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of: Working Party on Cooperation in Criminal Matters
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Subject: Proposal for a Council Decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA

I.INTRODUCTION

On 28 May 2008 the Commission submitted a proposal for a Council Decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA ¹.

By a letter dated 9 June 2007 the European Parliament was requested to give its opinion on the proposal during its plenary session of 8-9 October 2008.

The proposal is subject to parliamentary scrutiny reservations entered by SE/IE/UK/DK and a general scrutiny reservation entered by EL.

¹ COM(2008) 332 final, 10122/08 COPEN 110.

The Working Party on Cooperation in Criminal Matter continued the examination of the proposal during its meeting on 4-5 September 2008 on the basis of 12007/08 Copen 144 and working document concerning the tables of offences and sanctions prepared by the Presidency further to the contributions received from the delegations in response to CM 2757/08.

The amendments to the text of the tables set out in the Annexes to the proposal result from the discussions held during the last Working Party meeting. These modifications are indicated against the text set out in 12007/08 Copen 144.. Main observations concerning the modifications introduced into the Annexes are set out under II.A below. Specific considerations, concerning the category of offences <theft> is set out under II.AA below.

It is noted that in the table of sanctions the part related to parameters has not yet been examined. Accordingly the modifications indicated in the document reflect the suggestions made by the delegations, and will be discussed during the future meeting of the Working Party.

In light of the contributions received from the delegations, the Presidency has also introduced some modifications to Articles 3 and 4 and to recitals 9(a) and 10. The delegations will be invited to examine these modifications together with the amendments introduced previously. Some further outstanding issues are set out under II.B. below.

II. GENERAL OBSERVATIONS MADE BY THE DELEGATIONS.

A. TABLES OF OFFENCES AND SANCTIONS

The delegations expressed general support to the structure and content of the tables as proposed by the Commission. It has been underlined that the use of tables is considered as an important step in the process of establishing in the European Union an efficient mechanism of exchange of information extracted from criminal records.

It was also stated that the expected increase in the volume of information exchange as a result of implementation of the Framework Decision needs to be examined in conjunction with the establishment of an efficient system of exchange of information, based on a standardized format for an envisaged electronic exchange, as well as the use of the annexed Tables of categories of offences and sanctions when transmitting the information extracted from criminal records.

It has been noted that the Tables as proposed by the Commission broadly take account of the pilot project (Network of Judicial Registers (NJR) launched by several Member States. Further modifications following the solutions adopted in the pilot project have been introduced into the revised text of the Tables.

Accordingly most of the categories and subcategories proposed by the Commission have been maintained in their original wording. Further clarification was made to the list of parameters related to the level of completion, where some new elements have been introduced.

Some subcategories previously classified under the open category *Environmental Crime* (0600 00) have been moved to a new open category introduced in the end of the Tables. Similarly, the offences related to tax and customs have been extracted from an open category *Offences against public property or public interest* (1300 00) and integrated into a new open category. Several changes have been introduced with a view to ensuring a better legibility of the offences (i.e. subcategory *Incest* 0804 00 have been amended to read *Intentional killing of a new-born by his/her mother*)

AA. CATEGORY OF OFFENCES <<THEFT>>

Specific issues have been raised in relation to a list of subcategories of offences related to various forms of theft. During the discussions it appeared that in respect of differences between the legal systems of the Member States there is a consensus on:

- 1/ the creation of a new category (theft and aggravated theft);
- 2/ the introduction of two sub-categories of aggravated thefts, the first one covering thefts implying « violence against persons », the second one covering thefts implying « violence against goods » and including so called « burglary » in common law systems.

However, this solution creates problems at least for one delegation, whose legal system can only differentiate between theft with violence and other forms of aggravated thefts.

Against this background, this delegation could classify other forms of aggravated thefts into an « open category ». As a consequence, the Presidency proposes to maintain the two subcategories mentioned above, while mentioning in a new footnote that this open category relates to “various forms of aggravated theft”.

The relevant modifications are set out in the annex to this note.

AB. PROBATIONNARY SENTENCES

SE indicated that it cannot place under any of the existing categories of the table of sanctions two kinds of probation sentences that are often used by its national courts. These are independent non-custodial sentences decided by the court, which involve a probationary period of two to three years and the offender could be placed under supervision during the first year of this period. The offender is under an obligation to lead an orderly life and to seek to support himself to the best of his ability. The probation sentence can also include other probation measures (*e.g.* an obligation to carry out community service, an instruction relating to residence or professional activity or an obligation to undergo treatment for addiction). If further measures are deemed ineffective, the sentence can be revoked by the court and another sanction imposed. If the person commits a new crime the sentence can equally be revoked by the court and a different kind of sanction can be imposed.

The Presidency’s understanding is that such a sanction is:

- an “Alternative penalty/ measure imposed as principal penalty” (corresponding to the proposed Parameter “f”),
- consisting in a “Personal obligation” (category 5000).

Therefore it proposes to create a new sub-category 5000X “Obligation to refrain to commit a new offence, accompanied or not with other personal obligations”.

B. OTHER OUTSTANDING ISSUES.

Another outstanding issue, already raised during the first discussions on the proposal is related to the question of collection and preparation of statistics related to ECRIS. This point may need to be further clarified during the discussions. Some concerns have also been raised in relation to Article 5 and the amount of information which would have to be notified (and updated) by Member States, which could be burdensome.

