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of :	Working Party on Cooperation in Criminal Matters
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Subject:	INITIATIVE of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences

Following a first examination of the entire text of the initiative in the Working Party on Criminal Matters and discussions in COREPER, the Council (Justice and Home Affairs configuration) reached on 12/13 June 2007 a common understanding on certain key elements of the draft Framework Decision and discussed a question on the issue of double criminality.¹

On 6 and 14 June 2007, the Working Party proceeded with the second examination of the text, discussing Articles 1-12.

¹ 10201/1/07 REV 1 COPEN 81 + COR 1

Delegations will find in the Annex the text of the draft Framework Decision as it results from the meetings on 6 and 14 June 2007. To be noted that the text contains at various places drafting proposals by the Presidency which are new or which have not yet been fully discussed.

It is understood that at this stage of the proceedings, all delegations maintain a general scrutiny reserve on the entire text.

DK, SE and UK also have a Parliamentary scrutiny reserve.

**Initiative of the Federal Republic of Germany and of the French Republic with a view to
adopting a Council Framework Decision**

of

**on the recognition and supervision ² of suspended sentences,
alternative sanctions and conditional sentences**

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,

Having regard to the Opinion of the European Parliament³,

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 **DELETED** wondered whether instead of, or in addition to "supervision" reference should be made to "execution", which would in particular be appropriate in relation to "alternative sanctions". See also footnote 44.

³ Opinion of... (not yet delivered).

- (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 held 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 ⁴. 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) All the Member States have ratified the Council of Europe Convention of 21 March 1983 on the Transfer of Sentenced Persons. The Convention enables sentenced persons to be transferred to the State of which they are a national, if the States in question and the sentenced person consent to the transfer. The Additional Protocol of 18 December 1997 to the Convention, which provides for transfer without the consent of the person concerned, has not yet been ratified by all Member States. Council Framework Decision 2007/.../JHA of xx.xx.xxxx* 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 ⁵ extended the principle of mutual recognition to the enforcement of custodial sentences.

⁴ OJ C 53, 3.3.2005, p. 1.

* Number and date of Framework Decision to be added.

⁵ Publication details to be added.

- (4) Relations between Member States, characterised by the mutual recognition of national legal systems, also enable recognition of a decision taken by another Member State in the course of criminal proceedings or enforcement. 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. Council Framework Decision 2007/...*/JHA - is intentionally restricted to the transfer of sentenced persons already in prison. More extensive cooperation between Member States is, however, required, especially where criminal proceedings have been conducted against a person in one Member State and a suspended sentence or alternative sanction has been imposed, but the person concerned is lawfully and ordinarily resident in another Member State.
- (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 interpreted as prohibiting refusal to recognise a judgment and/or supervise a suspensory measure or alternative sanction if there are objective indications that the suspensory measure or alternative sanction was imposed to punish a person because of his or her sex, race, religion, ethnic origin, nationality, language, political convictions 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 and freedom of expression in other media.
- (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.

* Number of Framework Decision to be added.

- (8) The aim of mutual recognition and supervision of suspended sentences, alternative sanctions and conditional sentences in the executing State is to enhance the prospects of the sentenced person's being re-integrated into society, by enabling him to preserve family, linguistic, cultural and other ties, but also to improve monitoring of compliance with suspensory measures and alternative sanctions, with a view to preventing recidivism, thus paying due regard to the protection of victims and the general public⁶.
- (9) To ensure the effective exchange of information concerning all circumstances relevant to the suspension of sentences, Member States are encouraged to include provisions in their national legislation enabling them to assume the responsibility for the supervision of suspensory measures and alternative sanctions to be documented in their national registers.⁷
- (10) 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.

⁶ Addition by the Presidency further to a suggestion by **DELETED**.

⁷ The recitals have not yet been examined in detail. However, further to a call by the Presidency for general observations on the recitals, **DELETED** expressed doubts on the advisability of recital 9. It was agreed that the recitals should be examined in close detail once agreement has been reached on the operative part of the Framework Decision.

- (11) Since the objective of this Framework Decision, namely laying down the rules according to which one Member State is to supervise suspensory measures or alternative sanctions contained in a judgment given in another Member State, cannot be sufficiently achieved by the Member States themselves in view of the cross-border nature of the situations involved and can therefore, by 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 this objective,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1
*Objectives and scope*⁸

1. This Framework Decision aims at facilitating the social re-integration of sentenced persons, improving the protection of victims and of the general public, and to facilitate the application of suitable suspensory 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 the Member State of the person's lawful and ordinary residence, in cases where the sentenced person has returned or wants to return to that State⁹, ¹⁰ recognises judgments issued in another Member State¹¹ and supervises suspensory measures imposed on the basis of such a judgment, or alternative sanctions contained in such a judgment, and takes all other decisions relating to that judgment unless otherwise provided in this Framework Decision¹².

2. This Framework Decision shall apply only to the recognition of judgments and the transfer of responsibility for the supervision of suspensory measures and alternative sanctions and all other judicial decisions provided for in this Framework Decision.

⁸ **DELETED** requested to narrow the scope so that the draft Framework Decision would only apply to "important" cases.

⁹ **DELETED** would like to enlarge the scope to situations where the sentenced person desires to work in another Member State which is not the State of his/her habitual residence, see ADD 1 to 9356/07 COPEN 56. The Presidency referred to discussions in the European Parliament, where concerns had been expressed in respect of "forum shopping".

¹⁰ Consent of the sentenced person is necessary in order to be able to transfer the responsibility for the supervision of suspensory measures and alternative sanctions to another Member State. However, consent is not necessary for imposing suspensory measures and alternative sanctions as such, since this falls within the competence of the issuing authority.

¹¹ **DELETED** requested deleting here and in the rest of the text the reference to "recognition of judgments"; **DELETED** stated that it would oppose such deletion. Various delegations felt that, in general, the distinction and inter-relation between "recognition" and "supervision" should be further reflected upon. The Presidency suggested examining this issue further at a later stage.

