


Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2013/0023(COD) Procedure completed
Protection of the euro and other currencies against counterfeiting by criminal law	
Repealing JHA act 2000/383/JHA (Framework Decision)	1999/0821(CNS)
Subject	
5.20.02 Single currency, euro, euro area	
7.30.30.10 Action against counterfeiting	
7.40.04 Judicial cooperation in criminal matters	

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	LIBE Civil Liberties, Justice and Home Affairs		31/01/2013	
		ECR MCINTYRE Anthea		
		Shadow rapporteur		
		PPE STRIFFLER Michèle		
		S&D FAJON Tanja		
	ALDE WIKSTRÖM Cecilia			
	Verts/ALE TAVARES Rui			
	Committee for opinion	Rapporteur for opinion	Appointed	
	ECON Economic and Monetary Affairs		12/03/2013	
		PPE ZALBA BIDEGAIN Pablo		
	IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.		
Council of the European Union	Council configuration	Meeting	Date	
	Economic and Financial Affairs ECOFIN	3310	06/05/2014	
	Justice and Home Affairs (JHA)	3298	03/03/2014	
	Justice and Home Affairs (JHA)	3260	07/10/2013	
European Commission	Commission DG	Commissioner		
	European Anti-Fraud Office (OLAF)	ŠEMETA Algirdas		
European Central Bank				

Key events			
05/02/2013	Legislative proposal published	COM(2013)0042	Summary
12/03/2013	Committee referral announced in Parliament, 1st reading		
17/12/2013	Vote in committee, 1st reading		
10/01/2014	Committee report tabled for plenary, 1st reading	A7-0018/2014	Summary
16/04/2014	Results of vote in Parliament		

16/04/2014	Decision by Parliament, 1st reading	T7-0441/2014	Summary
06/05/2014	Act adopted by Council after Parliament's 1st reading		
15/05/2014	Final act signed		
15/05/2014	End of procedure in Parliament		
21/05/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/0023(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealing JHA act 2000/383/JHA (Framework Decision) 1999/0821(CNS)
Legal basis	Treaty on the Functioning of the EU TFEU 083-p1-a1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Central Bank
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/11903

Documentation gateway

Legislative proposal		COM(2013)0042	05/02/2013	EC	Summary
Document attached to the procedure		SWD(2013)0019	05/02/2013	EC	
Document attached to the procedure		SWD(2013)0020	05/02/2013	EC	
Economic and Social Committee: opinion, report		CES2896/2013	23/05/2013	ESC	
European Central Bank: opinion, guideline, report		CON/2013/0037 OJ C 179 25.06.2013, p. 0009	28/05/2013	ECB	Summary
Committee draft report		PE510.737	06/06/2013	EP	
Amendments tabled in committee		PE516.694	17/07/2013	EP	
Committee opinion	ECON	PE514.677	25/09/2013	EP	
Committee report tabled for plenary, 1st reading/single reading		A7-0018/2014	10/01/2014	EP	Summary
Amendments tabled in committee		PE529.845	21/02/2014	EP	
Text adopted by Parliament, 1st reading/single reading		T7-0441/2014	16/04/2014	EP	Summary
Draft final act		00045/2014/LEX	15/05/2014	CSL	
Commission response to text adopted in plenary		SP(2014)471	09/07/2014	EC	
Follow-up document		COM(2019)0311	09/07/2019	EC	Summary

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex
Final act	
Directive 2014/62 OJ L 151 21.05.2014, p. 0001 Summary	

Protection of the euro and other currencies against counterfeiting by criminal law

PURPOSE: to draw up minimum rules concerning the definition of criminal offences and sanctions in the area of counterfeiting of the euro and other currencies.

PROPOSED ACT: Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

PARLIAMENTS ROLE: Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the euro continues to be a target of organised crime groups active in the forgery of money. Counterfeiting of the euro has led to a financial damage of at least EUR 500 million since the introduction of the euro in 2002. Europol considers that there is a long-term trend towards an increase in the crime level and notes that the criminal threat remains serious.

Council Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro aims at supplementing, on the territory of European Union, the provisions of the Geneva Convention of 1929 which lays down rules ensuring that severe criminal penalties and other sanctions can be imposed for offences of counterfeiting currency.

Although all Member States have, with minor exceptions, formally implemented the Framework Decision correctly, Member States have adopted diverging rules and consequently often diverging levels of protection and practices within their national legal systems. In particular, considerable differences exist with respect to the levels of sanctions which are applicable in the Member States to the main forms of counterfeiting. It is therefore essential to ensure that effective and efficient criminal law measures protect the euro and any other currency whose circulation is legally authorised in all Member States.

