

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 1103/97**

**of 17 June 1997**

**on certain provisions relating to the introduction of the euro**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal of the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the European Monetary Institute<sup>(3)</sup>,

(1) Whereas, at its meeting held in Madrid on 15 and 16 December 1995, the European Council confirmed that the third stage of Economic and Monetary Union will start on 1 January 1999 as laid down in Article 109j (4) of the Treaty; whereas the Member States which will adopt the euro as the single currency in accordance with the Treaty will be defined for the purposes of this Regulation as the 'participating Member States';

(2) Whereas, at the meeting of the European Council in Madrid, the decision was taken that the term 'ECU' used by the Treaty to refer to the European currency unit is a generic term; whereas the Governments of the fifteen Member States have achieved the common agreement that this decision is the agreed and definitive interpretation of the relevant Treaty provisions; whereas the name given to the European currency shall be the 'euro'; whereas the euro as the currency of the participating Member States will be divided into one hundred sub-units with the name 'cent'; whereas the European Council furthermore considered that the name of the single currency must be the same in all the official languages of the European Union, taking into account the existence of different alphabets;

(3) Whereas a Regulation on the introduction of the euro will be adopted by the Council on the basis of the third sentence of Article 109l (4) of the Treaty as soon as the participating Member States are known in order to define the legal framework of the euro; whereas the Council, when acting at the starting date of the third stage in accordance with the first sentence of Article 109l (4) of the Treaty, shall adopt the irrevocably fixed conversion rates;

(4) Whereas it is necessary, in the course of the operation of the common market and for the changeover to the single currency, to provide legal certainty for citizens and firms in all Member States on certain provisions relating to the introduction of the euro well before the entry into the third stage; whereas this legal certainty at an early stage will allow preparations by citizens and firms to proceed under good conditions;

(5) Whereas the third sentence of Article 109l (4) of the Treaty, which allows the Council, acting with the unanimity of participating Member States, to take other measures necessary for the rapid introduction of the single currency is available as a legal basis only when it has been confirmed, in accordance with Article 109j (4) of the Treaty, which Member States fulfil the necessary conditions for the adoption of a single currency; whereas it is therefore necessary to have recourse to Article 235 of the Treaty as a legal basis for those provisions where there is an urgent need for legal certainty; whereas therefore this Regulation and the aforesaid Regulation on the introduction of the euro will together provide the legal framework for the euro, the principles of which legal framework were agreed by the European Council in Madrid; whereas the introduction of the euro concerns day-to-day operations of the whole population in participating Member States; whereas measures other than those in this Regulation and in the Regulation which will be adopted under the third sentence of Article 109l (4) of the Treaty should be examined to ensure a balanced changeover, in particular for consumers;

<sup>(1)</sup> OJ No C 369, 7. 12. 1996, p. 8.

<sup>(2)</sup> OJ No C 380, 16. 12. 1996, p. 49.

<sup>(3)</sup> Opinion delivered on 29 November 1996.

