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#### 'I' ITEM NOTE

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From: Working Party on Combating Fraud

To: Permanent Representatives Committee

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Subject: Proposal for a Regulation of the European Parliament and of the Council establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (the "Pericles IV programme") **(first reading)**

– *Partial mandate for negotiations with the European Parliament*

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#### OUTCOME OF PROCEEDINGS<sup>1</sup>

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<sup>1</sup> The text also includes the parts in [brackets] which were introduced in the context of the discussions on the MFF 2021-2027.

**Proposal for a****REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting for the period 2021-2027 (the "Pericles IV programme")**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 133 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank<sup>1</sup>

Acting in accordance with the ordinary legislative procedure<sup>2</sup>

Whereas:

- (1) The Union and the Member States have set themselves the objective of laying down the measures necessary for the use of the euro as a single currency. Those measures include protecting the euro against counterfeiting and related fraud, thus empowering the effectiveness of the Union's economy and securing the sustainability of public finances.

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<sup>1</sup> OJ C 378, 19.10.2018, p. 2.

<sup>2</sup> Position of the European Parliament of ... and decision of the Council of ....

- (2) Council Regulation (EC) No 1338/2001<sup>1</sup> provides for exchanges of information, cooperation and mutual assistance, thereby establishing a harmonised framework for the protection of the euro. The effects of that Regulation were extended by Council Regulation (EC) No 1339/2001<sup>2</sup> to those Member States which have not adopted the euro as their single currency, so as to provide an equivalent level of protection for the euro throughout the Union.
- (3) Actions with the aim of promoting exchanges of information and staff, technical and scientific assistance and specialised training help significantly to protect the Union's single currency against counterfeiting and related fraud and therefore to attain a high and equivalent level of protection across the Union, whilst demonstrating the Union's ability to tackle serious organised crime.
- (4) A programme for the protection of the euro against counterfeiting contributes to raising the awareness of Union citizens, improving the protection of the euro, especially through the constant dissemination of results of actions supported by that programme.

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<sup>1</sup> Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (OJ L 181, 4.7.2001, p. 6).

<sup>2</sup> Council Regulation (EC) No 1339/2001 of 28 June 2001 extending the effects of Regulation (EC) No 1338/2001 laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency (OJ L 181, 4.7.2001, p. 11).

- (5) Past support for such actions, through Council Decisions 2001/923/EC<sup>1</sup> and 2001/924/EC<sup>2</sup>, which were subsequently amended and extended by Council Decisions 2006/75/EC<sup>3</sup>, 2006/76/EC<sup>4</sup>, 2006/849/EC<sup>5</sup>, 2006/850/EC<sup>6</sup> and Regulation (EU) No 331/2014 of the European Parliament and of the Council<sup>7</sup>, has made it possible to enhance the actions of the Union and the Member States in the field of the protection of the euro against counterfeiting. The objectives of the programme for the protection of the euro against counterfeiting ("the Pericles programme") for the periods 2002-2006, 2007-2013 and 2014 until 2017<sup>8</sup> have been successfully achieved.
- (6) In the Communication to the European Parliament and to the Council on the mid-term evaluation of the Pericles 2020 Programme, the Commission came to the conclusion that the continuation of the Pericles 2020 programme beyond 2020 should be supported, given its EU added value, its long-term impact and the sustainability of its actions.

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<sup>1</sup> Council Decision 2001/923/EC of 17 December 2001 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles" programme) (OJ L 339, 21.12.2001, p. 50).

<sup>2</sup> Council Decision 2001/924/EC of 17 December 2001 extending the effects of the Decision establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting ("Pericles" programme) to the Member States which have not adopted the euro as the single currency (OJ L 339, 21.12.2001, p. 55).

<sup>3</sup> Council Decision 2006/75/EC of 30 January 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) (OJ L 36, 8.2.2006, p. 40).

<sup>4</sup> Council Decision 2006/76/EC of 30 January 2006 extending to the non-participating Member States the application of Decision 2006/75/EC amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) (OJ L 36, 8.2.2006, p. 42.).

<sup>5</sup> Council Decision 2006/849/EC of 20 November 2006 amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) (OJ L 330, 28.11.2006, p. 28).