¹² This addition was inserted further to a suggestion by **DELETED** to reflect Articles 12-15.

3. This Framework Decision shall not apply to

- the execution of judgments in criminal cases imposing custodial sentences or measures involving deprivation of liberty which fall within the scope of Council Framework Decision 2007/.../JHA;
- 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 penalties¹³ and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders¹⁴].

¹³ OJ L 76, 22.3.2005, p. 16.

¹⁴ OJ L 328, 24.11.2006, p. 59.

Article 2
*Definitions*¹⁵

For the purposes of this Framework Decision:

- (a) "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 ¹⁶ and imposing:
- (i) a custodial sentence or any measure involving deprivation of liberty if accompanied by a subsequent probation decision granting a conditional release,¹⁷
 - (ii) a suspended sentence,
 - (iii) a conditional sentence, or
 - (iv) an alternative sanction;
- (b) "suspended sentence" shall mean a custodial sentence or any 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 suspensory measures, which may be included in the judgment or determined in a separate probation decision taken by a competent authority;
- (c) "conditional sentence" shall mean a judgment, in which the imposition of a sentence has been conditionally deferred by imposing one or more suspensory measures, which may be included in the judgment or determined in a separate probation decision taken by a competent authority;

¹⁵ Some delegations called for simplifying the definitions. **DELETED** requested adding a definition of "*lawful and ordinary residence*". **DELETED** have a scrutiny reserve on Article 2.

¹⁶ Further to comments by **DELETED** the words "*has been found guilty of a criminal offence*" were replaced by "*has committed a criminal offence*", given also that it was generally found that mentally ill, as well as minor persons, should be included in the scope of the draft Framework Decision. **DELETED** has a substantial reserve on this modification, **DELETED** have a scrutiny reserve on this modification.

¹⁷ Addition inserted following comments by **DELETED**; cf ADD 1 to 8663/07 COPEN 50.

- (d) "alternative sanction" shall mean an obligation or instruction, imposed as an independent¹⁸ sanction, which is not a custodial sentence, a measure involving deprivation of liberty or a financial penalty; [for the purpose of this Framework Decision, a judgment imposing an alternative sanction shall also include a final decision of a public prosecutor¹⁹ of the issuing State authorized to impose such sanctions on a natural person on the basis of criminal proceedings;]²⁰
- (e) "probation decision" shall mean an (...) enforceable²¹ decision of a competent authority of the issuing State taken on the basis of a judgment
- (i) granting a conditional release, or
- (ii) imposing suspensory measures;²²
- (f) "conditional release" shall mean a decision by a competent authority on the early release of a sentenced person after part of the custodial sentence or other measure involving deprivation of liberty has been served by imposing one or more suspensory measures;

¹⁸ Various delegations expressed doubts on the use of the word "independent". The Presidency would reflect on alternative wording.

¹⁹ **DELETED** suggested referring to "competent authority"; the Presidency however expressed fears that this might lead to a too-wide interpretation.

²⁰ Drafting suggestion by the Presidency further to a request by **DELETED** to provide that "alternative sanctions" could also be decided by other judicial authorities, such as by prosecutors. **DELETED** could accept this idea. **DELETED** however, would prefer to keep the scope narrow and hence refer to decisions by courts only. **DELETED** is against inclusion of alternative sanctions in the scope altogether, but if they were included, this delegation is against recognition of decisions taken by judicial authorities other than courts. The Presidency invites delegations to reflect on the idea of inserting an "opt-in" clause in the text providing the possibility for Member States to recognise/supervise alternative sanctions decided by prosecutors.

²¹ Following comments by several delegations, "final" was changed into "enforceable".

²² **DELETED** have a scrutiny reserve on this definition.

- (g) "suspensory measures"²³ shall mean obligations and instructions imposed by a competent authority on a natural person, in accordance with the national legislation of the issuing State, in connection with a suspended sentence, a conditional sentence or a conditional release;
- (h) "issuing State" shall mean the Member State in which a judgment, as defined in point (a), has been issued;
- (i) "executing State" shall mean the Member State in which the suspensory measures and alternative sanctions are supervised following a decision in accordance with Article 7.

Article 3

Fundamental rights

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 4

Designation of competent authorities

1. Each Member State shall inform the General Secretariat of the Council which (...) ²⁴ authority or authorities, under its national legislation, are competent to act according to this Framework Decision in the situation where that Member State is the issuing State or the executing State.

²³ **DELETED** preferred using the term "probation measures". The Presidency suggested maintaining the current wording and observed that Member States, while implementing this Framework Decision, would have the possibility to use every term they deem fit.

²⁴ The word "judicial" has been deleted, since at this place the expression refers in general terms to the designation of competent authorities irrespective of whether these are (only) judicial or (also) other authorities. The question which type of authorities are competent to act under the various provisions of the draft Framework Decision - in particular when acting as an executing Member State - is of a horizontal nature and should be examined in a broader context; for the time being, the word "judicial" in "judicial authority", has been placed between [brackets]. The Presidency suggests addressing this issue after having received the replies to the questionnaire relating to competent authorities (10891/07 COPEN 96).

2. The General Secretariat of the Council shall make the information received available to all Member States and to the Commission.

Article 5

Types of suspensory measures and alternative sanctions

1. ²⁵ A judgment and where applicable a probation decision (...) may be forwarded to another Member State (...) for the purpose of recognition and supervision of one or more of the following suspensory measures or alternative sanctions:^{26 27}
- (a) an obligation for the sentenced person to inform the competent authority in the executing State of any change of residence or working place;²⁸
 - (b) an obligation not to enter certain places²⁹ (...) in the issuing or executing State (...)³⁰;
 - (c) orders relating to behaviour (...), residence, education and training, modalities of carrying out a professional activity³¹ or leisure activities;

²⁵ Several delegations requested to redraft this paragraph so that it would more clearly appear that its main purpose is to list the possible types of suspensory measures / alternative sanctions that should, in principle, always be supervised by a Member State when so requested by another Member State. Also, several delegations requested to return to the previous concept of recognition (only) of judgment and probation decision and not the certificate. In line with these suggestions, the Presidency proposes to limit this Article to the types of measures and sanctions and deal with the certificate and the possible Member State to which such certificate is sent in Article 6(1)(new).