- (6) Whereas the ECU as referred to in Article 109g of the Treaty and as defined in Council Regulation (EC) No 3320/94 of 22 December 1994 on the consolidation of the existing Community legislation on the definition of the ECU following the entry into force of the Treaty on European Union<sup>(1)</sup> will cease to be defined as a basket of component currencies on 1 January 1999 and the euro will become a currency in its own right; whereas the decision of the Council regarding the adoption of the conversion rates shall not in itself modify the external value of the ECU; whereas this means that one ECU in its composition as a basket of component currencies will become one euro; whereas Regulation (EC) No 3320/94 therefore becomes obsolete and should be repealed; whereas for references in legal instruments to the ECU, parties shall be presumed to have agreed to refer to the ECU as referred to in Article 109g of the Treaty and as defined in the aforesaid Regulation; whereas such presumption should be rebuttable taking into account the intentions of the parties;
- (7) Whereas it is a generally accepted principle of law that the continuity of contracts and other legal instruments is not affected by the introduction of a new currency; whereas the principle of freedom of contract has to be respected; whereas the principle of continuity should be compatible with anything which parties might have agreed with reference to the introduction of the euro; whereas, in order to reinforce legal certainty and clarity, it is appropriate explicitly to confirm that the principle of continuity of contracts and other legal instruments shall apply between the former national currencies and the euro and between the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94 and the euro; whereas this implies, in particular, that in the case of fixed interest rate instruments the introduction of the euro does not alter the nominal interest rate payable by the debtor; whereas the provisions on continuity can fulfil their objective to provide legal certainty and transparency to economic agents, in particular for consumers, only if they enter into force as soon as possible;
- (8) Whereas the introduction of the euro constitutes a change in the monetary law of each participating Member State; whereas the recognition of the monetary law of a State is a universally accepted principle; whereas the explicit confirmation of the principle of continuity should lead to the recognition of continuity of contracts and other legal instruments in the jurisdictions of third countries;
- (9) Whereas the term 'contract' used for the definition of legal instruments is meant to include all types of contracts, irrespective of the way in which they are concluded;
- (10) Whereas the Council, when acting in accordance with the first sentence of Article 109l (4) of the Treaty, shall define the conversion rates of the euro in terms of each of the national currencies of the participating Member States; whereas these conversion rates should be used for any conversion between the euro and the national currency units or between the national currency units; whereas for any conversion between national currency units, a fixed algorithm should define the result; whereas the use of inverse rates for conversion would imply rounding of rates and could result in significant inaccuracies, notably if large amounts are involved;
- (11) Whereas the introduction of the euro requires the rounding of monetary amounts; whereas an early indication of rules for rounding is necessary in the course of the operation of the common market and to allow a timely preparation and a smooth transition to Economic and Monetary Union; whereas these rules do not affect any rounding practice, convention or national provisions providing a higher degree of accuracy for intermediate computations;
- (12) Whereas, in order to achieve a high degree of accuracy in conversion operations, the conversion rates should be defined with six significant figures; whereas a rate with six significant figures means a rate which, counted from the left and starting by the first non-zero figure, has six figures,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the purpose of this Regulation:

- 'legal instruments' shall mean legislative and statutory provisions, acts of administration, judicial decisions, contracts, unilateral legal acts, payment instruments other than banknotes and coins, and other instruments with legal effect,
- 'participating Member States' shall mean those Member States which adopt the single currency in accordance with the Treaty,
- 'conversion rates' shall mean the irrevocably fixed conversion rates which the Council adopts in accordance with the first sentence of Article 109l (4) of the Treaty,
- 'national currency units' shall mean the units of the currencies of participating Member States, as those units are defined on the day before the start of the third stage of Economic and Monetary Union,

<sup>(1)</sup> OJ No L 350, 31. 12. 1994, p. 27.

— 'euro unit' shall mean the unit of the single currency as defined in the Regulation on the introduction of the euro which will enter into force at the starting date of the third stage of Economic and Monetary Union.

#### *Article 2*

1. Every reference in a legal instrument to the ECU, as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94, shall be replaced by a reference to the euro at a rate of one euro to one ECU. References in a legal instrument to the ECU without such a definition shall be presumed, such presumption being rebuttable taking into account the intentions of the parties, to be references to the ECU as referred to in Article 109g of the Treaty and as defined in Regulation (EC) No 3320/94.

2. Regulation (EC) No 3320/94 is hereby repealed.

3. This Article shall apply as from 1 January 1999 in accordance with the decision pursuant to Article 109j (4) of the Treaty.

#### *Article 3*

The introduction of the euro shall not have the effect of altering any term of a legal instrument or of discharging or excusing performance under any legal instrument, nor give a party the right unilaterally to alter or terminate such an instrument. This provision is subject to anything which parties may have agreed.

#### *Article 4*

1. The conversion rates shall be adopted as one euro expressed in terms of each of the national currencies of the participating Member States. They shall be adopted with six significant figures.

2. The conversion rates shall not be rounded or truncated when making conversions.

3. The conversion rates shall be used for conversions either way between the euro unit and the national currency units. Inverse rates derived from the conversion rates shall not be used.

4. Monetary amounts to be converted from one national currency unit into another shall first be converted into a monetary amount expressed in the euro unit, which amount may be rounded to not less than three decimals and shall then be converted into the other national currency unit. No alternative method of calculation may be used unless it produces the same results.

#### *Article 5*

Monetary amounts to be paid or accounted for when a rounding takes place after a conversion into the euro unit pursuant to Article 4 shall be rounded up or down to the nearest cent. Monetary amounts to be paid or accounted for which are converted into a national currency unit shall be rounded up or down to the nearest sub-unit or in the absence of a sub-unit to the nearest unit, or according to national law or practice to a multiple or fraction of the sub-unit or unit of the national currency unit. If the application of the conversion rate gives a result which is exactly half-way, the sum shall be rounded up.

#### *Article 6*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 17 June 1997.

*For the Council*

*The President*

A. JORRITSMA-LEBBINK