

Translation

Letter dated: 7 March 2020

From: Georges Friden, Ambassador and Permanent Representative of the Grand
Duchy of Luxembourg

To: Ilza Juhansone, Secretary-General

Ref.: 14.1.319 – E.14.01.310 lh

Encl.: 2

Re: Transposition of Framework Decisions 2008/909/JHA and 2008/947/JHA on the application
of the principle of mutual recognition to judgments – Information on the state of
transposition

Dear Madam,

Please find enclosed in annex a copy of a letter addressed by the Minister of Justice, Sam Tanson, to
the Secretary-General of the Council of the European Union, Jeppe Tranholm-Mikkelsen.

It concerns the declarations to which the Grand Duchy of Luxembourg is committing itself in order to
ensure the full transposition of the abovementioned Framework Decisions.

(complimentary close)

Letter dated: 5 March 2020

From: Sam Tanson, Minister of Justice, Luxembourg Ministry of Justice

To: Jeppe Tranholm-Mikkelsen, Secretary-General of the Council of the European Union

Subject: Transposition of Framework Decisions 2008/909/JHA and 2008/947/JHA on the application of the principle of mutual recognition to judgments – Information on the state of transposition

Dear Sir,

In a letter dated 15 January 2020, the General Secretariat of the Council asked the Member States' delegations to submit information on the state of transposition of Framework Decisions 2008/909/JHA and 2008/947/JHA and, in particular, the declarations to be made in reference to these Framework Decisions.

That is the reason why I am sending you in annex an explanatory letter, covering the legislation adopted under Luxembourg law with reference to the abovementioned measures. It constitutes an integral part of this letter.

We hope that this notification of declarations will fulfil the goal of complete and compliant transposition of the Framework Decisions on the principle of the mutual recognition of judgments.

(complimentary close)

Letter dated: 11 February 2020

From: Ministry of Justice, Government of the Grand Duchy of Luxembourg

To: Jeppe Tranholm-Mikkelsen, Secretary-General of the Council of the European Union

Subject: Transposition of Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union

Dear Sir,

Please find enclosed a copy of the Law of 28 February 2011 on the recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in another Member State of the European Union (*Mémorial* (the Luxembourg Official Journal), A, No 44 of 2011, page 634).

Below are the declarations regarding the Framework Decision to which the Grand Duchy of Luxembourg will commit itself.

Article 2(1)

The Chief Public Prosecutor (*Procureur général d'Etat*) is the designated central authority. This role involves, on the one hand, issuing requests to another Member State of the European Union for the recognition and enforcement of judgments passing sentence, and, on the other, recognising judgments passing sentence issued in another Member State and enforcing them within the territory of Luxembourg¹.

Within the Public Prosecutor's Office, thus within the office of the Chief Public Prosecutor, who is the Public Prosecutor at the Supreme Court of Justice, which consists of the Court of Appeal and the Court of Cassation of the Grand Duchy of Luxembourg, the central authority's role regarding Framework Decision 2008/909/JHA has been assigned to the Department for the Enforcement of Sentences. This is an administrative department tasked with the enforcement of sentences, headed by a public prosecutor.

¹ Article 3 of the abovementioned Law of 28 February 2011.

Article 23

In accordance with the first paragraph of Article 9 of the Law of 28 February 2011², which provides that the certificate sent must be in French, German or English, the Grand Duchy of Luxembourg declares that it will accept a translation into one or more other official languages of the institutions of the European Union.

Similarly, and in accordance with the second and third paragraphs of Article 9 of the abovementioned Law, Luxembourg also declares that it may, as executing State, on receiving a judgment and a certificate considered insufficient to decide on the enforcement of the sentence, request that the judgment, or the core parts of it, be accompanied by a translation into the official language or into one of the official languages of the executing State or into one or more official languages of the institutions of the European Union.

Article 26(4)

Luxembourg has yet to agree bilaterally on practical arrangements with other Member States with a view to facilitating the application of the Framework Decision.

If such an agreement or arrangement is made, Luxembourg will notify it to the Council and the Commission within three months of signature.

Article 4(7)

The reasons for the forwarding of the judgment and the certificate are stated in the certificate³.

In application of Article 4(7) of the Framework Decision, the executing State is of now giving notice for the following two situations:

- where it is confirmed that, to the knowledge of the competent authority of the issuing State, the sentenced person has been continuously living and ordinarily resident for at least five years within the territory of the executing State and will maintain a right to permanent residence, or
- where it is confirmed that the sentenced person is a national of the executing State.

Article 23(3)

As executing State, the Grand Duchy of Luxembourg declares that it requests that judgments or their core parts be accompanied by a translation into the official language or into one of the official languages of the executing State or into one or more other official languages of the institutions of the European Union.

² The certificate sent must be translated into French, German or English. If the Chief Public Prosecutor who receives a judgment passing sentence accompanied by a certificate considers the content of the certificate insufficient to decide on the enforcement of the sentence, he or she may ask for the core parts of the judgment passing sentence to be translated into French, German or English. In such cases, the Chief Public Prosecutor must consult the issuing State in order to identify the core parts of the judgment to be translated. The decision recognising the judgment passing sentence and enforcing the sentence must be postponed until the requested translation has been forwarded.

³ Page 3, point (g), box (d) of the national certificate.

Article 29(2)

Council Framework Decision 2008/909/JHA was transposed by the Law of 28 February 2011 on the recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in another Member State of the European Union (*Mémorial* (the Luxembourg Official Journal), A, No 44 of 2011, page 634, Parliamentary Document No 6060).