Eventually, one of the major points of discussion is the establishment of the mechanisms of implementation of the present decision. The need for implementing measures – in order to ensure a proper functioning of the ECRIS - has been generally acknowledged by Member States. However, the advisability of the Comitology procedure proposed by the Commission, in the context of this instrument has been questioned, in particular in light of the decision of the European Court of Justice of 6 May 2008¹. This element of the proposal will need to be further examined.

Some further observations made by the delegations are indicated in the footnotes to specific provisions.

¹ Case 133/06.

Proposal for a
COUNCIL DECISION
on the establishment of the European Criminal Records Information System (ECRIS) in
application of Article 11 of Framework Decision 2008/XX/JHA

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2) (c) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to Article 11 (3) of the Council Framework Decision 2008/XX/JHA on the organisation and content of the exchange of information extracted from criminal records between Member States³,

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety in the area of freedom, security and justice. This objective presupposes the systematic exchange between the competent authorities of the Member States of information extracted from national criminal records in a way that would guarantee their common understanding and efficiency of such exchange.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ L [...], [...], p. [...].

- (2) The need to improve the exchange of information on criminal convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was subsequently reiterated in the Hague Programme¹ and in the Action Plan² on its implementation. Furthermore, computerised interconnection of criminal records at EU level was recognised as a political priority by the European Council in its Conclusions of 21 and 22 June 2007.
- (3) The electronic interconnection of criminal records is part of the E-Justice project, which was acknowledged as a priority by the European Council several times in 2007.
- (4) Information on convictions imposed on nationals by other Member States does not circulate efficiently on the current basis of the Council of Europe Convention on mutual legal assistance in criminal matters of 1959. Therefore, there is a need for more efficient and accessible procedures of exchange of such information at EU level.
- (5) A pilot project is currently being developed with a view to interconnecting the criminal records. Its achievements constitute a valuable basis for the further work on computerised exchange of information at the European level.
- (6) This Decision aims to implement Article 11 of Framework Decision 2008/XX/JHA in order to build and develop a computerised conviction-information exchange system between Member States. Such system should allow the Member State receiving information on conviction to understand it easily. Therefore, a standardised format allowing information to be exchanged in a uniform, electronic and easily computer-translatable way and any other ways of organising and facilitating electronic exchanges of information on convictions between national authorities of Member States should be set up.
- (6a) Nothing in this decision should be understood as preventing Member States or the Commission to turn to private parties' services for the purpose of implementation of this decision and the technical operation of the ECRIS at national level or European level respectively

¹ OJ C 53, 03.03.2005, p.1.

² OJ C 198, 12.8.2005, p. 1.

- (7) The categories of data to be entered into the system, the purposes for which the data is to be entered, the criteria for its entry, the authorities permitted to access the data, and some specific rules on protection of personal data are defined in the Framework Decision 2008/XX/JHA.
- (8) The reference tables of categories of offences and categories of sanctions provided for in the Annexes should facilitate the automatic translation and should enable the mutual understanding of the information transmitted by using a system of codes. The content of the tables is the result of the analysis of the needs of all 27 Member States. That analysis took into account the Pilot Project categorisation and the results of the clustering exercise of various national offences and sanctions. Moreover, in case of the table of offences, it also took into consideration the existing harmonised common definitions on the European and international level as well as the Eurojust and Europol data models. The categories of offences should be interpreted in the light of existing harmonised common definitions, both on the European and international level.
- (9) In order to ensure the mutual understanding and transparency of the common categorisation, each Member State should submit the list of national offences and sanctions falling in each category referred to in the respective table, as well as the list of national criminal courts. Such information should be accessible to national judicial authorities in particular through any available electronic channels.
- (9 a) The reference tables of categories of offences and categories of sanctions provided for in Annex are not designed to set up legal equivalences between offences and sanctions existing at national level. They are a tool aimed at helping the recipient to gain better understanding of the facts(s) and type of sanction(s) contained in the information transmitted. The accuracy of the codes mentioned can not be guaranteed by the Member State supplying the information and it shall not preclude the interpretation of the information by competent authorities in the receiving Member State.

- (10) The European Criminal Records Information System (ECRIS) is a (...) a decentralized information technology system(...). The criminal records data should be stored solely in databases operated by Member States, and there should be no direct online access to criminal records databases of other Member States. Member States should bear the responsibility for the operation of national criminal records databases and for the efficient exchanges of information with their participation. The common communication infrastructure should be initially the S-TESTA network. All the expenditure concerning the common communication infrastructure should be covered by the general budget of the European Union. A common set of protocols allowing the exchange of information between various criminal records databases should be determined in accordance with the Comitology procedure, taking into consideration the achievements of the Pilot Project.
- (11) In order to accelerate the development of ECRIS, the Commission intends to undertake a number of technical measures to assist Member States in preparing the technical infrastructure for connecting their criminal records databases. The Commission may provide appropriate software allowing Member States for this connection, which they may choose to apply instead of their own interconnection software implementing the common set of protocols.
- (12) Since the objective of this Decision is not to harmonise national systems of criminal records there is no obligation for a Member State of conviction to change its internal system of criminal records as regards the use of information for domestic purposes.
- (13) Both reference tables of categories of offences and sanctions, as well the technical standards used for the exchange of information should require constant revision and regular updates. Implementing powers in this respect were therefore delegated to the Commission assisted by a Committee. The regulatory procedure under Community law should apply *mutatis mutandis* for the adoption of measures necessary for the implementation of this Decision.

