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COUNCIL FRAMEWORK DECISION 2008/947/JHA

of 27 November 2008

**on the application of the principle of mutual recognition to judgments and probation decisions with
a view to the supervision of probation measures and alternative sanctions**

(OJ L 337, 16.12.2008, p. 102)

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**COUNCIL FRAMEWORK DECISION 2008/947/JHA****of 27 November 2008****on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31(1)(a) and (c) and Article 34(2)(b) thereof,

Having regard to the initiative of the Federal Republic of Germany and of the French Republic ⁽¹⁾,Having regard to the Opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) The European Union has set itself the objective of developing an area of freedom, security and justice. This presupposes that there is an understanding of freedom, security and justice on the part of the Member States which is identical in its essential elements and based on the principles of freedom, democracy, respect for human rights and fundamental freedoms, as well as the rule of law.
- (2) The aim of police and judicial cooperation in the European Union is to provide a high degree of security for all citizens. One of the cornerstones for this is the principle of mutual recognition of judicial decisions, established in the conclusions of the European Council meeting in Tampere on 15 and 16 October 1999 and reaffirmed in the Hague Programme of 4 and 5 November 2004 for strengthening freedom, security and justice in the European Union ⁽³⁾. In the programme of measures of 29 November 2000 adopted for the purpose of implementing the principle of mutual recognition of decisions in criminal matters, the Council pronounced itself in favour of cooperation in the area of suspended sentences and parole.
- (3) 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 ⁽⁴⁾ concerns the mutual recognition and enforcement of custodial sentences or measures involving deprivation of liberty. Further common rules are required, in particular where a non-custodial sentence involving the supervision of probation measures or alternative sanctions has been imposed in respect of a person who does not have his lawful and ordinary residence in the State of conviction.
- (4) The Council of Europe Convention of 30 November 1964 on the Supervision of Conditionally Sentenced or Conditionally Released Offenders has been ratified by only 12 Member States, with, in some cases, numerous reservations. The present Framework Decision provides for a more effective instrument because it is based on the principle of mutual recognition and all Member States participate.
- (5) This Framework Decision respects fundamental rights and adheres to the principles recognised in Article 6 of the Treaty on European Union, which are also expressed in the Charter of Fundamental Rights of the European Union, especially in Chapter VI thereof. No provision of this Framework Decision should be

⁽¹⁾ OJ C 147, 30.6.2007, p. 1.

⁽²⁾ Opinion of 25 October 2007 (not yet published in the Official Journal).

⁽³⁾ OJ C 53, 3.3.2005, p. 1.

⁽⁴⁾ OJ L 327, 5.12.2008, p. 27.

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interpreted as prohibiting refusal to recognise a judgment and/or supervise a probation measure or alternative sanction if there are objective reasons to believe that the probation measure or alternative sanction was imposed to punish a person because of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation or that this person might be disadvantaged for one of these reasons.

- (6) This Framework Decision should not prevent any Member State from applying its constitutional rules relating to entitlement to due process, freedom of association, freedom of the press, freedom of expression in other media and freedom of religion.
- (7) The provisions of this Framework Decision should be applied in conformity with the right of the Union's citizens to move and reside freely within the territory of the Member States, pursuant to Article 18 of the Treaty establishing the European Community.
- (8) The aim of mutual recognition and supervision of suspended sentences, conditional sentences, alternative sanctions and decisions on conditional release is to enhance the prospects of the sentenced person's being reintegrated into society, by enabling that person to preserve family, linguistic, cultural and other ties, but also to improve monitoring of compliance with probation measures and alternative sanctions, with a view to preventing recidivism, thus paying due regard to the protection of victims and the general public.
- (9) There are several types of probation measures and alternative sanctions which are common among the Member States and which all Member States are in principle willing to supervise. The supervision of these types of measures and sanctions should be obligatory, subject to certain exceptions provided for in this Framework Decision. Member States may declare that, in addition, they are willing to supervise other types of probation measures and/or other types of alternative sanctions.
- (10) The probation measures and alternative sanctions that are, in principle, obligatory to supervise include, *inter alia*, orders relating to behaviour (such as an obligation to stop the consumption of alcohol), residence (such as an obligation to change residence for reasons of domestic violence), education and training (such as an obligation to follow a 'safe-driving course'), leisure activities (such as an obligation to cease playing or attending a certain sport) and limitations on or modalities of carrying out a professional activity (such as an obligation to seek a professional activity in a different working environment; this obligation does not include the supervision of compliance with any professional disqualifications imposed on the person as part of the sanction).
- (11) Where appropriate, electronic monitoring could be used with a view to supervising probation measures or alternative sanctions, in accordance with national law and procedures.
- (12) The Member State where the person concerned is sentenced may forward a judgment and, where applicable, a probation decision to the Member State where the sentenced person is lawfully and ordinarily resident with a view to the recognition thereof and to the supervision of probation measures or alternative sanctions contained therein.
- (13) The decision on whether to forward the judgment and, where applicable, the probation decision to another Member State should be taken in each individual case by the competent authority of the issuing Member State, taking into account, *inter alia*, the declarations made in accordance with Articles 5(4), 10(4) and 14(3).

