



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 3.9.2003
COM(2003) 532 final

SECOND COMMISSION REPORT

based on Article 11 of the Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro

{SEC(2003) 936}

1. INTRODUCTION

In order to guarantee tighter, harmonised protection for the euro throughout the European Union, the Council adopted Framework Decision 2000/383/JHA on 29 May 2000.¹ In the context of the introduction of the euro at the start of 2002, this Framework Decision was designed to complement the provisions of the International Convention of 20 April 1929 for the Suppression of Counterfeiting Currency and the application thereof.² The Member States were required to accede to the Convention, where necessary, and to transpose the provisions of the Framework Decision into national law by 29 May 2001 at the latest.

Pursuant to Article 11 of the Framework Decision, on 13 December 2001 the Commission adopted a report on the implementation of the Framework Decision³ based on information supplied to it by the Member States. The report, which sets out in detail the various obligations laid down in the Framework Decision and the way in which the Member States have complied with them, was then submitted to the Council. Although the Council acknowledged in its conclusions that the objective of the Framework Decision had largely been met, it called on the Commission to draw up a second report incorporating additional information from the Member States.

On the basis of the information received subsequently, the Commission prepared a working document with country reports, an initial version of which was handed to the Council's working group on substantive criminal law in November 2002. A second version, accompanied by updated tables for individual countries, was handed to the Cocolaf's advisory committee on counterfeiting in April 2003 with a view to obtaining additional details from the Member States on their legislative amendments and the interpretation of certain provisions of national law.

The tables, which had already been included in a document annexed to the first report,⁴ but did not form an integral part of it, are included in this report,⁵ while the country reports are contained in a Commission staff working paper.⁶ The present report begins with an article-by-article inventory of all the legislative amendments and clarifications made since the first report was adopted. It continues with a summary of the current state of implementation of each Article of the Framework Decision.⁷ The report does not cover the new Article 9a of the Framework Decision on recognition of previous convictions as inserted by Council Framework Decision

¹ Council Framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ L 140, 14.6.2000, p. 1).

² No 2623, p. 372, 1931 Compendium of League of Nations Treaties.

³ COM(2001) 771 final.

⁴ Commission staff working paper, 13 December 2001 (SEC(2001) 1999).

⁵ For the tables and country reports see Annex 1 and Annex 2 to this report respectively.

⁶ Commission staff working paper, SEC(2003)936, of 3.09.2003.

⁷ For more detailed information, in particular on the national provisions already regarded as in line with the Framework Decision when the first Commission report was adopted, see the tables and country reports in the annex and the first report.

2001/888/JHA of 6 December 2001.⁸ The Member States have not yet provided any data on this subject.

2. PROGRESS IN IMPLEMENTING THE FRAMEWORK DECISION

As far as possible, the current inventory of amendments and clarifications which have been communicated to the Commission since its first report follows the structure and headings of the sub-chapters indicated in Chapter 2.2 of that report.

2.1. Progress in implementing the Framework Decision and ratifying the 1929 Convention

All the Member States have provided the Commission with information on their implementation of the Framework Decision. Most have also submitted their national implementing legislation.

When the Commission adopted its first report, some Member States (France, Germany, Ireland, and Luxembourg) had prepared new legislation which complemented or amended existing criminal law and which was specifically designed to implement the Framework Decision but had not entered into force at the time. It has since done so.

Since the first report was adopted, some Member States have also introduced new draft legislation in order to implement certain provisions of the Framework Decision. For instance, Spain has drafted amendments to its criminal code with a view to transposing Articles 3, 8 and 9 of the Framework Decision into national law. However, these amendments have not yet entered into force.

According to information provided by the French authorities, new legislation is currently being drafted in order to transpose Article 4 of the Framework Decision into national law. Portugal, Luxembourg and Austria have tabled bills for the transposal of Articles 8 and 9 of the Framework Decision, but these have not yet entered into force.

Now that Luxembourg has completed ratification of the 1929 Geneva Convention, all the Member States are parties to it.

2.2. General offences (Article 3): Table 1

The various elements of the general concept of counterfeiting defined in Article 3(1)(a) and (b) of the Framework Decision will have been transposed by all the Member States into their domestic criminal law as soon as the amendments to the Spanish criminal code have entered into force.

Given that counterfeiting currency is not yet a criminal offence in Spain, the draft amendment is designed to alter Article 386 of the criminal code to make specific provision for that act.

⁸ Council Framework Decision of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro (OJ L 329, 14 December 2001, p. 3).

The Spanish draft amendment also provides for the express criminalisation of import, export and transport of counterfeit currency referred to in Article 3(1)(c). With regard to Danish criminal law, which classes the offences referred to in Article 3(1)(c) and (d) as ‘attempts’ and ‘assistance’ in respect of counterfeiting or issuing counterfeit currency, Denmark has made it clear that this does not affect the level of penalty available, in contrast to what was stated in the first report and to what might be the case in other Member States.

With regard to offences concerning items which, by their very nature, are for the purpose of counterfeiting currency and components which serve to protect against counterfeiting (Article 3(1)(d) of the Framework Decision), the amendments prepared by Germany, France and Luxembourg with a view to incorporating a specific offence into their respective sets of legislation have now entered into force.

2.3. Additional offences (Article 4) and currency not issued but designed for circulation (Article 5): Table 2

The supplementary information provided by Italy and Portugal made it clear that their definition of counterfeiting implicitly covers the illegal manufacture of currency using legal facilities or materials. This will also be the case for Spain once its draft amendments have entered into force, while France still plans to create specific provisions to punish the offences referred to in Article 4.

Italy has also helped to clarify the issue of whether its criminal code is in line with Article 5(b) by indicating that the offence of counterfeiting would cover all currency which is legal tender, irrespective of whether it has been issued. The entry into force of new legislation following the adoption of the first report means that Ireland and Luxembourg now also comply with this Article of the Framework Decision.

2.4. Penalties (Article 6): Table 3

Confirmation by Member States that their criminal law is to be brought into line with the articles of the Framework Decision which relate to substantive offences has enabled a number of doubts surrounding implementation of penalties, particularly in Spain and Italy, to be resolved.

The Irish and Luxembourg legislation transposing Article 6(2) of the Framework Decision into national law has entered into force since the adoption of the first report. Sweden, which provides for a maximum penalty of just eight years for “serious” offences, has noted that the scale of penalties applicable (minor, normal or severe) is assessed on a case-by-case basis and that the courts must exercise their judgment in the light of individual circumstances.

As regards the obligation on Member States to make penalties, including deprivation of liberty which may give rise to extradition, available for the offences contained in Article 3(1)(a), it should be noted that some of the Member States which had made reservations to the 1957 European Convention on Extradition have altered or clarified their position.⁹ Once the provisions of Council Framework Decision

⁹ Whereas Denmark has completely withdrawn its reservations, Sweden now authorises extradition to another Member State where a sentence of six months’ or more imprisonment is involved. In France, when a “Schengen” state requests extradition, sentences of two years’ imprisonment in France and of

2002/584/JHA of 13 June 2002 on the European arrest warrant and (the surrender procedures between Member States) have been implemented,¹⁰ they will also apply to counterfeiting, including counterfeiting of the euro.

2.5. Jurisdiction (Article 7): Table 4

Now that the Irish, French and Luxembourg legislation designed to implement Article 7(2) of the Framework Decision has entered into force, all the Member States which have adopted the euro have transposed the obligation resulting from that Article into their national law.

2.6. Liability of legal persons and sanctions (Articles 8 and 9): Table 5

Since the entry into force of the new Irish legislation and an amendment to German law, ten Member States have aligned their law with Articles 8 and 9 of the Framework Decision.