²⁶ **DELETED**, supported by some other delegations, observed that the overall pre-condition should be that the sentenced person during his period of probation would not commit a new offence.

²⁷ It was suggested to require a minimum duration for the measures, especially for the measures referred to under point (i); a period of six months was mentioned.

²⁸ Reference is made to the comments by delegations contained in the answers by delegations to the Presidency questionnaire (8328/07 COPEN 44) and the summary (8662/07 COPEN 49).

²⁹ Presidency suggestion further to comments by **DELETED**.

³⁰ On suggestion by **DELETED**, the words "*without permission*" were deleted.

³¹ **DELETED** have a scrutiny reserve on "*professional activity*". The Presidency suggests inserting the words "*modalities of carrying out a*" in order to underline that this item is not concerned with a prohibition of carrying out a professional activity.

- (d) an obligation to report at specified times to a specific authority (...);
- (e) an obligation to avoid contact with specific persons or objects;
- (f) an obligation to inform the competent authority in the executing State on the compliance with an obligation to compensate for the prejudice caused by the offence;³²
- (g) an obligation to carry out community service;
- (h) an obligation to cooperate with a probation officer or with another representative of a social service³³;
- (i) an obligation to undergo therapeutic treatment or treatment for addiction³⁴.

2. Each Member State shall notify the General Secretariat of the Council, when transposing this Framework Decision, which suspensory 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.

3. [moved]³⁵

³² **DELETED** have a scrutiny reserve on this point. Deletion was suggested; **DELETED**, supported by **DELETED**, would however very much regret such deletion. **DELETED**, supported by **DELETED**, suggested rewording as follows: "*an obligation to compensate for the prejudice caused by the offence and to inform the competent authority in the executing State on the compliance with this obligation*". **DELETED** suggested stopping after "offence". The Presidency indicated that it would further reflect on this issue.

³³ **DELETED** has a scrutiny reserve on this point. The words "*or with another representative of a social service*" have been added following a suggestion by **DELETED**.

³⁴ Several delegations observed that the supervision of such an obligation may be restricted because of capacity constraints. Some delegations also noted that such an obligation may only be imposed with the consent of the person concerned. The Presidency referred to the grounds for refusal.

³⁵ Previous paragraph 3 has been moved to Article 6 as new paragraph 2a

Article 6³⁶

*Procedure for forwarding the judgment and certificate
and, where applicable, the probation decision*

1. With a view to the supervision of suspensory measures or alternative sanctions the judgment and, where appropriate, the probation decision may be forwarded to the Member State, in which the sentenced person is lawfully and ordinarily residing (the executing State). It shall be accompanied by a certificate, the standard form of which is set out in Annex I.
- 1a. The judgment together with the certificate and, where appropriate, the probation decision³⁷ shall be forwarded by the competent [judicial] authority in the issuing State directly to the competent [judicial] authority in 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 the probation decision, or certified copies thereof, as well as the original of the certificate, shall be sent to the executing State if it so requires. All official communications shall also be made directly between the said competent [judicial] authorities.
2. The certificate shall be signed, and its content certified as accurate, by the competent [judicial] authority in the issuing State.

³⁶ **DELETED** suggested adding the following paragraph to Article 6 (or to another, possibly new Article in the draft Framework Decision): *"If the competent authority in the issuing State intends to pass a judgement as defined in Article 2(a) and (e), it may first consult the competent authority in the executing State."* **DELETED** supported the principle of such provision: **DELETED** felt that such provision has no added value, since it would always be possible to consult on a voluntary basis. **DELETED** wondered how such a provision in the Framework Decision should be implemented in its legal order. The Presidency stated that it would closely examine this issue.

³⁷ **DELETED** has a scrutiny reserve on the reference, here and elsewhere, to "probation decision".

- 2a. Apart from the measures and sanctions referred to in Article 5(1), the certificate referred to in paragraph 1 shall include only such measures or sanctions as notified by the executing State concerned in accordance with Article 5(2).³⁸
3. The competent [judicial] authority in the issuing State shall forward a certificate together with the judgment and, where appropriate, the probation decision only to one executing State at any one time.
4. If the competent [judicial] authority in the executing State is not known to the competent [judicial] authority in the issuing State, the latter shall make all necessary inquiries, including via the contact points of the European Judicial Network set up by Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network³⁹, in order to obtain the information from the executing State.⁴⁰
5. When a [judicial] authority in the executing State which receives a judgement together with a certificate and, where applicable, a probation decision has no competence to recognise it and take the ensuing necessary measures for the supervision of the suspensory measures or alternative sanctions, it shall, ex officio, forward it to the competent [judicial] authority and shall without delay inform the competent [judicial] authority in the issuing State accordingly by any means which leaves a written record.⁴¹

³⁸ The question was put how a court in an executing State should react if a judgment/certificate would not only contain one or more measures listed in Article 5(1), but also some other measures not listed in that Article and neither accepted under Article 5(2).

³⁹ OJ L 191, 7.7.1998, p. 4.

⁴⁰ **DELETED** suggested to redraft this paragraph in order to foresee a possible role of the central authorities, but **DELETED** pointed out that a similar paragraph as the one at hand is contained in Article 4(4) of the draft FD on the European Evidence Warrant.

⁴¹ Text reworded following a suggestion by **DELETED**, supported by **DELETED**, to put the text in line with other instruments with similar wording (e.g. Article 4(6) of the Framework Decision on financial penalties).