<sup>6</sup> Council Decision 2006/850/EC of 20 November 2006 extending to the non-participating Member States the application of Decision 2006/849/EC amending and extending Decision 2001/923/EC establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the Pericles programme) (OJ L 330, 28.11.2006, p. 30).

<sup>7</sup> Regulation (EU) No 331/2014 of the European Parliament and of the Council of 11 March 2014 establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the "Pericles 2020" programme) and repealing Council Decisions 2001/923/EC, 2001/924/EC, 2006/75/EC, 2006/76/EC, 2006/849/EC and 2006/850/EC (OJ L 103, 5.4.2014, p. 1).

<sup>8</sup> Communication from the Commission to the European Parliament and to the Council on the mid-term evaluation of the Pericles 2020 Programme of 6.12.2017 (COM(2017) 741 final).

- (7) The advice contained in the mid-term evaluation was that actions financed under the Pericles 2020 Programme should be continued, taking into account possibilities to simplify the submitting of applications, to encourage differentiation of beneficiaries, to continue focusing on emerging and recurrent counterfeiting threats and to streamline the key performance indicators.
- (8) Therefore a new Programme for the period 2021-2027 (the "Pericles IV programme") should be adopted. It should be ensured that the Pericles IV programme is consistent with, and complementary to, other relevant programmes and actions. The Commission should therefore carry out all the necessary consultations with regard to evaluating needs for the protection of the euro with the principal parties involved, in particular the competent national authorities designated by the Member States, the European Central Bank and Europol, within the committee referred to in Regulation (EC) No 1338/2001, particularly as regards exchanges, assistance and training, for the purpose of the application of the Pericles IV programme.
- (9) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council<sup>1</sup> (the "Financial Regulation") and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.]

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<sup>1</sup> OJ L 193, 30.7.2018, p. 1.

- (10) This Regulation complies with the principles of added value and proportionality. The Pericles IV programme should facilitate cooperation among the Member States and between the Commission and the Member States in order to protect the euro against counterfeiting, without impinging on Member States' responsibilities, and using resources more efficiently than could be done at national level. Action at Union level is necessary and justified as it clearly assists Member States in collectively protecting the euro and encourages the use of common Union structures to increase cooperation and information exchange between competent authorities.
- (11) The Pericles IV programme should be implemented in accordance with the multiannual financial framework laid down in *[reference to the post 2020 MFF Regulation Council Regulation (EU, Euratom) .../2018]*.
- (12) In order to ensure uniform conditions for the implementation of the Pericles IV programme, implementing powers should be conferred on the Commission. The Commission should adopt annual work programmes setting out the priorities, the budget breakdown and the evaluation criteria for the grants for actions. The exceptional and duly justified cases, in which an increase in co-financing is necessary in order to give the Member States greater economic flexibility, thus enabling them to carry out and complete projects to protect and safeguard the euro in a satisfactory manner, should be part of the annual work programmes.
- (13) This Regulation lays down a financial envelope for the Pericles IV programme which is to constitute the prime reference amount, within the meaning of *[reference to be updated as appropriate according to the new interinstitutional agreement: Point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management]*, for the European Parliament and the Council during the annual budgetary procedure.

[(14) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>2</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office ("the EPPO") may investigate and prosecute offences against the Union's financial interests, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>5</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.]

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- <sup>1</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, (OJ L 248, 18.9.2013, p. 1)
- <sup>2</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1)
- <sup>3</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).
- <sup>4</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ("the EPPO") (OJ L 283, 31.10.2017, p. 1).
- <sup>5</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (15) The Commission should present to the European Parliament and to the Council a mid-term evaluation report on the implementation of the Pericles IV programme and a final evaluation report on the achievement of its objectives.
- (16) Regulation (EU) No 331/2014 should therefore be repealed.
- (17) It is appropriate to ensure a smooth transition without interruption between the Pericles 2020 programme and the Pericles IV programme and it is appropriate to align the duration of the Pericles IV programme with *[reference to the post 2020 MFF Regulation] Regulation (EU, Euratom) .../2018<sup>1</sup>*. Therefore, the Pericles IV programme should apply from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> See official Journal.