- (14) Framework Decision 2008/XX/JHA on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters¹ should apply in the context the computerised exchange of information extracted from criminal records of Member States.
- (15) Since the objective of the proposed action, namely the development of a system for the computerised transmission of information on convictions between Member States, cannot be adequately achieved by the Member States unilaterally, and can therefore, by reason of a necessity for a coordinated action in the European Union, be better achieved at the level of the European Union, the Council may adopt measures in accordance with the principle of subsidiarity referred to in Article 2 of the EU Treaty and set out in Article 5 of the EC Treaty . In accordance with the principle of proportionality, as set out in the latter Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (16) This Decision respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAS DECIDED AS FOLLOWS:

Article 1

Subject-matter

This Decision establishes the European Criminal Records Information System (ECRIS). It also sets up the elements of a standardised format for the electronic exchange of information extracted from national criminal records, in particular as regards information on the offence giving rise to the conviction and information on the content of the conviction, as well as other general and technical implementation aspects related to the organising and facilitating exchanges of information.

¹ OJ L [...], [...], p. [...].

Article 2
Definitions

For the purpose of this Decision, the definitions laid down in Framework Decision 2008/XX/JHA shall apply.

Article 3
European Criminal Records Information System (ECRIS)

1. ECRIS is a decentralized information technology (...) system, based on the criminal records databases in each Member State, and also composed of the following elements:
 - (a) (...)
 - (b) an interconnection software built in compliance with the common set of protocols allowing the exchange of information between Member States' criminal records databases;
 - (c) a common communication infrastructure that provides an encrypted network.
2. This decision is not aimed at establishing any centralized criminal records database. (...). All criminal records data shall be solely stored in databases operated by the Member States.
- 2a The interconnection software and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned.
3. Central authorities of the Member States referred to in Article 3 of Framework Decision 2008/XXX/JHA shall not have direct online access to criminal records databases of other Member States. Best available techniques identified together by Member States with the support of the Commission shall be taken to ensure the confidentiality and integrity of criminal records data sent to other Member States.

- 4¹. (...) The common communication infrastructure shall be (...) the Trans European Services for Telematics between Administrations (S-TESTA) communications network. Any further developments thereof or any alternative secure network shall ensure (...) that the common communication infrastructure in place continues to meet (...) the conditions set out in paragraph 4a².
- 4a Common communication infrastructure shall be operated under the responsibility of the Commission, and shall fulfill the security prerequisites and thoroughly respond to the needs of the mechanisms of the exchange of information established by this decision
5. In order to ensure efficient operation of ECRIS, the Commission shall provide general support and technical assistance, including the collection and drawing up of statistics referred to in Article 6(c) and the reference implementation³.
6. Notwithstanding the possibility of using the EU financial programmes in accordance with the applicable rules, each Member State (...) shall bear its own costs arising from the implementation, administration, use and maintenance of the national criminal records database and the interconnection software referred to in paragraph 1. The Commission shall bear the costs arising from the implementation, administration, use, maintenance and future developments of the common communication infrastructure of ECRIS, and the implementation and future developments of the reference implementation.

¹ Scrutiny reservation entered by SE and DE.

² Further to the observations made by the delegations modifications have been introduced into this paragraph and a new paragraph 4a has been created in order to better reflect the results of the discussions held during the Working Party meeting.

³ What is understood by “reference implementation” may need to be defined further. In the Preamble the following wording is used: "software (the Commission) may undertake in order to assist Member States in preparing the technical infrastructure for connecting their criminal records databases to the common communication infrastructure."

Article 4¹

Format of transmission of information

1. When transmitting the information under Article 4(2)-(4) and Article 7 of Framework Decision 2008/XXX/JHA, relating to the name or legal classification of the offence and to the applicable legal provision, Member States shall refer to the corresponding code (...) each of the offences subject of the transmission corresponds, as provided for in the table of offences in Annex A. (...) By way of exception, where the offence does not correspond to any specific code of sub-category, the code "open category" of the relevant or closest category of offences or, in the absence of the latter, the code "other offences", shall be mentioned.

1a.² Member States may also provide available information relating to the degree of completion and level of participation in the offence and, where applicable, the existence of total or partial exemption from criminal liability.

2. When transmitting the information under Article 4(2)-(4) and Article 7 of Framework Decision 2008/XXX/JHA, relating to the contents of the conviction, including the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence, Member States shall refer to the code of the sub-category to which each of the sanctions subject of the transmission corresponds, as provided for in the table of sanctions and measures in Annex B (...). By way of exception, where the sanction does not correspond to any specific code of sub-category, the code "open category" of the relevant or closest category of sanctions or, in the absence of the latter, the code "other sanctions", shall be mentioned.

¹ In the opinion of some delegations the link which is made in this provision between the two tables annexed to this proposal and the form set out in the annex to the framework decision on the exchange of information extracted from criminal records between the Member States is not sufficiently clear. The modification introduced into this article by the Presidency aims at clarifying this issue.

