UNOFFICIAL TRANSLATION

**Act on Recognition, Execution and Forwarding of Judgments and Probation Decisions with a View to Exercising Supervision of Probation Measures and Alternative Sanctions**

Promulgated, State Gazette No. 25/27.03.2012, effective 28.04.2012

Text in Bulgarian: Закон за признаване, изпълнение и изпращане на съдебни решения и решения за пробация с оглед упражняване на надзор върху пробационните мерки и алтернативните санкции

**Chapter One**

**GENERAL DISPOSITIONS**

Subject Matter of Act

**Article 1.** This Act regulates the terms and procedure for the recognition of judgments and probation decisions issued in another Member State of the European Union, exercising supervision of the probation measures and alternative sanctions contained in any such judgments and decisions, taking any subsequent decisions relating thereto, as well as for forwarding judgments issued in the Republic of Bulgaria for recognition and execution in other Member States of the European Union.

Scope of Application

**Article 2.** This Act shall apply to:

1. the recognition of enforceable judgments in criminal cases and probation decisions issued in another Member State of the European Union;

2. the exercising of supervision of probation measures and alternative sanctions;

3. the forwarding of enforceable judgments in criminal cases, issued in the Republic of Bulgaria, whereby a penal sanction of probation is imposed or probation measures are assigned in the cases of conditional sentencing or conditional early release, for recognition and execution in other Member States of the European Union;

4. other decisions relating to the judgments and decisions referred to in Items 1 to 3.

Definitions

**Article 3.** Within the meaning given by this Act, for the purposes of recognition of judgments and probation decisions issued in another Member State of the European Union:

1. "judgment" shall be a final act of a court of the issuing State, establishing that a natural person has committed a criminal offence and imposing thereon:

(a) a custodial sentence or any measure involving deprivation of liberty, if a conditional release has been granted on the basis of that judgment or by a subsequent probation decision, when the sentence is passed by imposing one or more probation measures;

(b) a suspended sentence, when the sentence is passed by imposing one or more probation measures;

(c) a conditional sentence, when the sentence is passed by imposing one or more probation measures;

(d) an alternative sanction;

2. "suspended sentence" shall be a custodial sentence or any measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed by imposing one or more probation measures;

3. "conditional sentence" shall be a judgment in which the imposition of a sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty;

4. "conditional release" shall be a final act of a competent authority on the early release of a sentenced person after part of the custodial sentence of measure involving deprivation of liberty has been served by imposing one of more probation measures;

5. "probation decision" shall be a final judicial act or a final decision of a competent authority of the issuing State taken on the basis of such judgment:

(a) granting a conditional release;

(b) imposing probation measures;

6. "probation measures" shall be obligations and instructions imposed by a competent authority of the issuing State on a natural person, in accordance with the national law of the said State, in connection with a suspended sentence, a conditional sentence or a conditional release;

7. "alternative sanction" shall be a sanction imposing an obligation or instruction other than a custodial sentence, a measure involving deprivation of liberty or a financial penalty.

Types of Probation Measures and Alternative Sanctions

**Article 4.** There shall be the following probation measures or alternative sanctions:

1. an obligation for the sentenced person to inform a specific authority of any change of residence or working place;

2. an obligation for the sentenced person not to enter certain localities, places or defined areas in the issuing or executing State;

3. an obligation containing limitations on the sentenced person leaving the territory of the executing State;

4. instructions to the sentenced person relating to behaviour, residence, education or training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;

5. an obligation for the sentenced person to report at specified times to a specific authority;

6. an obligation for the sentenced person to avoid contact with specific persons;

7. an obligation for the sentenced person to avoid contact with specific objects, which have been used or are likely to be used thereby with a view to committing a criminal offence;

8. an obligation for the sentenced person to carry out community service;

9. an obligation for the sentenced person to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;

10. an obligation for the sentenced person to undergo therapeutic treatment or treatment for addiction.

Adaptation of Probation Measures or Alternative Sanctions

**Article 5.** (1) Where the nature or duration of the probation measure or alternative sanction imposed by the judgment or decision referred to in Item 1 of Article 2 herein or the duration of the probation period are incompatible with Bulgarian law, the competent Bulgarian authority may adapt them in line with the nature and duration of the penal sanctions provided for under Bulgarian law for equivalent acts.

(2) The adapted probation measure, alternative sanction or duration of the probation period shall correspond as far as possible to that imposed in the issuing State.

(3) Where the duration of the probation measure or alternative sanction imposed or the duration of the probation period exceeds the maximum duration provided for under Bulgarian law, the duration of the adapted penal sanction shall be the maximum provided for in the Republic of Bulgaria.

(4) The adapted penal sanctions may not be more severe or longer than the penal sanctions originally imposed by the judgment or decision referred to in Item 1 of Article 2 herein.