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- (14) The judgment and, where applicable, the probation decision may also be forwarded to a Member State other than that where the sentenced person is residing, if the competent authority of that executing State, taking account of any conditions set out in the relevant declaration made by that State in accordance with this Framework Decision, consents to such forwarding. In particular, consent may be given, with a view to social rehabilitation, where the sentenced person, without losing his/her right of residence, intends to move to another Member State because he/she is granted an employment contract, if he/she is a family member of a lawful and ordinary resident person of that Member State, or if he/she intends to follow a study or training in that Member State, in accordance with Community law.
- (15) Member States should apply their own national law and procedures for the recognition of a judgment and, where applicable, a probation decision. In the case of a conditional sentence or alternative sanction where the judgment does not contain a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligations or instructions concerned, this could imply that having made the relevant declaration in accordance with this Framework Decision, Member States, when deciding to recognise, agree to supervise the probation measures or alternative sanctions concerned and to assume no other responsibility than just for taking the subsequent decisions consisting of the modification of obligations or instructions contained in the probation measure or alternative sanction, or modification of the duration of the probation period. Consequently, the recognition has, in such cases, no further effect than to enable the executing State to take those types of subsequent decisions.
- (16) A Member State may refuse to recognise a judgment and, where applicable, a probation decision, if the judgment concerned was issued against a person who has not been found guilty, such as in the case of a mentally ill person, and the judgment or, where applicable, the probation decision provides for medical/therapeutic treatment which the executing State cannot supervise in respect of such persons under its national law.
- (17) The ground for refusal relating to territoriality should be applied only in exceptional cases and with a view to cooperating to the greatest extent possible under the provisions of this Framework Decision, while taking into account of the objectives thereof. Any decision to apply this ground for refusal should be based on a case-by-case analysis and on consultations between the competent authorities of the issuing and executing States.
- (18) If the probation measures or alternative sanctions include community service, then the executing State should be entitled to refuse to recognise the judgment and, where applicable, the probation decision if the community service would normally be completed in less than six months.
- (19) The form of the certificate is drafted in such a way so that essential elements of the judgment and, where applicable, of the probation decision are comprised in the certificate, which should be translated into the official language or one of the official languages of the executing State. The certificate should assist the competent authorities in the executing State in taking decisions under this Framework Decision, including decisions on recognition and assumption of responsibility for supervision of probation measures and alternative sanctions, decisions on adaptation of probation measures and alternative sanctions, and subsequent decisions in case, notably, of non-compliance with a probation measure or alternative sanction.

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- (20) In view of the principle of mutual recognition, on which this Framework Decision is based, issuing and executing Member States should promote direct contact between their competent authorities in the application of this Framework Decision.
- (21) All Member States should ensure that sentenced persons, in respect of whom decisions under this Framework Decision are taken, are subject to a set of legal rights and remedies in accordance with their national law, regardless of whether the competent authorities designated to take decisions under this Framework Decision are of a judicial or a non-judicial nature.
- (22) All subsequent decisions relating to a suspended sentence, a conditional sentence or an alternative sanction which result in the imposition of a custodial sentence or measure involving deprivation of liberty should be taken by a judicial authority.
- (23) Since all Member States have ratified the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, personal data processed when implementing this Framework Decision should be protected in accordance with the principles laid down in that Convention.
- (24) Since the objectives of this Framework Decision, namely facilitating the social rehabilitation of sentenced persons, improving the protection of victims and of the general public, and facilitating the application of suitable probation measures and alternative sanctions in case of offenders who do not live in the State of conviction, cannot be sufficiently achieved by the Member States themselves in view of the cross-border nature of the situations involved and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as defined in Article 5 of the Treaty establishing the European Community as applied by the second paragraph of Article 2 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty establishing the European Community, this Framework Decision does not go beyond what is necessary in order to achieve those objectives,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objectives and scope

1. This Framework Decision aims at facilitating the social rehabilitation of sentenced persons, improving the protection of victims and of the general public, and facilitating the application of suitable probation measures and alternative sanctions, in case of offenders who do not live in the State of conviction. With a view to achieving these objectives, this Framework Decision lays down rules according to which a Member State, other than the Member State in which the person concerned has been sentenced, recognises judgments and, where applicable, probation decisions and supervises probation measures imposed on the basis of a judgment, or alternative sanctions contained in such a judgment, and takes all other decisions relating to that judgment, unless otherwise provided for in this Framework Decision.
2. This Framework Decision shall apply only to:
 - (a) the recognition of judgments and, where applicable, probation decisions;
 - (b) the transfer of responsibility for the supervision of probation measures and alternative sanctions;

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- (c) all other decisions related to those under (a) and (b);
as described and provided for in this Framework Decision.
3. This Framework Decision shall not apply to:
- (a) the execution of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty which fall within the scope of Framework Decision 2008/909/JHA;
- (b) recognition and execution of financial penalties and confiscation orders which fall within the scope of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties ⁽¹⁾ and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders ⁽²⁾.
4. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

*Article 2***Definitions**

For the purposes of this Framework Decision:

1. 'judgment' shall mean a final decision or order of a court of the issuing State, establishing that a natural person has committed a criminal offence and imposing:
 - (a) a custodial sentence or measure involving deprivation of liberty, if a conditional release has been granted on the basis of that judgment or by a subsequent probation decision;
 - (b) a suspended sentence;
 - (c) a conditional sentence;
 - (d) an alternative sanction;
2. 'suspended sentence' shall mean a custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed by imposing one or more probation measures. Such probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;
3. 'conditional sentence' shall mean a judgment in which the imposition of a sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty. Such probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;
4. 'alternative sanction' shall mean a sanction, other than a custodial sentence, a measure involving deprivation of liberty or a financial penalty, imposing an obligation or instruction;
5. 'probation decision' shall mean a judgment or a final decision of a competent authority of the issuing State taken on the basis of such judgment:
 - (a) granting a conditional release; or
 - (b) imposing probation measures;

⁽¹⁾ OJ L 76, 22.3.2005, p. 16.

⁽²⁾ OJ L 328, 24.11.2006, p. 59.

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6. 'conditional release' shall mean a final decision of a competent authority or stemming from the national law on the early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served by imposing one or more probation measures;
7. 'probation measures' shall mean obligations and instructions imposed by a competent authority on a natural person, in accordance with the national law of the issuing State, in connection with a suspended sentence, a conditional sentence or a conditional release;
8. 'issuing State' shall mean the Member State in which a judgment is delivered;
9. 'executing State' shall mean the Member State in which the probation measures and alternative sanctions are supervised following a decision in accordance with Article 8.

