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From:	Mr Jean Mafart, Head of the Justice and Home Affairs Department, Justice and Home Affairs Department
date of receipt:	20 February 2020
To:	Ms Christine Roger, Director-General for Justice and Home Affairs, General Secretariat of the Council

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 - Notifications/declarations by France
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Please find attached the note from the French authorities on the above subject.

(complimentary close)

**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**

Preamble:

The French authorities would point out that any certificate addressed to their authorities **must be translated into French.**

Article 6 Designation of competent authorities:

Paragraph 1 provides that each Member State shall inform the General Secretariat of the Council which judicial authority or authorities under its national law are competent to act according to the Framework Decision in the situation where that Member State is the issuing State or the executing State.

- *We propose the following declaration:*

Where France is the executing State, the public prosecutor (Procureur de la République) is the competent authority.

Where France is the issuing State, the competent authorities are:

- *the investigating judge (le juge d'instruction);*
- *the liberty and custody judge (le juge des libertés et de la détention);*
- *the judge for juvenile matters (le juge pour enfants);*
- *the civil court, or one of the judges of that court (le tribunal judiciaire ou l'un des magistrats de ce tribunal);*
- *the investigating chamber, or one of the judges of that chamber (la chambre de l'instruction ou l'un des magistrats de cette chambre);*
- *the criminal court (le tribunal correctionnel);*
- *the criminal appeal chamber, or one of the judges of that chamber (la chambre des appels correctionnels ou l'un des magistrats de cette chambre);*
- *the court of assizes and the assizes appeal court (la cour d'assises et la cour d'assises d'appel);*
- *the president of the appeal court, or the judge of the bench he or she designates (le premier président de la cour d'appel ou le magistrat du siège désigné par lui).*

Article 8 Types of supervision measures:

Paragraph 2 provides that each Member State shall notify the General Secretariat of the Council, when transposing the Framework Decision or at a later stage, which supervision measures, apart from those referred to in paragraph 1, it is prepared to monitor.

- *We propose the following declaration:*

France is prepared to monitor all of the supervision measures referred to in Article 8(2).

Article 9 Criteria relating to the Member State to which the decision on supervision measures may be forwarded:

Paragraph 4 provides that each Member State shall make a statement to the General Secretariat of the Council to inform it of the conditions under which its competent authorities may consent to the forwarding of a decision on supervision measures to the competent authority of a Member State other than the Member State in which the person is lawfully and ordinarily residing (in the latter case, the consent of the executing State is not required).

- *We therefore propose the following declaration concerning this Article:*

Where recognition of the decision is subject to the consent of the executing State:

- ***Where the person concerned has French nationality, it is for the public prosecutor (procureur de la République) to notify France's consent.***
- ***In other cases, consent is a matter for the Minister for Justice, who determines whether there are exceptional grounds justifying the execution of the decision in France. To that end, the Minister shall take into account the extent to which his or her decision is in the interests of the proper administration of justice, the existence of any personal or family ties in France, and the absence of a risk of disruption of public order.***

Article 14 Double criminality:

Paragraph 4 provides that Member States **may**, for constitutional reasons, on the adoption of the Framework Decision, by a declaration notified to the General Secretariat of the Council, declare that they will not apply paragraph 1 in respect of some or all of the offences referred to in that paragraph. [Recognition of the decision on supervision measures without verification of the double criminality of the act]

- **Such a declaration was possible only at the time of adoption of the Decision; there is therefore no need to make a declaration.**

Article 24 Languages:

This Article provides that any Member State **may**, either when the Framework Decision is adopted or at a later date, state in a declaration deposited with the General Secretariat of the Council that it will accept a translation in one or more other official languages of the institutions of the European Union.

- **We do not propose any declaration.**

Article 26 Relation to other agreements and arrangements:

Paragraph 3 provides that Member States shall, by 1 March 2010, notify the Commission and the Council of the existing agreements and arrangements referred to in paragraph 1(a) [if they allow the objectives of the Framework Decision to be extended or enlarged and help to simplify or facilitate further the mutual recognition of decisions on supervision measures] which they wish to continue applying.

Paragraph 4 provides that Member States shall also notify the Commission and the Council of any new agreement or arrangement which allows the objectives of the Framework Decision to be extended or enlarged and helps to simplify or facilitate further the mutual recognition of decisions on supervision measures, within three months of signing any such arrangement or agreement.

The Directorate for Criminal Matters and Pardons (*Direction des Affaires criminelles et des Grâces, DACG*) has not identified any potential such agreement or arrangement.

- **We do not propose any declaration.**
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