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NOTE

From: Mr Lars Solskov Lind, Ministry of Justice, Denmark
On: 15 April 2020
To: Ms Christine Roger, Director General Justice and Home Affairs, Council of the European Union

Subject: Implementation of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and surrender procedures between Member States
- Notification by Denmark

Dear Director-General,

On 7 November 2003 (ST 5348/04) and 14 January 2004 (ST 5348/04 ADD 1), Denmark notified the General Secretariat of the Council of the implementation by Denmark of Council Framework Decision 2002/584/JHA (hereinafter: ‘the Framework Decision’). In addition, on 26 October 2012 (ST 15838/12), Denmark notified the General Secretariat of the Council in accordance with Article 31(2) of the Framework Decision.

On 15 February 2020, the national legislation relating to the Framework Decision was amended. Consequently, Denmark hereby gives new joint notification of the implementation of the Framework Decision to the Council and to the Commission. This notification replaces the previous notifications.

(Complimentary close)

Lars Solskov Lind

1. Transposition into Danish law, as referred to in Article 34

Under Article 34(2) of the Framework Decision, Member States must communicate to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under the Framework Decision.

In this regard, the Danish Government can report that the Framework Decision was transposed into Danish law by Law No 117 of 11 February 2020 on extradition from Denmark (the Extradition Act).

A copy of the Act is annexed hereto (*Annex 1*).¹

It should be noted that the Act entered into force on 15 February 2020 (cf. Section 55(1) of the Act).

Also enclosed is a proposal for a Law on Extradition to and from Denmark (the Extradition Act) (L 78) tabled on 27 November 2019 (Annex 2).

2. Determination of the competent judicial authorities, cf. Article 6

Under Article 6(3) of the Framework Decision, each Member State must inform the General Secretariat of the Council of the competent judicial authority under its law.

It can be confirmed that, in Denmark, it is the courts which are competent to issue and execute European arrest warrants.

¹ Note by the General Secretariat: text not reproduced.

3. Recourse to the central authority, cf. Article 7

Under Article 7(1) of the Framework Decision, each Member State may designate a central authority or, when its legal system so provides, more than one central authority to assist the competent judicial authorities.

It also follows from Article 7(2) that a Member State may, if it is necessary as a result of the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and reception of European arrest warrants as well as for all other official correspondence relating thereto.

A Member State wishing to make use of the possibilities referred to in this Article must communicate to the General Secretariat of the Council information relating to the designated central authority or central authorities. These indications will be binding upon all the authorities of the issuing Member State.

The Ministry of Justice hereby designates the following authority as the central authority under Article 7 of the Framework Decision:

Rigsadvokaten [Director of Public Prosecutions]

Frederiksholms Kanal 16

1220 København K

Tel.: 72 68 90 00

Fax: 72 68 90 04

Email: rigsadvokaten@ankl.dk

4. Content and form of the European arrest warrant, cf. Article 8:

Under Article 8(2) of the Framework Decision, a European arrest warrant must be translated into the official language or one of the official languages of the executing Member State. Any Member State may, when this Framework Decision is adopted or at a later date, state in a declaration deposited with the General Secretariat of the Council that it will accept a translation in one or more other official languages of the Institutions of the European Communities.

It can be confirmed that Denmark will accept a European arrest warrant issued in Danish, Swedish or English, or translated into one of those three languages.

5. Consent to surrender, cf. Article 13:

Under Article 13(4) of the Framework Decision, in principle, consent may not be revoked. Each Member State may provide that consent and, if appropriate, renunciation may be revoked, in accordance with the rules applicable under its domestic law. In this case, the period between the date of consent and that of its revocation will not be taken into consideration in establishing the time limits laid down in Article 17. A Member State which wishes to have recourse to this possibility must inform the General Secretariat of the Council accordingly when this Framework Decision is adopted and must specify the procedures whereby revocation of consent will be possible and any amendment to them.

At the time of the adoption of the Framework Decision, Denmark informed the General Secretariat of the Council that consent to surrender and express renunciation of entitlement to the speciality rule may continue to be revoked in accordance with Danish law.

This means that consent may be revoked at any point up to the time of surrender.

6. Transit, cf. Article 25:

Under Article 25(2) of the Framework Decision, each Member State must designate an authority responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests. Member States will communicate this designation to the General Secretariat of the Council.

It can be confirmed that the Director of Public Prosecutions is responsible for receiving transit requests and the necessary documents, as well as any other official correspondence relating to transit requests.

7. Possible prosecution for other offences, cf. Article 27:

Under Article 27(1) of the Framework Decision, each Member State may notify the General Secretariat of the Council that, in its relations with other Member States that have given the same notification, consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to his or her surrender, other than that for which he or she was surrendered, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

Denmark does not wish to give a notification in this regard.

8. Surrender or subsequent extradition, cf. Article 28:

Under Article 28(1) of the Framework Decision, each Member State may notify the General Secretariat of the Council that, in its relations with other Member States which have given the same notification, the consent for the surrender of a person to a Member State other than the executing Member State pursuant to a European arrest warrant issued for an offence committed prior to his or her surrender is presumed to have been given, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.

Denmark does not wish to give a notification in this regard.

9. Relation to other legal instruments, cf. Article 31:

Under Article 31(2) of the Framework Decision, Member States may continue to apply bilateral or multilateral agreements or arrangements in force when this Framework Decision is adopted in so far as such agreements or arrangements allow the objectives of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for surrender of persons who are the subject of European arrest warrants.

Member States may conclude bilateral or multilateral agreements or arrangements after this Framework Decision has come into force in so far as such agreements or arrangements allow the prescriptions of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for surrender of persons who are the subject of European arrest warrants, in particular by fixing time limits shorter than those fixed in Article 17, by extending the list of offences laid down in Article 2(2), by further limiting the grounds for refusal set out in Articles 3 and 4, or by lowering the threshold provided for in Article 2(1) or (2).

It can be confirmed that, on 15 December 2005, Denmark, Finland, Iceland, Norway and Sweden signed the Convention on surrender procedures between the Nordic countries (the Nordic Arrest Warrant). The Convention entered into force on 16 October 2012.

The Convention stipulates closer cooperation between the Nordic countries than the Council Framework Decision on the European arrest warrant. Therefore, the Convention will be used in surrender procedures between Denmark, Finland and Sweden instead of the Council Framework Decision on the European arrest warrant.

10. Please send any queries concerning Denmark's implementation of the Framework Decision to:

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Email: kbn@jm.dk