Spain, Austria and Portugal have now introduced, or are in the process of drafting, legislation transposing Articles 8 and 9 of the Framework Decision. According to the information available to the Commission, Luxembourg is working on this legislation too and notes that for some years now the Attorney General has been empowered under company law to request the dissolution and liquidation of any company engaged in activities which contravene criminal law.

The United Kingdom is not planning to adopt specific legislation to incorporate the concept of liability of legal persons into national law, but has stated that it already complies with the obligations set out in Articles 8 and 9 of the Framework Decision. According to the UK authorities, the concept of negligence in civil law meets the requirements of Article 8(2). In accordance with this concept, the British courts would be able to grant damages to victims who can prove negligence on the part of a legal person. However, these issues may still need further clarification.

3. CONCLUSIONS

3.1. General points

With a greater or lesser degree of delay in relation to the deadline laid down in Article 11(2) of the Framework Decision, all the Member States have finally provided the Commission with information on the measures taken to implement the Framework Decision. Although in some cases this information is somewhat lacking in detail, it has enabled a more comprehensive assessment to be made than was possible when the first report was adopted.

From the Commission's perspective, the result is that, when all the amendments still in the process of being drafted or adopted (Austria, France, Luxembourg, Portugal, Spain) enter into force, the Framework Decision will have been transposed in full

just one year's imprisonment in the country requesting extradition are required. Once a guilty verdict has been pronounced, a sentence of just two months' imprisonment is sufficient for extradition to be authorised.

¹⁰ 2002/584/JHA: Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18 July 2002, p. 1.).

into national law by all the Member States, with the exception of at least one provision which does not seem to have been completely transposed by certain Member States. According to the information currently available to the Commission, this concerns Finland and Sweden as regards Article 6(2). There may also be further need of clarification on the full implementation of certain provisions, such as the liability of legal persons in the law of the United Kingdom.

It is therefore suggested that the Council invite those Member States which have yet to complete the transposition of certain provisions into national law or which may yet provide further explanations on aspects of national law which may not be fully in line with the Framework Decision to continue to inform the Council and Commission on those matters, to allow them to be taken into account in Council discussions after the Commission has presented this report.

3.2. Specific comments

Article 2

All the Member States have acceded to the 1929 Geneva Convention.

Article 3

When the amendments envisaged in Spain enter into force, all the Member States will have transposed the various components of the general notion of counterfeit currency as defined in Article 3(1)(a) and (b) of the Framework Decision into national law.

The import, export and transport of counterfeit currency as referred to in Article 3(1)(c) are specific offences in seven Member States (Austria, Finland, Greece, Luxembourg, Netherlands, Portugal and Spain, following the final adoption of amendments to the criminal code). The other Member States (Belgium, Denmark, France, Germany, Ireland, Italy, Sweden, United Kingdom) have transposed this Article into national law in more general terms.

Articles which, by their very nature, are for the purpose of counterfeiting currency and components which serve to protect against counterfeiting (Article 3(1)(d) of the Framework Decision) are covered by the national legislation of each Member State, either in the form of specific offences or broader concepts or notions.

All the Member States have introduced, in criminal law or common law, general provisions on participating in and instigating the aforementioned activities, or on attempts to commit those offences pursuant to Article 3(2) of the Framework Decision.

Article 4

When the legislative amendments envisaged by Spain and France enter into force, the illegal manufacture of currency using legal facilities or materials within the meaning of Article 4 of the Framework Decision will be an offence in all the Member States. In some Member States such activity is or will be a specific offence,

but most Member States use a broad definition of counterfeiting which covers the illegal use of legal facilities or materials for the purpose of manufacturing currency.

Article 5

All the Member States now have legislation in line with Article 5(b) of the Framework Decision.

Article 6

Implementation of Article 6 (penalties) is still quite varied.

Although Article 6 evidently leaves considerable leeway to the Member States, it remains clear that Finland and Sweden still provide for maximum sentences of at least eight years for the manufacture and alteration of currency only in cases of “serious” offences. All the other Member States have managed to bring their legislation completely into line with Article 6(2) of the Framework Decision.

Article 7

All the Member States now have legislation compatible with Article 7(1) of the Framework Decision. All the Member States which have adopted the euro (and, in addition, Denmark and Sweden) have also transposed the obligation resulting from Article 7(2).

Articles 8 and 9

Once Austria, Luxembourg, Portugal and Spain have finished transposing the provisions of the Framework Decision concerning the liability of legal persons and the sanctions applicable to them, fourteen Member States should have legislation in line with Articles 8 and 9. In the case of the United Kingdom, which has not adopted specific legislation on liability of legal persons or the sanctions applicable to them, the scope of its domestic legislation may require further clarification with regard to the implementation of Articles 8(2) and 9(2) of the Framework Decision.

Article 10

According to information received from the United Kingdom, Article 10 is in the process of being implemented by legislation applying the provisions of the framework Decision to Gibraltar.

ANNEX TO THE SECOND REPORT

of the Commission based on Article 11 of the Council's framework Decision of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro¹¹

TABLES 1 - 5

Table 1 General offences (Article 3)

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
Belgium ¹²	Articles 162, 163, 173 Penal Code	Article 168, 169, 170 (coins); 176, 177, 178 (banknotes) Penal Code	Article 169, second sentence (coins) Article 177, second sentence (banknotes) Code Penal: no specific reference to export, transport) Articles 168 and 176 cover imports	Articles 180, 185a ('objets & moyens' should cover computer programs & components for protection) 186 & 187a Penal Code and Article 187 Penal Code. Although possession is not specifically legislated against, receiving or procuring is.	- attempts: Articles 1, 7, 52, 80, 81 Penal Code: together with: Articles 168, 169, 170, 176, 177, 178 Penal Code - instigation & participation Articles 66-69 Penal Code
Denmark	Article 166 Penal Code	Article 167 Penal Code	Articles 166 & 167 Penal Code, viewed in light of Article 21 Penal Code (attempts) and of Article 23: (accessory) Penal Code: no specific reference to im/export & transport	Articles 166 & 167 Penal Code, viewed in light of Article 21 Penal Code (attempts) and of Article 23: (accessory) Penal Code: no specific reference to instruments adapted for counterfeiting like computer programs or components for protection like holograms	Article 21 (attempts) and Article 23: (accessory/instigation/ participation) Penal Code

¹¹

OJ L 140, 14.06.2000, p. 1

¹²

Belgium has adopted a specific law to amend the Belgian Penal Code for the protection of the euro by criminal law, which entered into force on 3.7.2001.

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:/import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
Germany ¹³	Article 146(1) No (1) Penal Code. Alteration is an offence only if it increases the value of the currency	Articles 146(1) No (3) and 147 Penal Code	Article 146(1) No 2 and Article 146 (1) No 3 Penal Code: no specific reference to ex/ importation should fall under ‘Sichverschaffen, res.’ im Verkehr bringen’; transportation (only as ‘Beihilfe’)	Article 149, paragraph 1, which particularly covers computer programmes and holograms intended to protect against falsification.	Articles 25 - 27 Penal Code; attempts see Article 147 and Article 23 in conjunction with Article 12 Penal Code
Greece ¹⁴	Article 207 Penal Code	Article 208(1) Penal Code	Article 207 Penal Code	Article 211 Penal Code	attempts: Articles 42 Penal Code participation: Article 45, 47 Penal Code instigation: Article 46 Penal Code
Spain	<i>Article 386 of the Penal Code is in the process of being amended to include all of the offences contained in the Framework Decision</i>	Articles 386 (amended) and 629 Penal Code	<i>The amended Article 386 of the Penal Code will expressly cover export and transport of currency as well as “possession” and “acquisition” (previously prohibited).</i>	Article 400 Penal Code * tools and means are covered * the making or possession of holograms or other components of currency which serve to protect against counterfeiting can be considered covered by the general terms of Article 400 The words “making” and “possession” used by the Penal Code seem to include reception and obtaining. The Framework Decision uses the terms “peculiarly adapted”, but the Penal Code uses instead	Articles 27, 28 and 29 and 15 and 16 Penal Code - instigators are considered as authors - complicity is punished - attempts are covered but not as regards the fraudulent uttering of counterfeit currency that has been received in good faith up to 50 000 pesetas (300,51 €)

¹³

German Law concerning the most recent transpositions of the Framework Decision was approved on the 22nd August 2002 and has come into force since then.