Article 7

*Decision of the executing State*⁴²

1. The competent [judicial] authority in the executing State shall recognise the (...) the judgment and, where applicable, the probation decision forwarded in accordance with the procedure laid down in Article 6 and immediately⁴³ take all necessary measures for the supervision of the suspensory measures and alternative sanctions⁴⁴, unless it decides to invoke one of the grounds for refusing recognition and supervision referred to in Article 9.
2. If the nature or duration of the suspensory measures or alternative sanctions are incompatible with the law of the executing State, the competent [judicial] authority in that State may adapt them in line with the suspensory measures and alternative sanctions which exist, under the law of the executing State, for similar⁴⁵ offences.⁴⁶ The adapted suspensory measure or alternative sanction shall correspond as far as possible to that imposed in the issuing State.^{47 48}

⁴² **DELETED**, supported by various other delegations, observed that this Article should lead to a situation where the executing State has as much flexibility as possible to act.

⁴³ **DELETED** wondered how "immediately" would relate to the time path set forth under Article 10.

⁴⁴ **DELETED** observed that alternative sanctions should not only be "recognized", but "enforced" or "executed", since these are independent measures. The Presidency, while observing that this appears to be largely a semantic issue since in practice the supervision tasks for Member States in respect of alternative sanctions would be the same as in respect of suspensory measures, suggested to examine this issue at a later stage in a horizontal way throughout the entire draft Framework Decision.

⁴⁵ **DELETED** opposed the term "similar", which had been inserted to bring the text in line with corresponding texts in other instruments on mutual recognition.

⁴⁶ **DELETED** expressed concerns that the faculty of adaptation could give rise to practical problems.

⁴⁷ **DELETED** suggested providing that the adaptation possibility should also apply to the duration of the period of probation (i.e. the period of conditional suspension of the sentence or the period of conditional release/parole). **DELETED** suggested inserting a provision along the line of Article 8(2) of the Framework Decision on Transfer of Prisoners. The Presidency stated that it would reflect on these suggestions

⁴⁸ **DELETED** felt that it should also be provided that an executing State may modify suspensory measures into alternative sanctions (such as in relation to "community service"). The Presidency supported by **DELETED** pointed out that the Framework Decision has been drafted on the assumption that Member States should be willing to supervise all measures which are known in their legal system either as suspensory measures or as alternative sanctions so that a modification of a suspensory measure into an alternative sanction would not be necessary.

3. The adapted suspensory measure or alternative sanction shall not be more severe than the suspensory measure or alternative sanction which was originally imposed.
4. In case of any adaptation of suspensory measures or alternative sanctions in accordance with paragraph 2, the competent [judicial] authority in the executing State shall without delay ⁴⁹ notify the competent [judicial] authority in the issuing State of this decision. Following such notification, the competent [judicial] authority in the issuing State may decide to withdraw the certificate and judgment and, where applicable, the probation decision. ⁵⁰

Article 8

Dual 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 judgment⁵¹ and supervision of suspensory measures and alternative sanctions:
 - participation in a criminal organisation,
 - terrorism,
 - trafficking in human beings,
 - sexual exploitation of children and child pornography,

⁴⁹ **DELETED** suggested adding wording along the following line: "and before execution".

⁵⁰ **DELETED** have a scrutiny reserve on this paragraph. **DELETED** suggested deleting it.

DELETED suggested clarifying the delays which are applicable in respect to this paragraph.

⁵¹ Presidency suggests to continue to refer here as well as in the following paragraphs only to "judgment" as it is the judgment which may or may not relate to the offences listed.

- 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 interests⁵²,
- 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,

⁵² OJ C 316, 27.11.1995, p. 49.

- 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 in paragraph 1 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 21(3) 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 supervision of suspensory measures and 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 the constituent elements or however it is described.

- 4.⁵³ When making a declaration in accordance with Article 12(3), Member States may avail themselves of the possibility to refuse to assume the responsibility provided for in Article 12(1) in cases where the judgment relates to acts which do not constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.

Article 9

*Grounds for refusing recognition and supervision*⁵⁴

1. The competent [judicial] authority in the executing State may refuse to recognise the (...) judgment or, where applicable, the probation decision and to assume responsibility for supervising suspensory measures and alternative sanctions if:
- (a) the certificate referred to in Article 6 is incomplete or obviously does not correspond to the judgment or to the probation decision and is not completed or corrected within a reasonable period set by the competent [judicial] authority in the executing State⁵⁵;
 - (b) the criteria laid down in Article 6(1) or (2a) (...) are not met;
 - (c) recognition of the judgment and assumption of responsibility for supervising suspensory measures and alternative sanctions would contravene the *ne bis in idem* principle;

⁵³ This text is a compromise suggestion by the Presidency in view of the discussions on this point. At the JHA Council on 12/13 June 2007, a large number of delegations stated that they could accept this suggestion. However, **DELETED**/COM entered a substantial reserve; **DELETED** have a scrutiny reserve and **DELETED** expressed the view that it is premature to take a decision on this issue at this stage.

⁵⁴ **DELETED** observed that it would be beneficial to practitioners if the grounds for refusal in the various instruments of mutual recognition would be harmonised. **DELETED** suggested examining the grounds of refusal used in this draft Framework Decision more closely in the light of the grounds of refusal used in other instruments of mutual recognition, in particular those of the Framework Decision on confiscation orders. The Presidency observed that the present text has been largely drafted on the basis of the FD on the transfer of prisoners.

⁵⁵ This point was redrafted further to a suggestion by **DELETED**.

