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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	5859/3/15 REV 3
Subject:	Implementation 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 - Information provided to the General Secretariat

Delegations will find attached information about the state of play concerning the implementation 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 (OJ L 294, 11 November 2009, p. 20). This information is based on notifications by Member States to the Council General Secretariat, to which reference is made in the last column.

Up to now, 19 Member States have implemented the Framework Decision (CZ, DK, DE, ES, EE, HR, LV, LT, LU, HU, NL, AT, PL, RO, SI, SK, FI, SE and UK). The information in the table is a summary of the notified information: delegations are invited to consult the documents referred to in the last column in order to obtain more detailed information.

The information provided in the table is up-to-date as at 4 November 2016. Any comments or suggestions for improvement should be sent to secretariat.criminal-law@consilium.europa.eu

<p align="center">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</p>										
Member State	State/date of implementation of FD (Entry into force)	Notification re Article 6(1) (Competent Authorities)	Notification re Article 7(3) (Central authority)	Notification re Article 8(2) (Types of supervision measures)	Notification re Article 9(4) (Decision on supervision measures)	Notification re Article 14(4) (Double criminality)	Notification re Article 21(3) (Surrender of the person)	Notification re Article 24 (Languages)	Notification re Article 26(3) +(4) (Agreements)	Notification re Article 27 (Implementation)
BELGIUM										
BULGARIA										
CZECH REPUBLIC	Implemented. Entry into force: 01/01/2014	Where CZ is issuing State: - all courts; - all prosecutors' offices. Where CZ is executing State: - the locally			Decisions may be forwarded to CZ when three conditions are met: (a) the person asks for the decision to be sent to CZ;		CZ will apply Art. 2(1) FD EAW.			16114/1/13 REV 1

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		<p>competent district courts (see annex 2 of 16114/1/13);</p> <p>- regional courts decide as regards legal remedies.</p>			<p>(b) the person is present in CZ or it may reasonably be supposed that he/she intends to stay there; and</p> <p>(c) the judge agrees to take over the decision, on the grounds that it is appropriate and efficient to do so.</p>					

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DENMARK	Implemented. Entry into force: 01/12/2012	Min. of Justice: recognition of decisions on measures, and forwarding of requests to other MS. Prosecutors: reference of cases regarding execution of measures to competent courts. Courts: decisions on execution of measures.	No central authority.	Other measures which are less severe than provisional detention, including all measures listed in Art. 8(2). Measures can be adjusted. No basis in DK for use of electronic surveillance for the supervision of persons.	Condition of "leading a normal life".	-	DK will apply Art. 2(1) of FD EAW.	Danish	-	7305/13

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DEUTSCH- LAND/ GERMANY	Implemented. Entry into force: 23/07/2015	DE as executing State: - prosecutors' offices in the regional courts [Landgerichte] can authorise the execution of foreign measures in DE; district courts [Amtsgerichte] are competent for the supervision. DE as issuing State: the court which ordered the measure.		DE is willing to supervise the measures referred to in points (a), (c), (d) and (e) of Article 8(2). As regards the measures referred to in point (d) of Article 8(2), DE is willing to supervise only if the person concerned consents.	DE may consent to forwarding a decision in cases pursuant to Art. 9(2) if 1) the person is a DE national; or 2) intends establishing residence in DE immediately, and entering/ residing conditions are met, unless supervision in another MS is preferable.		DE will apply Art. 2(1) of FD EAW.			12106/16

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ELLAS/ GREECE										
ESPANA/ SPAIN	Implemented. Entry into force: 21/11/2014	ES as issuing State: Judges of Courts ES as executing State: 1) Examining magistrates 2) Judges for Violence against Women	Ministry of Justice	ES is willing to supervise in addition the measures listed in Art. 8(2) under a), b), c), d) and e).	PM		ES will apply Art. 2(1) of FD EAW.			8718/15

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ESTONIA	PM	Ministry of Justice (see 6665/1/16 REV 1)		EE only monitors supervision measures as referred to in Article 8(1). (see 6665/1/16 REV 1)	Consent may be given where the person to be supervised has requested that the supervision be organized in EE and this is justified on the grounds of the personal circumstances of the person to be supervised or for any other reason (see 6665/1/16 REV 1)			Estonian English (see 6665/1/16 REV 1)		PM

