

# EUROPEAN PARLIAMENT

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**A5-0377/2003**

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## **REPORT**

on the proposal for a Council Decision concerning the analysis and cooperation  
with regard to counterfeit euro coins  
(13203/2/2003 – C5-0471/2003 – 2003/0158(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Gerhard Schmid

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 10 October 2003 the Council consulted Parliament, pursuant to Article 308 of the EC Treaty, on the proposal for a Council Decision concerning the analysis and cooperation with regard to counterfeit euro coins (13203/2/2003 – 2003/0158(CNS)).

At the sitting of 20 October 2003 the President of Parliament announced that he had referred the proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Economic and Monetary Affairs for its opinion (C5-0471/2003).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Gerhard Schmid rapporteur at its meeting of 22 September 2003.

The committee considered the Council proposal and draft report at its meeting of 3 and 4 November 2003.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Jorge Salvador Hernández Mollar, chairman; Robert J.E. Evans, vice-chairman; Johanna L.A. Boogerd-Quaak, vice-chairwoman; Giacomo Santini, vice-chairman; Gerhard Schmid, rapporteur; Christian Ulrik von Boetticher, Alima Boumediene-Thiery, Giuseppe Brienza, Kathalijne Maria Buitenweg (for Patsy Sørensen), Carmen Cerdeira Morterero, Giuseppe Di Lello Finuoli, Koenraad Dillen, Bárbara Dührkop Dührkop (for Martin Schulz pursuant to Rule 153(2)), Margot Keßler, Timothy Kirkhope, Eva Klamt, Alain Krivine (for Ole Krarup), Baroness Ludford, Lucio Manisco (for Fodé Sylla), Bill Newton Dunn, Marcelino Oreja Arburúa, Hubert Pirker, Heide Rühle, Miet Smet (for Bernd Posselt), Joke Swiebel, Anna Terrón i Cusí and Maurizio Turco.

The Committee on Economic and Monetary Affairs decided on 22 October 2003 not to deliver an opinion.

The report was tabled on 10 November 2003.

## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a Council Decision concerning the analysis and cooperation with regard to counterfeit euro coins  
(13203/2/2003 – C5-0471/2003 – 2003/0158(CNS))**

### **(Consultation procedure)**

The European Parliament,

- having regard to the Council draft (13203/2/2003)<sup>1</sup>,
  - having regard to Article 308 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0471/2003),
  - having regard to the initial Commission proposal (COM(2003) 426)<sup>2</sup>,
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (A5-0377/2003),
1. Approves the Council proposal;
  2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  3. Points out that, pursuant to Article 10 of the EC Treaty, concerning full mutual cooperation between institutions and the Member States, Parliament should also have been consulted on the legislative proposal to which this draft decision relates, and that merely notifying Parliament of the basic text diminishes Parliament's role in the decision-making process;
  4. Asks therefore to be consulted on the initial Commission proposal;
  5. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
  6. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  7. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> Not yet published in OJ.

<sup>2</sup> Not yet published in OJ.

## **EXPLANATORY STATEMENT**

The rapporteur has analysed the document and has no objections as to the content which he considers to be of a purely technical nature but one as regards the procedure:

### **The procedure**

On 17 July 2003, the Commission adopted a proposal for a Council decision concerning the analysis and cooperation with regard to counterfeit euro coins (COM (2003) 426 fin.). The Commission based its proposal on Article 123 par. 4 TEC, which does not prescribe consultation of the Parliament. The Commission suggested, however, to consult it on a facultative basis.

On 9 October 2003 Coreper decided to split the proposal of the Commission into two parts - one addressed to the Member States which have adopted the euro based on Article 123 par. 4 TEC and one addressed to the Member States which have not adopted the euro based on Article 308 TEC providing for the obligatory consultation of Parliament.

On 10 October 2003 Council transmits the proposal based on Article 123 par. 4 TEC for information and the proposal based on Article 308 TEC for consultation to Parliament. In the same letter Council states that, owing to budgetary constraints, it would greatly appreciate it if Parliament would deliver its opinion by 20 November 2003.

### **Opinion of the rapporteur**

The rapporteur deplores the approach taken by Council and considers it not to be in line with the principle of loyal cooperation between the institutions. The approach has two consequences for the European Parliament: First, it is only consulted on one legal text and not on the second one which diminishes its role. Second, it is asked to deliver its obligatory opinion by 20 November 2003 although legally speaking Council cannot fix a deadline for the European Parliament in consultations pursuant to Article 308. Parliament is only obliged to follow the same principle of loyal cooperation for example by speeding up its process in case of urgency. In the present case Council asks for urgent treatment for budgetary reasons. This is even more difficult to understand since according to the Commission text the proposal has no additional financial impact.

In conclusion, the rapporteur considers that the initial approach of the Commission - to consult the European Parliament on a facultative basis - had been a sensitive one which would have allowed, by the way, also for the fixing of a deadline by Council.