

# Banknotes

## A central bank liability?

Torsten Schäfer, Deutsche Bundesbank

# Banknotes – A central bank liability?

## What's a banknote?



Torsten Schäfer, Deutsche Bundesbank

13. Januar 2023

Page 2

# Banknotes – A central bank liability?

## Rules on banknotes

### Appearance

Denominations

Design

### Effect

Legal tender status

Discharging of obligations

### Existence

Issuance

Withdrawal

### Legal nature

?



# Banknotes – A central bank liability?

## Rules on banknotes

# Appearance

Denominations

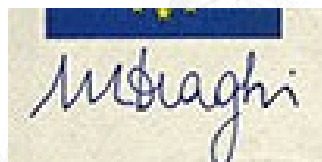
Design

## Decision ECB/2013/10

5 – 10 – 20 – 50 – 100 – 200 – (500) Euro

5 Euro: 120 × 62 mm – Dominant Colour: Grey – Design: Classical

Gateways and windows (recto) - bridges (verso)



BCE ECB EЦБ EZB EKP EKT EKB BCE EBC



## Detailed technical specifications

# Banknotes – A central bank liability?

## Rules on banknotes

### Existence

#### Issuance

**Articles 2 and 3(1)  
Decision ECB/2010/19**

The ECB and the NCBs shall issue euro banknotes.

NCBs shall put into [...] circulation euro banknotes.

#### Withdrawal

**Article 3(1)  
Decision ECB/2010/19**

NCBs shall [...] withdraw from circulation euro banknotes.

**Article 6  
Decision ECB/2013/10**

Details to be decided by Governing Council decision

# Banknotes – A central bank liability?

## Rules on banknotes

### Effect

#### Legal tender status

Article 128(1)(3) TFEU  
Article 16 ESCB Statute  
Article 10 Reg. 974/98

Status as legal tender calls  
for *acceptance in principle only*,  
*not for absolute acceptance*

#### Discharging of obligations

Pertinent legal acts  
(Civil law, public law ...)

European Court of Justice  
Judgment of 26 January 2021, Hessischer Rundfunk,  
Joined Cases C-422/19 and C-423/19

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

### Legal Nature

A claim?

A liability?

A creditor's claim is a debtor's liability

Legal Definition: § 194(1) German Civil Code:

“The right to demand that another person does or refrains from an act (claim)”

(„Das Recht, von einem anderen ein Tun oder Unterlassen zu verlangen (Anspruch)“)

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

Claim or liability:

One person's right to demand something from another.

Not an abstract concept,  
but object-related.

No (isolated) “claim”  
but only a claim for something,  
for an object.

What is this object in case of a banknote?



# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

### DM banknotes – case law

Federal Administrative Court:

No claim for payment

Only right to exchange

Bundesverwaltungsgericht  
Judgement of 23 November 1993,  
„Pinkewitz“ - 1 C 21/92

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

### Euro Banknotes National statutory law and case law

Banknotes  $\neq$  securities

Various provisions distinguish between banknotes and securities

§§ 232 ff, 372, 702(1) and (3), 783, 935(2), 1006(1)(2),  
1007(2)(2), 1813 (1) No. 1, 1960(2) Civil Code

Hessian Court of Administration  
distinguishes between banknotes and securities

Verwaltungsgerichtshof Kassel  
Judgement of 13 February 2018  
10 A 2929/16 and 10 A 116/17

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

### Euro Banknotes EU statutory law

#### Article 3(2) Decision ECB/2010/29

NCBs shall accept all euro banknotes on the request of the holder for exchange against euro banknotes of the same value or, in the case of account holders, to be credited to accounts held at the recipient NCB.

#### Article 3(1) Decision ECB/2013/10

NCBs shall [...] exchange damaged genuine euro banknotes where [...]

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

**Get a banknote exchanged  
for another banknote**

**Can this be the object of  
the claim under a banknote?**



# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

cf.: bearer bonds

Contents of  
the paper

≠

Fate of  
the paper

Right to demand  
performance  
§ 793(1)(1) Civil Code

≠

Right to demand a  
replacement certificate  
§ 798(1) Civil Code

A claim

≠

Interest in preserving  
the physical substance

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

Banknotes

Contents of  
the banknote

≠

Fate of  
the banknote

Claim under  
the banknote?

≠

Interest in preserving  
the physical substance

?

≠

Right to demand  
another banknote,  
Article 3(2) Decision ECB/2010/29  
Article 3(2) Decision ECB/2013/10

# Banknotes – A central bank liability?

## Rules on banknotes – Legal Nature

Historical distinction between banknotes and money (coins)

Initially: Banknotes  $\neq$  legal tender or money,  
but granted right to exchange for gold or coins (redemption)

For Germany, abolished in 1914

Loss of redemption obligation turned banknotes into money.

Being money and being a claim are mutually exclusive.

# Banknotes – A central bank liability?

## Conclusion



**A banknote  
is a banknote  
is a banknote**



# Banknotes – A central bank liability? Coins?

... and what about



# Banknotes – A central bank liability?



Torsten Schäfer, Deutsche Bundesbank

13. Januar 2023

Page 18