¹⁴

Greece has prepared specific amendments for the Greek Penal Code to protect the euro against counterfeiting by criminal law which has entered into force on 19 October 2001.

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:/import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
				"specifically aimed at". A link with a particular crime of counterfeiting is required.	
France ¹⁵	Article 442(1) Penal Code	Article 442(2) Penal Code	Article 442(2) Penal Code; the Penal Code contains no specific reference to im/export but specifically prohibits the circulation of counterfeit money	Article 442-5 Penal Code (amended by the law of 11/12/2001)	Article 442(8) Penal Code and 121(7) Penal Code
Ireland	Section 33(1)2 Criminal Justice (Theft and Fraud Offences) Act, 2000 ¹⁶ (law entered into force on 19/12/2001)	Section 34 Criminal Justice (Theft and Fraud Offences) Act	Section 34(2), 35(1), 35(2) and Section 37(1) Criminal Justice (Theft and Fraud Offences) Act 2000	Section 36 Criminal Justice (Theft and Fraud Offences) Act 2000 (no specific reference to holograms/components for protection against counterfeiting, but in the absence of case law to the contrary, the provision is broad enough to encompass them)	Common law in relation to case law provides that the conduct of participating, instigating and attempting is punishable. Provision is also made under the Criminal Law Act 1997, s2, where an offence is punishable by a term of five years or more.
Italy ¹⁷	Article 453(1)(2) Penal Code	Article 453(3) – 454-455 Penal Code Art 453(3) expressly provides the agreement among individuals with different roles. Art. 455 provides for import, uttering, purchase, possession	Articles 453(3) (4)-454-455 Penal Code Art 453(3)(4) expressly provides the agreement among individuals with different roles. Art. 455 provides for import, uttering, purchase, possession	Article 461 Penal Code	Common law in relation to case law provides that the conduct of participating, instigating and attempting is punishable

¹⁵ France adopted law number 2001/1168 of 11/12/2001, published in OJ of 12/12/2001, incorporating several financial and economic measures which transpose articles 3(1)(d), 5 and 7 of the Framework Decision into French Law.

¹⁶ Ireland has prepared specific amendments for the Irish Penal Code to protect the euro against counterfeiting by criminal law which entered into force on 19/12/01.

¹⁷ Italy has adopted specific legislation (Decreto legge 25 9 2001 no. 350) -which entered into force in October 2001- which has been converted into legislation of 23 November 2001 No. 409 to comply with the framework Decision.

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:/import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
		individuals with different roles. Art. 455 provides uttering without agreements with other individuals.	without agreement with other individuals; there is no specific reference to transport & export, they seem to be covered by the broad definitions of Article 453 & 455.		
Luxembourg ¹⁸	Article 162 (coins) Article 173 (banknotes) Penal Code	Article 169 (coins) Article 177 (banknotes) Penal Code	Article 169 (coins) Article 177 (banknotes) Penal Code	Article 180, 185, 186, 187-1 Penal Code	-Articles 51, 52 ('crimes') 53 ('délits') Penal Code (in combination with Articles 169, 177, 184, 185, 187, 187-1): attempts -Articles 66 - 69 Penal Code: participation and instigation
Netherlands ¹⁹	Article 208 Penal Code	Article 209 Penal Code	Article 209 Penal Code (as amended by Act of 17 May 2001)	Article 214 Penal Code as amended by Act of 17 May 2001 (no specific reference made to holograms/components for protection against counterfeiting; but very broad definition)	Articles 47 (participation, instigation), 45 (attempt) Penal Code
Austria ²⁰	Article 232 (1) Penal Code	Article 232 (2) and Article 233 (1) No 2 Penal Code	Article 233(1) No 1 (new) Penal Code (<i>befördern = transportieren</i>)	Article 239 Penal Code (new) no specific reference to computer programs	Articles 232, 233 & 239 in relation with Articles 12 & 15 Penal Code
Portugal ²¹	Articles 262 and	Articles 264 and	Article 266 Penal Code (the	Article 271 Penal Code	Articles 26 and 27

¹⁸ Luxembourg has prepared a law to amend the Luxembourg Penal Code to protect the euro against counterfeiting by criminal law (Draft Bill No 4785 amending the Penal Code and the Code on Penal Procedure) which entered into force on 29/01/02.

¹⁹ The Netherlands have adopted the legislation completing the Penal Code (Wet van 17 mei 2001 tot wijziging van het Wetboek van Strafrecht met betrekking tot valsheid in muntspeciën en munt- en bankbiljetten (eurovalsemunterij)) and have adopted a specific Bill (Wet van 11 november 1999 etc.) to transpose Article 5 (a).

²⁰ Austria has adopted some amendments to the Austrian Penal Code for the protection of the euro by criminal law, which entered into force on 7.3.2001.

²¹ Portugal has adopted some amendments to the Portuguese Penal Code which entered into force on 30.8.2001.

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:/import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
	263 Penal Code. According to Article 262, altering legal currency is only covered when the nominal value of the currency is increased. Article 263 prohibits the depreciation of metallic money and manufacturing of metallic money with the same or higher value than the legal one.	265 Penal Code	fraudulent character of the uttering is defined in the Portuguese Penal Code by the aim of doing it as if the currency was legal)	(punishable as preparatory acts - necessary link with a particular offence under Articles 262 or 263. This has an implication for the level of penalty that may be imposed.) No mention of holograms or other currency components apart from paper.	(participation and instigation), and Articles 23 ²² , 262, 263(3), 264(2), 265(3), 266(2) Penal Code. Also preparatory acts under Article 271 Penal Code.
Finland ²³	Chapter 37, Section 1(1) Penal Code	Chapter 37, Section 1(1) Penal Code (“transfers to another”)	Chapter 37, Section 1(1) Penal Code	Chapter 37, Section 4 Penal Code, punishable as <i>preparation</i> of counterfeiting ('supplies' should cover components protecting currency)	-attempts: Chapter 37 Sections 1 (2), 2 (2), 3 (2) 5 (2) -Chapter 5, Section 1 (participation), Section 2 (instigation) Penal Code
Sweden ²⁴	Chapter 14 Section 6 Penal Code	Chapter 14 Section 9 Penal Code	Chapter 14 Section 6a (no specific reference to im/exports) Penal Code	Chapter 23 Section 2 « preparation of crime » : ‘falsification tool or other such means’ Penal Code	Chapter 14 Section 12 in conjunction with Chapter 23 Section 2 Penal Code: attempts;

²² The attempting of fraudulent uttering of counterfeit currency when the author only knew that the currency was counterfeited after having received the same is not punishable (Article 265 (2)), nor is the uttering of currency under art. 263, nor the attempting as regards art. 271.

²³ Finland has adopted specific amendments of the Finnish Penal Code for the protection of the euro by criminal law, which entered into force on 29.5.2001.

²⁴ Sweden has adopted legislation adapting and completing existing legislation which entered into force on 1 April 2001.