- (d) the judgment relates, in the cases referred to in Article 8(3), to an act which would not constitute an offence under the law of the executing State; in tax, customs and currency matters, however, execution of the judgment may not be refused on the grounds that the law of the executing State does not prescribe any taxes of the same kind or does not contain any tax, customs or currency provisions of the same kind as the law of the issuing State;
- (e) the enforcement of the sentence is statute-barred under the law of the executing State and relates to an act which falls within the competence of the executing State under its national law;
- (f) there is immunity under the law of the executing State, which makes it impossible to supervise suspensory measures or alternative sanctions;
- (g) if, under the law of the executing State, the sentenced person cannot,⁵⁶ because of his age, be held criminally responsible for the act on which the judgment is based⁵⁷;
- (h) the judgment was rendered in absentia, unless the certificate states that the person was summoned personally or informed via a representative competent according to the national law of the issuing State, of the time and place of the proceedings which resulted in the judgment being rendered in absentia, or that the person has indicated to a competent authority that he or she does not contest the case; or
- (i) the judgment or, where applicable, the probation decision provides for medical/therapeutic treatment which, notwithstanding the provisions of Article 7(2), the executing State is unable to supervise in view of its legal or healthcare system⁵⁸.

⁵⁶ **DELETED** would prefer adding: "in particular". **DELETED** felt prima facie that this could lead to unwanted consequences and stated that it would examine this suggestion in detail.

⁵⁷ **DELETED** suggested referring as well to "mentally ill". **DELETED** pointed out that such cases would fall under paragraph i).

⁵⁸ **DELETED** suggested to specify this point further in a recital. In reply to a question by **DELETED**, the Presidency observed that this ground of refusal would also apply if there would be a lack of place to provide the medical/therapeutic treatment asked for and there would be no discrimination between domestic and non-domestic cases.

[⁵⁹]

2. In cases referred to in paragraph 1 (a), (b), (c), (h) and (i)⁶⁰, before deciding not to (...) recognise (...) the judgment or, where applicable, probation decision and to assume responsibility for supervising suspensory measures and alternative sanctions, the competent [judicial] authority in the executing State shall communicate, by appropriate means, with the competent [judicial] authority in the issuing State and, as necessary, request the latter (...) to supply without delay all additional information required.

Article 10

Time-limits

1. The competent [judicial] authority in the executing State shall decide, within 60 days after receipt of the judgment and the certificate and, where applicable, the probation decision, whether or not ⁶¹ to recognise the judgment and, where applicable, the probation decision and assume responsibility for supervising the suspensory measures and alternative sanctions. (...). It shall immediately inform the competent [judicial] authority in the issuing State, by any means which leaves a written record, of its decision. Reasons must be given for refusing to recognise the judgment and, where applicable, the probation decision, and for refusing to assume responsibility for supervision.⁶²

⁵⁹ **DELETED** would like to enter a ground for refusal relating to territoriality.

⁶⁰ **DELETED** has a scrutiny reserve on the addition of (i).

⁶¹ The question was posed whether partial recognition should be possible, as in the draft FD on Transfer of Prisoners. **DELETED** urged to abstain from trying to regulate this complicated matter.

⁶² Following comments by various delegations, this paragraph was redrafted in its original form, but with a reference to "probation decision" and setting the delay at 60 days, which seems acceptable to all.

2. If it is not possible, in a specific case, for the competent [judicial] authority in the executing State to comply with the time-limits laid down in paragraph 1, it shall immediately inform the competent [judicial authority] in the issuing State, by any means of its choosing, giving reasons for the delay and indicating how long it expects to take to issue a final decision.

Article 11

Law governing supervision

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

*Article 12*⁶³

*Competence to take all subsequent decisions
and governing law*

1. The competent [judicial] authority in the executing State shall have jurisdiction to take all subsequent decisions relating to the suspended sentence, conditional release or alternative sanction, such as the modification of suspensory measures and the revocation of the suspension of the execution of the judgment or decision on early release(...)⁶⁴. The law of the executing State shall apply to the aforementioned decisions and to all subsequent consequences of the judgment including, where applicable, the enforcement of the custodial sentence or measure involving deprivation of liberty.⁶⁵

⁶³ **DELETED** have a scrutiny reserve on this Article. **DELETED**, supported by **DELETED**, felt that if competence were to be transferred, it should be completely transferred. There should be no forth-and-back operations; it should be "all or nothing".

⁶⁴ Further to comments by several delegations, the reference to "remission" was deleted.

⁶⁵ As suggested by several delegations, the Presidency proposes to specifically include here the enforcement of the custodial sentence. **DELETED** observed that it would have difficulty if the executing State would put a person in custody where such a measure would not be possible in the issuing State. **DELETED** observed that this would be a logical consequence of the mechanism established under the Framework Decision and observed by the way that the person concerned would have chosen freely to go to his/her State of habitual residence.

2. The competent [judicial] authority in the issuing State shall have jurisdiction to take all subsequent decisions relating to conditional sentences as well as to alternative sanctions in case the judgment does not impose a custodial sentence as a substitute for an alternative sanction to be applied if the sentenced person does not comply with the alternative sanction set out in the judgment. The law of the issuing State shall apply to the aforementioned decisions and to all subsequent consequences of the judgment.⁶⁶
3. Each Member State may, at the time of adoption of the Framework Decision or at a later stage⁶⁷, by a declaration notified to the Secretariat General of the Council declare that as an executing State it may, in categories of cases⁶⁸ to be specified by that Member State⁶⁹, refuse to assume the responsibility provided for in paragraph 1. In these cases, the decision shall be taken and notification effected in accordance with the procedure laid down in Article 10. This shall not affect the obligation laid down in Article 7(1). Any such declaration by a Member State may be withdrawn at any time. Such declarations or withdrawals shall be published in the Official Journal of the European Union.⁷⁰

Article 13

Consultations between the competent [judicial] authorities

[deleted]

⁶⁶ Further to comments by delegations, paragraphs 1a and 2 were merged into a new paragraph 2. All delegations have a scrutiny reserve.

⁶⁷ **DELETED** felt that the current wording left too much flexibility to Member States and suggested putting the following wording: "at the time indicated in Article 21(1)".