IMPACT ASSESSMENT: the Commission conducted an impact assessment of policy alternatives, taking into account the consultations of the interested parties. After considering the possible options, the impact assessment concludes that the following solution would be preferred: (i) maintenance of most of the provisions from Council Framework Decision 2000/383/JHA in a new proposal, with minor modifications, taking into account the Treaty of Lisbon; (ii) modification of the provisions on penalties; and (iii) introduction of a new provision obliging Member States to provide for the possibility to use certain investigative tools.

LEGAL BASIS: Article 83 (1) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the purpose of this Directive is to supplement the provisions and to facilitate the application of the Geneva Convention by the Member States. It builds on and updates Council Framework Decision 2000/383/JHA seeking to increase protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro. The proposal:

- requires Member States to criminalise all forms of preparation and participation. Criminal responsibility for attempt is included for the majority of offences;
- requires Member States to apply effective, proportionate and dissuasive penalties in line with jurisprudence of the Court of Justice. For more serious cases of the offences of production and distribution of counterfeit currency, it sets out a sanction of imprisonment within a range of at least six months and eight years for natural persons;
- requires Member States to ensure liability of legal persons, while excluding that such liability is alternative to that of natural persons, and to apply effective, proportionate and dissuasive sanctions on legal persons;
- requires jurisdiction of the judicial authorities which allow them to initiate investigations, pursue prosecutions and bring to judgment cases relating to currency counterfeiting;
- obliges Member States whose currency is the euro to exercise universal jurisdiction on euro counterfeiting offences under certain conditions;
- ensures that investigative tools which are provided for in national law for organised crime or other serious crime cases can also be used in cases of counterfeiting of currency;
- requires from Member States to ensure that the National Analysis Centres and the National Coin Analysis Centres can analyse euro counterfeits also during on-going judicial proceedings for the purpose of detecting further counterfeits;
- requests that Member States are contracting parties of the International Geneva Convention of 20 April 1929.

BUDGETARY IMPLICATIONS: the proposal has no implications for the Budget of the European Union.

Protection of the euro and other currencies against counterfeiting by criminal law

Opinion of the European Central Bank on a proposal for a Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

The ECB welcomes the proposed directive, as well as the fact that the proposed directive takes into account the ECB's view that the criminal law framework should be reinforced by strengthening and harmonising the penalty regime, including by setting standards for minimum penalties.

From a general perspective, the ECB:

- suggests, in the interests of clarity, inserting the content of Article 9a of Council Framework Decision 2000/383/JHA into the proposed directive;
- considers it would be beneficial to invite the competent authorities of Denmark, the United Kingdom and Ireland (if the latter two do not participate in the adoption of the proposed directive), to commit to apply the minimum and maximum standards for penalties, ensure the availability of effective investigative tools and the transmission of counterfeit notes and coins to National Analysis Centres (NACs) and the National Coin Analysis Centres (CNACs) by judicial authorities in accordance with the proposed directive.

The ECB's specific observations relate to the following points:

- Potential nominal value of counterfeit notes and coins: the ECB considers that recital 19 of the proposal should be amended: (i) to allow for the possibility for Member States to apply a proportionate penalty in relation to unfinished counterfeited notes and coins, which may only have a potential nominal value; and (ii) to provide that the minimum and maximum standards for penalties would take into account the relevant nominal or potential nominal value of non-euro counterfeit notes and coins.

- Counterfeit offences in relation to production tools and raw materials of banknotes and coins: with a view to significantly increasing the efficiency and deterrent effect of the penalties, the ECB considers that the minimum and maximum standards for penalties should apply to all offences defined in Article 3(1) of the proposed directive.

In this respect, given that the most sophisticated counterfeit notes and coins are produced using components from multiple sources, for example fraudulent holograms from non-Union countries, the ECB would support the inclusion of offences under Article 3(1)(d) of the proposed directive, where they involve particularly serious circumstances, within the scope of the penalty regime envisaged in the proposed directive.

- Obligation to transmit counterfeit notes and coins for analysis: the ECB recommends that where samples of suspected counterfeit notes and coins cannot be transmitted because it is necessary to retain them as evidence, these samples of counterfeit notes and coins should be transmitted to the NAC or CNAC without delay after the relevant proceedings have concluded.

Protection of the euro and other currencies against counterfeiting by criminal law

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Anthea McINTYRE (ECR, UK) on the proposal for a directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

The committee recommended that Parliament's position in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Subject matter: the provisions provided under this Directive should also aim to ensure better coordination of anti-counterfeiting measures between national authorities within and outside the Eurozone.

