

To whom it may concern



DIRECTOR OF PUBLIC PROSECUTIONS

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Certification that the Danish Director of Public Prosecutions is a judicial authority in accordance with article 6.1 of the Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States

According to the European Court of Justice's judgement of 27 May 2019 in the joined cases C-508/18 and C-82/19 PPU, the concept of an issuing judicial authority, within the meaning of article 6(1) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, must be interpreted as not including public prosecutors' office of a Member State that are exposed to the risk of being subject, directly or indirectly, to directions or instructions in a specific case from the executive, such as the Ministry of Justice, in connection with the adoption of a decision to issue a European Arrest Warrant.

The judgement has prompted the Director of Public Prosecutions to assess whether or not our current procedure for issuing European arrest warrants is in accordance with the Framework Decision Article 6 (1) as read in conjunction with the abovementioned judgement.

In accordance with Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States (2002/584/JHA) article 6.3 the Danish Ministry of Justice has appointed the Director of Public Prosecutions as issuing and executing judicial authority. As part of the appointment, it is explicitly stated that decision made by the Director of Public Prosecutions cannot be appealed to the Minister of Justice.

According to the Danish Administration of Justice Act the Minister of Justice can issue instructions to the public prosecutors under certain conditions.

However, in light of the EU judgement of 27 May 2019, the Danish authorities inter alia the Danish Director of Public Prosecutions are obliged to interpret the Danish legislation in such a way that the powers of instruction does not apply to the issuance of European Arrest Warrants.

Against this background, it is hereby certified that the Danish Director of Public Prosecutions is a judicial authority in accordance with Article 6.1 of the framework decision on the European Arrest Warrant, and that the Danish Prosecution service is not at risk of direct or indirect instructions in rendering a decision to issue a European Arrest Warrant

Moreover, the decision by the Director of Public Prosecutions to issue a European Arrest Warrant is subject to court proceedings, which meet in full the requirements inherent in effective judicial protection.

Furthermore, the Public Prosecutors' capability and responsibility of exercising their duties objectively is ensured by the Administration of Justice Act (Section 96 para. 2,), and the Public Prosecutors are obliged to take into account all incriminatory and exculpatory evidence.

A European Arrest Warrant issued by the Director of Public Prosecutions is always based on a court decision; either as a national arrest warrant or an enforceable judgement. When issuing a European Arrest Warrant the Public Prosecutor is obliged to apply the principle of proportionality and continuously assess whether the requirements for issuing the European Arrest Warrant are still met.

Yours faithfully,



Jan Reckendorff

Director of Public Prosecutions