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COVER NOTE

from: Mr Jonas Bering LIISBERG, Ambassador, Permanent Representation of Denmark to the European Union

to: Mr. Rafael Fernández-Pita y González, Deputy Director-General, Council of the European Union

date of receipt : 30 January 2012

Subject : Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union
- Notification of the implementation of the Council Framework Decision by Denmark

Denmark's implementation of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union

With reference to Articles 2(1) and 29(2) of the Council Framework Decision of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union ("the Framework Decision"), the Danish Government hereby informs the General Secretariat of the Council and the Commission that:

1. Implementation in Danish law, with reference to Article 29(2)

Article 29(1) of the Framework Decision states that Member States shall take the necessary measures to comply with the provisions of the Framework Decision by 5 December 2011.

With reference to Article 29(2) of the Framework Decision, the Danish Government hereby informs you that the Framework Decision was implemented in Danish law by Act No 347 of 14 May 2008 amending the Act on the execution of certain decisions in criminal matters in the European Union, the Act on the surrender of offenders and the Act on the Central DNA Profile Register.

A copy of the Act is attached (*here excluded*).

It should be noted that the Act entered into force on 5 December 2011. The order on entry into force is attached (*here excluded*).

A proposal for the amendment of the Act on the execution of certain decisions in criminal matters in the European Union, the Act on the surrender of offenders and the Act on the Central DNA Profile Register (L 79), presented on 27 February 2008, is also attached (*here excluded*).

Finally, the Act on the execution of certain decisions in criminal matters in the European Union, as worded since 5 December 2011, is also attached (*here excluded*).

2. Determination of the competent authorities, with reference to Article 2(1)

Regarding the determination of the competent authorities as required in Article 2(1), in Denmark the Minister of Justice, or the person authorised by the Minister, will decide on requests for the execution of decisions on enforcement of a prison sentence or other measure involving deprivation of liberty; see Section 54(1) of the Act on the execution of certain decisions in criminal matters in the European Union ("the Act").

Decisions on the enforcement of a prison sentence or other measure involving deprivation of liberty are given in the form of a judgment; see Section 54(2) of the Act. Section 54a(1) of the Act states that cases involving the enforcement of a prison sentence or other measure involving deprivation of liberty, on which decisions are to be given in the form of a judgment in accordance with Section 54(2), are to be brought by the Prosecution Service before the District Court in the place where the person affected by the decision lives.

For cases where Denmark is the issuing State, the Minister of Justice, or the person authorised by the Minister, may decide to request that another Member State take over enforcement of a prison sentence or other legal consequences involving deprivation of liberty imposed in Denmark, in accordance with Section 60a(1) of the Act.

Given the above, the competent authorities in Denmark for the enforcement of prison sentences and other measures involving deprivation of liberty are the courts and the Prosecution Service, i.e. the chief constables, the regional public prosecutors, the Director of Public Prosecutions and the Ministry of Justice.

3. Languages, with reference to Article 23

Regarding language arrangements with reference to Article 23(1) of the Framework Decision, the certificate must be written in Danish; see Section 48(1) of the Act.

Furthermore, with reference to Article 23(3) of the Framework Decision, when Denmark is the executing State, it may without delay after receiving the judgement and certificate - in cases where it finds that the content of the certificate is insufficient to decide on the enforcement of the sentence - request that the judgment or essential parts of it be accompanied by a translation into Danish. On this point please refer to Section 48(3) of the Act.

4. Notification under Article 26(4)

Please see also Denmark's notification of 6 March 2009 pursuant to Article 26(4), on the continuing application in relation to Finland and Sweden of existing Danish legislation on cooperation between the Nordic countries regarding the enforcement of sentences etc.

Any questions regarding Denmark's implementation of the Directive may be addressed to:

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This information has also today been sent to the Commission.

(Complimentary close)

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