Article of the framework Decision	Article 3 (1) (a) (fraudulent making..)	Article 3 (1) (b) (fraudulent uttering..)	Article 3 (1) (c) (ex:/import, transport...).	Article 3 (1) (d) (fraudulent means to counterfeit) - instruments - holograms/components to protect against counterfeiting	Article 3 (2) (participation, instigation, attempt)
					participation & instigation to a crime: as a general principle of Swedish criminal law punishable if the crime can be sentenced with imprisonment
United Kingdom	Section 14(1) Part II of the Forgery and Counterfeiting Act 1981	Section 15 Part II of the Forgery and Counterfeiting Act 1981	Section 15 and 16 Part II of the Forgery and Counterfeiting Act 1981	Section 17 Part II of the Forgery and Counterfeiting Act 1981	Accessories and Abettors Act 1861

Table 2 Additional Offences (Article 4) & Currency not issued but designed for circulation (Article 5)

Article of the framework Decision	Article 4 (additional offences)	Article 5 (a) (before 1.1.2002)	Article 5 (b) (currency not yet issued)
Belgium	Article 162 (coins) Article 173 (banknotes): ‘counterfeiting or falsifying coins & banknotes includes the illegal use of legal facilities to produce the currency’	Articles 162, 173, 180, 185 Penal Code (entered into force on 03.07.2001)	Articles 162, 173, 180, 185a, 186 3rd sentence, 187a Penal Code
Denmark	Articles 166, 167 together with Article 21 & 23 Penal Code	Article 171 (forgery) and Article 279 (fraud) Penal Code and depending on the circumstances, the rules on attempts to commit offences and acting as an accessory	Articles 166 & 167 Penal Code, viewed in light of Article 21 Penal Code (attempts) and of Article 23: (accessory) Penal Code
Germany	Article 146 (etc) Penal Code (in combination with case law)	Article 146 (etc) Penal Code	Article 146 (etc) Penal Code
Greece	Article 208a Penal Code	Amendment of Penal Code has entered into force on 19.10.2001	Articles 207, 208(1), 208a Penal Code
Spain	<i>The amended article 386 of the Penal code will not only prohibit the fraudulent manufacture of currency using legal means, but also such manufacture irrespective of the means.</i>	Article 2 Constitutional Law 10/1998 (in force since 1 January 1999) and Article 387 Penal Code	Included in the general provisions.
France	<i>draft new Article 442-1 Penal Code (not yet brought into legislative procedure)</i>	New Article 442-15 of the Penal Code, in conjunction with articles 442-1, 442-2 and 442-5 to 442-14 of the Penal Code.	New Article 442-15 of the Penal Code in conjunction with articles 442-1, 442-2 and 442-5 to 442-14 of the Penal Code.
Ireland	Section 32(1) (new definition of currency ‘which has not been lawfully issued, but which would, on being so issued, be a currency note or coin’) Criminal Justice (Theft and Fraud Offences) Act, 2000	Section 32(1), (new definition ‘currency note’ and ‘coin’) (Theft and Fraud Offences) Act, 2000	Section 32(1) Criminal Justice (Theft and Fraud Offences) Act, 2000
Italy	No specific provision, but judicial interpretation has confirmed that Article 453 of the Penal Code prohibits the illegal counterfeiting of money by any means, including the production of currency using legal means by persons not authorised.	Art. 52-quater added on the basis of legge no. 409/2001 to the D.Lgs. 24 giugno 1998 n. 213 (art. 52-quinquies provides administrative liability of legal persons) (Article 52c of the Decree-Law of 8 June 2001)	No specific provision, but Article 453 of the penal code will be applicable to all money of legal tender, whether issued or not.

Article of the framework Decision	Article 4 (additional offences)	Article 5 (a) (before 1.1.2002)	Article 5 (b) (currency not yet issued)
Luxembourg	Article 192-1 Penal Code	Article 192-2 of the Penal code	Article 192-2 Penal Code
Netherlands	Articles 208, 209 & 214 (in relation with the Articles 45, 46 & 48) Penal Code	(Articles 1 & 3) Act of 11.11.1999 related to the prohibition of counterfeiting future euro coins & notes, when appropriate in relation with Article 84 Penal Code	Article 210 Penal Code in relation with Articles 208, 209 & 214 Penal Code
Austria	Article 232(3) new Penal Code	Article 241 Penal Code in conjunction with the Articles 232, 233, 239 Penal Code (currency not legal tender: Article 237 Penal Code in relation with Articles 232, 233, 239 Penal Code)	Article 241 Penal Code in conjunction with the Articles 232, 233, 239 Penal Code (currency not legal tender: Article 237 Penal Code in relation with the Articles 232, 233, 239 Penal Code)
Portugal	Article 262 of the Penal Code punishes falsification, whether legal or illegal means are used. (see article 71(2)(a), which treats this as an aggravating factor). Article 266(1)(c) specifically criminalises the use of coins with the same value as their legal equivalent but without legal authorisation	Article 255 (d) Penal Code	Article 255 (d) Penal Code
Finland	definition of ‘counterfeited money’ includes money which is not manufactured by the competent authority (Government proposal of 1991 on definition of counterfeited money)	Chapter 37 Section 12 (3) Penal Code in relation to provisions of Chapter 37 on ‘money’ (provision entered into force on 1 April 2000)	Chapter 37 Section 12 (3) Penal Code in relation to provisions of Chapter 37 on ‘money’
Sweden	Chapter 14 Section 6 Penal Code and Chapter 14 Sections 6a & 9: broad definition such as ‘or otherwise forges’, explained in the motivation of the Act amending the Penal Code	Chapter 14 Section 6, second sentence Penal Code (provision entered into force on 1.4.2001)	Chapter 14 Section 6, second sentence Penal Code
United Kingdom	Section 14 of the Forgery and Counterfeiting Act 1981 (found in Part II of the Act).	Offence of forgery <i>not of counterfeiting</i> - - banknotes: Part I (sections 1 to 5) of the Forgery and Counterfeiting Act 1981. Pre-circulation Euro notes may be treated as “instruments” under the forgery provisions of the Forgery and Counterfeiting Act 1981. (See Home Office Circular 10/2000.)	Part I (sections 1 to 5) of the Forgery and Counterfeiting Act. UK considers that such banknotes and coins may be treated as “instruments” under the <i>forgery provisions</i> of the Forgery and Counterfeiting Act 1981. (See Home Office Circular 10/2000.)

Article of the framework Decision	Article 4 (additional offences)	Article 5 (a) (before 1.1.2002)	Article 5 (b) (currency not yet issued)
		- coins: Section 27(1) Part II of the Forgery and Counterfeiting Act 1981 Protected Coins (1999) Order (See also point 2.5 Home Office Circular 10/2000.)	

Table 3 Penalties (Article 6)

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
Belgium	--Article 3(1)(a): Article 162, 163: 5-10 years imprisonment, including the deprivation of one's rights as a citizen (Article 162); Article 173: 15- 20 years imprisonment. --various sentences, such as: ~ imprisonment of 1 month up to 3 years (Article 169) imprisonment of 1 up to 5 years (Article 177) - imprisonment of 5 up to 10 years (Article 180, Article 186) - imprisonment of 8 days up to 1 year (Article 185a, Article 187a) Penal Code - fine of 5.200 - 200.000 BEF (Article 170) (€ 128,90 - € 4957,87) - imprisonment of 1 month up to 1 year and/or a fine of 10.000 – 200.000 BEF (Article 178) (€ 247,89 - € 4957,87) - imprisonment of 1 month up to 2 years (Article 187)	- Article 162: 5-10 years imprisonment; - Article 173 Penal Code: 15- 20 years imprisonment	- Article 162, Article 180, Article 186: 5-10 years imprisonment - Article 173: 15- 20 years imprisonment - Article 185a, Article 187a Penal Code: 8 days up to 1 year imprisonment	Article 162, Article 173 Penal Code
Denmark	-imprisonment of up to 12 years (Article 166(1), Article 167)	Idem	- imprisonment up to 8 years (Article 171 Penal Code)	Article 166 (1) Penal Code ²⁵

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Denmark has provided a declaration in connection with the adoption of the framework Decision to the effect that Article 6 (2) does not apply to counterfeiting that involves a reduction in value of legal tender, covered by Article 166 (2) Penal Code which provides up to 4 years imprisonment.

