



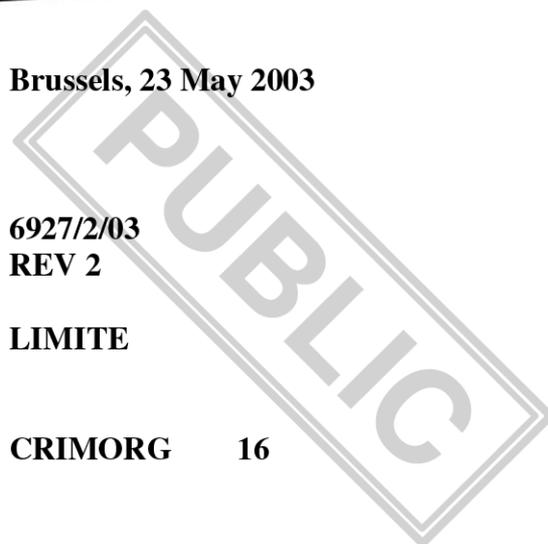
**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 May 2003**

**6927/2/03  
REV 2**

**LIMITE**

**CRIMORG 16**



**COVER NOTE**

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From:	Presidency
To:	Multidisciplinary Group on Organised Crime
No. prev. doc.:	6927/1/03 REV 1 CRIMORG 16
Subject:	Draft Council Recommendation on measures to protect the euro against counterfeiting

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At the MDG meeting of 5 May 2003 the text of the Draft Council Recommendation on measures to protect the euro against counterfeiting was extensively discussed. A number of comments were made on the fact that the text reiterated a number of obligations already laid down in 1<sup>st</sup> and 3<sup>rd</sup> pillar instruments and, more generally, concerns were raised regarding the division between 1<sup>st</sup> and 3<sup>rd</sup> pillar matters. One delegation thought that, before recommending new measures, the implementation of measures already adopted should be studied on the basis of available data.

Delegations will find attached the revised text of the Draft Council Recommendation on measures to protect the euro against counterfeiting. The text was revised by the Presidency following the comments made at the meeting of the Multidisciplinary Group on Organised Crime on 5 May 2003.

DK and IRL have a reservation on the text of the draft recommendation.

## THE COUNCIL OF THE EUROPEAN UNION

[...]

- (1) WHEREAS Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro<sup>1</sup> lays down that currency denominated in euro was put into circulation as from 1 January 2002 and obliged the participating Member States to ensure adequate sanctions against counterfeiting and falsification of euro banknotes and coins.
- (2) WHEREAS in its Recommendation of 7 July 1998 regarding the adoption of certain measures to enhance the legal protection of euro banknotes and coins<sup>2</sup>, the European Central Bank suggested that the Council, the Commission and the Member States considered implementing any possible measures to improve the combating of counterfeiting.
- (3) WHEREAS in its Communication of 22 July 1998 concerning the protection of the euro “Combating counterfeiting”<sup>3</sup> the Commission proposed action to be taken on training; information and communication systems and databases; co-operation, mutual assistance, technical and operational assistance in investigations; and definition of counterfeiting activities and deterrent penalties;
- (4) WHEREAS in its Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with introduction of the euro<sup>4</sup>, amended by Framework Decision 2001/888/JHA of 6 December 2001<sup>5</sup>, the Council adopted provisions to ensure that the euro is protected in an appropriate way by effective measures under criminal law.

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<sup>1</sup> OJ L 139, 11.5.1998, p. 1.

<sup>2</sup> OJ C 11, 15.1.1999, p. 13.

<sup>3</sup> COM(1998) 474 final

<sup>4</sup> OJ L 140, 14.6.2000, p. 1.

<sup>5</sup> OJ L 329, 14.12.2001, p. 3.

- (5) WHEREAS on 28 May 2001 the Council adopted Framework Decision 2001/413/JHA combating fraud and counterfeiting of non-cash means of payment<sup>1</sup>.
- (6) WHEREAS on 28 June 2001 the Council adopted Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting<sup>2</sup> and Regulation (EC) No 1339/2001 extending the effects of Regulation (EC) No 1338/2001 to those Member States which have not adopted the euro as their single currency<sup>3</sup>. Those Regulations deal with exchange of information and mutual assistance, including external aspects of protection of the euro.
- (7) WHEREAS on 6 December 2001 the Council adopted Decision 2001/887/JHA on the protection of the euro against counterfeiting<sup>4</sup>.
- (8) WHEREAS on 17 December 2001, the Council adopted Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting ("Pericles" programme)<sup>5</sup>.
- (9) REMINDING of the Council Decision<sup>6</sup> adopted on 29 April 1999 that extended Europol's mandate to the fight against forgery of money and means of payment thus making Europol the central contact point of the European Union with regard to any activities related thereto for third states and organisations, hereby creating an obligation to co-operate with Europol on the drafting and implementation of measures against the counterfeiting of the euro.
- (10) TAKING INTO ACCOUNT that the euro as the common currency of now 12 Member States is constantly developing into a global currency and therefore constitutes a primary target for organised international counterfeiting

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<sup>1</sup> OJ L 149, 02.06.2001, p. 1.

