



Monero Policy Working Group (MPWG)

[MoneroPolicy.org](https://MoneroPolicy.org)

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Response to a Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of the digital euro

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## **Introduction**

1. The Monero Policy Working Group (MPWG) is a loosely formed quorum of individuals that contribute to the Monero<sup>1</sup> open-source project. Monero is a permissionless, privacy-preserving cryptocurrency network. The goal of MPWG is to work with regulators, policy makers, and the wider financial services sector to ensure a broad understanding of Monero, and other privacy-preserving cryptocurrencies, is communicated. We have specific interest in interacting with entities so they may understand Monero's component technologies, especially in the context of evolving regulatory and compliance requirements.
2. We would like to take the opportunity to acknowledge the suite of digital payment focused regulatory proposals that have been published. They are far reaching and substantially developed, and we welcome the ability to respond to six concurrent public consultations on the matter. The consultation phase also allows for due consideration of potential impacts, risks, the weighing of proportionality and necessity, as well as providing for a general level of transparency and accountability fitting of the industry.

## **Article 12**

3. The digital euro is supposed to be legal tender, like physical euro banknotes and coins. However, physical cash possesses features that are precluded by design to its digital counterpart: it makes people more aware of their expenses, it protects privacy and anonymity, and it fosters financial inclusion because it is the preferred method of payment of vulnerable groups like the elderly and people with limited digital skills and income. Article 12, paragraph 2 gives the payer the possibility to choose between using physical cash and using digital cash when both alternatives are mandatory. This is appreciated, but it is not sufficient. Given the unique and non-replicable features of physical cash, and given its importance for financial inclusion, a clause should be added that states that, whenever it is

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<sup>1</sup> see The Monero Project, <https://github.com/monero-project> and <https://getmonero.org>.

possible to pay with the digital euro, it must also be possible to pay with physical banknotes and coins; in other words, there must not be cases where the acceptance of the digital euro is mandatory, but the acceptance of physical cash is not.

### **Articles 15 and 16**

4. Articles 15 and 16 impose limits to the use of the digital euro as a store of value in order to safeguard financial stability. This phrasing is vague and requires clarification. Store of value functions are inherent to sound money: the possibility to save for a better future is one of the fundamental principles of civilization. The stability of the financial system is not at risk because people save money and store value for a better future. Rather, a source of risk lies in the inability of financial intermediaries to guarantee redeemability and convertibility at par between deposits and legal tender money. Also, a digital euro which is legal tender and which is not a good store of value can undermine public trust and is by itself a threat to the stability of the financial system. We urge the Commission to clarify what the limits might include or entail. For example, will there be simple upper limits on holdings (i.e €1.000), or more intricate mechanisms, such as time-sensitive holdings, or the imposition of negative interest rates? Each of these options would require careful consideration of the potential economic and societal harms.

### **Article 19**

5. Article 19, paragraph 1 states: "The digital euro may only be distributed to natural and legal persons residing or established in third countries if the Union and the third country concerned have signed a prior agreement to that effect."<sup>2</sup> In order to protect visitors, including EU citizens who reside outside of the EU, from countries that have not signed an agreement on the digital euro with European institutions, physical cash payment services must be as widespread as possible; moreover, there must be no cases where digital euro payment services are mandatory, but physical cash services are not.
6. Paragraph 21 in the Preamble states that asylum seekers "may" be provided digital euro payment services. However, this statement is discretionary. There should be an explicit exception in Article 19 made for asylum applicants. Asylum seekers' residence status is unclear given that they are not considered "residing" in third countries nor in the Union while their application is pending. At the end of May 2023, there were 667,000 pending asylum cases awaiting for a first instance decision and a recognition rate of 41%<sup>3</sup>. These vulnerable individuals ought not be denied access to the digital euro.

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<sup>2</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council, Art (19).

<sup>3</sup> <https://euaa.europa.eu/latest-asylum-trends-asylum>

## **Article 22**

7. Article 22, paragraph 1 states that the digital euro needs to be “simple and easy to handle” and that it should be “accessible for persons with disabilities.” This guidance is welcomed. We also welcome Article 22, paragraph 5, which allows for multiple users of individual digital euro accounts, aiding with concerns around minors, guardianship, and companionship. However, further clarification on how accessibility and usability will both be monitored and regulated would be helpful in this regard, especially to ensure compatibility and consistency with mentioned Annex I of Directive 2019/882.

