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**COVER NOTE**

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from:	Mr Dirk WOUTERS, Permanent Representative of Belgium to the European Union
dated:	17 April 2012
to:	Uwe Corsepius, Secretary-General, General Secretariat of the Council of the European Union

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Subject:	1) Implementation of Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders 2) Implementation of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties - Notifications
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Dear Sir,

In accordance with the relevant provisions of the Framework Decisions referred to below, I have the honour to inform you that the Kingdom of Belgium has implemented the following:

- the Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders;
- the Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties.

The relevant implementing legislations have been published in the Belgian Official Journal on 4 April 2012 and will enter into force on 14 April 2012.

I enclosed herewith the legal texts adopted for the purpose of full transposition of the Framework Decisions, as well as the relevant declarations.

I am writing in the same terms to the General Secretariat of the European Commission.

(Complimentary close)

(s.) Dirk WOUTERS

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### Notifications confiscation 2006/783/JHA

*The Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders has been implemented in Belgium by the following two laws:*

- *Law of 19 Mars 2012 amending the law of 5 August 2006 on the application of the principle of mutual recognition of judicial decisions in criminal matters between the member states of the European Union (I);*
- *Law of 26 November 2012 amending the law of 5 August 2006 on the application of the principle of mutual recognition of judicial decisions in criminal matters between the member states of the European Union (II);*

*The legislation will enter into force on 14 April 2012.*

### Competent authorities (art. 3)

- A confiscation order can be issued by a public prosecutor.
- The certificate should be transferred to the public prosecutor of the district where the (majority of) items of property are located. An overview of the 27 local public prosecutors' offices is available on the European Judicial Network website. The competent public prosecutor will bring the case before the Criminal court. The latter is competent to take the decision on the recognition and execution of the confiscation order.
- In accordance with Article 3(2) of the Framework Decision, the Federal Department of Justice has been designated as the central authority to assist the competent judicial authorities.  
The details of the central authority are as follows:

SERVICE PUBLIC FEDERAL JUSTICE /

FEDERALE OVERHEIDSDIENST JUSTITIE

Autorité centrale de coopération internationale en matière pénale / Centrale Autoriteit

Internationale Samenwerking in Strafzaken

Boulevard de Waterloo 115

B-1000 Brussels

Fax: +32 2 210 57 98

### **Extended powers of confiscation (art. 7(5))**

The execution of confiscation orders resulting from the application in the issuing State of extended powers may be refused in case the confiscation would not be possible under article 43<sup>quater</sup> of the Belgian *criminal code*.

### **Languages (art. 19)**

The certificate should be should be drawn up in or translated into Dutch, French, German or English.

## **Notifications financial penalties 2005/214/JHA**

*The Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties has been implemented in Belgium by the following two laws:*

- *Law of 19 Mars 2012 amending the law of 5 August 2006 on the application of the principle of mutual recognition of judicial decisions in criminal matters between the member states of the European Union (I);*
- *Law of 26 November 2012 amending the law of 5 August 2006 on the application of the principle of mutual recognition of judicial decisions in criminal matters between the member states of the European Union (II);*

*The legislation will enter into force on 14 April 2012.*

### **Competent authorities (art. 2)**

- The competent Belgian issuing authority is the public prosecutor.
- The competent executing authority is the public prosecutor of the place of domicile of residence of the person concerned. An overview of the 27 local public prosecutors' offices is available on the European Judicial Network website.
- In accordance with Article 2(2) of the Framework Decision, the Federal Department of Justice has been designated as the central authority to assist the competent judicial authorities.

The details of the central authority are as follows:

SERVICE PUBLIC FEDERAL JUSTICE /

FEDERALE OVERHEIDSDIENST JUSTITIE

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Boulevard de Waterloo 115

B-1000 Brussels

Fax: +32 2 210 57 98

### **Languages (art. 16)**

The certificate should be should be drawn up in or translated into Dutch, French, German or English.