Certificate

**Article 6.** The judgments and decisions referred to in Items 1 and 3 of Article 2 herein or certified copies thereof shall be accompanied by a certificate completed in a standard form set out in Annex 1 hereto, issued by a competent authority of an issuing Member State.

Languages

**Article 7.** (1) The certificate referred to in Article 6 herein shall be sent accompanied by a translation in the official language or one of the official languages of the executing State, or in another language which the said State has specified in a declaration deposited with the General Secretariat of the Council of the European Union.

(2) The certificate sent to a competent authority in the Republic of Bulgaria shall be accompanied by a translation in the Bulgarian language.

Authority Competent to Recognise Judgments

**Article 8.** (1) The district courts exercising jurisdiction over the lawful residence of the person shall be the authorities competent to recognise the judgments or decisions referred to in Item 1 of Article 2 herein issued in another Member State of the European Union.

(2) In the cases where the lawful residence of the sentenced person in the Republic of Bulgaria is unknown or if the sentenced person is not residing in the country, the Sofia City Court shall be competent to recognise the judgment or decision referred to in Item 1 of Article 2 herein.

(3) Where an authority receives a judgment or decision referred to in Item 1 of Article 2 herein which the said authority has no competence to recognise, the said authority shall ex officio forward the said judgment or decision to the relevant competent court and shall without delay inform the authority in the issuing State accordingly. The competent court shall without delay inform the authority in the issuing State of the receipt.

Authority Competent to Forward Judgments

**Article 9.** The judgments referred to in Item 3 of Article 2 herein shall be forwarded by the Bulgarian court which has issued the said judgments acting as a court of first instance.

Communication and Exchange of Information

**Article 10.** (1) The competent Bulgarian authorities shall communicate and exchange information directly with the competent authorities of other Member States.

(2) Where the competent authority in the executing State is not known to the Bulgarian court, the latter shall make all necessary inquiries, including via contact points of the European Judicial Network, in order to obtain information from the executing State.

(3) The judgments and decisions referred to in Items 1 and 3 of Article 2 herein or certified copies thereof together with the certificates accompanied by a translation shall be forwarded by post, electronic mail, facsimile transmission or by any other duly secured means which leaves a written record and allows their authenticity to be established.

(4) The original of the judgments and decisions referred to in Items 1 and 3 of Article 2 herein, as well as the original of the certificate, shall be sent to the competent authority of the executing State if it so requires.

Procedure for Execution

**Article 11.** Judgments and decisions referred to in Item 1 of Article 2 herein, issued in another Member State of the European Union and recognised in the Republic of Bulgaria, shall be executed according to the procedure established by Bulgarian law.

Amnesty, Pardon and Review of Judgment

**Article 12.** (1) An amnesty or pardon may be granted in connection with any judgment or decision referred to in Article 2 herein under the terms and according to the procedure provided for in Bulgarian law, of which the competent authority of the other Member State shall be informed.

(2) Where an act of amnesty or pardon has been issued in the other Member State, the said act shall be executed in the Republic of Bulgaria by order of the competent Bulgarian court after the said court is officially informed of the existence of such an act.

(3) The relevant competent authority of the issuing State shall decide on any applications for review of the judgment in connection with a judgment or decision referred to in Article 2 herein.

Costs

**Article 13.** The costs incidental to the recognition and execution of the judgments and decisions referred to in Items 1 and 3 of Article 2 herein shall be borne by the executing State, except for costs arising exclusively within the territory of the issuing State.

**Chapter Two**

**RECOGNITION AND EXECUTION OF JUDGMENTS AND DECISIONS ISSUED IN ANOTHER**

**MEMBER STATE OF THE EUROPEAN UNION**

Conditions for Recognition and Execution

**Article 14.** (1) The judgments and decisions referred to in Item 1 of Article 2 herein, issued in another Member State of the European Union, shall be recognised and executed within the territory of the Republic of Bulgaria subject to the condition that the said judgments and decisions relate to acts which constitute criminal offences under Bulgarian law, whatever their constituent elements under the law of the issuing State.

(2) Double criminality shall not be required for the following criminal 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:

1. participation in a criminal organisation;

2. terrorism;

3. trafficking in human beings;

4. sexual exploitation of children and child pornography;

5. illicit trafficking in narcotic drugs and psychotropic substances;

6. illicit trafficking in weapons, munitions and explosives;

7. corruption;

8. fraud, including that affecting the financial interests of the European Union within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests;

9. laundering of the proceeds of crime;

10. counterfeiting currency, including of the euro;

11. computer offences and computer-related crime;

12. environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;

13. facilitation of unauthorised entry and residence;

14. murder, grievous bodily injury;

15. illicit trade in human organs and tissue;

16. kidnapping, illegal restraint and hostage-taking;

17. racism and xenophobia;

18. organised or armed robbery;

19. illicit trafficking in cultural goods, including antiques and works of art;

20. swindling;

21. racketeering and extortion;

22. counterfeiting and piracy of products;

23. forgery of administrative documents and trafficking therein;

24. forgery of means of payment;

25. illicit trafficking in hormonal substances and other growth promoters;

26. illicit trafficking in nuclear or radioactive materials;

27. trafficking in stolen vehicles;

28. rape;

29. arson;

30. crimes within the jurisdiction of the International Criminal Court;

31. unlawful seizure of aircraft or ships;

32. sabotage.