² Some delegations expressed further concerns as to the scope of obligatory information to be provided on the basis of this provision. These delegations considered that the Commission proposal goes beyond the obligation of Article 11 of the Framework decision in respect of the details of information which needs to be provided. In this respect the presidency proposes the amendment which is reflected in paragraph 1a. Accordingly the additional information, which may prove significantly useful to the receiving authority will only need to be transmitted, is available.

Article 5

Information on national convictions, sanctions and measures

1. The notification referred to in Article 11(5) of Framework Decision 2008/XXX/JHA shall be accompanied by:
 - (a) the list of national offences in each of the categories referred to in the table of offences in Annex A. The list shall include the name or legal classification of the offence and reference to the applicable legal provision. It may also include a short description of the constitutive elements of the offence¹;
 - (b) the list and description of types of sentences, possible supplementary penalties, security measures and possible subsequent decisions modifying the enforcement of the sentence as defined in national law, in each of the categories referred to in the table of sanctions and measures in Annex B;
 - (c) the list of national criminal courts.

¹ Some delegations considered that this point exceeds the scope of obligations stemming out from Article 11 of the Framework Decision on the exchange of information from criminal records between the Member States. Some concerns have been raised in relation to the amount of information that would have to be notified (and updated) by Member States, which could be burdensome.

2. Such notifications accompanied by the information referred to in paragraph 1 shall be also transmitted to the Commission.
3. The lists and descriptions referred to in paragraph 1 shall be regularly updated by Member States. Updated information shall be sent to the Commission.
4. The Commission shall make the information referred to in paragraph 1 accessible to national (...) competent¹ authorities, in particular by using any available electronic channels.

Article 6

Implementing measures

The following implementing measures shall be adopted in accordance with the procedure referred to in Article 7:

- (a) any measures necessary for the technical development and operation of ECRIS, concerning in particular:
 - (i) technical specifications of the exchange, including security requirements, in particular the common set of protocols;
 - (ii) procedures verifying the conformity of the software applications with the technical specifications;
 - (iii) issues related to the common communication infrastructure;
- (b) a manual setting out the procedure for the exchange of information, addressing in particular the modalities of identification of offenders, as well as the common understanding of the categories of offences and sanctions listed in Annexes A and B;

¹ Modification following the remarks made by IE.

- (c) rules on statistics required for the monitoring of ECRIS and, where necessary, any other statistics relating to the exchange of information extracted from criminal records, and in particular their type and frequency;
- (d) any modifications of Annexes A and B.

Article 7
Committee procedure

1. Where reference is made to this Article, the Commission shall be assisted by a regulatory committee composed of representatives of the Member States and chaired by a representative of the Commission (the "Committee").
2. The Committee shall adopt its rules of procedure.
3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205(2) and (4) of the Treaty establishing the European Community, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
4. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.
5. If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken and shall inform the European Parliament thereof.

6. The Council may act by qualified majority on the proposal, within three months from the date of referral to the Council.

If within that period the Council has indicated by qualified majority that it opposes the proposal, the Commission shall re-examine it. It may submit an amended proposal to the Council, re-submit its proposal or present a legislative proposal on the basis of the Treaty.

If, on the expiry of that period, the Council has neither adopted the proposed implementing act nor indicated its opposition to the proposal for implementing measures, the proposed implementing act shall be adopted by the Commission.

Article 8

Report

1. The Commission services shall regularly publish a report concerning the exchange of information extracted from criminal records between Member States based in particular on the statistics collected by the system, and for the first time, a year after submitting the report referred to in Article 15 (3) of Framework Decision 2008/XX/JHA.
2. The Member States shall provide the Commission with the information necessary to draft the report referred to in paragraph 1.

Article 9

Implementation and time limits

1. Member States shall adopt the measures necessary to comply with the provisions of this Decision within the time limit specified in Article 11 (6) of Framework Decision 2008/XX/JHA.

2. Member States shall use the format specified in Article 4 and comply with the ways of organising and facilitating exchanges of information laid down in this Decision from the date referred to in Article 11(5) of Framework Decision 2008/XX/JHA.

Article 10

Date of effect

This decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, [...]

For the Council

The President

[...]

ANNEX A

Common table of offences categories

Parameters		
Level of completion:	Completed act	<u>C</u>
	Attempt <u>or preparation</u>	A
	<u>Non-transmitted element</u>	Ø
Level of participation:	(...) perpetrator	<u>M</u>
	Aider and abettor or instigator/ <u>organisator, conspirator</u>	H
	<u>Non-transmitted element</u>	Ø
Exemption from criminal liability:	Insanity or diminished accountability	S
<u>Recidivism</u>		<u>R</u>

The following subcategories of offences correspond to intentional acts, unless otherwise specified in the title of the subcategory concerned.