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FRANCE										
HRVATSKA / CROATIA	Implemented as part of the acquis - 1 July 2013	Responsible for receiving decisions on supervision measures: territorially competent County State Attorney's Offices. Executing judicial authorities: county courts. Issuing judicial authorities	Ministry of Justice (address provided).	HR will also monitor the execution of decisions prohibiting the pursuit of certain professional activities and measures prohibiting persons from driving motor vehicles by means of the temporary withdrawal of	Condition that the person has lived for at least one year in, and has family or business ties to, the Republic of Croatia.		When a competent authority of an issuing state issues a European arrest warrant, surrender proceedings before the competent court will be launched on the basis of the provisions governing the European	Croatian In urgent cases also English (on reciprocal basis)		12335/14.

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		competent for decisions on supervision measures: courts and state attorney's offices.		driving licences.			arrest warrant.			
IRELAND										
ITALY										
KYPROS /CYPRUS										
LATVIA	Implemented. Entry into force: 1 July 2012.	Prosecutor General's Office						Latvian		12102/13 14363/13

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LITHUANIA	Implemented	LT as issuing State: Prosecutor and the court LT as executing State: Prosecutor		In addition to the measures set out in Art. 8(1), SI is willing to take over the supervision of three categories of measures, see 5798/2/15 REV 2, page 11.	In the cases referred to in Art. 9(2), LT will generally agree to take over the decision on the execution of the supervision measures if the suspect, defendant or sentenced person is studying, working or has been granted an employment contract in LT or has a family member resident	For constitutional reasons LT will not apply Article 14(1) in respect of all of the offences referred to in that paragraph.	LT will apply Article 2(1) of FD 2002/584 on the EAW in deciding on the surrender of the person concerned to the issuing State.	Lithuanian		5798/2/15 REV 2 (Annex III) 12828/15

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					in LT or if there are other compelling reasons for taking over the execution of the supervision measure.					
LUXEMBOURG	Implemented Entry into force: 05/07/2016	LU as issuing State: Any national judicial authority which is competent to order a supervision measure as an alternative to provisional detention.			PM		LU will apply Art. 2(1) FD EAW.	French German English		12000/16

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		LU as executing State: Le Procureur général d'État								
MAGYAR-ORSZÁG / HUNGARY	Implemented				HU consents to the forwarding of a decision on supervision measures, if the sentenced person so requests and provides proof of close family, cultural or economic connections with HU.					14288/13

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MALTA										
NETHERLANDS	Implemented Entry into force: 01/11/2013	NL as issuing and executing State: the public prosecutor's office (contact details of the office in Haarlem are provided).		NL is prepared to take over the implementation of electronic supervision related to the supervision measures referred to in Art. 8(1).	NL consents to forwarding a decision on supervision measures if the person concerned requested this and there is a demonstrable and sufficient link with NL.		NL will apply Art. 2(1) of FD EAW.	Dutch English		15018/13 15014/13
ÖSTERREICH/ AUSTRIA	Implemented. Entry into force: 01/08/2013	AT as issuing and executing State: Regional Courts (addresses are		AT is prepared to monitor the measures referred to in Art. 8(2) (b), (c) and (d).	AT can monitor the supervision measures if, because of specific circumstances, ties exist between		AT will apply Art. 2(1) of FD EAW	German		15112/13

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		provided)		In addition, AT is prepared to monitor provisional probation assistance, insofar the person consents.	the person concerned and AT of such intensity that it can be assumed that monitoring in AT will help facilitate the social rehabilitation and reintegration of that person.					

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POLAND	Entry into force: 01/12/2012	PL as issuing State: regional courts or public prosecutor's office; PL as executing State: public prosecutor's offices with local jurisdiction depending on		Additional measures that PL is prepared to monitor: (a) obligation to refrain from carrying out an official function or profession; (b) obligation to refrain from engaging in a specified type of activity;	A public prosecutor may consent to the execution of a ruling if it greatly contributes to ensuring the proper conduct of proceedings.	Poland will not apply Article 14(1) of the FD		Polish.		14252/12 12709/13

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		the lawful, ordinary place of residence of the offender.		(c) obligation to refrain from driving a specified type of vehicle.						

