COMMISSION OF THE EUROPEAN COMMUNITIES

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2005/0145 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 974/98 on the introduction of the euro

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context

Currently, three Council Regulations govern the introduction of the euro and its use in the current participating Member States. Firstly, Council Regulation (EC) No 974/98 on the introduction of the euro[1], which governs the initial introduction of the euro in the first wave euro-area Member States and Greece. This Regulation is based on the approach approved by the European Council in Madrid in 1996. Since future entrants into the euro-area will be in a situation different from the one under the Madrid scenario, these rules can no longer apply in their current format. Therefore, this initiative proposes amendments to this Regulation.

Furthermore, the introduction and the use of the euro are governed by Council Regulation (EC) No 2866/98 on the conversion rates between the euro and the currencies of the Member States adopting the euro[2] and Council Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro[3]. While the first one will need to be adapted in order to cover conversion rates for the currencies of Member States entering the euro area, the second one can remain unchanged.

Some non-participating Member States have already started their domestic preparations for the introduction of the euro and are notably preparing amendments to their national legislation. Since the competence to adopt monetary law exclusively belongs to the Community as far as participating Member States are concerned, the Member States need a sound and reliable Community law framework for their national preparations.

1.2. Objective

While the Treaty, and notably Articles 122 and 123 thereof, allow for the extension of the euro area to current non-participating Member States, secondary law does currently not foresee rules for the introduction of the euro in such Member States and for the implementation of these Treaty provisions. Therefore, secondary law is necessary in order to allow for this introduction.

In this respect, the rules which had been applied to the current participating Member States, and in particular Council Regulation (EC) No 974/98 on the introduction of the euro as well as Council Regulation (EC) No 2866/98 on the conversion rates between the euro and the currencies of the Member States adopting the euro and Council Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro have been successfully applied to the introduction of the

1 OJ L 139, 11.5.1998, p. 1, regulation as amended by Council Regulation (EC) No 2596/2000 in order to provide for the adoption of the euro by Greece.

2 OJ L 359, 31.12.1998, p. 1, regulation as amended by Council Regulation (EC) No 1478/2000 in order to provide for the adoption of the euro by Greece.

3 OJ L 162, 19.6.1997, p. 1, regulation as amended by Council Regulation (EC) No 2595/2000 in order to allow for the adoption of the euro by Greece.

euro in the first twelve euro-area Member States. This framework appeared to be a robust and sound legal framework and should therefore be maintained and be applied to future entrants to the euro area as far as possible.

Since some non-participating Member States might already join the euro area in 2007, the adapted legal framework for the enlargement of the euro area should be put in place on a timely basis, notably to provide certainty for all future euro-area entrants and set rules which can easily be applied to any future entrant. While Council Regulation (EC) No 1103/97 on certain provisions relating to the introduction of the euro can remain unchanged, in particular Council Regulation (EC) No 974/98 needs to be adapted. The need to amend this regulation stems inter alia from the fact that this Regulation makes reference to specific fixed dates. The objective that Council Regulation (EC) No 974/98 applies to all current and future euro-area Member States makes it necessary to adapt this Regulation in a way that all these fixed dates are replaced with dates defined in the regulation for each individual Member State. Moreover, since euro banknotes and coins are already in circulation, the changeover scenario applied to the first twelve participating Member States will not be appropriate for all future euro-area entrants and some degree of flexibility will need to be introduced.

Firstly, Member States could choose a transitional period in the "traditional" meaning like the one which applied to those Member States establishing the euro area in 1999 (Belgium, Germany, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Austria, Portugal and Finland) or joining it in 2001 (Greece). This would mean that first the euro would be adopted as the currency of the respective Member State, although euro banknotes and coins would only be introduced after the lapse of the transitional period in that Member State. The length of the transitional period might vary among individual Member States.

Secondly, Member States could opt for a "big bang" scenario. In this scenario, the transitional period would only last for one "logical second". As a consequence, the adoption of the euro as the currency in the relevant Member State and the introduction of euro banknotes and coins would coincide.

Finally, Member States could choose a "big bang" scenario combined with a "phasing-out" period, whereby the "big bang" scenario would apply and certain scope for the usage of the national currency in specific legal instruments (invoices, company books, …) after the "big bang" date would be allowed for a limited period of time.

While the Member States entering the euro area can only be identified once their derogation is lifted, Council Regulation (EC) No 974/98 needs to be adapted in a separate step prior to this point in time.

