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**COVER NOTE**

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from :	Ms Augusta IANNINI, Head of the Department of Judicial Affairs
date of receipt:	3 May 2005
to :	Mr Hans G. NILSSON, Head of Division, DG H 2B, General Secretariat of the Council
Subject :	Implementation of the Framework Decision on the European arrest warrant

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Italian Law No 69 of 22 April 2005 setting out the provisions adapting domestic law to the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA) was passed on 12 April 2005 and published in *Gazzetta Ufficiale* No 98 of 29 April 2005.

Under Italy's legal order (Article 73 of the Constitution and Article 10 of Royal Decree No 262 of 16 March 1942) laws and regulations enter into force on the fifteenth day after their publication unless otherwise provided.

Since the law implementing the European arrest warrant does not provide otherwise, the usual rules are applicable and the law will enter into force on 14 May 2005.

From that date, Italy's competent judicial authorities will be authorised to issue European arrest warrants on the basis of Article 28(1).

The execution of a European arrest warrant issued in another Member State is governed by the transitional arrangements as set out in Italy's statement under Article 32 of the Framework Decision (published in the OJEC of 18 July 2002) and in Article 40 of Law No 69.

Article 40(1) stipulates that the Law will apply to the execution in Italy of European arrest warrants issued after the Law's entry into force (14 May 2005), irrespective of the moment of the arrest on the basis of Article 95 of the Convention implementing the Schengen Agreement.

Article 40(2) provides that the extradition rules will apply to any European arrest warrant to be executed in Italy which is based on offences committed before 7 August 2002.

Lastly, Article 40(3) stipulates that, in the cases listed in Article 8 of the Law (which implements Article 2(2) of the Framework Decision), the principle of the double criminality of the act will not be waived unless the offence underlying the European arrest warrant to be executed in Italy has been committed after the date of entry into force of the Italian Law (i.e. 14 May 2005).

(s.) Augusta IANNINI

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