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PORTUGAL										
ROMANIA	Implemented. Entry into force: 26/12/2013	RO as issuing State: The prosecution offices and the courts RO as executing State: - Prosecution stage: Prosecution Office of the High Court of Cassation and Justice		In addition to the measures set out in Art. 8(1), RO is willing to take over the supervision of four categories of measures, see 5685/14, page 3.	RO may recognize the supervision order not only when the person is a legal and ordinary resident in RO, but also in case when one of his/her family members is a Romanian national or resident, or is going to engage in a professional activity, study or training in RO.	RO will not apply Article 14(1) of the FD.		Romanian		5685/14

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		<p>- Trial stage: Ministry of Justice</p> <p>The prosecution offices of the district courts and district courts are competent to recognize incoming decisions imposing supervision measures, see doc 5685/14, Annexes 1-2.</p>								

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SLOVENIA	Implemented. Entry into force: 20/09/2013	SI as issuing State: The local and district courts. SI as executing State: The district courts (List of issuing and executing authorities : see doc. 5474/14)		In addition to the measures set out in Art. 8(1), SI is willing to take over the supervision of four categories of measures, see 5474/14, page 14.	SI may consent to forwarding of a decision in Art. 9(2) cases, if it may be expected, based on the circumstances of each individual case, that the defendant will permanently or temporarily reside on the territory of SI during the enforcement of the measure and the supervision of the enforcement will be effective.			Slovenian + English.		5474/14

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SLOVAKIA	Implemented. Entry into force: 01/07/2013	SK as issuing State: The court or judge for the preparatory proceedings SK as executing State: The territorially competent district court (5314/14)		In addition to the supervision measures referred to in Article 8(1), SK is also prepared to monitor the following supervision measures: - an obligation not to engage in specified activities in relation with the offence(s) allegedly committed, in particular involvement in	SK as executing State will recognise and execute a decision on supervision measures only on condition that the person concerned ordinarily resides in SK. (5314/14)			Slovak; in respect of the Czech Republic, also certificates in the Czech language will be accepted. (6883/14)		15724/13 (a correlation table has been provided)

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				a specified profession or field of employment; - an obligation not to drive a vehicle. (5314/14)						

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SUOMI/ FINLAND	Implemented. Entry into force: 01/12/2012	FI as executing State: district court prosecutors as indicated in 14254/12. FI as issuing State: the prosecutor assigned to the criminal case or the court dealing with the arrest request.	-	FI only monitors supervision measures listed in Art. 8(1).	FI can consent to monitoring supervision measures where the person to be supervised has requested that the supervision be organised in Finland and this is justified on the grounds of the personal circumstances of the person to be supervised or for any other reason.	-	-	Finnish Swedish English Other languages may also be accepted provided there is no obstacle to their use.	-	14254/12

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SWEDEN	Implemented. Entry into force: 01/08/2015	1. SE as issuing State: a) The Swedish prosecution Authority b) The Swedish Economic Crime Authority c) The ordinary courts 2. SE as executing State: The Swedish Prosecution Authority			Sweden may recognise and monitor a decision on supervision measures in respect of a suspect who is not ordinarily resident in Sweden if he or she has other close ties to Sweden and if it is appropriate for the decision to be monitored there.			Swedish Danish Norwegian English		12910/15

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UNITED KINGDOM		Various, for England and Wales, Scotland, Northern Ireland and Gibraltar - see 7603/15.	Various, for England and Wales, Scotland, Northern Ireland and Gibraltar - see 7603/15.	UK will accept measures within Article 8(1) only.	Adequate reasons must be provided. The validity / acceptability of these will be determined by the appropriate judicial authority: Magistrates courts in England, Wales and Northern Ireland; and the Sheriff court in Scotland. In Gibraltar the magistrates' court must decide whether to recognise the decision on			English		7603/15

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					supervision measures.					