1.3. Outlook

Council Regulation (EC) No 974/98 which is based on Article 123(4) EC forms the basis for the introduction of the euro in the eleven "first wave" participating Member States – and continues to do so. This Regulation has been amended once, namely by Council Regulation (EC) No 2596/2000 of 27 November 2000 based on Article 123(5) EC to allow for Greece to join the euro area. In essence, this amendment

Regulation simply added Greece to the list of participating Member States in Regulation (EC) No 974/98.

The approach used for Greece should be applied to all further enlargements of the euro area. For each individual accession, there will be a separate regulation modifying Regulation (EC) No 974/98. This modifying regulation will be based on Article 123(5) EC, and in substance it will extend the list of participating Member States by each individual Member State entering the euro area and indicate the type of changeover scenario chosen by that Member State.

In order to prepare Regulation (EC) No 974/98 for such subsequent amendments, this Regulation requires some prior technical adaptations. This technical modification of Regulation 974/98 would be based on Article 123(4), third sentence, EC. This adaptation should be brought about as soon as possible to provide future euro-area entrants with timely legal clarity and certainty.

After each amendment, the Commission will as a rule prepare an unofficial consolidated version of Regulation (EC) No 974/98 as amended.

2. LEGAL ASPECTS

2.1. Legal basis

Legal basis for the present proposal is Article 123(4), third sentence, EC, which allows for the adoption of monetary law provisions. The Council shall act with the qualified majority of the Member States without a derogation on a proposal from the Commission and after consulting the ECB.

It should be noted that Article 123(5) EC stipulates that if it is decided to abrogate a Member State's derogation, the Council shall inter alia take the other measures necessary for the introduction of the euro as the single currency in the Member State concerned. The Council shall act with the unanimity of the Member States without a derogation and the Member State concerned, on a proposal from the Commission and after consulting the ECB. This provision will apply as legal basis for adding further Member States entering the euro area to those listed in Council Regulation (EC) No 974/98.

2.2. Subsidiarity and proportionality

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

The present initiative does not go beyond what is necessary to achieve its objective and, therefore, complies with the proportionality principle.

2.3. Choice of the legal instrument

The Regulation instrument is the only appropriate legal instrument to amend Council Regulation (EC) No 974/98 on the introduction of the euro.

3. BUDGETARY IMPLICATIONS

The proposal has no implication for the Community budget.

4. COMMENTARY ON INDIVIDUAL ARTICLES

4.1. Article 1(1)

These provisions remove the effect that Council Regulation (EC) No 974/98 refers to specific dates. Instead, the dates are replaced by definitions and the resulting specific dates may differ for different Member States.

4.2. Article 1(2)

This Article specifies that for each individual Member State the dates specified and listed in Article 1 are laid down in a new table in the annex to Council Regulation (EC) No 974/98.

4.3. Article 1(3)

This provision simplifies Article 2 by using dates as defined in the regulation instead of a fixed date for each individual Member State.

4.4. Article 1(4)

This provision, which modifies Article 9, replaces fixed dates by dates as defined in the regulation.

4.5. Article 1(5)

This provision provides for the "phasing-out" period. It allows for the continued creation of legal instruments (such as invoices or company accounts) in making reference to the national currency unit in the "phasing-out" period of one year. Furthermore, this provision leaves it to Member States to limit its scope further and its duration.

4.6. Article 1(6)

This provision replaces the fixed date referred to in Articles 10 and 11 by a date defined elsewhere in the regulation. Moreover, the second sentence of Article 11 of Council Regulation (EC) No 974/98 is amended in order to acknowledge the legal tender status of euro coins issued by third states (such as currently Monaco, San Marino and the Vatican City State) under monetary agreements with the Community.

4.7. Article 1(7)

In this provision, a fixed date is replaced idem.

4.8. Article 1(8)

In this provision, a fixed date is replaced idem. Moreover, this provision obliges banks during the dual circulation period to exchange banknotes and coins in denominated the national currency unit for euro banknotes and coins free of charge. National law may lay down ceilings for this obligation.

4.9. Article 1(9)

This provision adds the annex referred to in point 4.2 above, which provides for the definitions laid down in Article 1 of Council Regulation (EC) No 974/98 and their individual meanings for each Member State.