(3) The court shall recognise a judgment or decision referred to in Item 1 of Article 2 herein where the sentenced person is lawfully residing within the territory of the Republic of Bulgaria and has returned or wants to return to the country.

(4) In exceptional cases, the court may recognise a judgment or decision referred to in Item 1 of Article 2 herein even where the person is lawfully or ordinarily residing within the territory of a Member State other than the Republic of Bulgaria, if the said person is present in, or will move to, the territory of the Republic of Bulgaria in order to work, to follow a study or training or because he or she is a family member of a lawful resident person of the Republic of Bulgaria.

(5) Execution of a judgment or decision referred to in Item 1 of Article 2 herein in relation to taxes, duties, customs or exchange may not be refused on the grounds that Bulgarian law does not impose the same kind of tax or duty or does not contain the same type of regulations as regards taxes, duties, customs or exchange as the law of the issuing State.

Grounds for Refusing Recognition and Execution

**Article 15.** (1) The court may refuse to recognise a judgment or decision referred to in Item 1 of Article 2 herein and may refuse to exercise supervision of probation measures or alternative sanctions where:

1. the certificate has not been submitted, is incomplete or manifestly does not correspond to the judgment or decision and has not been submitted, completed or corrected within a reasonable period set by the Bulgarian court;

2. the sentenced person does not have a lawful residence within the territory of the country and does not want to return thereto;

3. an exceptional case under Article 14 (4) herein does not apply even if the grounds provided for in this hypothetical formally apply;

4. the judgment or decision forwarded relates to measures or sanctions which the Republic of Bulgaria has not declared that it is prepared to exercise supervision;

5. recognition of the judgment or decision and exercising supervision of the probation measures or alternative sanctions would be contrary to the principle of ne bis in idem;

6. the judgment relates to acts which do not constitute an offence under Bulgarian law, with the exception of those specified in Article 14 (2) herein;

7. enforcement of the sentence imposed by the judgment is statute-barred according to Bulgarian law and the act falls within the competence of a Bulgarian court;

8. the sentenced person enjoys immunity under Bulgarian law, which makes it impossible to supervise probation measures or alternative sanctions;

9. under Bulgarian law, the sentenced person cannot, owing to his or her age, be held criminally liable for the acts in respect of which the judgment was issued;

10. according to the certificate, the sentenced person did not appear in person at the trial which resulted in the judgment or decision, unless the certificate expressly contains information on compliance with one of the following conditions conforming to the law of the issuing State:

(a) the person was summoned personally and was thereby notified in due time of the scheduled date and place of the trial or received, by other means, official information of the scheduled date and place of the trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, as well as that the person was informed that a judgment or decision may be handed down if he or she does not appear for the trial;

(b) having being notified in due time of the scheduled trial, the person had given a mandate to a defence counsel or such counsel has been assigned thereto by the court and the person was indeed provided with such defence;

(c) after being personally served with the judgment or decision and being expressly informed about the right thereto to an appeal or to a retrial in which the person has the right to participate personally, whereupon the merits of the case may be re-examined, including fresh evidence, and which may lead to the original act being reversed, the person expressly stated that he or she does not contest the judgment or decision or did not request a retrial or appeal within the applicable time frame;

11. the judgment or decision provides for medical or therapeutic treatment which the Republic of Bulgaria is unable to supervise in view of the effective Bulgarian legal system;

12. the probation measure or alternative sanction is of less than six months' duration;

13. the judgment relates to a criminal offence which under Bulgarian law is regarded as having been committed wholly or for a major part within the territory of the Republic of Bulgaria.

(2) Where the decision relates to acts which have not been committed wholly or for a major part within Bulgarian territory, the court may refuse recognition after a careful consideration on a case-by-case basis, having regard to whether a major part of the acts have not been committed within the territory of the issuing State.

(3) In the cases referred to in Items 1 to 5 and 10 to 13 of Paragraph (1), before deciding not to recognise the judgment or decision referred to in Item 1 of Article 2 herein and to exercise supervision over probation measures and alternative sanctions, the court shall communicate with the competent authority of the issuing State and may ask it to supply all additional information without delay.