Code	CATEGORIES AND SUBCATEGORIES OF OFFENCES
0100 00 open category	CRIMES WITHIN THE JURISDICTION OF THE INTERNATIONAL CRIMINAL COURT
0101 00	Genocide
0102 00	Crimes against humanity
0103 00	War crimes

0200 00 open category	PARTICIPATION IN A CRIMINAL ORGANISATION
0201 00	Directing a criminal organisation
0202 00	Knowingly taking part in the criminal activities of a criminal organisation
0203 00	Knowingly taking part in the non-criminal activities of a criminal organisation
0300 00 open category	TERRORISM
0301 00	Directing a terrorist group
0302 00	Knowingly participating in the activities of a terrorist group
0303 00	deleted
0304 00	Financing of terrorism
0305 00	<u>(...) Public provocation to commit a terrorist offence</u>
<u>0306 00</u>	<u>Recruitment or training for terrorism</u>
0400 00 open category	TRAFFICKING IN HUMAN BEINGS
0401 00	<u>Trafficking in human beings</u> for the purposes of labour or services exploitation
0402 00	<u>Trafficking in human beings</u> for the purposes of the exploitation of the prostitution of others or other forms of sexual exploitation
0403 00	<u>Trafficking in human beings</u> for the purposes of organ or human tissue removal
0404 00	<u>Trafficking in human beings</u> for the purpose of slavery, practices similar to slavery or servitude
0405 00	<u>deleted</u>
0406 00	<u>Trafficking in human beings</u> for the purposes of labour or services exploitation of a minor

0407 00	<u>Trafficking in human beings</u> for the purposes of the exploitation of the prostitution of minors or other forms of their sexual exploitation
0408 00	<u>Trafficking in human beings</u> for the purposes of organ or human tissue removal of a minor
0409 00	<u>Trafficking in human beings</u> for the purpose of slavery, practices similar to slavery or servitude of a minor
0500 00 open category	<u>ILLICIT TRAFFICKING¹ AND OTHER OFFENCES RELATED TO WEAPONS, FIREARMS, THEIR PARTS AND COMPONENTS, AMMUNITION AND EXPLOSIVES</u>
0501 00	Illicit manufacturing of <u>weapons, munitions and explosives</u>
0502 00	Illicit trafficking of <u>weapons, munitions and explosives</u> at national level ²
0503 00	Illicit exportation or importation of <u>weapons, munitions and explosives</u>
0504 00	Unauthorised possession or use of <u>weapons, munitions and explosives</u>
0600 00 open category	<u>ENVIRONMENTAL CRIME</u>
0601 00	Destroying or damaging protected fauna and flora species
0602 00	Unlawful discharges of polluting substances or ionising radiation into air, soil or water
0603 00	Offences related to waste, including hazardous waste
0604 00	Offences related to illicit trafficking ³ in protected fauna and flora species or parts thereof
0605 00	deleted
0606 00	deleted

¹ A footnote will be inserted in the table: “Unless otherwise specified in this category, trafficking” means import, export, acquisition, sale, delivery, movement or transfer”

² A footnote will be inserted in the table : “For the purpose of this subcategory trafficking includes acquisition, sale, delivery, movement or transfer”

³ A footnote will be inserted in the table : “For the purpose of this subcategory trafficking includes import, export, acquisition, sale, delivery, movement or transfer”

0607 00	deleted
0608 00	Unintentional environmental offences
0700 00 open category	OFFENCES RELATED TO DRUGS OR PRECURSORS, AND OTHER OFFENCES AGAINST PUBLIC HEALTH
0701 00	Offences related to illicit trafficking ³ in narcotic drugs, psychotropic substances and precursors not exclusively for own personal consumption
0702 00	Illicit consumption of drugs and their acquisition, possession, manufacture or production exclusively for own personal consumption
0703 00	Aiding or inciting others to use narcotic drugs or psychotropic substances illicitly
<u>0704 00</u>	<u>(...) Manufacture or production of narcotic drugs not exclusively for personal consumption</u>
0800 00 open category	CRIMES AGAINST THE PERSON
0801 00	Intentional killing
0802 00	Aggravated cases of intentional killing ¹
0803 00	Unintentional killing (...)
0804 00	(...) <u>Intentional killing of a new-born by his/her mother</u>
0805 00	Illegal abortion
0806 00	(...) <u>Illegal euthanasia</u>
0807 00	Offences related to committing suicide
0808 00	Violence causing death

¹ For example: particularly grave circumstances.

0809 00	Causing grievous bodily injury, disfigurement or permanent disability
0810 00	Unintentionally causing grievous bodily injury, disfigurement or permanent disability
0811 00	Causing minor bodily injury
0812 00	Unintentionally causing minor bodily injury
0813 00	Exposing to danger of loss of life or grievous bodily injury
0814 00	Torture
0815 00	Failure to offer aid or assistance
0816 00	Offences related to organ or tissue removal without authorisation or consent
0817 00	Offences related to illicit (...) <u>trafficking</u> ¹ in human organs and tissue
<u>0818 00</u>	<u>Domestic violence or threat</u>
0900 00 open category	OFFENCES AGAINST PERSONAL LIBERTY , DIGNITY AND OTHER PROTECTED INTERESTS, INCLUDING RACISM AND XENOPHOBIA
0901 00	Kidnapping, <u>extortionate kidnapping</u> , illegal restraint”
0902 00	Unlawful arrest or <u>deprivation</u> of liberty by public authority
0903 00	Hostage-taking
0904 00	Unlawful seizure of an aircraft or ship
0905 00	Insults, slander, defamation, <u>contempt</u>
0906 00	Threats
0907 00	Duress, pressure, <u>storking</u> , harassment or aggression of a psychological or emotional nature
0908 00	Extortion
0909 00	Aggravated extortion

¹ A footnote will be inserted : “For the purpose of this subcategory *trafficking includes import, export, acquisition, sale, delivery, movement or transfe*”.