Intentional nature: with regard to the criminal offences provided for in this Directive, intention must be a part of all the elements constituting the offences referred to in this Directive. The intentional nature of an act or omission may be inferred from objective and factual circumstances. Offences by natural persons which do not require intention are not covered by this Directive.

Penalties: given the substantial disparities between Member States the danger exists that the introduction of minimum penalties for counterfeiting the euro and other currencies might lead to lack of uniformity regarding minimum penalties within one and the same national legal system. Therefore, Member States should provide for minimum levels of maximum penalties.

The report stated that offences referred to in the Directive should be punishable under national law by a maximum penalty of eight years of imprisonment.

In enforcing and executing sentences for the criminal offences provided for in this Directive, Member States should apply the general rules and principles of national criminal law in accordance with the specific circumstances of each case.

Compilation of data: Members proposed that Member States should regularly compile reliable data on the number of incidents concerning counterfeit euro notes and coins with particular reference to criminal prosecutions initiated and successful criminal prosecutions. Such data should be made available to OLAF.

Obligation to transmit counterfeit euro notes and coins for analysis and detection of counterfeits: immediately after the proceedings have concluded, the judicial authorities should transmit those necessary samples of each type of suspected counterfeit note to the National Analysis Centre and each type of suspected counterfeit coin to the Coin National Analysis Centre.

European Central Bank report: the European Central Bank, in consultation with the Commission, should, by one year after the entry into force of this Directive, submit a report on the EUR 200 and EUR 500 banknotes. That report should assess the extent to which the issuing of those denominations is justified in the light of the risks of counterfeiting and money laundering. The report should be accompanied, if necessary, by a proposal for a decision.

Consultations with third countries: the Commission should, on behalf of the Union, consider the negotiation of appropriate agreements with third countries that use the euro as a currency in order to oppose and punish any activity likely to call into question the authenticity of the euro through counterfeiting and in order to attain the objectives of this Directive.

Protection of the euro and other currencies against counterfeiting by criminal law

The European Parliament adopted by 545 votes to 8, with 21 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement reached between the European Parliament and the Council. They amended the proposal as follows:

Aim: since its introduction in 2002, as a currency continuously targeted by organised crime groups active in money counterfeiting, counterfeiting of the euro has caused financial damage of at least EUR 500 million. This Directive should establish minimum rules concerning the definition of criminal offences and sanctions in the area of counterfeiting of the euro and other currencies. It should also introduce common provisions to strengthen the fight against those offences and to improve investigation of them and to ensure better cooperation against counterfeiting.

Offences: Member States should take the necessary measures to ensure that certain conduct is punishable as a criminal offence, when committed intentionally. These include any fraudulent making, receiving, obtaining or possession of instruments, articles, computer programmes as well as security features, such as holograms, watermarks or other components of currency which serve to protect against counterfeiting.

Intentional conduct should also be punishable in relation to notes and coins which are not yet issued, but are designated for circulation as legal tender.

Sanctions for natural persons: Member States should provide for criminal sanctions in their national law in respect of the provisions of Union law on combating currency counterfeiting. Those sanctions should be effective, proportionate and dissuasive and should include imprisonment. The minimum level of the maximum term of imprisonment (five and eight years according to the case) should apply at least to the most serious forms of those offences.

Although intentionally passing on counterfeit currency which has been received in good faith could be sanctioned with a different type of criminal sanction, including fines, in the national law of the Member States, those national laws should provide for imprisonment as a maximum sanction.

Transmission of counterfeit euro notes and coins: Member States should ensure that during criminal proceedings the examination by the National Analysis Centre and Coin National Analysis Centre of suspected counterfeit euro notes and coins for analysis, identification and detection of further counterfeits is permitted without delay. The competent authorities should transmit the necessary samples without any delay, and at the latest once a final decision concerning the criminal proceedings has been reached.

Statistics: Member States should, at least every two years, transmit data to the Commission on the number of offences and the number of persons prosecuted for and convicted of the offences.

By five years after the entry into force of the Directive, the Commission should submit a report on the application of this Directive. It should be accompanied, if necessary, by a legislative proposal.

Protection of the euro and other currencies against counterfeiting by criminal law

PURPOSE: to protect the euro and other currencies against counterfeiting.

LEGISLATIVE ACT: Directive 2014/62/EU of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

CONTENT: since its introduction in 2002, counterfeiting of the euro has caused financial damage of at least EUR 500 million. This Directive updates and replaces the Council Framework Decision 2000/383/JHA:

- it establishes minimum rules concerning the definition of criminal offences and sanctions in the area of counterfeiting of the euro and other currencies;
- it also introduces common provisions to strengthen the fight against those offences, and to improve investigation of them and to ensure better cooperation against counterfeiting.