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	Penal Code		<ul style="list-style-type: none"> - imprisonment up to 8 years (Article 286(2) in relation with Article 279 Penal Code) -imprisonment of up to 12 years (Article 166 (1), Article 167) Penal Code 	
Germany	Article 146(1) and Article 38(2) Penal Code imprisonment of minimum 1 year-maximum of 15 years Article 149: -1 month up to 5 years (counterfeiting in general) -1 month up to 2 years or a fine (instruments adapted for counterfeiting)	Article 146(1) and Article 38(2) Penal Code imprisonment of minimum 1 year-maximum of 15 years	Article 146(1) and Article 38(2) Penal Code imprisonment of minimum 1 year-maximum of 15 years	Article 146(1) Penal Code
Greece	- imprisonment of minimum 10 years and a fine (Article 207) -in petty crime cases: at least 3 months of imprisonment and a fine (Article 207, 208(1)) - at least 1 year imprisonment and a fine (Article 211) - instigator & participant (Article 45 & 46) can be punished as a perpetrator - Articles 42 and 47 in relation with Article 83 provide for a specific lower punishment: a difference is made between a full and a simple attempt or participation; various sanctions are applicable which can give rise to extradition; (where a 'petty offender' is convicted of a	at least 1 year imprisonment and a fine (Article 208a)	- imprisonment of minimum 10 years and a fine (Article 207) -in petty crime cases: at least 3 months of imprisonment and a fine (Article 207, 208(1))	Article 207 Penal Code provides for a maximum prison term of 10 years.

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	minor offence within the meaning of articles 207 and 208, extradition is not possible.)			
Spain	<p>With regard to Article 3(1)(a) of the Framework Decision:</p> <ul style="list-style-type: none"> -Article 386, first paragraph, 1° Penal Code: imprisonment of 8 to 12 years and fine (up to ten times the counterfeited sum) (accessory penalties possible, Articles 55 and 56). <p>With regard to Article 3(1)(b) of the Framework Decision:</p> <ul style="list-style-type: none"> -Article 386, first paragraph, 3° Penal Code: imprisonment of 8 to 12 years and fine (up to ten times the counterfeited sum) (accessory penalties possible, Articles 55 and 56). -Article 386, third paragraph (fraudulent uttering of counterfeit currency acquired in good faith, for an amount superior to 50 000 pesetas, € 300,51): arrest of nine to fifteen weekends and fine. -Article 629 Penal Code (fraudulent uttering of counterfeit currency acquired in good faith, for an amount up to 50 000 pesetas, € 300,51): arrest of one to four weekends or fine. <p>With regard to Article 3(1)(c) of the Framework Decision:</p> <ul style="list-style-type: none"> -Article 386, first paragraph, 2°: 	<p>Idem</p>	<p>Idem</p>	<p>Article 386, first paragraph, 1° Penal Code (see also precedent comments)</p>

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	<p>imprisonment of 8 to 12 years and fine (up to ten times the counterfeited sum) (accessory penalties possible, Articles 55 and 56).</p> <p>-Article 386, second paragraph: imprisonment of 2 up to 4 years or of 4 up to 8 years and fine (up to the amount of the counterfeited sum) (accessory penalties possible, Article 56).</p> <p>With regard to Article 3(1)(d) of the Framework Decision:</p> <p>-Article 400 Penal Code: same penalty as the fraudulent making of currency: imprisonment of 8 to 12 years and fine (up to ten times the counterfeited sum) (accessory penalties possible, Articles 55 and 56).</p> <p>With regard to Article 3(2) of the Framework Decision:</p> <p>-Articles 27 and 61: the participants and instigators are considered authors and have the same penalty (see above)</p> <p>-Article 63: penalty for the accomplices. It depends on the penalty for the authors: imprisonment of 4 to 8 years and fine (up to the amount of the counterfeited sum) when the penalty for the authors is imprisonment of 8 to 12 years and fine up to ten times the</p>			

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	<p>counterfeited sum.</p> <p>-Article 62: penalty with respect to the attempting. It depends on the penalty for the authors: imprisonment of 2 up to 4 years or of 4 up to 8 years and fine (up to half or up to the amount of the counterfeited sum) when the penalty for the authors is imprisonment of 8 to 12 years and fine up to ten times the counterfeited sum.</p>			
France	<p>The general offence of counterfeiting is punished by Article 442-1 of the penal code - Article 3(1)(a), (b) and (c): up to 30 years of imprisonment and a fine up to 3 million francs (€ 458.015,26); these limits also apply to (b) and (c) if the act has been committed by a ‘criminal organisation’</p> <p>-Article 3 (1)(b) and (c): 10 years of imprisonment and a fine of up to 1 million francs (€ 152.671,75)</p> <p>-Article 3 (1)(d): (Article 442-5 Penal Code) imprisonment for up to 2 years and fines of up to € 30.000</p> <p>-Article 3(2): ‘accomplice’ is punishable as a perpetrator’ (Article 121-6 and Article 121-7 Penal Code)</p> <p>Pretrial extradition is only</p>	<p>- (<i>legislation in preparation</i>)</p>	Article 442-15	Article 442 (1) Penal Code

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	possible where the penalty is at least two years imprisonment in France and in the demanding member state where that state is a non-Schengen country (reservation to the 1957 convention). Where the state is a Schengen country a penalty of at least two years in France and one year in the demanding country is necessary. Post-trial, a period of imprisonment of at least two months is necessary.			
Ireland	<ul style="list-style-type: none"> -Section 33(2) Criminal Justice (Theft and Fraud Offences) Act, 2000: unlimited fine and/or up to 10 years of imprisonment - Section 34(3) Criminal Justice (Theft and Fraud Offences) Act: <ul style="list-style-type: none"> -- unlimited fine and/or up to 10 years of imprisonment (Section 34(1)) -- unlimited fine and/or up to 5 years of imprisonment (Section 34(2)) - Section 35(3) Criminal Justice (Theft and Fraud Offences) Act: <ul style="list-style-type: none"> -- unlimited fine and/or up to 10 years of imprisonment (Section 35(1)) -- unlimited fine and/or up to 5 years of imprisonment (Section 35(2)) - Section 37 Criminal Justice (Theft and Fraud Offences) Act: 	Idem	idem	Section 33(2) Criminal Justice (Theft and Fraud Offences) Act, 2000 unlimited fine and/or up to 10 years imprisonment

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	unlimited fine and/or up to 10 years of imprisonment - Section 36(3) Criminal Justice (Theft and Fraud Offences) Act: -- unlimited fine and/or up to 10 years of imprisonment (Section 36(1)) -- unlimited fine and/or up to 5 years of imprisonment Section 36(2)) - an attempt to commit an offence under sections 33, 34, 35, 36 or 37 attracts the same level of penalty (i.e. a maximum of 5 or 10 years respectively on conviction on indictment, as the principal offence -aiding, abetting, counselling or procuring –to these offences- is punished as the principal offence (Section 7(1) of the Criminal Law Act 1997)			
Italy	-art. 453 P.C.: 3-12 years of imprisonment plus fine (1 million to 6 million lira (€ 516,45 - € 3098,74)) -art. 454 P.C.: 1-5 years of imprisonment plus fine (200.000 up to 1 million lira (€ 103,29 - € 516,45)) -art. 455 P.C.: punishments provided by 453-454 P.C. reduced by 1/3 up to ½ -art. 456 P.C.: increase of	Article 453 applies	Art. 52-quater D.Lgs. 8.06.2001.n.231 : punishments provided by articles 453, 454, 455, 456, 457, 461 P.C. reduced by 1/3 (if the crime and uttering take place before the 1.01.2002 and it is related to euro).	Article 453 Penal Code

