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COVER NOTE

from:	Dr Dieter BÖHMDORFER, Federal Minister for Justice, Republic of Austria
date:	11 May 2004
to:	Mr Charles ELSEN, Director-General, DG H, General Secretariat of the Council
Subject:	European arrest warrant
	- Notifications and declarations by the Republic of Austria

Sir,

Please find enclosed the notifications and declarations submitted by the Republic of Austria in accordance with the Council Framework Decision on the European arrest warrant and the surrender procedures between Member States.

Austria's National Council (*Nationalrat*) adopted the Federal Law on judicial cooperation in criminal matters with the Member States of the European Union on 25 March 2004. With the Federal Council's (*Bundesrat*) decision on 16 April 2004 not to object to it, the law, which will have the effect of introducing the European arrest warrant in Austria, will **enter into force on 1 May 2004**.

I take this opportunity, Sir, to express the assurance of my highest consideration.

(s.) Dieter BÖHMDORFER

ANNEX

From 1 May 2004, Austria will apply the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18 July 2002, p. 1) in its relations with those Member States which have already transposed it.

Austria would refer to the declaration it made in respect of Article 32 of the Framework Decision when the latter was adopted.

Re Article 6 of the Framework Decision

Competent issuing judicial authority

The regional and district courts (*Landes- und Bezirksgerichte*) are competent to issue a European arrest warrant for the purpose of conducting a criminal prosecution or executing a custodial sentence or a preventive detention order.

Competent executing judicial authority

The examining magistrate of the regional court with territorial jurisdiction is competent to execute a European arrest warrant and conduct the surrender procedure. An appeal against the decision of the examining magistrate on the execution of a European arrest warrant may be lodged with the competent higher regional court (*Oberlandesgericht*).

Re Article 7(1) of the Framework Decision

The Federal Ministry of Justice (*Bundesministerium für Justiz*) and the Federal Ministry of the Interior's Directorate-General for Public Security (*Bundesministerium für Inneres, Generaldirektion für die öffentliche Sicherheit*), Federal Criminal Police Office (*Bundeskriminalamt*) are the central authorities to assist the competent judicial authorities.

The addresses are as follows:

Bundesministerium		für	Justiz
Abteilung		IV	1
Museumstraße			7
1070			Wien
Österreich			
Tel:	+43-1-52	1	52-0
Fax:	+43-1-52	1	52-2500
e-mail:	kzl.F@bmj.gv.at		

Bundesministerium		für	Inneres
Generaldirektion	für	die	Sicherheit
Bundeskriminalamt	-	öffentliche	Österreich
Josef	Holaubek	SIRENE	1
1090		Platz	Wien
Österreich			
Tel:	+43-1-24836-85280		
Fax:	+43-1-315	28	54
e-mail:	bmi-ii-bk-spoc@bmi.gv.at		

Re Article 8(2) of the Framework Decision

The Republic of Austria accepts a European arrest warrant in any official language of those Member States which accept European arrest warrants in German issued by Austrian courts.

Re Article 25(2) of the Framework Decision

The Federal Minister of Justice decides on the transit of persons through the territory of the Republic of Austria to another Member State on the basis of a request submitted in advance. He therefore has jurisdiction for the receipt of transit requests and the necessary documentation, as well as any other official correspondence relating to transit requests.

Re Article 27(1) of the Framework Decision

Austria declares that in its relations with other Member States that have made the same declaration, consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order for an offence committed prior to his or her surrender, other than that for which he or she was surrendered, unless in a particular case the executing judicial authority states otherwise in its decision on surrender.