Criminal offences: by virtue of the new Directive, the following conduct is punishable as a criminal offence:

- the production of counterfeit euro notes or coins and their distribution;
- the misuse of facilities or legal printing equipment or currencies allowed for the printing of notes and coins which are not yet issued, but are designated for circulation as legal tender;
- the incitement to commit major crimes of counterfeiting, participation in such offences, the fact of abetting and attempting to commit such offences, including misuse of facilities or equipment legal, and counterfeiting of banknotes and coins not yet issued but intended to be put into circulation.

Member States may adopt or maintain more stringent rules for counterfeiting offences.

Sanctions for natural persons: the Directive provides that the sanctions shall be effective, proportionate and dissuasive. The more serious offences shall be punishable by a maximum term of imprisonment (of at least five years to eight years according to the case).

Legal persons: Member States shall take the necessary measures to ensure that a legal person held liable is subject to effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions such as: a) exclusion from

entitlement to public benefits or aid; b) temporary or permanent disqualification from the practice of commercial activities; c) placing under judicial supervision.

The fight against counterfeiting: the Directive introduces common provisions to strengthen the fight against those offences and to improve investigation of them. Member States shall also take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime or other serious crime cases, are available to persons, units or services responsible for investigating or prosecuting the offences

The Directive also requires of Member States:

- an obligation to transmit counterfeit euro notes and coins for analysis and detection of counterfeits;
- an obligation, at least every two years, to transmit data to the Commission on the number of offences and the number of persons prosecuted for and convicted of the offences.

No later than 23 May 2019, the Commission shall present a report on the application of this Directive, accompanied, if necessary, by a legislative proposal.

It should be noted that Ireland decided to adopt the Directive. The United Kingdom and Denmark do not participate.

ENTRY INTO FORCE: 22.05.2014.

TRANSPOSITION: no later than 23.05.2016.

Protection of the euro and other currencies against counterfeiting by criminal law

The Commission presented a report on the application of on the application of Directive 2014/62/EU on the protection of the euro and other currencies against counterfeiting by criminal law.

The Directive was introduced with a view to reinforcing the legal framework with provisions on the level of sanctions, on investigative tools and on the analysis, identification and detection of counterfeit euro notes and coins during judicial proceedings. Member States had to bring into force the national measures necessary to comply with the Directive by 23 May 2016 at the latest.

Added value

The Commission considers that, overall, the Directive provides EU added value by raising the level of protection not only of the euro but also of other currencies against counterfeiting by criminal law measures with enhanced provisions on the level of sanctions, on investigative tools and on the analysis, identification and detection of counterfeit euro notes and coins during judicial proceedings.

Transposition in their national law

The report focuses on the measures Member States have taken so far to implement the Directive through a transposition in their national law. It assesses whether Member States have implemented the Directive within the given timeframe, and whether national legislation achieves the objectives and fulfils the requirements of the Directive.

At the time of drafting this report, all Member States have notified transposition except Ireland.

The report noted that the majority of the Member States transposed in a conforming manner Article 3 and 4 of the Directive on criminalisation of certain offences, the provisions of Article 5 on penalties introducing a maximum sanction of at least five years for distribution and maximum sanction of at least eight years for production of counterfeit currency as well as the provision of Article 9 obliging Member States to provide for the possibility to use certain investigative tools.

In general, the majority of the provisions of the Directive have been transposed by most Member States. However, a number of recurrent transposition issues were noted:

- with respect to Article 3(1)(d) of the Directive on preparatory offences, preparatory offences were not transposed into national law as self-standing (sui generis) offences. Instead, in a number of Member States, preparatory offences were regarded as attempted production offences ;
- some Member States have established - contrary to the Directive - separate categories of minor/petty/or non-aggravated forms of the offences defined under Articles 3 and 4 of the Directive, where penalties remained below the level required by the Directive;
- a large majority of the Member States whose currency is the euro did not transpose Article 8(2)(b) of the Directive requiring Member States whose currency is the euro to establish jurisdiction in cases where the counterfeit euro notes or coins were detected on their territory, but the offences defined in Articles 3 and 4 are committed outside their territory;
- a large majority of the Member States did not adequately transpose Article 10 of the Directive on transmission of seized counterfeit currency to the National Analysis Centre (NAC)/Coin National Analysis Centre (CNAC);
- lastly, Article 11 of the Directive, on statistics, was in almost all Member States not transposed at all.

Improved application

In conclusion, the assessment shows that there is currently no need to revise the Directive, but that its application needs to be improved. The Commission shall continue to assess Member States' compliance with the Directive and shall take every appropriate measure to ensure conformity with its provisions throughout the European Union.