In further legislative steps, individual Member States would be added to the list now attached to Council Regulation (EC) No 974/98. In order to prepare such amendments, before the decision of the Council under Article 122(2) of the Treaty to lift a derogation in respect of an individual Member State is taken, the Member State concerned should notify the Council and the Commission in writing whether it considers a transitional period necessary and, in case it opts for a "big bang" scenario, whether it wants to apply a "phasing-out" period.

For a Member State A applying the "Madrid-style" transitional period, a Member State B applying a "big bang" approach and a Member State C applying a "big bang" approach with "phasing-out" period, the respective rows in the table would look as follows. These would be inserted into the table according to the established order of the Member States:

Member State A	1 January 20XX	1 January 20XX+1	n/a	n/a
Member State B	1 January 20YY	1 January 20YY	No	n/a
Member State C	1 January 20ZZ	1 January 20ZZ	Yes	31 December 20ZZ

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 123(4) thereof,

Having regard to the proposal from the Commission[4],

Having regard to the opinion of the European Parliament[5],

Having regard to the opinion of the European Central Bank[6],

Whereas:

(1) Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro[7] provides for the substitution of the euro for the currencies of the Member States which fulfilled the necessary conditions for the adoption of the single currency at the time when the Community entered the third stage of economic and monetary union. That Regulation also includes rules which apply to the national currency units of these Member States during the transitional period ending on 31 December 2001, and rules on banknotes and coins.

(2) Council Regulation (EC) No 2596/2000 amended Regulation (EC) No 974/98 to provide for the substitution of the euro for the currency of Greece.

(3) Regulation (EC) No 974/98 sets out a timetable for transition to the euro in the Member States currently participating. In order to provide clarity and certainty with regard to the rules governing the introduction of the euro in other Member States, it is necessary to lay down general provisions specifying how the various periods in the transition to the euro are to be determined in the future.

(4) In order to prepare a smooth changeover to the euro, Regulation (EC) No 974/98 provides for an obligatory transitional period between the substitution of the euro for the currencies of the participating Member States and the introduction of euro banknotes and coins.

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4 OJ C , , p. .

5 OJ C , , p. .

6 OJ C , , p. .

7 OJ L 139, 11.5.1998, p. 1. Regulation as amended by Council Regulation (EC) No 2596/2000 (OJ L 300, 29.11.2000, p. 2).

(5) If a Member State considers that a transitional period is not necessary, euro banknotes and coins will become legal tender in that Member State on the date of the adoption of the euro. However, it should be possible for such Member States to apply a "phasing-out" period of one year, during which it would be possible to continue to make reference to the national currency unit in new legal instruments. This would give economic actors in such Member States more time for to prepare for the introduction of the euro and therefore ease the transition.

(6) Banks should be required to exchange banknotes and coins denominated in the national currency unit for euro banknotes and coins free of charge during the dual circulation period, subject to certain ceilings.

(7) Regulation (EC) No 974/98 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 974/98 is amended as follows:

(1) Article 1 is replaced by the following:

"Article 1

For the purpose of this Regulation:

(a) "participating Member States" shall mean the Member States listed in the table in the Annex;

(b) "legal instruments" shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than banknotes and coins, and other instruments with legal effect

(c) "conversion rate" shall mean the irrevocably fixed conversion rate adopted for the currency of each participating Member State by the Council according to the first sentence of Article 123(4) of the Treaty or in accordance with paragraph 5 of that Article;

(d) "euro adoption date" shall mean the date on which a participating Member State adopts the euro;

(e) "cash changeover date" shall mean the date on which euro banknotes and coins acquire the status of legal tender in a given participating Member State;

(f) "euro unit" shall mean the currency unit as referred to in the second sentence of Article 2;

(g) “national currency units” shall mean the units of the currency of a participating Member State, as those units are defined on the day before the adoption of the euro in that Member State;

(h) “transitional period” shall mean the period beginning at 00.00 on the euro adoption date and ending at 00.00 on the cash changeover date;

(i) “phasing-out period” shall mean a period beginning on the euro adoption date during which reference may continue to be made to the national currency unit in new legal instruments;

(j) “redenominate” shall mean changing the unit in which the amount of outstanding debt is stated from a national currency unit to the euro unit, but which does not have through the act of redenomination the effect of altering any other term of the debt, this being a matter subject to relevant national law.”