## CHAPTER I GENERAL PROVISIONS

### *Article 1*

#### ***Subject matter***

This Regulation establishes the Pericles IV Programme, an exchange, assistance and training programme for the protection of the euro against counterfeiting ("the Programme").

It lays down the objectives of the Programme, the budget for the period from 1 January 2021 to 31 December 2027, the forms of Union funding and the rules for providing such funding.

### *Article 2*

#### ***Programme objectives***

1. The Programme has the following general objective:

To prevent and combat counterfeiting and related fraud, thus enhancing the competitiveness of the Union's economy and securing the sustainability of public finances.

2. The Programme has the following specific objective:

To protect euro banknotes and coins against counterfeiting and related fraud, by supporting and supplementing the measures undertaken by the Member States and assisting the competent national and Union authorities in their efforts to develop among themselves and with the Commission a close and regular cooperation and an exchange of best practice, where appropriate including third countries and international organisations.

### *Article 3*

#### ***Budget***

1. The financial envelope for the implementation of the Programme for the period from 1 January 2021 to 31 December 2027 shall be EUR [7 700 000 (in current prices)].
2. The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.
3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

### *Article 4*

#### ***Implementation and forms of EU funding***

1. The Programme shall be implemented in direct management in accordance with Regulation (EU, Euratom) No 2018/1046.
2. The Programme shall be implemented by the Commission in cooperation with the Member States, through regular consultations at different stages of the implementation of the Programme, taking into account relevant measures undertaken by other competent entities, in particular the European Central Bank and Europol.
3. Financial support under the Programme for eligible actions listed in Article 6 shall take the form of either:
  - grants; or
  - public procurement.

*Article 5*  
***Joint actions***

1. Actions under the Programme may be organised jointly by the Commission and other partners having relevant expertise, such as:
  - (a) the national central banks and the European Central Bank (ECB);
  - (b) the National Analysis Centres (NACs) and the Coin National Analysis Centres (CNACs);
  - (c) the European Technical and Scientific Centre (ETSC) and the mints;
  - (d) Europol, Eurojust and Interpol;
  - (e) the national central anti-counterfeiting offices provided for in Article 12 of the International Convention for the Suppression of Counterfeiting Currency signed at Geneva on 20 April 1929<sup>1</sup> and other agencies specialising in prevention, detection and law-enforcement in connection with counterfeiting;
  - (f) specialist bodies concerned in the field of duplication and certification technologies, printers and engravers;
  - (g) bodies other than those referred to in points (a) to (f) offering specific expertise, including, where appropriate, such bodies from third countries and in particular from acceding States and candidate countries; and
  - (h) private entities that have developed and provided evidence of technical knowledge and teams specialising in detecting counterfeit banknotes and coins.
  
2. Where eligible actions are organised jointly by the Commission and the ECB, Eurojust, Europol or Interpol, the ensuing expenses shall be divided among them. In any event, each of them shall bear the travel and accommodation costs of its own guest speakers.

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<sup>1</sup> League of Nations Treaty Series No 2623 (1931), p. 372.

## CHAPTER II ELIGIBILITY

### *Article 6*

#### ***Eligible actions***

1. The Programme shall provide, under the conditions set out in the annual work programmes referred to in Article 10, financial support for the following actions:
  - (a) exchange and dissemination of information, in particular through organising workshops, meetings and seminars, including training, targeted placements and exchanges of staff of competent national authorities and other similar actions. The exchange of information shall, among others, be targeted at:
    - methodologies for monitoring and analysing the economic and financial impact of counterfeiting;
    - operation of databases and early warning systems;
    - use of detection tools with computer back-up;
    - enquiry and investigation methods;
    - scientific assistance, including monitoring of new developments;
    - protection of the euro outside the Union;
    - research actions;
    - provision of specific operational expertise;