*Article 3***Designation of competent authorities**

1. Each Member State shall inform the General Secretariat of the Council which authority or authorities, under its national law, are competent to act according to this Framework Decision in the situation where that Member State is the issuing State or the executing State.
2. Member States may designate non-judicial authorities as the competent authorities for taking decisions under this Framework Decision, provided that such authorities have competence for taking decisions of a similar nature under their national law and procedures.
3. If a decision under Article 14(1)(b) or (c) is taken by a competent authority other than a court, the Member States shall ensure that, upon request of the person concerned, such decision may be reviewed by a court or by another independent court-like body.
4. The General Secretariat of the Council shall make the information received available to all Member States and to the Commission.

*Article 4***Types of probation measures and alternative sanctions**

1. This Framework Decision shall apply to the following probation measures or alternative sanctions:
 - (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place;
 - (b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State;
 - (c) an obligation containing limitations on leaving the territory of the executing State;
 - (d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;
 - (e) an obligation to report at specified times to a specific authority;
 - (f) an obligation to avoid contact with specific persons;
 - (g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence;

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- (h) an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation;
- (i) an obligation to carry out community service;
- (j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;
- (k) an obligation to undergo therapeutic treatment or treatment for addiction.

2. Each Member State shall notify the General Secretariat of the Council, when implementing this Framework Decision, which probation measures and alternative sanctions, apart from those referred to in paragraph 1, it is prepared to supervise. The General Secretariat of the Council shall make the information received available to all Member States and to the Commission.

*Article 5***Criteria for forwarding a judgment and, where applicable, a probation decision**

1. The competent authority of the issuing State may forward a judgment and, where applicable, a probation decision to the competent authority of the Member State in which the sentenced person is lawfully and ordinarily residing, in cases where the sentenced person has returned or wants to return to that State.
2. The competent authority of the issuing State may, upon request of the sentenced person, forward the judgment and, where applicable, the probation decision to a competent authority of a Member State other than the Member State in which the sentenced person is lawfully and ordinarily residing, on condition that this latter authority has consented to such forwarding.
3. When implementing this Framework Decision, Member States shall determine under which conditions their competent authorities may consent to the forwarding of a judgment and, where applicable, a probation decision under paragraph 2.
4. Each Member State shall make a declaration to the General Secretariat of the Council of the determination made under paragraph 3. Member States may modify such a declaration at any time. The General Secretariat shall make the information received available to all Member States and to the Commission.

*Article 6***Procedure for forwarding a judgment and, where applicable, a probation decision**

1. When, in application of Article 5(1) or (2), the competent authority of the issuing State forwards a judgment and, where applicable, a probation decision to another Member State, it shall ensure that it is accompanied by a certificate, the standard form for which is set out in Annex I.
2. The judgment and, where applicable, the probation decision, together with the certificate referred to in paragraph 1, shall be forwarded by the competent authority of the issuing State directly to the competent authority of the executing State by any means which leaves a written record under conditions allowing the executing State to establish their authenticity. The original of the judgment and, where applicable, the probation decision, or certified copies thereof, as well as the original of the certificate, shall be sent to the competent authority of

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the executing State if it so requires. All official communications shall also be made directly between the said competent authorities.

3. The certificate referred to in paragraph 1 shall be signed and its content certified as accurate by the competent authority of the issuing State.

4. Apart from the measures and sanctions referred to in Article 4(1), the certificate referred to in paragraph 1 of this Article shall include only such measures or sanctions as notified by the executing State in accordance with Article 4(2).

5. The competent authority of the issuing State shall forward the judgment and, where applicable, the probation decision, together with the certificate referred to in paragraph 1 only to one executing State at any one time.

6. If the competent authority of the executing State is not known to the competent authority of the issuing State, the latter shall make all necessary inquiries, including via the contact points of the European Judicial Network created by Council Joint Action 98/428/JHA ⁽¹⁾, in order to obtain the information from the executing State.

7. When an authority of the executing State which receives a judgment and, where applicable, a probation decision, together with the certificate referred to in paragraph 1, has no competence to recognise it and take the ensuing necessary measures for the supervision of the probation measure or alternative sanction, it shall, *ex officio*, forward it to the competent authority and shall without delay inform the competent authority of the issuing State accordingly by any means which leaves a written record.

*Article 7***Consequences for the issuing State**

1. Once the competent authority of the executing State has recognised the judgment and, where applicable, the probation decision forwarded to it and has informed the competent authority of the issuing State of such recognition, the issuing State shall no longer have competence in relation to the supervision of the probation measures or alternative sanctions imposed, nor to take subsequent measures referred to in Article 14(1).

2. The competence referred to in paragraph 1 shall revert to the issuing State:

- (a) as soon as its competent authority has notified withdrawal of the certificate referred to in Article 6(1), pursuant to Article 9(4), to the competent authority of the executing State;
- (b) in cases referred to in Article 14(3) in combination with 14(5); and
- (c) in cases referred to in Article 20.

*Article 8***Decision of the executing State**

1. The competent authority of the executing State shall recognise the judgment and, where applicable, the probation decision forwarded in accordance with Article 5 and following the procedure laid down in Article 6 and shall without delay take all necessary measures for the supervision of the probation measures or alternative sanctions, unless it decides to invoke one of the grounds for refusing recognition and supervision referred to in Article 11.

⁽¹⁾ OJ L 191, 7.7.1998, p. 4.

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2. The competent authority of the executing State may postpone the decision on recognition of the judgment and, where applicable, the probation decision in the situation where the certificate referred to in Article 6(1) is incomplete or obviously does not correspond to the judgment or, where applicable, the probation decision, until such reasonable deadline set for the certificate to be completed or corrected.