(2) The following Article 1a is inserted:

“Article 1a

The euro adoption date, the cash changeover date, and the phasing-out period, if applicable, for each participating Member State shall be as set out in the Annex.”

(3) Article 2 is replaced by the following:

“Article 2

With effect from the respective euro adoption dates, the currency of the participating Member States shall be the euro. The currency unit shall be one euro. One euro shall be divided into one hundred cent.”

(4) Article 9 is replaced by the following:

“Article 9

Banknotes and coins denominated in a national currency unit shall retain their status as legal tender within their territorial limits as of the day before the euro adoption date in the participating Member State concerned.”

(5) The following Article 9a is inserted:

“Article 9a

If the euro adoption date and the cash changeover date in a given participating Member State are the same, that Member State may apply a phasing out period. In that case, references made in legal instruments to the national currency unit during a period of one year from the euro adoption date, shall be read as references to the euro unit according to the respective conversion rates. The acts performed under these legal instruments shall be performed only in the euro unit. The rounding rules laid down in Regulation (EC) No 1103/97 shall apply.

The Member State concerned may limit the application of the first paragraph to certain types of legal instrument, or to legal instruments adopted in certain fields.

The Member State concerned may shorten the period provided for in the first paragraph".

(6) Articles 10 and 11 are replaced by the following:

"Article 10

With effect from 1 January 2002 the ECB shall put into circulation banknotes denominated in euro. The central banks of the participating Member States shall put into circulation banknotes denominated in euro from the respective cash changeover date.

Without prejudice to Article 15, these banknotes denominated in euro shall be the only banknotes which have the status of legal tender in participating Member States.

Article 11

With effect from the respective cash changeover date, the participating Member States shall issue coins denominated in euro or in cent and complying with the denominations and technical specifications which the Council may lay down in accordance with the second sentence of Article 106(2) of the Treaty. Without prejudice to Article 15 and to the provisions of any agreement under Article 111 of the Treaty concerning monetary matters, those coins shall be the only coins which have the status of legal tender in participating Member States. Except for the issuing authority and for those persons specifically designated by the national legislation of the issuing Member State, no party shall be obliged to accept more than 50 coins in any single payment."

(7) Articles 13 and 14 are replaced by the following:

"Article 13

"Articles 10, 11, 14, 15 and 16 shall apply with effect from the respective cash changeover date in each participating Member State.

Article 14

Where in legal instruments existing on the day before the cash changeover date, reference is made to the national currency units, these references shall be read as references to the euro unit according to the respective conversion rates. The rounding rules laid down in Regulation (EC) No 1103/97 shall apply".

(8) Article 15 is amended as follows:

(a) In paragraphs 1 and 2, the words “after the end of the transitional period” are replaced by the words “from the respective cash changeover date”;

(b) the following paragraph 3 is added:

“During the period referred to in paragraph 1, banks in participating Member States adopting the euro after 1 January 2002 shall exchange their customers’ national notes and coins for notes and coins in euro, free of charge and without any limitation, up to a ceiling which may be set by national law. Banks may require that notice be given if the amount to be exchanged exceeds a ceiling set by the bank and corresponding to a household amount.

The banks referred to in the first subparagraph shall exchange national banknotes and coins of persons other than their customers, free of charge up to a ceiling set by the bank or by national law.”

(9) The text in the annex to this Regulation is added as an annex.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States, in accordance with the Treaty, subject to Protocols 11 and 12 and Article 122(1).

Done at Brussels,

For the Council
The President

ANNEX

Member State	Euro adoption date	Cash changeover date	Member State with a “phasing-out” period	End of “phasing-out” period
Belgium	1 January 1999	1 January 2002	n/a	n/a
Germany	1 January 1999	1 January 2002	n/a	n/a
Greece	1 January 2001	1 January 2002	n/a	n/a
Spain	1 January 1999	1 January 2002	n/a	n/a
France	1 January 1999	1 January 2002	n/a	n/a
Ireland	1 January 1999	1 January 2002	n/a	n/a
Italy	1 January 1999	1 January 2002	n/a	n/a
Luxembourg	1 January 1999	1 January 2002	n/a	n/a
Netherlands	1 January 1999	1 January 2002	n/a	n/a
Austria	1 January 1999	1 January 2002	n/a	n/a
Portugal	1 January 1999	1 January 2002	n/a	n/a
Finland	1 January 1999	1 January 2002	n/a	n/a