(4) Where any ground for refusal referred to in Item 6 or 13 of Paragraph (1) applies, the court may, in agreement with the competent authority of the issuing State, notwithstanding the refusal, decide to exercise supervision over the probation measures or alternative sanctions that are imposed in the judgment or decision referred to in Item 1 of Article 2 herein which has been forwarded thereto without assuming the responsibility for taking any subsequent decisions under Article 21 (1) herein.

Recognition Proceedings

**Article 16.** (1) After receiving the judgment or decision referred to in Item 1 of Article 2 herein and the certificate thereto, the court shall institute recognition proceedings and shall schedule the case within seven days.

(2) The court shall examine the case, sitting in a panel of three judges in public session with the mandatory participation of a prosecutor and with the sentenced person being summoned. The non-appearance of the person, where duly summoned, shall not impede an examination of the case.

(3) Where the person cannot be found in order to be duly summoned, a defence counsel shall be assigned thereto and the case shall be examined in absentia.

(4) The court shall familiarise the sentenced person or the defence counsel thereof with the judgment or decision referred to in Item 1 of Article 2 herein.

(5) The court may request additional information directly from the competent authority of the issuing State, setting a time limit for the receipt of the said information and suspending the issuing of a decision to recognise the judgment or decision until expiry of the said time limit.

(6) The court shall hear the prosecutor, the sentenced person and the defence counsel thereof and shall retire for deliberation for immediate issuing of a decision.

(7) The court shall issue a decision whereby:

1. the court recognises the judgment or decision referred to in Item 1 of Article 2 herein and orders the execution thereof, determining, inter alia through adaptation, the content of the probation or alternative sanction with a view to exercising supervision;

2. the court refuses recognition and execution of the judgment or decision referred to in Item 1 of Article 2 herein;

3. the court refuses recognition of the judgment or decision referred to in Item 1 of Article 2 herein and agrees to exercise supervision in the cases referred to in Article 15 (4) herein.

(8) The court shall immediately inform the competent authority of the issuing State and the Ministry of Justice of the decision referred to in Paragraph (7) after the said decision becomes enforceable.

Proceedings before Appellate Court

**Article 17.** (1) The decision of the district court referred to in Article 16 (7) shall be appealable by the defence or the prosecution before the appellate court within five days after the publication thereof.

(2) The appeal by the sentenced person or by the defence counsel thereof or the appeal by the prosecutor shall be examined within five days after receipt in public session with the participation of the parties.

(3) The decision of the appellate court shall be final.

Time Limit for Taking Decision

**Article 18.** (1) The court proceedings must be concluded within sixty days after receipt of the judgment or decision referred to in Item 1 of Article 2 herein.

(2) When due to exceptional circumstances the time limit referred to in Paragraph (1) cannot be complied with, the competent court shall immediately inform the competent authority of the issuing state, giving the reasons for the delay and the estimated time needed for the final decision to be taken.

Consequences of Recognition

**Article 19.** After recognition of a judgment or decision referred to in Item 1 of Article 2 herein, supervision of the probation measures and alternative sanctions shall be exercised by the authorities competent under Bulgarian law.

End of Jurisdiction

**Article 20.** (1) Where the sentenced person in respect of whom a judgment or decision referred to in Item 1 of Article 2 herein has been recognised absconds or no longer has a lawful residence in the Republic of Bulgaria, the court may transfer the jurisdiction under Article 19 herein back to the competent authority of the issuing State, of which the court shall immediately inform the said authority.

(2) Upon request of the competent authority of the issuing State, the court may also transfer the jurisdiction thereto where new criminal proceedings against the person concerned have been instituted in the issuing State.

Subsequent Decisions in Cases where Republic of Bulgaria Is Issuing

State

**Article 21.** (1) Where the sentenced person fails, without reasonable excuse, to comply with the probation measure or alternative sanction imposed or commits a new criminal offence, the Bulgarian court shall take a decision on:

1. modification of obligations or instructions contained in the probation measure or alternative sanction;

2. enforcement of the suspended custodial sentence or serving separately the unserved part of the sentence in respect of which the sentenced sentence has been granted early release;

3. imposition of a custodial sentence instead of the alternative sanction.

(2) Bulgarian law shall apply to the decisions covered under Paragraph (1) and to all consequences thereof.

Obligation to Inform

**Article 22.** (1) The court shall without delay inform the competent authority of the issuing State of the decisions covered under Article 21 (1) herein, as well as of the lapsing of the probation measure or alternative sanction.

(2) If so requested by the competent authority of the issuing State, the court shall inform the said authority of the maximum duration of deprivation of liberty that is foreseen in Bulgarian law for an act equivalent to the offence which gave rise to the judgment referred to in Item 1 of Article 2 herein and that could be imposed on the sentenced person in case of breach of the probation measures or alternative sanctions.