## **Article 24**

8. Article 24, paragraph 2, states that “The digital euro shall not be programmable money.” Greater clarity is welcomed on this matter.
9. We are aware the Regulation proposes to incorporate the term “conditional payments”<sup>4</sup> into the lexicon, but we urge open dialogue, impact assessment, and regulatory framing on how “conditional payments” might differ technically *and* ethically from “programmable money.”
10. The digital euro proposes to be a platform on which PSPs may innovate with programmed logic (possibly incorporated as ‘deterministic conditions’) - with a host of potential use cases. It is not unfeasible to imagine specific applications in which “conditional payments” are *in logic and effect* analogues to “programmable money.” For example, a ‘healthy lifestyle’ application linked through an API to a digital wallet could easily restrict (or allow) purchases of certain goods and services. While these rules may be pre-agreed between app provider and payee (creating an illusion of consent), the potential result is a system that nudges both intended and unintended behavioral change through the use of dark-patterns.<sup>5</sup> We urge the Commission to consider these types of use cases, and create harmonized consumer protections on this (and related) issues.
11. We acknowledge that the proposed Regulation positions the digital euro as an alternative to forms of programmable money that may be offered by other nation states or technology providers. The alternative (non-programmable) option provides mitigation for fungibility risk.<sup>6</sup> We would like to address this matter further, as it relates to privacy and data protection. If the digital euro is to remain fully fungible, there is a specific necessity to ensure that traceability and linkability risks are minimized - predominantly as information

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<sup>4</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council, Recitals 7, 55, 56.

<sup>5</sup> Directorate-General for Justice and Consumers (European Commission), Behavioural study on unfair commercial practices in the digital environment, Dark patterns and manipulative personalisation : final report, available at: <https://op.europa.eu/s/yXWr>

<sup>6</sup> Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council, p.9.

related to token history, transaction graphs, or network graphs may promote the existence of secondary token markets.

12. For example, tokens passed through verifiable wallet addresses of YouTube influencers may be valued higher than other units of the same, given the distinct nature of certain ledger type technologies. This may be viewed as a systemic risk of non privacy-preserving ledger technologies, and may cause reputational harm to the digital euro as a whole, or damage the credibility of the digital euro as a fully-fungible currency (at least in the eyes of the existent secondary market).

## **Article 25**

13. Article 25 lays down, in generic terms, the relationship between the digital euro and European Digital Identity Wallets. We strongly advise to state unequivocally that access to digital euro services and access to digital identity services are mutually independent. Firstly, the technology behind digital identity is in continuous development and is not well-established; secondly, acquiring a digital identity wallet can be burdensome for some disadvantaged groups; thirdly, identification is not necessary for using money, as proven by physical cash and by cryptocurrencies such as Bitcoin and Monero.
14. Digital identity programs contradict Europe's ongoing responsibility and commitment to financial inclusion. Recital 57 states that "European Digital Identity Wallets should contribute to the effective universal access to and use of the digital euro." While this universal requirement is welcomed, it is not described how it could be effectively implemented in practice. Only people who satisfy arbitrary criteria established by political authorities can obtain a digital identity: by definition, this is exclusionary for people who do not satisfy them. In a scenario where a digital identity is mandated to access digital euro services, disadvantaged groups risk to suffer the most; in addition, access to digital euro services would be severely compromised for non Europeans. Even when a digital identity is granted, tying it to payments would come at the expense of convenience, especially for the disadvantaged, because payments do not require identification. For these reasons, we strongly advise to state unequivocally that access to digital euro services and access to digital identity services are mutually independent.
15. Recital 58 states that "Users should be able, if they so wish, to onboard and authorise payments with the digital euro by using the European Digital Identity Wallets. Payment service providers should therefore be obliged to accept the European Digital Identity Wallets for the verification of both prospective and existing customers' identities [...] Payment service providers should also accept the use of European Digital Identity Wallets if the payer wishes to use the wallet for payment authorisation of digital euro payment transactions." For the reasons discussed in points 13 and 14, the reverse should be mandated too: PSPs should be obliged to accept digital euro payments that are not tied to European Digital Identity Wallets. This would preserve the freedom of choice of customers. Moreover, for the reasons discussed in points 3 and 5, it must always be possible to pay with physical cash without showing a digital identity.

### **Article 33**

16. Article 33 mandates OEMs to provide non-discriminatory access to both hardware and software features on mobile devices to ensure reasonable and proportionate functions can be developed for both digital identity and digital euro wallets. We urge the Commission to ensure these functions are communicated in a transparent and open manner to ensure trust and integrity of the overarching digital identity and digital euro architecture. This may be mandated through open hard- and software principles, and a commitment to principles of fairness, transparency, and accountability.

### **Annexes III and IV**

17. As shown in Annex III and in Annex IV accompanying the proposal, the types of personal data allowed to be processed by PSPs, the ECB, and national central banks is significant. Clearer mandates for commitment to data minimization should be included, ensuring that entities shall never be afforded the ability to create transactional, geographical, or spending profiles of their customers through the processing of personal data.
18. We advise clear restriction of processing data types such as: transactional timestamps, transaction locations, spending preferences, and anything that might allow behavioral insights to be drawn on data subjects to increase perceived trust and integrity of the system as a whole. This is especially important as transactional data will often be classified as sensitive data - revealing insights into aspects of religion, sexual preference, health, and political leanings. We urge the Commission to clearly specify their commitment to overarching fundamental data protection principles by more clearly restricting the processing of specific data types.

### **Conclusion**

19. We thank you for the opportunity to respond to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of the digital euro. We hope you will consider the points we raise in an open and transparent manner. We give consent for our contribution to be publicly published and are at your disposal through the email address provided above, should we be required to clarify any aspects of this response.