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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: 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
- Notification by Portugal

Dear Sir,

In the context of the implementation by the Portuguese authorities 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, I am pleased to transmit the information contained in annex.

(complimentary close)

Information to be communicated pursuant to 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

I – Information to be communicated under Article 2(1) of the Framework Decision

When Portugal is the issuing State, the authority competent to forward the judgment for the purpose of the recognition and enforcement of judgments in criminal matters imposing custodial sentences or other measures involving deprivation of liberty is the Public Prosecutor's Office at the sentencing court (Article 7 of Law 158/2015).

When Portugal is the executing State, the authority competent for recognition of the judgment is the court of appeal (tribunal da Relação) in the area of residence or of last residence of the sentenced person or, if that cannot be determined, that of Lisbon.

The authority competent for the execution of the sentence is the local court with jurisdiction in criminal matters in the area of residence or in the last area of residence of the sentenced person or, if that cannot be determined, that of Lisbon, without prejudice to the jurisdiction of the court for enforcement of sentences (Article 13 of Law 158/2015).

II – Information to be communicated under Article 4(7) of the Framework Decision

Article 8(2) of Law 158/2015 provides that 'no prior consent shall be required for forwarding to a State other than:

(a) the Member State of nationality in which the sentenced person has legal and habitual residence;

(b) the Member State of nationality, to which, while not being the Member State of his or her legal and habitual residence, the sentenced person will be deported, once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment, on condition of reciprocity, if:

(a) the sentenced person has been legally residing continuously for at least five years in the executing State and will retain a permanent right of residence in that State; and/or

(b) if the sentenced person is a national of the executing State.’

III – Communication of national transposition provisions under Article 29(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.

Current version, updated 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>