*Article 9***Adaptation of the probation measures or alternative sanctions**

1. If the nature or duration of the relevant probation measure or alternative sanction, or the duration of the probation period, are incompatible with the law of the executing State, the competent authority of that State may adapt them in line with the nature and duration of the probation measures and alternative sanctions, or duration of the probation period, which apply, under the law of the executing State, to equivalent offences. The adapted probation measure, alternative sanction or duration of the probation period shall correspond as far as possible to that imposed in the issuing State.

2. Where the probation measure, the alternative sanction or the probation period has been adapted because its duration exceeds the maximum duration provided for under the law of the executing State, the duration of the adapted probation measure, alternative sanction or probation period shall not be below the maximum duration provided for equivalent offences under the law of the executing State.

3. The adapted probation measure, alternative sanction or probation period shall not be more severe or longer than the probation measure, alternative sanction or probation period which was originally imposed.

4. Following receipt of the information referred to in Articles 16(2) or 18(5), the competent authority of the issuing State may decide to withdraw the certificate referred to in Article 6(1) provided that supervision in the executing State has not yet begun. In such cases, the decision shall be taken and communicated as soon as possible and within ten days of the receipt of the information.

*Article 10***Double criminality**

1. The following offences, if they are punishable in the issuing State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years, and as they are defined by the law of the issuing State, shall, under the terms of this Framework Decision and without verification of the double criminality of the act, give rise to recognition of the judgment and, where applicable, the probation decision and to supervision of probation measures and alternative sanctions:

- participation in a criminal organisation,
- terrorism,
- trafficking in human beings,
- sexual exploitation of children and child pornography,
- illicit trafficking in narcotic drugs and psychotropic substances,
- illicit trafficking in weapons, munitions and explosives,
- corruption,

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- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests ⁽¹⁾,
- laundering of the proceeds of crime,
- counterfeiting currency, including of the euro,
- computer-related crime,
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- facilitation of unauthorised entry and residence,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage-taking,
- racism and xenophobia,
- organised or armed robbery,
- illicit trafficking in cultural goods, including antiques and works of art,
- swindling,
- racketeering and extortion,
- counterfeiting and piracy of products,
- forgery of administrative documents and trafficking therein,
- forgery of means of payment,
- illicit trafficking in hormonal substances and other growth promoters,
- illicit trafficking in nuclear or radioactive materials,
- trafficking in stolen vehicles,
- rape,
- arson,
- crimes within the jurisdiction of the International Criminal Court,
- unlawful seizure of aircraft/ships,
- sabotage.

2. The Council may decide to add other categories of offences to the list provided for in paragraph 1 of this Article at any time, acting unanimously after consultation of the European Parliament under the conditions laid down in Article 39(1) of the Treaty on European Union. The Council shall examine, in the light of the report submitted to it pursuant to Article 26(1) of this Framework Decision, whether the list should be extended or amended.

3. For offences other than those covered by paragraph 1, the executing State may make the recognition of the judgment and, where applicable, the probation decision and the supervision of probation measures and of alternative sanctions subject to the condition that the judgment relates to acts which also constitute an offence under the law of the executing State, whatever its constituent elements or however it is described.

4. Each Member State may, on the adoption of this Framework Decision or later, by a declaration notified to the General Secretariat of the Council, declare that it will not apply paragraph 1. Any such

⁽¹⁾ OJ C 316, 27.11.1995, p. 49.

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declaration may be withdrawn at any time. Such declarations or withdrawals of declarations shall be published in the *Official Journal of the European Union*.

*Article 11***Grounds for refusing recognition and supervision**

1. The competent authority of the executing State may refuse to recognise the judgment or, where applicable, the probation decision and to assume responsibility for supervising probation measures or alternative sanctions if:

- (a) the certificate referred to in Article 6(1) is incomplete or manifestly does not correspond to the judgment or to the probation decision and has not been completed or corrected within a reasonable period set by the competent authority of the executing State;
- (b) the criteria set forth in Articles 5(1), 5(2) or 6(4) are not met;
- (c) recognition of the judgment and assumption of responsibility for supervising probation measures or alternative sanctions would be contrary to the principle of *ne bis in idem*;
- (d) in a case referred to in Article 10(3) and, where the executing State has made a declaration under Article 10(4), in a case referred to in Article 10(1), the judgment relates to acts which would not constitute an offence under the law of the executing State. However, in relation to taxes or duties, customs and exchange, execution of the judgment or, where applicable, the probation decision may not be refused on the grounds that the law of the executing State does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes or duties, customs and exchange regulations as the law of the issuing State;
- (e) the enforcement of the sentence is statute-barred according to the law of the executing State and relates to an act which falls within its competence according to that law;
- (f) there is immunity under the law of the executing State, which makes it impossible to supervise probation measures or alternative sanctions;
- (g) under the law of the executing State, the sentenced person cannot, owing to his or her age, be held criminally liable for the acts in respect of which the judgment was issued;

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- (h) according to the certificate provided for in Article 6, the person did not appear in person at the trial resulting in the decision, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing State:
 - (i) in due time:
 - either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the decision, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial,
 - and
 - was informed that a decision may be handed down if he or she does not appear for the trial;
 - or
 - (ii) being aware of the scheduled trial had given a mandate to a legal counsellor, who was either appointed by the person

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concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

or

- (iii) after being served with the decision and being expressly informed about the right to a retrial, or an appeal, in which the person has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed:

— expressly stated that he or she does not contest the decision,

or

— did not request a retrial or appeal within the applicable time frame;

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- (i) the judgment or, where applicable, the probation decision provides for medical/therapeutic treatment which, notwithstanding Article 9, the executing State is unable to supervise in view of its legal or health-care system;
- (j) the probation measure or alternative sanction is of less than six months' duration; or
- (k) the judgment relates to criminal offences which under the law of the executing State are regarded as having been committed wholly or for a major or essential part within its territory, or in a place equivalent to its territory.