(3) The court shall provide the information referred to in Paragraph (2) immediately after receipt of the judgment referred to in Item 1 of Article 2 herein.

(4) In the cases referred to in Article 15 (4) herein, the court shall notify the competent authority of the issuing State of non-compliance by the sentenced person with a probation measure or alternative sanction using a standard form set out in Annex 2 hereto.

**Chapter Three**

**FORWARDING OF JUDGMENTS OR DECISIONS ISSUED BY BULGARIAN COURT**

Conditions for Forwarding

**Article 23.** (1) Where the sentenced person is lawfully or ordinarily resident in another Member State of the European Union whereto the said person has returned or wants to return, the judgment or decision referred to in Article 2 herein, issued in the Republic of Bulgaria, shall be forwarded for recognition and execution to the competent authority of that Member State.

(2) Upon request of the sentenced person, the judgment referred to in Item 3 of Article 2 herein may also be forwarded to a competent authority of a Member State other than the Member State in which the sentenced person is lawfully or ordinarily residing. In such cases, the court shall consult that competent authority and shall request its consent to such forwarding.

Forwarding of Judgments

**Article 24.** (1) The judgment referred to in Item 3 of Article 2 herein shall be forwarded directly to the competent authority of the executing State together with the certificate referred to in Article 6 herein. The Ministry of Justice shall also be notified of the forwarding.

(2) The judgment referred to in Item 3 of Article 2 herein may be forwarded for recognition and execution only to one State.

(3) Apart from the measures and sanctions referred to in Article 4 herein, the certificate referred to in Article 6 herein may also include other measures or sanctions notified by the executing State as such which the said State is prepared to supervise.

Subsequent Decisions and Steps of Court where Republic of Bulgaria Has

Jurisdiction for Subsequent Decisions

**Article 25.** (1) Where the sentenced person fails, without reasonable excuse, to comply with the probation measure or alternative sanction imposed or commits a new criminal offence and the executing State is not competent to take subsequent decisions relating thereto, the Bulgarian court shall take a decision on:

1. modification of obligations or instructions contained in the probation measure or alternative sanction;

2. enforcement of the suspended custodial sentence or serving separately the unserved part of the sentence in respect of which the sentenced sentence has been granted early release;

3. imposition of a custodial sentence instead of the alternative sanction.

(2) The court shall without delay inform the competent authority of the executing State of the decision referred to in Paragraph (1), as well as of the lapsing of the probation measure or alternative sanction.

(3) Where the sentenced person is outside the territory of the Republic of Bulgaria, before issuing a decision under Paragraph (1), the court may question the person by delegation or through video conference.

(4) Bulgarian law shall apply to the decisions covered under Paragraph (1) and to all consequences thereof.

Steps of Court where Republic of Bulgaria Lacks Jurisdiction for

Subsequent Decisions

**Article 26.** (1) In cases other than those referred to in Article 25 (1) herein, the court may request information from the executing State on the maximum duration of deprivation of liberty that is foreseen in the national law thereof for an act equivalent to the offence which gave rise to the judgement referred to in Item 3 of Article 2 herein and that could be imposed on the sentenced person in case of breach of the probation measures or alternative sanctions.

(2) The Bulgarian court shall immediately inform the competent authority of the executing State of any circumstances or findings which, in its opinion, could entail one or more subsequent decisions being taken in the executing State.

Withdrawal of Certificate

**Article 27.** (1) The certificate referred to in Article 6 herein may be withdrawn provided that supervision in the executing State has not yet begun:

1. after receipt of the information referred to in Article 26 (1) herein;

2. after receipt from the executing State of the decision on adaptation of the probation measures or alternative sanctions together with the reasons for the decision.

(2) The decision on withdrawal shall be taken and communicated to the executing State within ten days after receipt of the information referred to in Paragraph (1).

Consequences of Forwarding. Reversion of Competence

**Article 28.** (1) Supervision of the probation measures or alternative sanctions imposed shall be discontinued and the Bulgarian court shall no longer have competence [in relation to the said supervision] nor to take subsequent decisions under Article 25 (1) herein, once the court has been informed by the competent authority of the executing State of the recognition of the judgment referred to in Item 3 of Article 2 herein.

(2) The competence referred to in Paragraph (1) shall revert [to the Bulgarian court] where:

1. the competent authority of the executing State has been notified of withdrawal of the certificate referred to in Article 6 herein according to the procedure established by Article 27 herein, the reversion considered effective as from the date of notification;

2. the executing State, by a declaration to the General Secretariat of the Council of the European Union, has refused in respect of specified cases to take subsequent decisions upon non-compliance with the probation measure or alternative sanction or upon commission of a new criminal offence;

3. after the recognition of the judgment referred to in Item 3 of Article 2 herein, the sentenced person absconds or no longer has a lawful or ordinary residence in the executing State and the competent authority of the executing State transfers the jurisdiction back to the Bulgarian court, of which the court must be informed;

4. new criminal proceedings against the person concerned have been instituted in the Republic of Bulgaria and the competent authority of the executing State, upon request of the Bulgarian court, transfers the jurisdiction back to the said court.

