

III

(Preparatory acts)

MEMBER STATES' INITIATIVES

Initiative of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision (2007/.../JHA) of ... on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences

(2007/C 147/01)

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 Parliament ⁽¹⁾,

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 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 ⁽²⁾. 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 ... 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 ⁽³⁾ extended the principle of mutual recognition to the enforcement of custodial sentences.

- (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.

⁽¹⁾ Opinion of ... (not yet published in the Official Journal).

⁽²⁾ OJ C 53, 3.3.2005, p. 1.

⁽³⁾ OJ L ...

- (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.
- (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.
- (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.
- (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.
- (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 and 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

Objective and scope

1. The objective of this Framework Decision is, with a view to facilitating the social re-integration of sentenced persons and improving the protection of victims, to lay down the rules according to which one Member State supervises suspensory measures imposed on the basis of a judgment which was issued in another Member State, or alternative sanctions contained in such a judgment and takes all other decisions relating to the execution of that judgment, insofar as this falls within its competence.

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. 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 are governed by the legal instruments applicable between Member States, in particular 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⁾.

Article 2

Definitions

For the purposes of this Framework Decision:

- (a) 'judgment' shall mean a final decision or order of a court of the issuing State imposing on a natural person:
- (i) a suspended sentence;

⁽¹⁾ OJ L 76, 22.3.2005, p. 16.

⁽²⁾ OJ L 328, 24.11.2006, p. 59.

- (ii) an alternative sanction; or
 - (iii) a conditional sentence;
- (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:
- (i) when the sentence is passed; or
 - (ii) after part of the custodial sentence or measure involving deprivation of liberty has been served (conditional release/parole);
- (c) 'alternative sanction' shall mean an obligation or instruction, imposed as an independent sanction, which is not a custodial sentence, a measure involving deprivation of liberty or a financial penalty;
- (d) 'conditional sentence' shall mean a decision by a court in which the imposition of a sentence has been conditionally suspended by imposing one or more suspensory measures;
- (e) 'suspensory measures' shall mean obligations and instructions imposed on a natural person, in accordance with the national legislation of the issuing State, in connection with a suspended sentence or a conditional sentence;
- (f) 'issuing State' shall mean the Member State in which a judgment, as defined in point (a), has been issued;
- (g) 'executing State' shall mean the Member State in which the suspensory measures and alternative sanctions are supervised and in which all other decisions relating to the execution of the judgment are taken, insofar as it has assumed competence to do so.

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 judicial 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.

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. A judgment that contains one or more of the following suspensory measures or alternative sanctions may be transferred to another Member State, in which the sentenced person is lawfully and ordinarily resident, for the purpose of recognition and supervision of those measures and sanctions:

- (a) an obligation for the sentenced person to inform the competent authority in the executing State of any change of residence;
- (b) an obligation not to leave or enter certain localities in the issuing or executing State without permission, and other orders relating to life-style, residence, education and training, professional activity or leisure activities;
- (c) an obligation to report at specified times to the competent authority in the executing State or to another authority in the executing State;
- (d) an obligation to avoid contact with persons and objects which could form an incitement to commit further offences;
- (e) an obligation to compensate for the prejudice caused by the offence;
- (f) an obligation to carry out community service;
- (g) an obligation to cooperate with a probation officer;
- (h) an obligation to undergo therapeutic treatment or treatment for addiction.

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. Apart from the measures and sanctions referred to in paragraph 1, the certificate referred to in Article 6 shall include only such measures or sanctions as notified by the executing State concerned in accordance with paragraph 2.

Article 6

Procedure for forwarding the judgment and a certificate

1. The judgment or a certified copy of it, together with a certificate, the standard form for which is set out in Annex I, 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, or a certified copy of it, and 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.

3. The competent judicial authority in the issuing State shall forward the judgment together with the certificate 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 Network⁽¹⁾, in order to obtain the information from the executing State.

5. When a judicial authority in the executing State which receives a judgment together with a certificate has no competence to recognise it, it shall, ex officio, forward the judgment together with the certificate to the competent judicial authority. That 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, that the judgment and the certificate have been forwarded to it.

Article 7

Decision of the executing State

1. The competent judicial authority in the executing State shall recognise the judgment forwarded in accordance with the procedure laid down in Article 6 and immediately take all necessary measures for the supervision of the suspensory measures and alternative sanctions, unless it decides to invoke one of the grounds for refusing to recognise and take over supervision of the judgment referred to in Article 9.