0910 00	(...) <u>Illegal entry into private property</u>
<u>new subcategory</u>	<u>Invasion of privacy other than illegal entry into private property</u>
<u>new subcategory</u>	<u>Offences against protection of personal data.</u>
0911 00	Illegal interception of data or communication
0912 00	Discrimination on grounds of gender, race, sexual orientation, religion or ethnic origin
0913 00	<u>Public</u> incitement to racial discrimination
0914 00	<u>Public</u> incitement to racial hatred
<u>0915 00</u>	<u>Blackmail</u>
1000 00 open category	SEXUAL OFFENCES
1001 00	Rape
1002 00	Aggravated rape ¹ other than rape of a minor
1003 00	Sexual assault
1004 00	Procuring for prostitution or sexual act
1005 00	Indecent exposure
1006 00	Sexual harassment
1007 00	Soliciting by a prostitute
1008 00	deleted
1009 00	Sexual exploitation of children
1010 00	Offences related to <u>child pornography or</u> indecent images of minors
1011 00	Rape of a minor ²
1012 00	Sexual assault of a minor ³

¹ For example rape with particular cruelty.

² Other than incestuous.

³ Other than incestuous.

1100 00 open category	OFFENCES AGAINST THE FAMILY LAW
1101 00	<u>(...) Illicit sexual relations between close family members</u>
1102 00	<u>(...) Polygamy</u>
1103 00	Evading the alimony or maintenance obligation
1104 00	Neglect or desertion of a minor or a disabled person
1105 00	Failure to comply with an order to produce a minor or removal of a minor
1200 00 open category	OFFENCES AGAINST THE STATE, PUBLIC ORDER, COURSE OF JUSTICE OR PUBLIC OFFICIALS
1201 00	Espionage
1202 00	High treason
1203 00	Offences related to elections and referendum
1204 00	Attempt against life or health of the head of State
1205 00	Insult of the State, Nation or State symbols
1206 00	Insult or resistance to a representative of public authority
1207 00	Extortion, duress, pressure towards a representative of public authority
1208 00	Assault <u>or threat</u> on a representative of public authority
1209 00	Public order offences, breach of the public peace
1210 00	Violence during sports events
1211 00	<u>(...) Theft of public or administrative documents</u>
1212 00	Obstructing or perverting the course of justice, making false allegations <u>in the course of judicial proceedings</u> , perjury
1213 00	Unlawful impersonation of a person or an authority
<u>1214 00</u>	<u>Escape from lawful custody</u>

1300 00 open category	OFFENCES AGAINST PUBLIC PROPERTY OR PUBLIC INTERESTS
1301 00	deleted (moved as a new subcategory below)
1302 00	deleted (moved as a new subcategory below)
1303 00	Public, social security or family benefit fraud
1304 00	Fraud affecting European benefits or allowances
1305 00	Offences related to illegal gambling
1306 00	Obstructing of public tender procedures
1307 00	Active or passive corruption of a civil servant, a person holding public office or <u>public authority</u>
1308 00	Embezzlement, misappropriation or other diversion of property by a public official
1309 00	Abuse of a function <u>by a public official</u>
<u>New</u> open category	<u>TAX AND CUSTOMS OFFENCES</u>
<u>new subcategory</u>	Tax offences
<u>new subcategory</u>	Customs offences
1400 00 open category	ECONOMIC AND TRADE RELATED OFFENCES
1401 00	Bankruptcy <u>or fraudulent insolvency</u>
1402 00	<u>Breach of accounting regulation</u> , embezzlement, concealment of assets or unlawful increase in a company's liabilities
1403 00	<u>deleted</u>
1404 00	Violation of competition rules
1405 00	Abuse of a (...) <u>dominant position</u>
1406 00	Laundering of proceeds from crime
1407 00	Active or passive corruption in the private sector

1408 00	deleted
1409 00	deleted (moved under category 1520 00)
1410 00	Revealing a secret or breaching an obligation of secrecy
1411 00	'Insider trading'
1500 00 open category	<u>OFFENCES AGAINST PROPERTY OR CAUSING DAMAGE TO GOODS</u>
1501 00	deleted (moved to a new subcategory below)
1502 00	deleted (moved to a new subcategory below)
1503 00	deleted (moved to a new subcategory below)
1504 00	deleted (moved to a new subcategory below)
1505 00	deleted (moved to a new subcategory below)
1506 00	deleted (moved to a new subcategory below)
1507 00	deleted (moved to a new subcategory below)
1508 00	Unlawful appropriation
1509 00	Unlawful appropriation or diversion of energy
1510 00	Fraud including swindling
1511 00	deleted
151200	Dealing in stolen goods (...)
1513 00	Illicit trafficking ¹ in cultural goods including antiques and works of art
<u>1514 00</u> ²	<u>Willfull damage or destruction of property</u>
<u>1515 00</u>	<u>Unintentional damage or destruction of property</u>
<u>1516 00</u>	<u>Sabotage</u>

¹ *Trafficking includes import, export, acquisition, sale, delivery, movement or transfer*

² The subcategories 1513 00 to 1520 00 were moved here from the open category 1600 00