(3) Upon exercise of the further supervision of the probation measures or alternative sanctions in the cases referred to in Items 3 and 4 of Paragraph (2), account shall be taken of the duration and degree of compliance with the probation measures or alternative sanctions in the executing State, as well as of any subsequent decisions taken thereby.

**SUPPLEMENTARY PROVISIONS**

**§ 1.** This Act transposes the requirements of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ, L 337/102 of 16 December 2008).

**§ 2.** Save insofar as this Act contains any special rules, the provisions of the Criminal Procedure Code shall apply.

**TRANSITIONAL AND FINAL PROVISIONS**

**§ 3.** The pending proceedings for recognition of any judicial acts of Member States of the European Union, whereby any measures of probation supervision are imposed as an alternative to actual service of the custodial sentence or parts thereof, shall be completed according to the hitherto effective procedure established by Chapter Thirty-Six of the Criminal Procedure Code.

**§ 4.** In the Criminal Procedure Code (promulgated in the State Gazette No. 86 of 2005; amended in Nos. 46 and 109 of 2007, Nos. 69 and 109 of 2008, Nos. 12, 27, 32 and 33 of 2009, Nos. 15, 32 and 101 of 2010, Nos. 13, 33, 60, 61 and 93 of 2011; [modified by] Constitutional Court Judgment No. 10 of 2011, [promulgated in] No. 93 of 2011; amended in No. 20 of 2012), Section II of Chapter Thirty-Six shall be amended and supplemented as follows:

1. In Article 469, the words "unless provided otherwise in a law" shall be deleted.

2. There shall be inserted an Article 470a:

"Application of the Provisions of the Section

**Article 470a.** The provisions of this Section shall apply save insofar as otherwise provided for in a law or in an international treaty which has been ratified, has been promulgated and has entered into force for the Republic of Bulgaria."

**§ 5.** This Act shall enter into force one month after the promulgation thereof in the State Gazette.

This Act was passed by the 41st National Assembly on the 14th day of March 2012 and the Official Seal of the National Assembly has been affixed thereto.