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	punishments provided by art. 453 and 455 in case of currency -art. 461 P.C.: 1-5 years plus fine (200.000 up to 1 million lira (€ 103,29 - € 516,45))			
Luxembourg	<ul style="list-style-type: none"> - coins: 5 to 10 years of imprisonment: (Articles 162 P.C.) -notes: 10 to 15 years imprisonment: (Articles 173 P.C..) - coins: 1 month to 3 years imprisonment (Article 169, 1st paragraph P.C.) - notes: 1 to 5 years (Article 177, 1st paragraph P.C.) - coins: 8 days to 2 years (Article 169, 2nd paragraph P.C.) - notes: 6 months to 3 years (Article 177, 2nd paragraph P.C.) - coins: penalties provided for in the Articles: 180, 3rd and 4th indent, 185, 1st indent, 186, 3rd and 4th indent and 187-1, 1st indent P.C. -notes: the penalties provided for in the Articles 180, 5th and 6th indent, 185, 2nd indent, 186, 5th and 6th indent and 187-1, 2nd indent P.C. - attempts, participation and instigation: Articles 51, 52 in conjunction with Articles 169, 177, 184, 185, 187 and 187-1 P.C.. 	Idem	idem	Article 162 & 173 Penal Code

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
Netherlands	<ul style="list-style-type: none"> -maximum of 9 years imprisonment or a fine of the ‘fifth category’²⁶ (Articles 208, 209 (Penal Code) - maximum of 4 years imprisonment or a fine of the ‘fifth category’ (Article 214 Penal Code) -attempts: reduction of a third of the main sentence (Article 45(2) Penal Code) Participation and attempts in relation to articles 45,46 and 48 of the Penal Code are liable to reduced penalties. 	Maximum of 9 years imprisonment or a fine of the ‘fifth category’ (Article 208)	<ul style="list-style-type: none"> -maximum of 9 years imprisonment or a fine of the ‘fifth category’ (Article 208, 209 (Penal Code) - maximum of 4 years imprisonment or a fine of the ‘fifth category’ (Articles 210, 214 Penal Code) 	Article 208 Penal Code
Austria	<ul style="list-style-type: none"> - Article 232(1) Penal Code: imprisonment of 1 to 10 years; - Article 232(2) Penal Code: imprisonment of 1 to 10 years --Article 233(1) Penal Code: imprisonment of up to 3 years - Article 233(2) Penal Code: if amount involved concerns more than 0.5 million Schilling (€ 36.336,42): imprisonment of (minimum) 6 months to 5 years) - Article 239 Penal Code (new): imprisonment of up to 2 years 	<ul style="list-style-type: none"> - Article 232 (3) in relation with Article 232 (1) Penal Code: imprisonment of 1 to 10 years 	<ul style="list-style-type: none"> - Depending on the offence mentioned in the Articles 232, 233 & 239 committed (Article 241 Penal Code): <ul style="list-style-type: none"> -- imprisonment of 1 to 10 years -- imprisonment of up to 3 years (if amount involved concerns more than 0.5 million Schilling (€ 36.339,42): imprisonment of (minimum) 6 months to 5 years) -- imprisonment of up to 2 years 	Article 232(1) Penal Code
Portugal	Article 262(1) Penal Code: imprisonment of 3 to 12 years Article 262(2) Penal Code:	Idem	idem	The altering of metallic currency by reducing its value (depreciation) and the fraudulent

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NLG 100.000 (€ 45,454.54)

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	<p>imprisonment of 2 to 8 years Article 263 Penal Code: imprisonment up to 2 years or fine up to 240 days (every day of fine corresponds to a sum of 200 up to 100 000 escudos (from 1 to € 498,80), Article 47).</p> <p>Article 264(1) Penal Code: imprisonment of 3 to 12 years (Article 262(1))</p> <p>Article 265(1)(a) Penal Code: imprisonment up to 5 years.</p> <p>Article 265(2)(a) Penal Code: imprisonment up to 1 year or fine up to 240 days –see equivalencies above. Extradition is not possible (reservation to Article 2 of the European Convention)</p> <p>Article 266(1)(a) Penal Code: imprisonment up to 3 years or fine (from 10 to 360 days,</p> <p>Article 47 –see equivalencies above-).</p> <p>Article 266(1)(b) and (c) Penal Code: imprisonment up to 6 months or fine up to 60 days – see equivalencies above-</p> <p>Article 271(1) Penal Code: imprisonment up to 1 year or fine up to 120 days –see equivalencies above.</p> <p>Extradition is not possible (reservation to Article 2 of the</p>			<p>making or manufacture, without a legal authorisation, of metallic currency with the same or a higher value than the legal one are punishable only up to 2 years imprisonment or by a fine</p> <p>See comments above on conduct not covered by Articles 262 and 263 Penal Code</p>

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	European Convention)			
Finland	<p>Penal Code:</p> <ul style="list-style-type: none"> -- Chapter 37, Section 1(1): counterfeiting: imprisonment for minimum 4 months and at most 4 years -Section 2(1): aggravated counterfeiting: imprisonment of at least 2 and at most 10 years -Section 3(1): petty counterfeiting: fine or imprisonment for at most 2 years -Section 4(1): preparation of counterfeiting: fine or imprisonment for at most 2 years -Section 5(1): use of counterfeit money: fine or imprisonment of at most 1 year -- Chapter 5, Section 1 (partnership in an offence) and section 2 (incitement): the sentence for a person participating (partnership) or instigating the crime is the same as for the offender (for counterfeiting is 4 months-4 years, aggravated counterfeiting 2 years-10 years and the preparation of counterfeiting at most 2 years) -Chapter 5 Section 3 (aiding and abetting) and chapter 4 section 1 	Idem	idem	Chapter 37 Section 2(1) (aggravated counterfeiting)

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	<p>(attempt) the punishment for an abettor or for an attempted crime shall be reduced so that the sentence will be at most 3/4 of the most severe penalty provided and at least the general minimum penalty (of 14 days).</p> <p>In these cases the punishment for the counterfeiting is reduced to 14 days-3 years, the aggravated counterfeiting 14 days-7 years and 6 months and the preparation of counterfeiting 14 days-18 months of imprisonment</p> <p>Extradition is possible only where the term of imprisonment is longer than one year.</p>			
Sweden	<ul style="list-style-type: none"> -- counterfeiting of currency: -imprisonment for at most 4 years; - if a petty crime: a fine or imprisonment for at most 0.5 year -if the crime is gross: imprisonment for at least 2 and at most 8 years (3(1)(a) & (b)); -- imprisonment of at most 2 years; if the crime is petty to a fine or at most 0.5 years of imprisonment: if the crime is gross: imprisonment of at least 0.5 and at most 4 years (3(1) (c)) -- sentence less than the 	Idem	<ul style="list-style-type: none"> -imprisonment for at least 2 and at most 8 years 	<p>Chapter 14 Section 6 Penal Code – imprisonment for at most eight years for an ‘aggravated’ offence. In the case of a second conviction for counterfeiting, a penalty of up to twelve years is possible.</p>

