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From: General Secretariat of the Council

To: Delegations

No. prev. doc.: 9603/16

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

- Declarations under Article 7(4) and Article 28(2)

In view of its publication in the Official Journal in accordance with Article 7(4) and Article 28(2) of Framework Decision 2008/909/JHA¹, the updated table of declarations is set out in Annex.

¹ 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, OJ L327, 15.12.2008, p. 27

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

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
CZECH REPUBLIC	<p>The Czech Republic declares that it will not apply Article 7(1). With regard to the above declaration, the recognition of decisions imposing custodial sentences or measures involving deprivation of liberty on the territory of the Czech Republic is subject to the condition that they relate to acts which also constitute offences under the law of the Czech Republic, whatever their constituent elements or however they are described.</p>	
GERMANY	<p>Article 7(1) of the Framework Decision does not apply to the execution of foreign judgments in the Federal Republic of Germany.</p>	

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
FRANCE	In accordance with Article 7(4) of the Framework Decision, France declares that it will not apply paragraph 1 of that Article.	
CROATIA	In accordance with Article 7(4) of the Framework Decision, the Republic of Croatia hereby declares that a competent court will recognise judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty in respect of acts that comprise the essential characteristics of a criminal offence under domestic law, regardless of the legal description or classification of the criminal act set out in the judgment received.	
IRELAND	<i>Published in OJ L 91, 29.3.2012, p. 28–28</i> In accordance with Article 7(4), Ireland hereby declares that it will not apply paragraph 1 of Article 7 following the entry into force of this Framework Decision.	<i>Published in OJ L 91, 29.3.2012, p. 28–28</i> In accordance with Article 28(2), Ireland hereby declares that, in cases where the final judgment has been issued prior to the date on which the Framework Decision enters into force, Ireland will, as an issuing and an executing State, continue to apply the legal instruments on the transfer of sentenced persons applicable prior to this Framework Decision.

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
LATVIA		Latvia in accordance with Article 28(2) declares that in cases where the final judgment is issued before the date, when three years after the date of the entry into force of the Framework Decision have passed, Latvia will continue, as an issuing and an executing State, to apply the existing legal instruments on the transfer of sentenced persons applicable before this Framework Decision.
LITHUANIA	In accordance with Article 7(4) of 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, the Republic of Lithuania hereby declares that its competent authorities will not apply Article 7(1) of the Framework Decision.	Lithuania in accordance with Article 28(2) declares that in case where the final judgment is issued before the period of three years after the date of entry into force of the Framework Decision have passed, Lithuania will continue, as an issuing and an executing State, to apply the existing legal instruments on the transfer of the sentenced persons applicable before this Framework Decision.

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
HUNGARY	Pursuant to Article 7(4) of the Council Framework Decision 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, Hungary declares that it will not apply Article 7(1) of that Framework Decision to the offences referred to therein.	
MALTA		With regard to Article 28(2) of Council Framework Decision 2008/909/JHA on Transitional provision, Malta declares that, in cases where the final judgment has been issued before 5 December 2011, it will as an issuing and an executing State, continue to apply the existing legal instruments on the transfer of sentenced persons applicable before 5 December 2011. The General Secretariat of the Council may wish to publish such declaration in the Official Journal of the European Union.

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
NETHERLANDS	The Netherlands hereby declares that Article 7(1) of the Framework Decision will not apply.	<i>Published in OJ L 265, 9.10.2009, p. 41</i> In accordance with Article 28(2), the Netherlands hereby declares that, in cases where the final judgment has been issued within 3 years following the date on which the Framework Decision enters into force, the Netherlands will, as an issuing and an executing State, continue to apply the legal instruments on the transfer of sentenced persons applicable prior to this Framework Decision.
AUSTRIA	Austria hereby declares that it will not apply Article 7(1).	
POLAND	In accordance with Article 7(4) of the Framework Decision, the Republic of Poland hereby declares that it will not apply Article 7(1) of the Framework Decision (see Council document ST 15100/08 of 3 November 2008).	<i>Published in OJ, L 146, 1.6.2011, p. 21</i> In accordance with Article 28(2), the Republic of Poland hereby declares that, in cases where the final judgment is issued within 3 years following the date of entry into force, the Republic of Poland will, as an issuing and an executing State, continue to apply the legal instruments on the transfer of sentenced persons applicable prior to entry into force of the Framework Decision.

<u>Member State</u>	<u>Art. 7(4)</u> <u>(double criminality)</u>	<u>Art. 28(2)</u> <u>(transitional provision)</u>
ROMANIA	Romania hereby declares that it will not apply Article 7(1).	
SLOVENIA	The Republic of Slovenia hereby declares that it will not apply Article 7(1).	
