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**NOTE**

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From:	Dr Ivo Thiemrodt, Permanent Representation of the Federal Republic of Germany to the European Union
On:	3 February 2016
To:	Ms Christine Roger, Director General, Council of the European Union
Subject:	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 and Implementation made by Germany

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Dear Madam,

Please find enclosed the text<sup>1</sup> of the provisions that transpose into national law the obligations arising from 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. The implementing law amended provisions of the Act on International Legal Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen*). The amendments came into force on 25 July 2015.

Please find below the text of the Federal Republic of Germany's declarations on that Framework Decision:

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<sup>1</sup> Note from the Secretariat: this text is not attached to the current document.

With regard to Article 3(1):

The competent authorities are the public prosecutors' offices in the regional courts, both for the authorisation of the supervision of foreign probation measures or alternative sanctions by the Federal Republic of Germany and in the case of the supervision of German probation measures by another Member State. The local courts are competent for the supervision of German probation measures by another Member State if the juvenile court judge is the enforcement officer pursuant to sections 82 and 110 of the Juvenile Courts Act (*Jugendgerichtsgesetz, JGG*).

The regional courts are competent for the supervision of foreign probation measures or alternative sanctions in the Federal Republic of Germany and for subsequent measures to be taken under Article 14(1) of the Framework Decision.

With regard to Article 4(2):

In addition to the probation measures and alternative sanctions referred to in Article 4(1) of the Framework Decision, the Federal Republic of Germany is willing to supervise certain other constraints which satisfactorily make amends for wrongs committed. The same applies to instructions which aim to prevent a specific lifestyle of the sentenced person.

With regard to Article 5(4):

Article 5(3) of the Framework Decision provides that the competent authority of the Federal Republic of Germany may consent to the forwarding of a judgment under Article 5(2) of the Framework Decision if the sentenced person is a national of the Federal Republic of Germany.

With regard to Article 10(4):

Article 10(1) of the Framework Decision does not apply to the supervision of foreign probation measures or alternative sanctions by the Federal Republic of Germany.

With regard to Article 14(3):

The Federal Republic of Germany refuses to assume responsibility for subsequent decisions provided for in Article 14(1)(b) and (c) of the Framework Decision in the cases mentioned in Article 14(3)(a), (b) and (c) of the Framework Decision. The same applies to cases where a prison sentence imposed against the sentenced person, the execution or further execution of which has been suspended or which has been determined in advance for the event of non-compliance with alternative sanctions, may not be transformed into the sanction which best corresponds to it under German law, and to cases where the foreign judgment is enforceable only in part, e.g. because only some of the offences that led to the judgment are punishable in the Federal Republic of Germany, and no agreement on a partial enforcement can be reached with the other Member State.

Electronic notification of the implementing acts has already been given in the MNE (*mesures nationales d'exécution*) database.

(Complimentary close)

(s.) Ivo Thiemrodt

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