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	<p>lowest/minimum and the highest/maximum (3(1)(d))</p> <p>-- punishment for attempt shall be at most what is applicable to a completed crime and not less than imprisonment if the least punishment for the completed crime is imprisonment for 2 years or more (Chapter 23, Section 1); no punishment shall be imposed if the crime, had it been completed, would have been regarded as petty (Chapter 14, Section 12)</p> <p>--participation & instigation: punishment as a perpetrator (Chapter 23 Section 4)</p> <p>Extradition is only permissible where the term of imprisonment is more than one year. Where extradition is to another member state, a term of more than six months is required.</p>			
United Kingdom	<p>Section 6(2) and 6(3) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part I of that Act:</p> <ul style="list-style-type: none"> -conviction on indictment: imprisonment up to 10 years (Sections 1, 2, 3, 4, 5(1)(3)) -conviction on indictment: imprisonment up to 2 years (Section 5(2) or (4)) Section 22(1)(b)(ii) and 22(2) of the Forgery and Counterfeiting Act 	<p>Section 22(1)(b)(ii) and 22(2) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part II of that Act:</p> <ul style="list-style-type: none"> - imprisonment up to 10 years (Sections 14(1)) 	<p>(before 01.01.2002)- Section 6(2) and 6(3) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part I of that Act:</p> <ul style="list-style-type: none"> -conviction on indictment: imprisonment up to 10 years (Sections 1, 2, 3, 4, 5(1)(3)) -Section 22(1)(b)(ii) and 22(2) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part 	<p>Section 6(2) and 6(3) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part I of that Act</p> <p>Section 22(1)(b)(ii) and 22(2) of the Forgery and Counterfeiting Act 1981 applies to the offences covered by Part II of that Act</p>

Penalties: Article of the framework Decision	Article 3: general offences of counterfeiting	Article 4 : additional offences of counterfeiting	Article 5 : criminal law protection before 2002 and currency not issued but designated for circulation	Article 6 (2) maximum not less than 8 years of imprisonment in case of conduct ex Article 3 (1) (a)
	1981 applies to the offences covered by Part II of that Act: - imprisonment up to 10 years (Sections 14(1), 15(1), 16(1), 17(1))		II of that Act: - imprisonment up to 10 years (Sections 14(1))	

Table 4 Jurisdiction (Article 7)

Article of the framework Decision	Article 7(1) first indent general jurisdiction	Article 7(2): specific jurisdiction euro Member States
Belgium	Article 3 Penal Code	Article 6(2), Article 10 Code of Penal Procedure
Denmark	Article 6 Penal Code (territorial jurisdiction), Article 7 (jurisdiction ratione personae), Article 8 (indents 1 - 4 and 6) Penal Code	Article 8(5) Penal Code
Germany	Article 3 Penal Code	Article 6 Penal Code ('nationality' is not relevant)
Greece	Articles 3 - 13 Code of Penal Procedure (especially Article 5)	Articles 3-13 Code of Penal Procedure (especially Article 8)
Spain	Article 23(1), (2), (3) (e) et (4) (d) Constitutional Law of the Judiciary (see precedent comments on conduct that are not punished by the Spanish Penal Code)	Article 23(1), (2) and (3)(e) Constitutional Law of the Judiciary (see precedent comments on conducts that are not punished by the Spanish Penal Code)
France	Article 113 - 2 Penal Code and new article 113-10 extending jurisdiction to the offences contained in articles 442-1 442-2, 442-5, 442-15, 443-1 and 444-1.	new Article 113 – 10 Penal Code extending jurisdiction to the offences contained in article 442(2), (5) and (15)
Ireland	Common law	Section 38(1) as amended on the 21 June 2001 by the Criminal Justice (Theft and Fraud Offences) Act
Italy	Article 6 Penal Code	Article 7(3) Penal Code
Luxembourg	Article 5 & Article 7b Code on Penal Procedure	Article 7 Code on Penal Procedure
Netherlands	Article 3 Penal Code	Articles 4(1)(3) and 5 Penal Code
Austria	Article 62 & 65 (1) Penal Code	Article 64(1)(4) Penal Code in relation to counterfeiting
Portugal	Article 4 Penal Code	Article 5 Penal Code
Finland	Chapter 1, Section 1 Penal Code	Chapter 1, Section 7; point 1 Decree for application of Section 7
Sweden	Chapter 2 Section 1 Penal Code	Chapter 2 Section 3 point 6 'universal jurisdiction'
United Kingdom	Part I of the Criminal Justice Act 1993. Section 2 provides for jurisdiction to be taken over offences of dishonesty where any "relevant event" takes place within the jurisdiction. The Criminal Justice Act 1993 (Extension of Group A Offences) Order 2000 added certain offences from the Forgery and Counterfeiting Act 1981 to the Group A offences in Part I of the Criminal Justice Act 1993.	UK has not -at present- taken measures providing for 'universal jurisdiction', not having adopted the Euro.

Table 5 Liability of legal persons (Article 8) & penalties for legal persons (Article 9)

Article of the framework Decision	Article 8 (1) liability legal person	Article 8 (2) liability legal person in case of lack of supervision	Article 9 (1) sanctions legal persons	Article 9 (2) sanctions legal persons in case of lack of supervision
Belgium	Article 5 Penal Code	Article 5 Penal Code	Article 7a etc Penal Code: -fines up to, for example of 18 Mio up to 96 Mio BEF (€ 446.317,87 - € 2.380.362) for counterfeiting of banknotes. (Article 41a, Section VI, first Book, Chapter II Penal Code) and - special confiscation measures, such as: dissolution, closure, publication of the court's decision	idem
Denmark ²⁷	Article 306 Penal Code	Article 306 Penal Code in relation with Chapter 5 (Articles 25 - 27) of the Penal Code	a fine (level determined by case law; Article 306 in relation with Chapter 5 Penal Code)	a fine (level determined by case law; Article 306 in relation with Chapter 5 Penal Code)
Germany	Article 30 of the «Gesetz über Ordnungswidrigkeiten» transposes Article 8(1) completely	Article 130 «Gesetz über Ordnungswidrigkeiten» in relation with Article 30 «Gesetz über Ordnungswidrigkeiten»	(administrative/ ‘non criminal’) fines of up to 1 Mio DM (€ 511.291,88) (and higher if necessary to neutralise the financial advantage of the offence): Article 30 in conjunction with Article 17 «Gesetz über Ordnungswidrigkeiten», in combination with other measures, such as a civil law action for damages or commercial law sanctions, such -in serious cases- as a winding up of a company	fines of up to 1 Mio DM (€ 511.291,88) Article 130 «Gesetz über Ordnungswidrigkeiten»

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Denmark has adopted a specific amendment to the Danish Penal Code to realise criminal liability of legal persons, which entered into force on 1.5.2001