2. Any decision under paragraph 1(k) in relation to offences committed partly within the territory of the executing State, or in a place equivalent to its territory, shall be taken by the competent authority of the executing State only in exceptional circumstances and on a case-by case basis, having regard to the specific circumstances of the case, and in particular to whether a major or essential part of the conduct in question has taken place in the issuing State.

3. In the cases referred to in paragraph 1(a), (b), (c), (h), (i), (j) and (k), before deciding not to recognise the judgment or, where applicable, the probation decision and to assume responsibility for supervising probation measures and alternative sanctions, the competent authority of the executing State shall communicate, by appropriate means, with the competent authority of the issuing State and shall, as necessary, ask it to supply all additional information required without delay.

4. Where the competent authority of the executing State has decided to invoke a ground for refusal referred to in paragraph 1 of this Article, in particular the grounds referred to under paragraph 1(d) or (k), it may nevertheless, in agreement with the competent authority of the issuing State, decide to supervise the probation measures or alternative sanctions that are imposed in the judgment and, where applicable, the probation decision forwarded to it, without assuming the responsibility for taking any of the decisions referred to in Article 14(1)(a), (b) and (c).

*Article 12***Time limit**

1. The competent authority of the executing State shall decide as soon as possible, and within 60 days of receipt of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1), whether or not to recognise the judgment and, where applicable, the probation decision and assume responsibility for supervising the probation measures or alternative sanctions. It shall

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immediately inform the competent authority of the issuing State, by any means which leaves a written record, of its decision.

2. When in exceptional circumstances it is not possible for the competent authority of the executing State to comply with the time limit provided for in paragraph 1, it shall immediately inform the competent authority of the issuing State by any means, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken.

*Article 13***Governing law**

1. The supervision and application of probation measures and alternative sanctions shall be governed by the law of the executing State.

2. The competent authority of the executing State may supervise an obligation as referred to in Article 4(1)(h) by requiring the sentenced person to provide proof of compliance with an obligation to compensate for the prejudice caused by the offence.

*Article 14***Jurisdiction to take all subsequent decisions and governing law**

1. The competent authority of the executing State shall have jurisdiction to take all subsequent decisions relating to a suspended sentence, conditional release, conditional sentence and alternative sanction, in particular in case of non-compliance with a probation measure or alternative sanction or if the sentenced person commits a new criminal offence.

Such subsequent decisions include notably:

- (a) the modification of obligations or instructions contained in the probation measure or alternative sanction, or the modification of the duration of the probation period;
- (b) the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release; and
- (c) the imposition of a custodial sentence or measure involving deprivation of liberty in case of an alternative sanction or conditional sentence.

2. The law of the executing State shall apply to decisions taken pursuant to paragraph 1 and to all subsequent consequences of the judgment including, where applicable, the enforcement and, if necessary, the adaptation of the custodial sentence or measure involving deprivation of liberty.

3. Each Member State may, at the time of adoption of this Framework Decision or at a later stage, declare that as an executing State it will refuse to assume the responsibility provided for in paragraph 1(b) and (c) in cases or categories of cases to be specified by that Member State, in particular:

- (a) in cases relating to an alternative sanction, where the judgment does not contain a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligations or instructions concerned;
- (b) in cases relating to a conditional sentence;
- (c) in cases where the judgment relates to acts which do not constitute an offence under the law of the executing State, whatever its constituent elements or however it is described.

4. When a Member State makes use of any of the possibilities referred to in paragraph 3, the competent authority of the executing

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State shall transfer jurisdiction back to the competent authority of the issuing State in case of non-compliance with a probation measure or alternative sanction if the competent authority of the executing State is of the view that a subsequent decision as referred to in paragraph 1(b) or (c) needs to be taken.

5. In the cases referred to in paragraph 3 of this Article, the obligation to recognise the judgment and, where applicable, the probation decision, as well as the obligation to take without delay all necessary measures for the supervision of the probation measures or alternative sanctions, as referred to in Article 8(1), shall not be affected.

6. Declarations as mentioned in paragraph 3 shall be made by notification to the General Secretariat of the Council. Any such declaration may be withdrawn at any time. The declarations and withdrawals mentioned in this Article shall be published in the *Official Journal of the European Union*.

*Article 15***Consultations between competent authorities**

Where and whenever it is felt appropriate, competent authorities of the issuing State and of the executing State may consult each other with a view to facilitating the smooth and efficient application of this Framework Decision.

*Article 16***Obligations of the authorities involved where the executing State has jurisdiction for subsequent decisions**

1. The competent authority of the executing State shall without delay inform the competent authority of the issuing State, by any means which leaves a written record, of all decisions on the:

- (a) modification of the probation measure or alternative sanction;
- (b) revocation of the suspension of the execution of the judgment or revocation of the decision on conditional release;
- (c) enforcement of a custodial sentence or measure involving deprivation of liberty, because of non-compliance with a probation measure or alternative sanction;
- (d) lapsing of the probation measure or alternative sanction.

2. If so requested by the competent authority of the issuing State, the competent authority of the executing State shall inform it of the maximum duration of deprivation of liberty that is foreseen in the national law of the executing State for the offence which gave rise to the judgment and that could be imposed on the sentenced person in case of breach of the probation measure or alternative sanction. This information shall be provided immediately after reception of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1).

3. The competent authority of the issuing State shall immediately inform the competent authority of the executing State, by any means which leaves a written record, of any circumstances or findings which, in its opinion, could entail one or more of the decisions referred to in paragraph 1(a), (b) or (c) being taken.



