdrawal of foreign banknotes, and the verification of the authenticity of banknotes and coins.

2. General observations

- 2.1 As noted in Opinion CON/2007/28⁴ in relation to the predecessor ordinance, the draft ordinance, which forms part of a wider regulatory framework on currency management, needs to comply with the directly applicable provisions of Council Regulation (EC) No 1339/2001⁵ as regards euro banknotes and coins.
- 2.2 Article 1 of Regulation (EC) No 1339/2001 extends the application of Article 6 of Council Regulation (EC) 1338/2001⁶ to Member States which have not adopted the euro as their single currency. In accordance with Article 6(1) of Regulation (EC) 1338/2001 cash handlers are obliged to carry out checks on the authenticity of euro banknotes in line with the procedures defined by the ECB. The ECB has defined these procedures in Decision ECB/2010/14⁷.
- 2.3 However, by virtue of Article 6(1a) of Regulation (EC) 1338/2001 Member States which have not adopted the euro as their single currency may make use of a derogation. If these Member States make use of this option, they can allow cash handlers to carry out checks on the authenticity of euro banknotes by trained personnel. Where a machine is used, this machine however needs to be fully compliant with the ECB recirculation framework. Although the obligation established by Article 6 of Regulation (EC) 1338/2001 in conjunction with Article 1 of Regulation (EC) 1339/2001 is directly applicable in Poland and takes precedence over national law, the ECB would encourage the NBP to include a specific reference to this obligation in the draft ordinance to promote legal certainty for its addressees.
- 2.4 Going beyond the provisions of directly applicable Union law, in view of Poland's prospects of adopting the euro in the future and the related obligation to align Polish law with the Eurosystem's legal framework, the ECB would welcome the draft ordinance establishing a legal framework at

⁴ See paragraph 2.2 of Opinion CON/2007/28.

⁵ Council Regulation (EC) No 1339/2001 of 28 June 2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (OJ L 181, 4.7.2001, p. 11).

⁶ Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 4.7.2001, p. 6).

⁷ Decision ECB/2010/14 of the European Central Bank of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes (OJ L 267, 9.10.2010, p. 1). For euro coins, the authenticity check procedure is provided for in Regulation (EU) No 1210/2010 of the European Parliament and of the Council of 15 December 2010 concerning authentication of euro coins and handling of euro coins unfit for circulation (OJ L 339, 22.12.2010, p. 1).

national level that is consistent with the ECB legal framework applicable to the protection of euro banknotes.

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

Done at Frankfurt am Main, 11 July 2016.

[signed]

The President of the ECB

Mario DRAGHI