



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 12 November 2009

15970/09

COPEN 229

COVER NOTE

from:	Jessika Auken, JHA Counsellor, Permanent Representation of Denmark to the European Union
to:	Council of the European Union, General Secretariat
date of receipt:	21 October 2009
Subject:	Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders - Notification letter by Denmark

Concerning Denmark's implementation of Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders

Please find attached information concerning Denmark's implementation of the Framework Decision. Any questions may be addressed to:

Mr Nicolai Pii
Ministry of Justice
Slotsholmsgade 10
DK-1216 København K
Tel: +45 72 26 86 01
Fax: +45 33 92 26 89
Email: nip@jm.dk

(s.) Jessika Auken
JHA Attaché

25 September 2009

**Denmark's implementation of Council Framework Decision 2006/783/JHA of 6 October 2006
on the application of the principle of mutual recognition to confiscation orders**

With reference to Article 3(1), Article 19 and Article 22(2) of the Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders, the Ministry of Justice hereby informs the General Secretariat of the Council and the Commission as follows:

1. Implementation in Danish law, with reference to Article 22(2)

Article 22(1) of the Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders states that the Member States shall take the necessary measures to comply with the Framework Decision by 24 November 2008.

Article 22(2) of the Framework Decision states that the Member States shall communicate to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations resulting from the Framework Decision.

The Danish Government hereby informs you that the Council Framework Decision of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders was implemented in Danish law by Act No 1434 of 22 December 2004 on the execution of certain decisions in criminal matters in the European Union, which likewise implements Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence and Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.

A copy of the Act is attached (*Annex 1*); for the recognition of confiscation orders, reference should in particular be to Section IV (Chapter 7 on execution of confiscation orders, Chapter 8 on disposal of confiscated property, and Chapter 9 on reimbursement) and Section V (Chapter 10 on formal requirements etc, Chapter 12 on handling requests for execution of definitive confiscation orders and Chapter 13 on the transmission of requests for execution of decisions in criminal matters to another Member State).

It should be noted that the Act entered into force on 1 January 2005 and is applicable to requests for execution made after that date; on this please refer to paragraph 62 of the Act.

Attached please also find the proposal for an act on execution of certain decisions in criminal matters in the European Union (L 5), presented on 6 October 2004 (*Annex 2*). The comments on the proposal which - except for paragraph 48 of the Act - was adopted unchanged contain a more detailed account of how the individual articles of the Framework Decision are implemented.

Finally, please also find attached a schematic overview of the individual articles of the Framework Decision and the relevant provisions in Danish law which were in force at the implementation deadline of 24 November 2008 (*Annex 3*) and the text of the relevant Danish legal provisions (*Annex 4*).

2. Determination of the competent authorities, with reference to Article 3(1)

Regarding the determination of the competent authorities as required in Article 3(1), for Denmark the competent authority will be the Ministry of Justice both as issuing and executing State. If it is accompanied by the certificate provided for, an order may be transmitted to:

Ministry of Justice
Slotsholmsgade 10
1216 København K
Tel: +45 7226 8400
Fax: +45 3392 2689
Email: jm@jm.dk

3. Language regime, with reference to Article 19(2)

With reference to Article 19(2), the certificate concerning mutual recognition of confiscation orders will have to be completed in Danish.

Finally, on the basis of the implementation of the Framework Decision in Danish law, administrative guidance will be drawn up for the police and prosecution authority in Denmark containing more detailed guidelines for handling cases involving the execution of confiscation orders. The guidance will be forwarded to both the General Secretariat of the Council and the Commission, as soon as it is available.

(s. Nicolai Pii)