⁽¹⁾ OJ L 191, 7.7.1998, p. 4.

2. If the nature or duration of the suspensory measures or alternative sanctions are incompatible with the statutory provisions of the executing State, the competent judicial authority in that State may adapt them in line with the suspensory measures and alternative sanctions which are provided for, under the law of the executing State, for offences of the same kind. The adapted suspensory measure or alternative sanction shall correspond as far as possible to that imposed in the issuing State.

3. The adapted suspensory measure or alternative sanction shall not be more severe than the suspensory measure or alternative sanction which was originally imposed.

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 judgment 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,
- 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⁽²⁾,
- laundering of the proceeds of crime,
- counterfeit 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,

⁽²⁾ OJ C 316, 27.11.1995, p. 49.

- 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 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.

Article 9

Grounds for refusing recognition and supervision

1. The competent judicial authority in the executing State may refuse to recognise the judgment 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 and is not completed or corrected within a reasonable period set by the competent judicial authority in the executing State;
 - (b) the criteria laid down in Article 5 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;
 - (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) prosecution, or the execution of a sentence, is already 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, because of his age, be held criminally responsible for the act on which the judgment is based;
 - (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;
 - (i) the judgment 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 system; or
 - (j) in the case referred to in Article 13(1), no agreement can be reached on adaptation of suspensory measures or alternative sanctions.

2. Before the competent judicial authority in the executing State decides, in the cases referred to in paragraph 1, to refuse to recognise the judgment and to assume responsibility for supervising suspensory measures and alternative sanctions, it shall communicate, by appropriate means, with the competent judicial authority in the issuing State and, as necessary, request the latter immediately to supply all additional information required.

Article 10

Time limits

1. The competent judicial authority in the executing State shall decide, within 10 days after receipt of the judgment and the certificate, whether to recognise the judgment 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 for refusing to assume responsibility for supervision.

2. If it is not possible, in a specific case, for the competent judicial authority in the executing State to comply with the time-limit 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

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, alternative sanction or conditional sentence, such as the modification of suspensory measures, the revocation of suspension, sentencing in the case of a conditional sentence, or remission. The law of the executing State shall apply to the aforementioned decisions and to all subsequent consequences of the judgment.

2. The competent judicial authority in the issuing State may reserve competence to take all subsequent decisions relating to conditional sentences. In this case the law of the issuing State shall apply to all subsequent consequences of the judgment.

3. When transposing this Framework Decision, any Member State may indicate that as executing State it may, in individual cases, refuse to assume 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).

Article 13

Consultations between the competent judicial authorities

1. If the competent judicial authority in the executing State intends to make adaptations as provided for in Article 7(2) and (3), it shall first consult the competent judicial authority in the issuing State on the adapted suspensory measures or alternative sanction.

2. When forwarding the judgment and the certificate as provided for in Article 6, the competent judicial authority in the issuing State may waive the consultations referred to in paragraph 1. In that case, any adaptations made by the competent judicial authority in the executing State in accordance with Article 7(2) and (3) shall subsequently be notified to the competent judicial authority of the issuing State.

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) imposition of a sentence in the case of a conditional sentence;
- (d) lapsing of the suspensory measures or alternative sanction.

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.

*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(2) and (3), the competent judicial authority in the executing State shall immediately notify it of:

- (a) any breach of a suspensory measure or alternative sanction; and
- (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.

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. 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 Union ⁽¹⁾.

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.

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 inform 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 ⁽²⁾.

6. If the obligation to execute 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 and pardon**

An amnesty or pardon may be granted both by the issuing State and by the executing State.

*Article 17***End of jurisdiction of the executing State**

If the sentenced person leaves the executing State and establishes his or her lawful and ordinary residence in another Member State, the competent judicial authority of the executing State shall 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.

*Article 18***Languages**

Certificates 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.

⁽¹⁾ OJ C 197, 12.7.2000, p. 3.

⁽²⁾ OJ L 190, 18.7.2002, p. 1.

*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.
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*.

...

For the Council
The President

...

ANNEX I

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):

.....

.....

(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:

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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
- orders 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 authority 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, alternative sanction or conditional sentence:

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:

- 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 sentencing or executing State without permission;
- orders relating to lifestyle, 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 authority 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:

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

There are other findings which:

- are liable to entail modification 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 the suspension of the sentence.

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):