1517 00	<u>Arson</u>
1518 00	<u>Arson causing death or injury to persons</u>
1519 00	<u>Forest arson</u>
1520 00	<u>(...)Offences against industrial or intellectual property</u>
¹ 1600 00 open category ²	<u>(...) THEFT AND AGGRAVATED THEFT</u>
1601 00	<u>(...) Theft</u>
1602 00	<u>(...) Theft damaging or using violence against goods or property, including theft after unlawful entry into property</u>
1603 00	<u>Theft, using violence or weapons, or using threat of violence or weapons against person</u>
1700 00 open category	<u>OFFENCES AGAINST INFORMATION SYSTEMS AND OTHER COMPUTER-RELATED CRIME</u>
1701 00	Illegal access to information systems
1702 00	Illegal system interference
1703 00	Illegal data interference
1704 00	Production, possession, <u>dissemination</u> or trafficking in computer devices or data enabling commitment of computer related offences
1800 00 open category	<u>FORGERY OF MEANS OF PAYMENT</u>
1801 00	Counterfeiting or forging currency including the Euro
1802 00	Counterfeiting of non cash means of payment
1803 00	Counterfeiting or forging public fiduciary documents

¹ The offences covered under the open category 1600 00 were moved to open category 1500 00 and instead the open category 1600 00 was devoted to cover specifically some sub categories covered previously under 1501 00 to 1507 00 (theft).

² A footnote will be inserted: “this open category relates to “various forms of aggravated theft”.

1804 00	Putting into circulation/ using counterfeited or forged currency, non-cash means of payment or public fiduciary documents
1805 00	Possession of a device for the counterfeiting or forgery of currency or public fiduciary documents
1900 00 open category	FALSIFICATION OF (...) DOCUMENTS
19001 00	Falsification of a public or administrative document by a private individual
1902 00	Falsification of a document by a civil servant or a public authority
1903 00	Supply or acquisition of a forged public or administrative document; supply or acquisition of a forged document by a civil servant or a public authority
1904 00	Using forged public or administrative documents
1905 00	Possession of a device for the falsification of public or administrative documents
<u>1906 00</u>	<u>Forgery of private documents by a private individual</u>
2000 00 open category	OFFENCES AGAINST TRAFFIC REGULATIONS
2001 00	Dangerous driving
2002 00	deleted
2003 00	Driving under the influence of alcohol or narcotic drugs
2004 00	Driving without a licence or while disqualified
2005 00	deleted
2006 00	Failure to stop after a road accident
2007 00	Avoiding a road check
2008 00	Offences related to road transport (...)
<u>2009 00</u>	<u>Offences related to maritime and aviation regulation</u>

2100 00 open category	OFFENCES AGAINST LABOUR LAW
2101 00	Unlawful employment (...)
2102 00	deleted
2103 00	Offences relating to remuneration including social security contributions
2104 00	Offences relating to working conditions, health and safety at work
2105 00	Offences relating to access to or exercise of a professional activity
2106 00	Offences relating to working hours and rest time
2107 00	deleted
2200 00 open category	OFFENCES AGAINST THE MIGRATION LAW
2201 00	Unauthorised entry or residence
2202 00	Facilitation of unauthorised entry and residence
2300 00 open category	OFFENCES AGAINST MILITARY OBLIGATIONS
<u>new</u> open category	<u>OFFENCES RELATED TO HORMONAL SUBSTANCES AND OTHER GROWTH PROMOTERS</u>
<u>new subcategory</u>	<u>Illicit importation, exportation or supply of hormonal substances and other grown promoters</u>
<u>new</u> open category	<u>OFFENCES RELATED TO NUCLEAR MATERIALS OR OTHER HAZARDOUS RADIOACTIVE SUBSTANCES</u>
<u>new subcategory</u>	<u>Illicit importation, exportation, supply or acquisition of nuclear or radioactive materials</u>
2400 00 open category	OTHER OFFENCES
<u>2401 00</u>	<u>Other wilful offences</u>
<u>2402 00</u>	<u>Other unintentional offences</u>

ANNEX B
Common table of sanctions categories

Code	CATEGORIES AND SUB-CATEGORIES OF SANCTIONS
1000 open category	DEPRIVATION OF FREEDOM
1001	Imprisonment (...)
1002	deleted (merged with 1001 above)
1003	Life imprisonment
2000 open category	RESTRICTION OF PERSONAL FREEDOM
2001	Prohibition from frequenting some places
2002	Restriction to travel abroad
2003	Prohibition to stay in some places
2004	Prohibition from entry to a mass event
2005	Prohibition to enter in contact with certain persons through whatever means
2006	Placement under electronic surveillance ¹
<u>new subcategory</u>	<u>Obligation to report at specified times to a specific authority</u>
2007	Obligation to stay / <u>reside in a certain place</u>
<u>2008</u>	<u>Obligation to be at the place of residence on the set time</u>
<u>2009</u>	<u>Obligation to comply with the probation measures ordered by the court including the obligation to remain under supervision.</u>

¹ Fixed or mobile placement.