Article 17

Obligations of the authorities involved where the issuing State has jurisdiction for subsequent decisions

1. If the competent authority of the issuing State has jurisdiction for the subsequent decisions mentioned in Article 14(1) pursuant to the application of Article 14(3), the competent authority of the executing State shall immediately notify it of:

- (a) any finding which is likely to result in revocation of the suspension of the execution of the judgment or revocation of the decision on conditional release;
- (b) any finding which is likely to result in the imposition of a custodial sentence or measure involving deprivation of liberty;
- (c) all further facts and circumstances which the competent authority of the issuing State requests to be provided and which are essential in order to allow it to take subsequent decisions in accordance with its national law.

2. When a Member State has made use of the possibility referred to in Article 11(4), the competent authority of that State shall inform the competent authority of the issuing State in case of non-compliance by the sentenced person with a probation measure or alternative sanction.

3. Notice of the findings mentioned in paragraph 1(a) and (b) and in paragraph 2 shall be given using the standard form set out in Annex II. Notice of the facts and circumstances mentioned in paragraph 1(c) shall be given by any means which leaves a written record, including, where possible, through the form set out in Annex II.

4. If, under the national law of the issuing State, the sentenced person must be given a judicial hearing before a decision is taken on the imposition of a sentence, this requirement may be met by following *mutatis mutandis* the procedure contained in instruments of international or European Union law that provide the possibility of using video links for hearing persons.

5. The competent authority of the issuing State shall without delay inform the competent authority of the executing State of all decisions on:

- (a) the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release;
- (b) the enforcement of the custodial sentence or measure involving deprivation of liberty, where such measure is contained in the judgment;
- (c) the imposition of a custodial sentence or measure involving deprivation of liberty, where such measure is not contained in the judgment;
- (d) the lapsing of the probation measure or alternative sanction.

Article 18

Information from the executing State in all cases

The competent authority of the executing State shall without delay inform the competent authority of the issuing State, by any means which leaves a written record of:

- 1. the transmission of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1) to the competent authority responsible for its recognition and for taking the ensuing measures for the supervision of the probation measures or alternative sanctions in accordance with Article 6(7);

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2. the fact that it is in practice impossible to supervise the probation measures or alternative sanctions for the reason that, after transmission of the judgment and, where applicable, the probation decision, together with the certificate referred to in Article 6(1) to the executing State, the sentenced person cannot be found in the territory of the executing State, in which case the executing State shall be under no obligation to supervise the probation measures or alternative sanctions;
3. the final decision to recognise the judgment and, where applicable, the probation decision and to assume responsibility for supervising the probation measures or alternative sanctions;
4. any decision not to recognise the judgment and, where applicable, the probation decision and to assume responsibility for supervising the probation measures or alternative sanctions in accordance with Article 11, together with the reasons for the decision;
5. any decision to adapt the probation measures or alternative sanctions in accordance with Article 9, together with the reasons for the decision;
6. any decision on amnesty or pardon which leads to not supervising the probation measures or alternative sanctions for the reasons referred to in Article 19(1), together, where applicable, with the reasons for the decision.

*Article 19***Amnesty, pardon, review of judgment**

1. An amnesty or pardon may be granted by the issuing State and also by the executing State.
2. Only the issuing State may decide on applications for review of the judgment which forms the basis for the probation measures or alternative sanctions to be supervised under this Framework Decision.

*Article 20***End of jurisdiction of the executing State**

1. If the sentenced person absconds or no longer has a lawful and ordinary residence in the executing State, the competent authority of the executing State may transfer the jurisdiction in respect of the supervision of the probation measures or alternative sanctions and in respect of all further decisions relating to the judgment back to the competent authority of the issuing State.
2. If new criminal proceedings against the person concerned are taking place in the issuing State, the competent authority of the issuing State may request the competent authority of the executing State to transfer jurisdiction in respect of the supervision of the probation measures or alternative sanctions and in respect of all further decisions relating to the judgment back to the competent authority of the issuing State. In such a case, the competent authority of the executing State may transfer jurisdiction back to the competent authority of the issuing State.
3. When, in application of this Article, jurisdiction is transferred back to the issuing State, the competent authority of that State shall resume jurisdiction. For the further supervision of the probation measures or alternative sanctions, the competent authority of the issuing State shall take account of the duration and degree of compliance with the probation measures or alternative sanctions in the executing State, as well as of any decisions taken by the executing State in accordance with Article 16(1).

*Article 21***Languages**

The certificate referred to in Article 6(1) shall be translated into the official language or one of the official languages of the executing State. Any Member State may, on adoption of this Framework Decision or later, state in a declaration deposited with the General Secretariat of the Council that it will accept a translation in one or more other official languages of the institutions of the European Union.

*Article 22***Costs**

Costs resulting from the application of this Framework Decision shall be borne by the executing State, except for costs arising exclusively within the territory of the issuing State.

*Article 23***Relationship with other agreements and arrangements**

1. This Framework Decision shall, in relations between the Member States, from 6 December 2011, replace the corresponding provisions of the Council of Europe Convention of 30 November 1964 on the Supervision of Conditionally Sentenced or Conditionally Released Offenders.
2. Member States may continue to apply bilateral or multilateral agreements or arrangements in force after 6 December 2008, in so far as they allow the objectives of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for the supervision of probation measures and alternative sanctions.
3. Member States may conclude bilateral or multilateral agreements or arrangements after 6 December 2008, in so far as such agreements or arrangements allow the provisions of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for the supervision of probation measures and alternative sanctions.
4. Member States shall, by 6 March 2009, notify the Council and the Commission of the existing agreements and arrangements referred to in paragraph 2 which they wish to continue applying. Member States shall also notify the Council and the Commission of any new agreement or arrangement as referred to in paragraph 3, within three months of signing it.

*Article 24***Territorial application**

This Framework Decision shall apply to Gibraltar.