- (b) technical, scientific and operational assistance, as appears necessary as part of the Programme including in particular:
- any appropriate measure which establishes teaching resources at Union level, such as a handbook of Union legislation, information bulletins, practical manuals, glossaries and lexicons, databases, especially in the area of scientific assistance or technology watch or computer support applications, such as software;
  - relevant studies with a multidisciplinary and transnational dimension, including research on innovative security features;
  - development of technical support instruments and methods to facilitate detection actions at Union level;
  - support for cooperation in operations involving at least two States when such support is not available from other programmes of European institutions and bodies;
- (c) the purchase of equipment to be used by specialised anti-counterfeiting authorities of third countries for protecting the euro against counterfeiting, in compliance with Article 7.
2. The Programme shall take into account the transnational and multidisciplinary aspects of the fight against counterfeiting by targeting the participation of the following groups:
- (a) staff of agencies engaged in detecting and combating counterfeiting, in particular police forces, customs and financial administrations, depending on their specific functions at national level;
  - (b) intelligence personnel;

- (c) representatives of the national central banks, the mints, commercial banks and other financial intermediaries, in particular as regards the obligations of financial institutions;
  - (d) judicial officers, specialist lawyers and members of the judiciary in this field;
  - (e) any other group of specialists concerned, such as chambers of commerce and industry or comparable structures capable of providing access to small and medium-sized enterprises, retailers and cash-in-transit companies.
3. The groups referred to in paragraph 2 of this Article may include participants from third countries if that is important for the fulfilment of the objectives provided for in Article 2.

### **CHAPTER III**

#### **GRANTS**

##### *Article 7*

##### ***Grants***

Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

For actions implemented through grants, the purchase of equipment shall not be the sole component of the grant agreement.

##### *Article 8*

##### ***Co-financing rates***

The co-financing rate for grants awarded under the Programme shall not exceed 75 % of the eligible costs. In exceptional and duly justified cases, defined in the annual work programmes referred to in Article 10, the co-financing rate shall not exceed 90 % of the eligible costs.

*Article 9*

***Eligible entities***

Entities eligible for funding under the Programme shall be the competent national authorities as defined in point (b) of Article 2 of Regulation (EC) No 1338/2001.

**CHAPTER IV**

**PROGRAMMING, MONITORING, EVALUATION AND CONTROL**

*Article 10*

***Work programmes***

1. In order to implement the Programme, the Commission shall adopt work programmes as referred to in Article 110 of the Financial Regulation.
2. For grants, in addition to the requirements laid down in Article 110 of the Financial Regulation, the work programme shall specify the essential selection and award criteria and the maximum possible rate of co-financing.

*Article 11*

***Exercise of delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 12(2) shall be conferred on the Commission from 1 January 2021 until 31 December 2027.
3. The delegation of power referred to in Article 12(2), may be revoked at any time by the European Parliament or the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.
6. A delegated act adopted pursuant to Article 12(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.

#### *Article 12*

#### ***Monitoring***

1. Indicators to report on progress of the Programme towards the achievement of the specific objective set out in Article 2 are set out in the Annex to this proposal.
2. To ensure effective assessment of progress of the Programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts, in accordance with Article 11, to develop the provisions for a monitoring and evaluation framework, including through amendments to the Annex to review and complement the indicators where necessary for the purposes of evaluation.
3. The Commission shall provide annual information on the results of the Programme to the European Parliament, to the Council and to the European Central Bank, taking into account the quantitative and qualitative indicators set out in the Annex to this proposal.
4. The participating countries and other beneficiaries shall provide the Commission with all the data and information necessary to permit the monitoring and evaluation of the Programme.



*Article 13*

***Evaluation***

1. The interim evaluation of the Programme shall be carried out once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation.
2. At the end of the implementation of the Programme, but no later than two years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission.
3. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council and the European Central Bank.

**CHAPTER V**

**FINAL PROVISIONS**

*Article 14*

***Information, communication and publicity***

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results), by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Programme, and to its actions and results. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, in so far as they are related to the objectives referred to in Article 2.

*Article 15*

***Repeal***

Regulation (EU) No 331/2014 is repealed with effect from 1 January 2021.

*Article 16*

***Transitional provisions***

This Regulation shall not affect the continuation or modification of the actions concerned, under Regulation (EU) No 331/2014, which shall continue to apply to the actions concerned until their closure.

*Article 17*

***Entry into force***

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

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

*For the European Parliament*

The President

*For the Council*

The President

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