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NOTE

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)

A list of declarations notified to the General Secretariat of the Council is set out in the Annex in view of their publication in the Official Journal of the European Union in accordance with Article 7(4) and Article 28(2) of Framework Decision 2008/909/JHA¹.

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, 5.12.2008, p. 27

Declaration by the Czech Republic pursuant to Article 7(4) 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

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.

Declaration by the Federal Republic of Germany on 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

Article 7(1) of the Framework Decision does not apply to the execution of foreign judgments in the Federal Republic of Germany.

Declaration by France on 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

In accordance with Article 7(4) of the Framework Decision, France declares that it will not apply paragraph 1 of that Article.

Declaration by the Republic of Croatia on 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

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.

Declarations by the Republic of Latvia on 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

In accordance with Article 7(4) 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 (hereinafter referred to as 'Framework Decision 2008/909/JHA'), the Republic of Latvia hereby declares that it will not apply the provisions of Article 7(1) of Framework Decision 2008/909/JHA.

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.

Declarations by the Republic of Lithuania on 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

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.

Declaration by Hungary on 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

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.

Declaration by Malta on 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 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.

Declaration by The Netherlands on 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

The Netherlands hereby declares that Article 7(1) of the Framework Decision will not apply.

Declaration by Austria on 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

Austria hereby declares that it will not apply Article 7(1).

Declaration by the Republic of Poland on 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

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).

**Declaration by Romania on 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**

Romania hereby declares that it will not apply Article 7(1).

**Declaration by the Republic of Slovenia on 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**

The Republic of Slovenia hereby declares that it will not apply Article 7(1).