*Article 25***Implementation**

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 6 December 2011.
2. Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

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Article 26

Review

1. By 6 December 2014, the Commission shall draw up a report on the basis of the information received from Member States under Article 25(2).
2. On the basis of this report, the Council shall assess:
 - (a) the extent to which the Member States have taken the necessary measures in order to comply with this Framework Decision; and
 - (b) the application of this Framework Decision.
3. The report shall be accompanied, if necessary, by legislative proposals.

Article 27

Entry into force

This Framework Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.



ANNEX I

CERTIFICATE

referred to in Article 6 of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions ⁽¹⁾

(a) Issuing State:
Executing State:

(b) Court which issued the judgment imposing a suspended sentence, conditional sentence or alternative sanction
Official name:
Please indicate whether any additional information concerning the judgment is to be obtained from:
 the court specified above
 the central authority; if you ticked this box, please provide the official name of this central authority:
 another competent authority; if you ticked this box, please provide the official name of this authority:
Contact details of the court/central authority/other competent authority
Address:
Tel. (country code) (area/city code)
Fax (country code) (area/city code)
Details of the person(s) to be contacted
Surname:
Forename(s):
Position (title/grade):
Tel. (country code) (area/city code)
Fax (country code) (area/city code)
E-mail (if any):
Languages that may be used for communication:

(c) Authority which issued the probation decision (where applicable)
Official name:
Please indicate whether any additional information concerning the probation decision is to be obtained from:
 the authority specified above
 the central authority; if you ticked this box, please provide the official name of this central authority if this information has not yet been provided under point (b):
 another competent authority; if you ticked this box, please provide the official name of this authority:
Contact details of the authority, the central authority or other competent authority, if this information has not yet been provided under point (b)
Address:
Tel. (country code) (area/city code)
Fax (country code) (area/city code)
Details of the person(s) to be contacted
Surname:
Forename(s):
Position (title/grade):
Tel. (country code) (area/city code)
Fax (country code) (area/city code)
E-mail (if any):
Languages that may be used for communication:

⁽¹⁾ This certificate must be written in, or translated into, the official language or one of the official languages of the executing Member State, or any other official language of the institutions of the European Union that is accepted by that State.

▼ B**(d) Competent authority for supervision of the probation measures or alternative sanctions**

Authority which has competence in the issuing State for supervising the probation measures or alternative sanctions:

- the court/authority referred to in point (b)
- the authority referred to in point (c)
- another authority (please provide its official name):

Please indicate which authority is to be contacted if any additional information is to be obtained for the purposes of supervising the probation measures or alternative sanctions:

- the authority specified above
- the central authority; if you ticked this box, please provide the official name of this central authority if this information has not yet been provided under point (b) or (c):

Contact details of the authority, or of the central authority if this information has not yet been provided under point (b) or (c)

Address:

Tel. (country code) (area/city code)

Fax (country code) (area/city code)

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

Tel. (country code) (area/city code)

Fax (country code) (area/city code)

E-mail (if any):

Languages that may be used for communication:

(e) Information regarding the natural person in respect of whom the judgment and, where applicable, the probation decision has been issued

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Last known addresses/residences (if any):

— in the issuing State:

— in the executing State:

— elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

— Type and number of the identity document(s) of the sentenced person (ID card, passport):

— Type and number of the residence permit of the sentenced person in the executing State:

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- (f) Information regarding the Member State to which the judgment and, where applicable, the probation decision, together with the certificate are being forwarded

The judgment and, where applicable, the probation decision, together with the certificate are being forwarded to the executing State indicated in point (a) for the following reason:

- the sentenced person has his/her lawful and ordinary residence in the executing State and has returned or wants to return to that State
- the sentenced person has moved or intends to move to the executing State for the following reason(s) (please tick the relevant box):
- the sentenced person has been granted an employment contract in the executing State;
 - the sentenced person is a family member of a lawful and ordinary resident person of the executing State;
 - the sentenced person intends to follow a study or training in the executing State;
 - other reason (please specify):

- (g) Indications regarding the judgment and, where applicable, the probation decision

The judgment was issued on (date: DD-MM-YYYY):

Where applicable, the probation decision was issued on (date: DD-MM-YYYY):

The judgment became final on (date: DD-MM-YYYY):

Where applicable, the probation decision became final on (date: DD-MM-YYYY):

The execution of the judgment started on (if different from the date on which the judgment became final) (date: DD-MM-YYYY):

Where applicable, the execution of the probation decision started on (if different from the date on which the probation decision became final) (date: DD-MM-YYYY):

File reference of the judgment (if available):

Where applicable, file reference of the probation decision (if available):

1. The judgment covers in total: offences.

Summary of the facts and description of the circumstances in which the offence(s) was (were) committed, including the time and place, and the nature of the involvement of the sentenced person:

Nature and legal classification of the offence(s) and applicable statutory provisions on the basis of which the judgment was issued:

2. If the offence(s) referred to in point 1 constitute(s) one or more of the following offences, as defined in the law of the issuing State which are punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least three years, please confirm by ticking the relevant box(es):

- participation in a criminal organisation
- terrorism
- trafficking in human beings
- sexual exploitation of children and child pornography
- illicit trafficking in narcotic drugs and psychotropic substances
- illicit trafficking in weapons, munitions and explosives
- corruption
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests
- laundering of the proceeds of crime
- counterfeiting of currency, including of the euro
- computer-related crime
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties

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- facilitation of unauthorised entry and residence
- murder, grievous bodily injury
- illicit trade in human organs and tissue
- kidnapping, illegal restraint and hostage-taking
- racism and xenophobia
- organised or armed robbery
- illicit trafficking in cultural goods, including antiques and works of art
- swindling
- racketeering and extortion
- counterfeiting and piracy of products
- forgery of administrative documents and trafficking therein
- forgery of means of payment
- illicit trafficking in hormonal substances and other growth promoters
- illicit trafficking in nuclear or radioactive materials
- trafficking in stolen vehicles
- rape
- arson
- crimes within the jurisdiction of the International Criminal Court
- unlawful seizure of aircraft/ships
- sabotage