**Annex 1**

**to Article 6**

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| CERTIFICATE  referred to in Article 6 of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (1)   |  | | --- | | (a) Issuing State:  Executing State: | | (b) Court which issued the judgment imposing a suspended sentence, conditional sentence or alternative sanction  Official name:  Please indicate which authority is to be approached for additional information concerning the judgment, if necessary:  ? the court specified above  ? the central authority; if you ticked this box, please provide the official name of this central authority:  ? another competent authority; if you ticked this box, please provide the official name of this authority:  Contact details of the court/central authority/other competent authority  Address:  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  Details of the person(s) to be contacted  Surname:  Forename(s):  Position (title/grade):  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  E-mail (if any):  Languages that may be used for communication: | | (c) Authority which issued the probation decision (where applicable)  Official name:  Please indicate which authority is to be approached for additional information concerning the decision, if necessary:  ? the authority specified above;  ? the central authority; if you ticked this box, please provide the official  ? name of this central authority if this information has not yet been provided under point (b)  another competent authority; if you ticked this box, please provide the official name of this authority:  Contact details of the authority, the central authority or other competent authority, if this information has not yet been provided under point (b)  Address:  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  Details of the person(s) to be contacted  Surname:  Forename(s):  Position (title/grade):  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  E-mail (if any):  Languages that may be used for communication: | | (d) Competent authority for supervision of the probation measures or alternative sanctions  Authority which has competence in the issuing State for supervising the probation measures or alternative sanctions:  ? the court/authority referred to in point (b)  ? the authority referred to in point (c)  ? another authority (please provide its official name):  Please indicate which authority is to be contacted if any additional information is to be obtained for the purposes of supervising the probation measures or alternative sanctions:  ? the authority specified above  ? the central authority; if you ticked this box, please provide the official name of this central authority if this information has not yet been provided under point (b) or (c):  Contact details of the authority, or of the central authority if this information has not yet been provided under point (b) or (c)  Address:  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  Details of the person(s) to be contacted  Surname:  Forename(s):  Position (title/grade):  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  E-mail (if any):  Languages that may be used for communication: | | (e) Information regarding the natural person in respect of whom the judgment and, where applicable, the probation decision has been issued  Surname:  Forename(s):  Maiden name, where applicable:  Aliases, where applicable:  Sex:  Nationality:  Identity number or social security number (if any):  Date of birth:  Place of birth:  Last known addresses/residences (if any):  – in the issuing State:  – in the executing State:  – elsewhere:  Language(s) understood (if known):  If available, please provide the following information:  – Type and number of the identity document(s) of the sentenced person (ID card, passport):  – Type and number of the residence permit of the sentenced person in the executing State: | | (f) Information regarding the Member State to which the judgment and, where applicable, the probation decision, together with the certificate are being forwarded  The judgment and, where applicable, the probation decision, together with the certificate are being forwarded to the executing State indicated in point (a) for the following reason:  ? the sentenced person has his/her lawful and ordinary residence in the executing State and has returned or wants to return to that State  ? the sentenced person has moved or intends to move to the executing State for the following reason(s) (please tick the relevant box):  ? the sentenced person has been granted an employment contract in the executing State;  ? the sentenced person is a family member of a lawful and ordinary resident person of the executing State;  ? the sentenced person intends to follow a study or training in the executing State;  ? other reason (please specify): | | (g) Indications regarding the judgment and, where applicable, the probation decision  The judgment was issued on (date: DD-MM-YYYY):  Where applicable, the probation decision was issued on (date: DD-MM-YYYY):  The judgment became final on (date: DD-MM-YYYY):  Where applicable, the probation decision became final on (date: DD-MM-YYYY):  The execution of the judgment started on (if different from the date on which the judgment became final) (date: DD-MM-YYYY):  Where applicable, the execution of the probation decision started on (if different from the date on which the probation decision became final) (date: DD-MM-YYYY):  File reference of the judgment (if available):  Where applicable, file reference of the probation decision (if available):  1. The judgment covers in total: … offences.  Summary of the facts and description of the circumstances in which the offence(s) was (were) committed, including the time and place, and the nature of the involvement of the sentenced person:  Nature and legal classification of the offence(s) and applicable statutory provisions on the basis of which the judgment was issued:  2. If the offence(s) referred to in point 1 constitute(s) one or more of the following offences, as defined in the law of the issuing State which are punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least three years, please tick the relevant box(es):  ? participation in a criminal organisation  ? terrorism  ? trafficking in human beings  ? sexual exploitation of children and child pornography  ? illicit trafficking in narcotic drugs and psychotropic substances  ? illicit trafficking in weapons, munitions and explosives  ? corruption  ? fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests  ? laundering of the proceeds of crime  ? counterfeiting of currency, including of the euro  ? computer offences and computer-related crime  ? environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties  ? facilitation of unauthorised entry and residence  ? murder, grievous bodily injury  ? illicit trade in human organs and tissue  ? kidnapping, illegal restraint and hostage-taking  ? racism and xenophobia  ? organised or armed robbery  ? illicit trafficking in cultural goods, including antiques and works of art  ? swindling  ? racketeering and extortion  ? counterfeiting and piracy of products  ? forgery of administrative documents and trafficking therein  ? forgery of means of payment  ? illicit trafficking in hormonal substances and other growth promoters  ? illicit trafficking in nuclear or radioactive materials  ? trafficking in stolen vehicles  ? rape  ? arson  ? crimes within the jurisdiction of the International Criminal Court  ? unlawful seizure of aircraft/ships  ? sabotage  3. To the extent that the offence(s) identified under point 1 is (are) not covered by point 2 or if the judgment and, where applicable, the probation decision, as well as the certificate, are forwarded to a Member State which has declared that it will verify the double criminality (Article 10(4) of the Framework Decision), please give a full description of the offence(s) concerned: | | (h) Indicate if the person appeared in person at the trial resulting in the decision:  1. Yes, the person appeared in person at the trial resulting in the decision.  2. No, the person did not appear in person at the trial resulting in the decision.  3. If you have ticked the box under point 2, please confirm the existence of one of the following:  ? 3.1a. the person was summoned in person on … (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;  OR  ? 3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;  OR  ? 3.2. being aware of the scheduled trial the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;  OR  ? 3.3. the person was served with the decision on … (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and  ? the person expressly stated that he or she does not contest this decision,  OR  ? the person did not request a retrial or appeal within the applicable time frame.  4. If you have ticked the box under points 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:  .................................................................................... | | (i) Indications regarding the nature of the sentence imposed by the judgment or, where applicable, the probation decision  1. This certificate is related to a:  ? Suspended sentence (= custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed)  ? Conditional sentence:  ? the imposition of a sentence has been conditionally deferred by imposing one or more probation measures  ? one or more probation measures have been imposed instead of a custodial sentence or measure involving deprivation of liberty  ? Alternative sanction:  ? the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned  ? the judgment does not contain a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned  ? conditional release (= early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served)  2. Additional information  2.1. The sentenced person was in pre-trial detention during the following period:  2.2. The person was serving a custodial sentence or measure involving deprivation of liberty during the following period (to be filled in only in case of conditional release):  2.3. In case of a suspended sentence  – duration of the custodial period imposed that was conditionally suspended:  – duration of the period of suspension:  2.4. If known, length of deprivation of liberty to be served upon:  – revocation of suspension of the execution of the judgment;  – revocation of the decision on conditional release; or  – breach of the alternative sanction (if the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of such a breach): | | (j) Indications regarding the duration and nature of the probation measure(s) or alternative sanction(s)  1. Total duration of the supervision of the probation measure(s) or alternative sanction(s):  2. Where applicable, duration of each individual obligation imposed as part of the probation measure(s) or alternative sanction(s):  3. Duration of the total probation period (if different from the duration indicated under point 1:  4. Nature of the probation measure(s) or alternative sanction(s) (it is possible to tick multiple boxes):  an obligation for the sentenced person to inform a specific authority of any change of residence or working place  an obligation not to enter certain localities, places or defined areas in the issuing or executing State  an obligation containing limitations on leaving the territory of the executing State  instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity  an obligation to report at specified times to a specific authority  an obligation to avoid contact with specific persons  an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence  an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation  an obligation to carry out community service  an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons  an obligation to undergo therapeutic treatment or treatment for addiction  other measures that the executing State is prepared to supervise in accordance with a notification under Article 4(2) of the Framework Decision  5. Please provide a detailed description of the probation measure(s) or alternative sanction(s) indicated under 4:  6. Please tick the following box if relevant probation reports are available:  If you ticked this box, please indicate in which language(s) these reports are drawn up (2): | | (k) Other circumstances relevant to the case, including relevant information on previous convictions or specific reasons for the imposition of the probation measure(s) or alternative sanction(s) (optional information):  The text of the judgment and, where applicable, the probation decision is attached to the certificate.  Signature of the authority issuing the certificate and/or of its representative to confirm the accuracy of the content of the certificate:  Name:  Position (title/grade):  Date:  File reference (if any):  (Where appropriate) Official stamp: |   \_\_\_\_\_\_\_\_\_\_\_\_\_  (1) This certificate must be written in, or translated into, the official language or one of the official languages of the executing State, or another language that the executing State has stated in a declaration deposited with the General Secretariat of the Council of the European Union.  (2) The issuing State is not obliged to provide translations of these reports. |

