EUROPEAN COMMISSION

Brussels, 31.1.2011
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Recommendation for a

COUNCIL DECISION

on arrangements for the renegotiation of the Monetary Agreement with the Principality of Monaco

EXPLANATORY MEMORANDUM

The Monetary Agreements were concluded between the European Union and Monaco, San Marino and Vatican in order to give legal continuity to the arrangements which existed between these countries on the one hand and France and Italy on the other before the introduction of the euro.

Ten years after the euro replaced the legacy currencies of Italy and France used by Monaco, San Marino and Vatican, the Council invited the Commission to review the functioning of the Monetary Agreements[1]. The results of the assessment were adopted in the 'Commission Communication on the functioning of the Monetary Agreements with Monaco, San Marino and Vatican'[2].

The Commission concluded that the Monetary Agreements in their present form need to be amended with a view to ensuring a more consistent approach in the relations between the Union and the countries having signed the Agreements. On this basis, the Council adopted on 16 October 2009 two decisions mandating the European Commission and the Republic of Italy to renegotiate the existing agreements. A new Monetary Agreement was concluded with the Vatican City State on 17 December 2009[3], while the discussions with the Republic of San Marino are still ongoing.

The present draft Recommendation for a Council Decision defines the arrangements for renegotiation of the Agreement with the Principality of Monaco.

While an important number of changes were needed in the agreements concluded with Vatican and San Marino, the scope of the renegotiation of the Monetary Agreement with the Principality of Monaco should be much more limited since the Principality of Monaco already applies all relevant Union banking and financial legislation. The Commission proposes therefore to seek the amendment of the following provisions:

- **Ceiling for the issuance of euro coins**

For historical reasons, the ceilings for maximum yearly issuance of Monaco, San Marino and Vatican were fixed in two different ways (Monaco is currently authorised to issue a maximum of 1/500th of the quantity of coins minted in France while Vatican and San Marino had/have fixed quotas) leading to very different results.

With a view to ensuring fair treatment to all countries with the Monetary Agreements, the Commission has proposed to introduce *a* ***new uniform method for calculating the ceilings of euro coins issuance***, to be also used in all Agreements. The Commission had also proposed to increase the ceilings of issuance of the countries having signed the Monetary Agreements with a view to allowing some circulation of their coins. Coins minted in low quantities are very demanded by coin collectors. As a consequence, the coins are not serving their original purpose of a payment instrument but are solely kept as collectors' items.

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1 Council Conclusions on 'Common guidelines for the national sides and the issuance of euro coins intended for circulation', 2922nd ECOFIN Council meeting of 10 February 2009.

2 COM (2009)359 of 14 July 2009

3 OJ C 28, 4.2.2010, p. 13–18

In line with the new agreement with Vatican and with the one being negotiated with San Marino, the new ceilings for Monaco would be composed of a fixed and a variable part:

(1) **The fixed part** should aim at covering the demand of coin collectors. According to common estimates, a total value of around EUR 2340000 should be sufficient to cover the demand of the collectors' market.

(2) **The variable part** would be based, in the case of Monaco, on the average per capita issuance of France. The average number of coins per capita issued in France in year n-1 would be multiplied by the number of inhabitants of the Principality of Monaco.

- **Election of jurisdiction**

The present Monetary Agreements have not given the Union any leverage in the event that the countries having signed the Monetary Agreements do not fulfil their obligations (e.g. do not transpose the relevant Union legislation in due time), apart from the ultimate – and therefore unlikely - possibility to withdraw unilaterally from the Agreement. The Commission therefore proposes ***to elect the Court of Justice of the European Union as the jurisdiction responsible for settling disputes*** which may arise from the application of the Monetary Agreements.

- **Form of the agreement**

The form of the Monetary Agreement should be adjusted.

Recommendation for a

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on the arrangements for the renegotiation of the Monetary Agreement with the Principality of Monaco

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 219(3) thereof,

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

Having regard to the opinion of the European Central Bank[5],

Whereas:

(1) The Union has the competence for monetary and exchange rate matters as of the date of the introduction of the euro;

(2) The Council should determine the arrangements for the negotiation and conclusion of agreements concerning monetary or foreign exchange regime matter.

(3) The French Republic, on behalf of the European Community, concluded on 26 December 2001 a Monetary Agreement with the Principality of Monaco.

(4) France has long standing monetary links with the Principality of Monaco, which are reflected in various legal instruments. The financial institutions located in the Principality of Monaco have the right to access the refinancing facilities of the Banque de France and they participate in some French payment systems under the same conditions as French banks.

(5) The Council concluded on 10 February 2009 that the Commission should review the functioning of the existing agreements and consider possible increases in the ceilings for coin issuance.

(6) The Commission concluded in the 'Communication on the functioning of the Monetary Agreements with Monaco, San Marino and Vatican'[6] that the Monetary Agreement with the Principality of Monaco in its present form needs to be amended with a view to ensuring a more consistent approach in the relations between the Union and the Countries having signed a monetary agreement.

[4] OJ C , , p. .
[5] OJ C , , p. .
[6] COM(2009)359

(7) The Monetary Agreement with Monaco should therefore be renegotiated with a view to adjusting the ceiling for the issuance of coins, electing a jurisdiction for possible dispute settlement and adjusting the format of the Agreement to the new common one. The current Agreement should be maintained until a new Agreement is concluded between the parties.

HAS ADOPTED THIS DECISION:

Article 1

The French Republic shall notify the Principality of Monaco of the need to amend the existing Monetary Agreement between the French Republic, on behalf of the European Union, and the Principality of Monaco at the earliest possible date and offer renegotiation on the relevant provisions of the Agreement.

Article 2

The Union shall seek the following changes in the renegotiation of the Agreement with the Principality of Monaco:

(a) The Agreement shall be concluded between the Union, represented by the French Republic and the European Commission, and the Principality of Monaco.

(b) The method for determining the ceiling of issuance of Monaco euro coins shall be revised. The new ceiling shall be calculated using a method which will combine a fixed part aimed at avoiding excessive numismatic speculation on Monaco coins by satisfying the demand of the collector coin market and a variable part, calculated as the average per capita coin issuance of France in the year n-1 multiplied by the number of inhabitants of Monaco. Without prejudice to the issuance of collector coins, the Agreement shall set the minimum proportion of Monaco euro coins to be introduced at face value at 80%.

(c) The Court of Justice of the European Union shall be elected as the body in charge of settling disputes which may arise from the application of the Agreement. If the Union or Monaco consider that the other Party has not fulfilled an obligation under the Monetary Agreement, it may bring the matter before the Court of Justice. The judgment of the Court shall be binding on the Parties, which will take the necessary measures to comply with the judgment within a period to be decided by the Court in its judgment. In case the Union or Monaco fail to take the necessary measures to comply with the judgment within the period, the other Party can terminate immediately the Agreement.

(d) The format of the Agreement shall be adjusted.

Article 3

The negotiations with the Principality of Monaco shall be conducted by the French Republic and the Commission on behalf of the Union. The European Central Bank shall be fully associated with the negotiations and agree on issues falling in its field of competence. The French Republic and the Commission shall submit the draft agreement to the Economic and Financial Committee for opinion.

Article 4

The French Republic and the Commission shall be entitled to conclude the agreement on behalf of the Union, unless the Economic and Financial Committee or the ECB is of the opinion that the agreement should be submitted to the Council.

This Decision is addressed to the French Republic, the Commission and the ECB.

Done at Brussels,

For the Council
The President