Article of the framework Decision	Article 8 (1) liability legal person	Article 8 (2) liability legal person in case of lack of supervision	Article 9 (1) sanctions legal persons	Article 9 (2) sanctions legal persons in case of lack of supervision
Greece	Article 8(5) Bill of the Ministry of Economy on (provision concerning) putting into circulation euro-coins and - banknotes and other related provisions. Amended article 211 of the Penal Code provides that legal persons are liable for counterfeiting offences committed on their behalf by a leading person within them.	Article 8(5) Bill of the Ministry of Economy on (provision concerning) putting into circulation euro-coins and - banknotes and other related provisions. Amended article 211 of the Penal Code provides that legal persons can be held criminally liable for a lack of supervision or control by a manager.	By decision of the Minister of Finance: a) an administrative fine (50% of the amount of the offence or a maximum amount 1 Mio euro) and/or b) a temporary or permanent prohibition to carry out business activity and/or c) the provisional or permanent exclusion of public services or funding	idem
Spain	(Possible civil liability under circumstances set at Article 120, 3° and 4° Penal Code) <i>An amendment is underway to Article 386 in order to render legal persons liable</i>	(Possible civil liability under circumstances set at Article 120, 3° and 4° Penal Code) <i>An amendment is underway to Article 386 in order to render legal persons liable</i>	(provisions in the sectorial administrative legislation: e.g. prohibition to enter into contracts with public administrations (Law on State Contracts, Article 20). It is not considered an administrative sanction)	
France	Article 442-14 in relation with Article 121-2 Code Penal	Article 442-14 in relation with Article 121-2 Code Penal	See Article 442-14 Code Penal: -fine (Article 131-38) -sanctions provided for in Article 131-39 -confiscation (Article 442-13)	See Article 442-14 Code Penal: -fine (Article 131-38) -sanctions provided for in Article 131-39 -confiscation (Article 442-13)
Ireland	In addition to a general principle of interpretation in Irish Law which considers that 'person' applies to legal as well as natural persons, Section 58 Criminal Justice (Theft and Fraud Offences) Act, 2000	Section 58 Criminal Justice (Theft and Fraud Offences) Act, 2000	unlimited fine: Section 56(1) (Criminal Justice (Theft and Fraud Offences) Act, 2000	unlimited fine: Section 56(1) +Criminal Justice (Theft and Fraud Offences) Act, 2000
Italy	Art. 25-a Decreto legislativo (D.lgs.) 8.06.2001n.231 Art. 52-quinquies D.lgs. 24.06.1998 n.213 (euro not yet	Articles 6 and 7 of the D. Lgs. No. 231/2001	Article 6 D. Lgs. 350/2001 (amended by Act No. 450/2001) inserting Article 25a into D. Lgs. 231/2001 juncto Article 10	Article 6 D. Lgs. 350/2001 (amended by Act No. 450/2001) inserting Article 25a into D. Lgs. 231/2001 juncto Article 10

Article of the framework Decision	Article 8 (1) liability legal person	Article 8 (2) liability legal person in case of lack of supervision	Article 9 (1) sanctions legal persons	Article 9 (2) sanctions legal persons in case of lack of supervision
	issued)		<p>D.Lgs. 231/2001: quota system of fines (every quota has a minimum of 500.000 (€ 258,23) lire and a maximum up to 3 Mio lire (€ 1.549,37))(Art. 25-a D.lgs. 8.06.2001n.231:</p> <ul style="list-style-type: none"> - fine of 300-800 shares for crimes provided by art. 453 - fine up to 500 shares for crimes provided by art. 454-461 - referring to crimes provided by art 455(a) the fine concerning art. 453 is reduced by 1/3-1/2 - referring to crimes provided by art 455(b) the fine concerning art. 454 is reduced by 1/3-1/2 <p>As a general principle special measures can also be imposed, such as: exclusion from entitlement to public benefits Art. 52-quinquies D.lgs.</p> <p>24.06.1998 n.213 (euro not yet issued and crime taking place before 31.12.2001): fine provided by art 25- \ D.lgs.</p> <p>8.06.2001n.231 reduced by 1/3 (the reduction is not provided if the uttering takes place after 31.12.2001))</p>	<p>D.Lgs. 231/2001: quota system of fines (every quota has a minimum of 500.000 (€ 258,23) lire and a maximum up to 3 Mio lire (€ 1.549,37)) (idem)</p>
Luxembourg	<p>-- <i>A draft Bill is in preparation introducing into the Penal Code as a general principle the (criminal) liability of legal persons.</i></p> <p>Currently Directors are personally liable for crimes</p>	<p>-- <i>A draft Bill is in preparation introducing into the Penal Code as a general principle the (criminal) liability of legal persons</i></p> <p>Currently Directors are personally liable for crimes</p>	<p><i>idem</i></p> <p>Further, the law of 10th August 1915 on Commercial Companies applying to companies formed under Luxembourg Law or the branches of foreign companies</p>	<p><i>idem</i></p>

Article of the framework Decision	Article 8 (1) liability legal person	Article 8 (2) liability legal person in case of lack of supervision	Article 9 (1) sanctions legal persons	Article 9 (2) sanctions legal persons in case of lack of supervision
	committed through a company.	committed through a company.	established in Luxembourg, allows the government to require the dissolution or liquidation of the whole company or branch which carries on activities contrary to the Criminal Law.	
Netherlands	Article 51 Code Penal	Article 51 Code Penal	-fine of the fifth or -if appropriate- sixth ²⁸ category Article 23(7) Penal Code -penalties other than imprisonment, such as 'deprivation of illegally obtained benefits' (Article 36 e Penal Code)	-fine of the fifth or -if appropriate- sixth ²⁹ category Article 23 (7) Penal Code -penalties other than imprisonment, such as 'deprivation of illegally obtained benefits' (Article 36 e Penal Code)
Austria	See declaration made in OJ L 140, 14.6.2001, p.1 ³⁰ <i>A provision implementing these articles has been drafted but not yet passed.</i>	See declaration made in OJ L 140, 14.6.2001, p.1 <i>A provision implementing these articles has been drafted but not yet passed.</i>	See declaration made in OJ L 140, 14.6.2001, p.1 <i>A provision implementing these articles has been drafted but not yet passed.</i>	See declaration made in OJ L 140, 14.6.2001, p.1 <i>A provision implementing these articles has been drafted but not yet passed.</i>
Portugal	<i>Portugal is in the process of drafting new legislation to implement these requirements</i>	<i>Portugal is in the process of drafting new legislation to implement these requirements</i>	<i>Portugal is in the process of drafting new legislation to implement these requirements</i>	<i>Portugal is in the process of drafting new legislation to implement these requirements</i>
Finland	Chapter 9, Section 1 and Section 2, Section 14 Penal Code	Chapter 9, Section 1 and Section 2 Penal Code	- a corporate fine of 5.000 and at most 5 Mio FIM (€ 841,75 - € 841.750,84) (Chapter 9, Section 5 Penal Code)	- a corporate fine of 5.000 and at most 5 Mio FIM (€ 841,75 - € 841.750,84) (Chapter 9, Section 5 Penal Code)

²⁸ NLG 1 million (€ 454,545,45).

²⁹ NLG 1 million (€ 454,545,45).

³⁰ DECLARATION BY THE REPUBLIC OF AUSTRIA

Austria refers to the possibility afforded to it in Article 18(2) of the second Protocol to the Convention on the Protection of the European Communities' Financial Interests (OJ C 221, 19.7.1997, p. 11) not to be bound by Articles 3 and 4 of that Protocol for five years, and hereby states that it will fulfil its obligations under Articles 8 and 9 of the framework Decision within the same period.

Article of the framework Decision	Article 8 (1) liability legal person	Article 8 (2) liability legal person in case of lack of supervision	Article 9 (1) sanctions legal persons	Article 9 (2) sanctions legal persons in case of lack of supervision
			- various administrative measures	- various administrative measures
Sweden	Chapter 36 Section 7 Penal Code	Chapter 36 Section 7 Penal Code	- at least 10.000, at most 3 Mio Swedish crowns (€ 1.066,09 - € 319.829,42); Chapter 36 Section 8 juncto Sections 9 & 10	- at least 10.000, at most 3 Mio Swedish crowns (€ 1.066,09 - € 319.829,42); Chapter 36 Section 8 juncto Sections 9 & 10
United Kingdom	Section 5 Interpretation Act 1978 (“person” may be interpreted as a natural person or a legal person)	Civil liability for negligence (common law)	an unlimited corporate fine (Interpretation Act 1978)	Damages payable to a claimant in a civil action to the value of the loss suffered