**Annex 2**

**to Article 22 (4)**

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| FORM  referred to in Article 17 of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions  REPORT  OF A BREACH OF A PROBATION MEASURE OR ALTERNATIVE SANCTION, OR OF ANY OTHER FINDINGS   |  | | --- | | (a) Details of the identity of the person subject to supervision:  Surname:  Forename(s):  Maiden name, where applicable:  Aliases, where applicable:  Sex:  Nationality:  Identity number or social security number (if any):  Date of birth:  Place of birth:  Address:  Language(s) understood (if known): | | (b) Details of the judgment and, where applicable, the probation decision concerning the suspended sentence, conditional sentence, alternative sanction or conditional release:  Judgment issued on:  File reference (if any):  Where applicable, probation decision issued on:  File reference (if any):  Court which issued the judgment  Official name:  Address:  Where applicable, authority which issued the probation decision  Official name:  Address:  Certificate issued on:  Authority which issued the certificate:  File reference (if any): | | (c) Details of the authority responsible for supervising the probation measure(s) or alternative sanction(s):  Official name of the authority:  Name of the person to be contacted:  Position (title/grade):  Address:  Tel. (country code) (area code)  Fax (country code) (area code)E-mail: | | (d) Probation measure(s) or alternative sanction(s):  ? The person referred to in (a) is in breach of the following obligation(s) or instruction(s):  ? an obligation for the sentenced person to inform a specific authority of any change of residence or working place  ? an obligation not to enter certain localities, places or defined areas in the issuing or executing State  ? an obligation containing limitations on leaving the territory of the executing State  ? instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity  ? an obligation to report at specified times to a specific authority  ? an obligation to avoid contact with specific persons  ? an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence  ? an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation  ? an obligation to carry out community service  ? an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons  ? an obligation to undergo therapeutic treatment or treatment for addiction  ? other measures: | | (e) Description of the breach(es) (place, date and specific circumstances): | | (f) Other findings (if any)  Description of the findings: | | (g) Details of the person to be contacted if additional information is to be obtained concerning the breach:  Surname:  Forename(s):  Address:  Tel. (country code) (area/city code)  Fax (country code) (area/city code)  E-mail (if any):  Signature of the authority issuing the form and/or its representative, to confirm that the contents of the form are correct:  Name:  Position (title/grade):  Date:  Official stamp (where applicable): | |