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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 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention

- Notification by Portugal

Dear Sir,

In connection with the implementation by the Portuguese authorities of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, I am pleased to transmit the information contained in the document in annex.

(complimentary close)

Information to be communicated pursuant to Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention

I – Information to be communicated under Article 6 of the Framework Decision

Under Article 5 of Law No 36/2015, the authority competent to receive requests for the recognition, and assistance with the execution, of supervision measures is the central chamber for the criminal preliminary judicial stage (secção central de instrução criminal) or, in areas not covered by chambers, or examining magistrates, responsible for the criminal preliminary judicial stage, the general chamber of the local court (secção de competência genérica da instância local) or, if the court has separate chambers, the criminal chamber of the local court (secção criminal da instância local), by reference to the court of first instance of the district of residence or last known residence of the accused or, if these cannot be determined, the criminal section of the Lisbon local District Court (secção criminal da instância local do tribunal judicial da comarca de Lisboa).

To issue a request for the recognition, and assistance with the execution, of enforcement measures in another Member State of the European Union, the court hearing the case is competent.

II – Information to be communicated under Article 7(3) of the Framework Decision

The Directorate-General for Reintegration and Prison Services (Direção-Geral de Reinserção e Serviços Prisionais) of the Ministry of Justice (Ministério da Justiça) is designated as the central authority to assist the competent authority.

III – Information to be communicated under Article 8(2) of the Framework Decision

Under Article 4(1) of Law No 36/2015, Portugal applies the following supervision measures in addition to those specified in Article 8(1) of the Framework Decision:

- 1) Suspension of the exercise of a profession, function, activity or rights;
- 2) Provision of security;
- 3) Treatment, with prior consent, for an addiction which contributed to the commission of the offence, in an appropriate institution;
- 4) Obligation to avoid contact with specific objects related to the offence(s) allegedly committed.

IV – Information to be communicated under Article 9(4) of the Framework Decision

Pursuant to Article 12 of Law 36/2015, the criteria applicable to the forwarding of the decision on supervision measures for enforcement in another Member State are the following:

1 — If the accused is lawfully and ordinarily residing in another Member State of the European Union, the court hearing the case may forward to the State of residence a decision applying a supervision measure, with a view to its enforcement in that State, in cases where the accused, having been informed about the measures concerned, consents to return to that State.

2 — The court may, at the request of the accused, forward the decision to the competent authority of a third Member State other than the Member State in which the accused is lawfully and ordinarily residing, on condition that the latter authority has consented to such forwarding.

V - Communication of national transposition measures under Article 27(2) of the Framework Decision

The Framework Decision was transposed by Law 36/2015 on the issuing, recognition and enforcement of decisions on supervision measures as an alternative to provisional detention, and the surrender of a natural person between Member States in the event of non-compliance with the measures imposed, transposing Council Framework Decision 2009/829/JHA of 23 October 2009.

Current version in annex and available at:

<https://dre.pt/application/conteudo/67123263>