⁶⁸ Several delegations felt that this term was too vague and left too much discretion to Member States. It was suggested to provide examples - such as the one related to Article 8(4) - or even list the possible cases exhaustively. If such declaration shall only apply to the case of Article 8(4) it appears possible to move the language of this paragraph to Article 8(4).

⁶⁹ Modification by the Presidency further to comments by delegations. **DELETED**, supported by **DELETED**, insisted that dual criminality should be inserted as basis for refusal.

DELETED felt that double criminality would be sufficiently dealt with in Article 8. In view of these concerns the Presidency suggests to insert a new paragraph 4 into Article 8.

⁷⁰ **DELETED** felt that this provision was very wide and suggested making it more specific.

Article 14
Obligations of the authorities involved where
the executing State has jurisdiction for all further decisions

1. The competent [judicial] authority in the executing State shall immediately inform the competent [judicial] authority in the issuing State, by any means which leaves a written record, of all decisions with immediate or suspensive effect relating to:
 - (a) modification of the suspensory measures or alternative sanction;
 - (b) revocation of the suspension of the sentence;
 - (c) (deleted)⁷¹;
 - (d) lapsing of the suspensory measures or alternative sanction.⁷²

2. The competent [judicial] authority in the issuing State shall immediately inform the competent [judicial] authority in the executing State, by any means which leaves a written record, of any circumstances or findings which, in its opinion, could entail revocation of the suspension of the sentence or modification of the suspensory measures or alternative sanction.

⁷¹ In line with the modifications made under 12(1), the Presidency deleted this indent ("imposition of a sentence in the case of a conditional sentence"). **DELETED** invited to return to it later, in the light of the draft FD on Transfer of Prisoners.

⁷² **DELETED** suggested harmonising this list with Article 12. It was generally agreed that this Article should be clarified. The Presidency will reflect on this and suggest revised wording once agreement has been reached on the wording of Article 12.

Article 15

*Obligations of the authorities involved where
the issuing State has jurisdiction for all further decisions*

1. If the competent [judicial] authority in the issuing State has jurisdiction for all further decisions in accordance with Article 12, the competent [judicial] authority in the executing State shall immediately notify it of:
 - (a) (...) ⁷³ a breach of a suspensory measure or alternative sanction; and ⁷⁴
 - (b) any finding which
 - (i) is liable to entail modification of the suspensory measures or alternative sanction,
 - (ii) is relevant to the imposition of a sentence in the case of a conditional sentence, or
 - (iii) could result in revocation of the suspension of the sentence.
2. Notice shall be given using the standard form set out in Annex II.

⁷³ Further to a comment by **DELETED**, the word "any" was deleted in order to allow some flexibility and proportionality ("*five minutes too late should not give rise to writing a report*").

⁷⁴ **DELETED**, supported several other delegations, felt that paragraph (a) was not necessary in the light of (b). **DELETED** opposed however the deletion of (a). The Presidency pointed out that the wording of these two paragraphs does suggest a greater degree of discretion in respect of the relevance of the type of information listed in paragraph (b). However, the Presidency will reflect on the possibility to delete paragraph (a).

3. [Before a decision is taken on the imposition of a sentence in the case of a conditional sentence or on the revocation of the suspension of a sentence, the sentenced person must be given a judicial hearing]⁷⁵. If appropriate, this requirement may be met according to the procedure provided for in Article 10 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union⁷⁶.
4. The competent [judicial] authority in the issuing State shall immediately inform the competent [judicial] authority in the executing State of all decisions with immediate or suspensive effect relating to:
- (a) modification of the suspensory measures or alternative sanction;
 - (b) revocation of the suspension of sentence;
 - (c) imposition of a sentence in the case of a conditional sentence;
 - (d) lapsing of the suspensory measures or alternative sanction.

⁷⁵ There was general understanding that the first sentence could be deleted as the right to be heard should depend on the applicable legislation of the Member States. The second sentence should then be redrafted. **DELETED** would reflect on a drafting suggestion. **DELETED**, supported by **DELETED**, pointed out that also the second sentence could pose problems in case Member States have made reservations in accordance with Article 10(9) of the Convention (question of applicability in case of hearing of an accused person). Presidency will reflect on this issue.

⁷⁶ OJ L 197, 12.7.2000, p. 3.

- 4a. Any modification of a suspensory measure or alternative sanction by the competent [judicial] authority in the issuing State shall be made with due regard to Article 5. In case of such modification the competent authority in the executing State may avail itself of the possibility to take a new decision in accordance with Article 7(2) or 9(1)(i).⁷⁷
5. In the event of the imposition of a sentence or the revocation of the suspension of a sentence, the competent [judicial] authority of the issuing State shall at the same time inform⁷⁸ the competent [judicial] authority of the executing State whether it intends to forward to the executing State:
- (a) a judgment and certificate as provided for in Council Framework Decision 2007/...*/JHA for the purpose of taking over responsibility for enforcement of the measure involving deprivation of liberty; or
 - (b) a European arrest warrant for the purpose of surrender of the sentenced person in accordance with Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States^{79, 80}.

⁷⁷ Suggestion by the Presidency for a revised wording in view of comments made by delegations on a previous suggestion. Several delegations had expressed doubts on that suggestion and the reference to the Articles cited, in particular to Articles 7(2) and 9(1)(i) which only the executing state has to comply with. **DELETED** suggested to install a consultation procedure and/or to allow the issuing State to send a new certificate. This latter idea met however with criticism by other delegations, who feared that this could complicate matters rather much.

⁷⁸ **DELETED** supported the current text. **DELETED** agreed with **DELETED** but suggested transforming the "obligation" into an "option"; along this line, it was suggested to replace the words "*shall ... inform*" with "*may ... inform*". **DELETED** however stated that there should be no reference to specific legal instruments in this paragraph; **DELETED** voiced doubts on the need for such a provision; **DELETED** suggested that it should be sufficient to inform that there is no need for further supervision of measures; other delegations pointed out that there may be a reason to specifically refer to the possibility of requesting a provisional arrest. The Presidency indicated that it would reflect on this issue.

