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From: Mr Nuno Brito, Ambassador, Permanent Representation of Portugal to the European Union

date of receipt: 5 May 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

Subject: Implementation of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions
- Notification by Portugal

Dear Sir,

In connection with the implementation by the Portuguese authorities of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions, I am pleased to transmit the information contained in the documents in the Annex.

(complimentary close)

Information to be communicated pursuant to Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions

I – Information to be communicated under Article 3(1) of the Framework Decision

When Portugal is the issuing State, the authority competent to forward the judgment or probation decision is the public prosecutor's office (Ministério Público) at the competent court for enforcement of sentences (tribunal de execução das penas) and, in the case of judgments or decisions imposing sanctions other than a custodial sentence, the public prosecutor's office (Ministério Público) at the competent sentencing court (Article 28 of Law 158/2015).

When Portugal is the executing State, the authority competent to recognise the judgment or probation decision is the court of appeal (Tribunal da Relação) with jurisdiction in the area in which the sentenced person is lawfully and ordinarily residing.

The authority competent for the execution of the judgment imposing sanctions other than custodial sentence is the local court with jurisdiction in criminal matters with jurisdiction in the area in which the sentenced person is residing (Article 34 of Law 158/2015).

The authority competent for the execution of the probation decision and the supervision of probation measures is the court for enforcement of sentences (tribunal de execução das penas) in whose area of jurisdiction the sentenced person is lawfully and ordinarily residing (Article 34 of Law 158/2015).

II – Information to be communicated under Article 5(4) of the Framework Decision

Under Article 29 of Law 158/2015, the competent Portuguese authority may forward the judgment or decision imposing sanctions other than a custodial sentence and the judgment or probation decision to the competent authority of the Member State in which the sentenced person is lawfully and ordinarily residing, if the sentenced person has returned or intends to return to that Member State.

The competent Portuguese authority may also, upon request of the sentenced person, forward the judgment or decision imposing sanctions other than a custodial sentence and the judgment or probation decision to a competent authority of a Member State other than the Member State in which the sentenced person is lawfully and ordinarily residing, on condition that this latter authority has consented to such forwarding.

III – Communication of national transposition provisions under Article 25(2) of the Framework Decision

Framework Decision transposed by Law 158/2015 of 17 September 2015, approving the legal arrangements for the forwarding and execution of judgments in criminal matters imposing custodial sentences or other measures involving deprivation of liberty, for purposes of the execution of those judgments in the European Union, and the legal arrangements for the forwarding and execution of judgments and decisions concerning conditional release for purposes of the supervision of probation measures and alternative sanctions, transposing Council Framework Decisions 2008/909/JHA and 2008/947/JHA, both of 27 November 2008.

Updated version, including the updates introduced by Law 115/2019 of 12 September 2019, is available here:

<https://dre.pt/web/guest/legislacao-consolidada/-/lc/124568282/202003231743/exportPdf/maximized/1/cacheLevelPage?rp=indice>