<sup>2</sup> OJ L 181, 4.7.2001, p. 6.

<sup>3</sup> OJ L 181, 4.7.2001, p. 6.

<sup>4</sup> OJ L 329, 14.12.2001, p. 1.

<sup>5</sup> OJ L 339, 21.12.2001, p. 50.

<sup>6</sup> OJ C 149, 28.05.1999, pp. 16-17 and OJ C 229, 12.08.1999, p. 14.

- (11) HAVING REGARD of the results of the Conference, held by the German police in Munich in the framework of the "Pericles" programme in mid-November 2002, in collaboration with the European Commission (OLAF), Europol, Interpol, the European Central Bank, the German Federal Bank and Eurojust and attended by heads of the police anti-forgery units from Member States and third countries.
- (12) EXPRESSING CONCERN that the euro is being targeted also from counterfeiters from acceding and third countries;
- (13) BEING AWARE of the risk that the level of counterfeit euro banknotes and coins may increase from its current low level;
- (14) ENDEAVOURING to avoid any increase of euro counterfeiting that would affect the smooth circulation of the euro banknotes and coins;
- (15) BEING CONVINCED that the measures to protect the euro put in place by previous instruments should be supplemented and strengthened by close co-operation between the competent authorities of the Member States.
- (16) CONSIDERING that the Member States should step up co-operation amongst themselves as well as with neighbouring third countries.
- (17) BEING AWARE that the proposed measures that are addressed to police forces from the EU Member States and the Accession Countries are to some extent new but also reflect obligations deriving from agreements that have not been completely implemented, and that therefore the need for action will vary from country to country with respect to the measures proposed.

HEREBY RECOMMENDS:

1. To improve cooperation on combating currency counterfeiting within the European Union by:
  - [...]
  - [...]
  - taking measures to rule out the uncontrolled availability of the paper, used for printing euro banknotes as well as alloys and blanks used for making euro coins<sup>1</sup>;
  - enhancing the role of the National Central Offices referred to in Article 12 the 1929 Geneva Convention on Counterfeiting, which can conduct police investigations in accordance with national law, with the task of combating crime related to currency counterfeiting;
  - holding regular meetings of the national authorities competent for the fight against counterfeiting (mainly National Central Offices) in the framework of specialised police groups, such as in Europol [...], as well as regular meetings of all European counterfeiting experts;
  - [...]
  - [...]
  - [...]
  - co-operating, [...] under national legislation and if need be by harmonising the various Member States' legislation, throughout the European Union, on using undercover agents or informants, as well as surveillance measures to combat counterfeiting [...]

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<sup>1</sup> AT has a scrutiny reservation on this indent.

- [...]
- by setting up a BITMAP intelligence centre at Europol. This common database should contain bitmap related information and it could serve as the Bitmap co-ordination centre in the European Union. The database shall contain the relevant (technical) data on decoded bitmap-information, investigative data including personal data of companies and persons related with the bitmap subject. EU Member States are asked to supply, in accordance with their national legislation, all existing Bitmap data to the Bitmap intelligence centre

2. Based on the principle of subsidiarity, to facilitate the specialist training, notably by the use of the Pericles Programme, by involving all competent authorities at European and national level, in particular the Network of European Police Colleges and CEPOL, through:

- training in line with the specific needs and strategies at national level, in the framework of an overall EU strategy aimed at promoting convergence of measures so as to guarantee equivalent levels of protection of the euro against counterfeiting based on the best practices;
- continuing the extensive use of Pericles and all other programmes for training and technical assistance;
- stepping up the training of investigating officers in the Member States and third countries through exchanges, workshops, seminars and linguistic training;
- [...];
- setting up websites in Member States and [...] at one of the European institutions [...] which allow currency counterfeiting authorities in the European Union [...] password protected access, with a view to ensuring a uniform level of information. These websites shall not contain personal data.

3. To co-operate with third countries by endeavouring to achieve:

- the adaptation of legislation in third countries to the regulatory framework of the EU Member States, notably by promoting the establishment of National Central Offices referred to in the Geneva Convention [..];
- the adaptation of legislation in third countries by making provision for the criminal law of third countries to be applied to foreigners and nationals alike, regardless of the law of the place where the acts were committed, in the case of the following offences and the preparatory acts thereto committed abroad: (a) counterfeiting and the circulation of counterfeit currency; (b) the production, supply and putting into circulation of currency either before the date of its legal circulation or during the period in which it is accepted as a means of exchange by the competent bodies when it has been produced using legal facilities and materials but without the permission of the competent authority or in violation of the relevant permit; and (c) debasing of coins.
- [...]
- [...]
- [...]
- [...]
- the inclusion of currency counterfeiting investigators in the training programmes of EU Member States;
- the provision of EU financial assistance in the framework of support programmes.