* Number of Framework Decision should be added.

⁷⁹ OJ L 190, 18.7.2002, p. 1.

⁸⁰ **DELETED** raised the question what should be done if the (minor) offence concerned does not fall with the scope of the Framework Decision on the European Arrest Warrant. The Presidency observed that in respect of such situations the status quo would be maintained.

6. If the obligation to supervise⁸¹ suspensory measures or alternative sanctions has lapsed, the competent authority of the executing State shall end the measures ordered as soon as it has been duly notified by the competent authority of the issuing State.

Article 16

*Amnesty, pardon, review of judgment*⁸²

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

⁸¹ **DELETED** objected the use of the word "execute". The Presidency observed that this is a horizontal issue (question of whether or not there is a need to refer to "execute" in case of alternative sanctions) but suggests to use "supervise" in line with the terminology used in other articles.

⁸² Further to a request by **DELETED** the wording was modified so as to include "review", as in Article 15 of the draft FD on Transfer of Prisoners.

Article 17

End of jurisdiction of the executing State

If the sentenced person (...) ⁸³ absconds or no longer possesses a lawful and ordinary residence in the executing (...) State ⁸⁴, the competent [judicial] authority of the executing State may transfer jurisdiction in respect of the supervision of the suspensory measures and alternative sanctions and in respect of all further decisions relating to the execution of the judgment to the competent [judicial] authority of the issuing State. Such transfer of jurisdiction shall be made in case the issuing State requests the competent [judicial] authority of the executing State to do so because of new criminal proceedings against the person are taking place in the issuing State.

⁸³ **DELETED** observed that the wording of this paragraph, in particular the – now deleted – word "leaves", seems to imply that sentenced persons may freely go to other States, whereas in case of "absconding" the sentenced person should normally be put in custody because of having breached a suspensory measure or alternative sanction. This delegation also suggested that, if the sentenced person has "absconded", the executing State could continue to have jurisdiction to execute the judgment. **DELETED** suggested to provide that the Article only applies in cases of leaving "with agreement of the executing State". The Presidency observed that this article concerns only transfer of jurisdiction and aims at addressing the situation when the executing State has not any more competence (control) over the sentenced person. The Presidency recognized however that the executing State should have the possibility to transfer jurisdiction back to the issuing State, and that there should be no obligation. In view of this discussion, the Presidency has modified "shall" into "may". Also, in view of discussions the Presidency suggests to not use the term "leaves". Instead, the possibility to transfer jurisdiction back to the issuing State should be foreseen if the person either absconds or no longer has a lawful and ordinary residence in the executing State (so that one of the conditions of Article 5 (1) are no longer met).

⁸⁴ **DELETED** suggested that the text should clarify that a transfer of jurisdiction back to the issuing State shall also take place in case the person of a new trial against the person in the issuing State. In view of this suggestion, the Presidency proposes to include the new, underlined second sentence.

Article 18
Languages

Certificates⁸⁵ shall be translated into the official language or one of the official languages of the executing State. Any Member State may, either when this Framework Decision is adopted or at a later date, 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 19
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 20
Relationship with other agreements and arrangements

1. This Framework Decision shall, in relations between the Member States, from ...* replace the corresponding provisions of the Council of Europe Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders.

⁸⁵ **DELETED** also would like the judgment to be translated, since it would contain information that is vital for authorities in the executing State. **DELETED** suggested adopting the solution set out in Article 18a of the draft FD on Transfer of Prisoners, where a possibility is foreseen to ask for a translation of "essential parts" of the judgment. **DELETED** observed however that that solution is a step backwards and contrary to the principle of mutual recognition. They recognized however that the information on the certificate should be extensive and complete. In the light of these observations, **DELETED** announced that it would look at this provision again once agreement would have been reached on the rest of the text.

* Date to be provided.

2. Member States may continue to apply bilateral or multilateral agreements or arrangements in force when this Framework Decision was adopted, insofar 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 suspensory measures and alternative sanctions.
3. Member States may conclude bilateral or multilateral agreements or arrangements after this Framework Decision has come into force in so far as such agreements or arrangements allow the prescriptions of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for the supervision of suspensory measures and alternative sanctions.
4. Member States shall, within three months from the entry into force of this Framework Decision, notify the Council and the Commission of the existing agreements and arrangements referred to in paragraph 1 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 2, within three months of signing it.

Article 21
Implementation

1. Member States shall take the necessary measures to comply with this Framework Decision by ...^{*}.
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. On the basis of a report established by the Commission taking account of the information thus provided, the Council shall, no later than ...^{**} assess the extent to which Member States have complied with this Framework Decision.
3. An evaluation of the provisions of this Framework Decision, in particular of their application in practice, shall be carried out before...^{***}.

Article 22
Entry into force

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

Done at Brussels,

For the Council

The President

^{*} Date to be provided.
^{**} Date to be provided.
^{***} Date to be provided.

ANNEX I⁸⁶

CERTIFICATE

pursuant to Article 6 of the Council Framework Decision 2007/.../JHA
of ... on the recognition and supervision of suspended sentences, alternative sanctions and
conditional sentences

(a) Issuing State:

Executing State:

(b) Court that issued the judgment imposing a suspended sentence, alternative sanction or
conditional sentence:

Official name:

Address:

File reference:

Tel. No.: (country code) (area/city code)

Fax No.: (country code) (area/city code)

E-mail (if any):

Languages that may be used for communicating with the Court:

Details of the person(s) to be contacted if additional information is to be obtained concerning
the judgment or for agreeing on arrangements for surrender (name, title/grade, tel. no.,
fax no. and e-mail, if any):

⁸⁶ The text of the certificate and form should be revised once agreement has been reached on the
operative part of the Framework Decision.

(c) Authority that imposed the suspensory measures:

The authority referred to in point (b).