3. To the extent that the offence(s) identified under point 1 is (are) not covered by point 2 or if the judgment and, where applicable, the probation decision, as well as the certificate are forwarded to a Member State, which has declared that it will verify the double criminality (Article 10(4) of the Framework Decision), please give a full description of the offence(s) concerned:

- ⁽¹⁾ (h) Indicate if the person appeared in person at the trial resulting in the decision:
1. Yes, the person appeared in person at the trial resulting in the decision.
 2. No, the person did not appear in person at the trial resulting in the decision.
 3. If you have ticked the box under point 2, please confirm the existence of one of the following:
 - 3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;
 - OR
 - 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;
 - OR
 - 3.2. being aware of the scheduled trial the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;
 - OR
 - 3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and
 - the person expressly stated that he or she does not contest this decision,
 - OR
 - the person did not request a retrial or appeal within the applicable time frame.
 4. If you have ticked the box under points 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:

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- (i) Indications regarding the nature of the sentence imposed by the judgment or, where applicable, the probation decision
1. This certificate is related to a:
 - suspended sentence (= custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed)
 - conditional sentence:
 - the imposition of a sentence has been conditionally deferred by imposing one or more probation measures
 - one or more probation measures have been imposed instead of a custodial sentence or measure involving deprivation of liberty
 - alternative sanction:
 - the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned
 - the judgment does not contain a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned
 - conditional release (= early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served)
 2. Additional information
 - 2.1. The sentenced person was in pre-trial detention during the following period:
 - 2.2. The person was serving a custodial sentence or measure involving deprivation of liberty during the following period (to be filled in only in case of conditional release):
 - 2.3. In case of a suspended sentence
 - duration of the custodial period imposed that was conditionally suspended:
 - duration of the period of suspension:
 - 2.4. If known, length of deprivation of liberty to be served upon
 - revocation of suspension of the execution of the judgment;
 - revocation of the decision on conditional release; or
 - breach of the alternative sanction (if the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of such a breach):

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(j) Indications regarding the duration and nature of the probation measure(s) or alternative sanction(s)

1. Total duration of the supervision of the probation measure(s) or alternative sanction(s):
2. Where applicable, duration of each individual obligation imposed as part of the probation measure(s) or alternative sanction(s):
3. Duration of the total probation period (if different from the duration indicated under point 1):
4. Nature of the probation measure(s) or alternative sanction(s) (it is possible to tick multiple boxes):
 - an obligation for the sentenced person to inform a specific authority of any change of residence or working place
 - an obligation not to enter certain localities, places or defined areas in the issuing or executing State
 - an obligation containing limitations on leaving the territory of the executing State
 - instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity
 - an obligation to report at specified times to a specific authority
 - an obligation to avoid contact with specific persons
 - an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence
 - an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation
 - an obligation to carry out community service
 - an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons
 - an obligation to undergo therapeutic treatment or treatment for addiction
 - other measures that the executing State is prepared to supervise in accordance with a notification under Article 4(2) of the Framework Decision
5. Please provide a detailed description of the probation measure(s) or alternative sanction(s) indicated under 4:
6. Please tick the following box if relevant probation reports are available:
 - If you ticked this box, please indicate in which language(s) these reports are drawn up ⁽¹⁾:

(k) Other circumstances relevant to the case, including relevant information on previous convictions or specific reasons for the imposition of the probation measure(s) or alternative sanction(s) (optional information):

The text of the judgment and, where applicable, the probation decision is attached to the certificate.

Signature of the authority issuing the certificate and/or of its representative to confirm the accuracy of the content of the certificate:

Name:

Position (title/grade):

Date:

File reference (if any):

(Where appropriate) Official stamp:

⁽¹⁾ The issuing State is not obliged to provide translations of these reports.



ANNEX II

FORM

referred to in Article 17 of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions

REPORT OF A BREACH OF A PROBATION MEASURE OR ALTERNATIVE SANCTION, OR OF ANY OTHER FINDINGS

(a) Details of the identity of the person subject to supervision:

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(b) Details of the judgment and, where applicable, the probation decision concerning the suspended sentence, conditional sentence, alternative sanction or conditional release:

Judgment issued on:

File reference (if any):

Where applicable, probation decision issued on:

File reference (if any):

Court which issued the judgment

Official name:

Address:

Where applicable, authority which issued the probation decision

Official name:

Address:

Certificate issued on:

Authority which issued the certificate:

File reference (if any):

(c) Details of the authority responsible for supervising the probation measure(s) or alternative sanction(s):

Official name of the authority:

Name of the person to be contacted:

Position (title/grade):

Address:

Tel. (country code) (area code)

Fax (country code) (area code)

E-mail:

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(d) Probation measure(s) or alternative sanction(s):

The person referred to in (a) is in breach of the following obligation(s) or instruction(s):

- an obligation for the sentenced person to inform a specific authority of any change of residence or working place
- an obligation not to enter certain localities, places or defined areas in the issuing or executing State
- an obligation containing limitations on leaving the territory of the executing State
- instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity
- an obligation to report at specified times to a specific authority
- an obligation to avoid contact with specific persons
- an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence
- an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation
- an obligation to carry out community service
- an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons
- an obligation to undergo therapeutic treatment or treatment for addiction
- other measures:

(e) Description of the breach(es) (place, date and specific circumstances):

(f) Other findings (if any)

Description of the findings:

(g) Details of the person to be contacted if additional information is to be obtained concerning the breach:

Surname:

Forename(s):

Address:

Tel. (country code) (area/city code)

Fax (country code) (area/city code)

E-mail (if any):

Signature of the authority issuing the form and/or its representative, to confirm that the contents of the form are correct:

Name:

Position (title/grade):

Date:

Official stamp (where applicable):