3000 open category	PROHIBITION OF A SPECIFIC RIGHT OR CAPACITY
3001	Disqualification from function
3002	Loss / suspension of capacity to hold or to be appointed to public office
3003	Loss / suspension of the right to vote or to be elected
3004	Incapacity to contract with public administration
3005	Ineligibility to obtain public subsidies
3006	Cancellation of the driving licence ¹
3007	Suspension of driving licence
3008	Prohibition to drive certain vehicles
3009	Loss / suspension of the parental authority
3010	Loss / suspension of right to be an expert in court proceedings / witness under oath / juror
3011	Loss / suspension of right to be a legal guardian ²
3012	Loss / suspension of right of decoration or title
3013	Prohibition to exercise professional, commercial or social activity
3014	Prohibition from working or activity with minors
3015	Obligation to close an establishment
3016	Prohibition to hold or to carry weapons
3017	Withdrawal of a hunting / fishing license
3018	Prohibition to issue cheques or to use payment / credit cards
3019	Prohibition to keep animals
<u>3020</u>	<u>Prohibition to possess or use certain items other than weapons</u>
<u>3021</u>	<u>Prohibition to play certain games / sports</u>

¹ Reapplication in order to obtain a new driving licence is necessary.

² Legal guardian for a person who is legally incompetent or for a minor.

4000 open category	PROHIBITION OR EXPULSION FROM TERRITORY
4001	Prohibition from national territory
4002	Expulsion from national territory
5000 open category	PERSONAL OBLIGATION
5001	Submission to medical treatment <u>or other forms of therapy</u>
5002	Submission to a social-educational program
5003	Obligation to be under the care / control of the family
5004	Educational measures for minors
5005	<u>Submission to a socio-judicial probation program</u>
5006	Obligation of training/working
5007	Obligation to provide judicial authorities with specific information
5008	Obligation to publish the judgment
<u>5009</u>	<u>Obligation to compensate for the prejudice caused by the offence</u>
6000 open category	PENALTY ON PERSONAL PROPERTY
6001	Confiscation
6002	Demolition
6003	Restoration
7000 open category	PLACING IN AN INSTITUTION
7001	Placing in a psychiatric institution
7002	Placing in a detoxification institution
7003	Placing in an educational institution for adults
7004	Placing in an educational institution for minors

8000 open category	FINANCIAL PENALTY
8001	Fine
8002	Day-fine ¹
8003	Fine for the benefit of a special recipient ²
9000 open category	WORKING PENALTY
9001	Community service or work
<u>9002</u>	<u>Community service or work accompanied with other restrictive measures</u>
1000 open category	MILITARY PENALTY
1001	Loss of military rank ³
1002	Expulsion from professional military service
1003	Military imprisonment
1100 open category	EXEMPTION/ DEFERMENT OF SENTENCE/ PENALTY, WARNING
1200 open category	OTHER SANCTIONS

² E.g. : for an institution, association, foundation or a victim.

³ Military demotion.

Parameters (to be specified where applicable)	
ø	Penalty
m	Measure
a	Suspended penalty/ measure ¹
b	Partially suspended penalty/ measure ²
c	Suspended penalty/ measure with probation/ supervision ³
d	Partially suspended penalty/ measure with probation/ supervision ⁴
e	Conversion of penalty/ measure
<u>New</u> <u>Parameter</u> ⁵	<u>Alternative penalty/ measure imposed as principal penalty</u>
f	Alternative penalty/ measure imposed initially in case of non- respect of the principal penalty
g	Revocation of suspended penalty/ measure
h	Subsequent formation of an overall penalty ⁶
i	Interruption of enforcement/ postponement of the penalty/ measure ⁷

¹ The explanatory note has been completed following CZ suggestion The enforcement of penalty can be avoided upon fulfilment of conditions provided by law or imposed by the judicial authority the sentenced person can avoid enforcement of penalty.

² The explanatory note has been completed following CZ suggestion The enforcement of penalty can be avoided upon fulfilment of conditions provided by law or imposed by the judicial authority the sentenced person can avoid enforcement of penalty.

³ The explanatory note has been completed following CZ suggestion The enforcement of penalty can be avoided upon fulfilment of conditions provided by law or imposed by the judicial authority the sentenced person can avoid enforcement of penalty.

⁴ The explanatory note has been completed following CZ suggestion The enforcement of penalty can be avoided upon fulfilment of conditions provided by law or imposed by the judicial authority the sentenced person can avoid enforcement of penalty.

⁵ Addition proposed to meet a need expressed by SE and PL

⁶ Situation where a single aggregated penalty covers several criminal acts which have given raise to one or several previous judicial decisions.

⁷ The explanatory note has been completed following CZ Does not lead to avoidance of enforcement of penalty.

j	Remission of the penalty
k	Remission of the suspended penalty
l	End of penalty
n	Pardon
o	Amnesty
p	Release on parole (liberation of a person before end of the sentence under certain conditions)
q	Rehabilitation (...)¹

Presidency submits to the working party the following request of the German delegation:

“Information held on the Central Federal Register includes criminal convictions, but also rulings by administrative authorities and other courts. For example, these may be orders banning the possession of weapons, ammunition or explosives, the exercise of a profession or trade or the employment of children and young people. Such rulings are not necessarily made in a criminal context. When information is requested from the Central Register, courts and authorities are often given this additional information, as well as information on criminal convictions. Although Framework Decision 2008/XX/JHA lays down only a duty to transfer information on criminal convictions, it does not forbid the transfer of information on non-criminal rulings, pursuant to Article 13 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and the additional protocols thereto.”

¹ Deletion following a suggestion of DE, in conformity with NJR table