The following authority:

Official name:

Address:

Tel. No.: (country code) (area/city code)

Fax No.: (country code) (area/city code)

E-mail (if any):

Languages that may be used for communicating with the authority in question:

Details of the person(s) to be contacted if additional information is to be obtained concerning the decision (name, title/grade, tel. no., fax no. and e-mail, if any):

(d) Authority that has competence in the issuing State for supervising the suspensory measures:

- The authority referred to in point (b).
- The authority referred to in point (c).
- The following authority:

Official name:

Address:

Tel. No.: (country code) (area/city code)

Fax No.: (country code) (area/city code)

E-mail (if any):

Languages that may be used for communicating with the authority in question:

Details of the person(s) to be contacted if additional information is to be obtained for the purposes of supervising the suspensory measures or alternative sanctions (name, title/grade, tel. no., fax no. and e-mail, if any):

(e) Authority or authorities that may be contacted (if points (c) and/or (d) have been completed):

Authority in point (b)

For the following matters:

Authority in point (c)

For the following matters:

Authority in point (d)

For the following matters:

(f) Information regarding the natural person for whom the judgment has been issued:

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identification number or social security number (if any):

Date of birth:

Place of birth:

Last known address:

Language(s) understood (if known):

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:

(g) Information regarding the Member State to which the judgment and the certificate are being forwarded:

The judgment and the certificate are being forwarded to the executing State indicated in box (a) for the following reason:

- The sentenced person has his/her lawful and ordinary residence in that State.

(h) Judgment

Indications regarding the judgment:

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

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

File reference of the judgment (if available):

1. The judgment covers in total: offences.

Summary presentation of the facts and description of the circumstances in which the offence(s) was (were) committed, including the time and place of the offence, and the degree of participation by 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 correspond(s) to one or more of the following offences, defined in accordance with the law of the issuing State and punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least 3 years, please tick accordingly:

- 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 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
- illicit trafficking in hormonal substances and other growth promoters,
- forgery of means of payment
- 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. If the offence(s) referred to in point 1 is (are) not listed in point 2, please give a full description of the offence(s) in question:

(i) Information regarding the judgment:

1. Please indicate whether the sentenced person appeared in person in the proceedings:

- Yes, the person appeared.
- No, the person did not appear. It is confirmed that the person concerned was informed personally, or via a competent representative according to the national law of the issuing State, of the time and place of the proceedings which resulted in the judgment being rendered in absentia, or that the person concerned indicated to a competent authority that he or she did not contest the case.

2. Indications regarding sentencing

- Conditional sentence

3. Indications regarding the nature of the sentence (only to be completed if no indications were given in 2.):

- Alternative sanction
- Suspended sentence
- Custodial sentence
- Measure involving deprivation of liberty
- Suspension at the time of sentencing
- Suspension after serving part of the custodial sentence (conditional release/parole)

4. Indications regarding the length of the sentence (only to be completed if any indications were given in point 3.)

4.1. Total length of the sentence:

4.2. The sentenced person was in pre-trial detention during the following period:

4.3. The person was serving a custodial sentence/measure involving deprivation of liberty during the following period (only in the case of conditional release/parole):

4.4. Length of the sentence still to be served upon revocation of suspension:

(j) Indications regarding the decision on suspension of sentence/sentencing:

1. The decision was issued on (date: DD-MM-YYYY):

2. Duration of the supervision of suspensory measures:

3. Nature of the suspensory measures or alternative sanctions (multiple descriptions possible):

- an obligation for the sentenced person to inform the competent authority in the executing State of any change of residence
- an obligation not to leave or enter certain localities in the issuing or executing State without permission
- an obligation relating to life style, residence, education and training, professional activity or leisure activities
- an obligation to report at specified times to the competent authority in the executing State or to another agency in the executing State

- an obligation to avoid contact with certain persons and objects
- an obligation to compensate for the prejudice caused by the offence
- an obligation to carry out community service
- an obligation to cooperate with a probation officer
- 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 5(2) of the Framework Decision

(k) Indications regarding competence for all further measures

- Competence for all further measures in connection with the conditional sentence lies with the issuing State.
- In the event of an adaptation to the suspensory measure or alternative sanction by the competent judicial authority of the executing State, the issuing State waives the consultations provided for in Article 13(1) of the Framework Decision.

(l) Other circumstances relevant to the case (optional information):

- The text of the judgment 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:

Function (title/grade):

Date:

(Where appropriate) Official stamp:

ANNEX II

FORM

pursuant to Article 15 of Council Framework Decision 2007/.../JHA of ... on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences

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

The competent authority hereby reports that the person referred to in (a) is in breach of the suspensory measures or alternative sanctions listed in (d).

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

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identification number or social security number (if any):

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(b) Details of the decision concerning the suspended sentence or alternative sanction:

Judgment issued on:

Court which issued the judgment:

Official name:

Address:

Certificate issued on:

File reference in the issuing State (if any):

(c) Details of the authority responsible for supervising the suspensory measures or alternative sanctions:

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:

(d) Suspensory measures or alternative sanctions:

The person referred to in (a) is in breach of the following obligations or instructions:

- obligation for the sentenced person to inform the competent authority in the executing State of any change of residence;
- obligation not to leave or enter certain localities in the issuing or executing State without permission;
- orders relating to lifestyle, residence, education and training, professional activity or leisure activities;
- obligation to report at specified times to the competent authority in the executing State or to another agency in the executing State;
- obligation to avoid contact with certain persons and objects;
- obligation to compensate for the prejudice caused by the offence;
- obligation to carry out community service;
- obligation to cooperate with a probation officer;
- obligation to undergo therapeutic treatment or treatment for addiction;
- other measures:

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

There are other findings which:

- are liable to entail adaptation of suspensory measures or alternative sanctions;
- are relevant to imposition of a sentence in the case of a conditional sentence;
- could result in revocation of conditional suspension.

Description of the findings (place, date and specific circumstances):

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):
