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**LAW No 4307**

*Incorporation into the Greek law of: a) Council Framework Decision 2008/909/JHA of 27 November 2008, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (PART A); b) Council Framework Decision 2008/947/JHA of 27 November 2008, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, 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 in the European Union (PART B); c) Council Framework Decision 2009/829/JHA of 23 October 2009, on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (PART C), and other provisions.*

**THE PRESIDENT OF THE GREEK REPUBLIC**

We hereby promulgate the following law passed by the Parliament

**PART A**

**Incorporation into the Greek law of: a) Council Framework Decision 2008/909/JHA of 27 November 2008, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009, on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union**

**CHAPTER A**

**GENERAL PRINCIPLES**

**Article 1 – Subject Matter of the Regulation**

**(Framework Decision Article 3)**

1. The provisions of Articles 1 to 22 regulate the recognition and enforcement in Greece of judgments issued by an EU Member State imposing custodial sentences or measures involving deprivation of liberty, and the requests for the recognition and enforcement of relevant national court judgments submitted to Greece to other EU Member States. The fact that a fine and/or confiscation order has been imposed, which has not yet been paid, recovered or enforced, shall not prevent a judgment from being recognized, enforced or being forwarded.
2. The sentenced person must be in the issuing state or in the executing state.

**Article 2 - Definitions**

**(Framework Decision Article 1)**

For the purposes of the implementation of Articles 1 to 22:

a) ‘judgment’ shall mean a final decision or order of a court of the issuing State imposing a sentence on a natural person;

b) ‘sentence’ shall mean any custodial sentence or any measure involving deprivation of liberty imposed for a limited or unlimited period of time on account of a criminal offence on the basis of criminal proceedings;

c) ‘issuing State’ shall mean the Member State in which a judgment is delivered;

d) ‘executing State’ shall mean the Member State to which a judgment is forwarded for the purpose of its recognition and enforcement.

**Article 3 – Competent Authorities**

**(Framework Decision Article 2)**

1. The competent authority for the recognition and enforcement of the judgment shall be the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence.
2. The competent authority for the forwarding of the judgment or a certified copy thereof, together with the certificate referred to in Article 4, to the competent authority of the executing State shall be the Public Prosecutor of the Court that issued the judgment.
3. The Ministry of Justice, Transparency and Human Rights shall be the central authority assisting the competent judicial authorities in the administration of forwarding and receiving judgments and keeping statistics.

**CHAPTER B**

**FORWARDING OF JUDGMENTS**

**Article 4 – Procedure and Conditions for Forwarding Judgments**

**(Framework Decision Articles 4.1, 4.2, 4.3, 5 and 23)**

1. The Public Prosecutor of the Court that issued the judgment shall forward the judgment to the competent authority of one of the States of paragraph 3: if a) the sentenced person is in Greece or in the executing State, b) the sentenced person consents, where required, and c) the Public Prosecutor considers that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person, where appropriate after consultations between the competent authority of the executing State.
2. Where the Public Prosecutor forwards a judgment to another Member State, the judgment shall be accompanied by the certificate for which the standard form is given in Annex I.
3. The judgment together with the certificate may be forwarded to one of the following Member States:
4. the Member State of nationality of the sentenced person, in which he or she ordinarily resides, or
5. the Member State of nationality, to which, while not being the Member State where he or she ordinarily resides, the sentenced person will be deported, once he or she has served the sentence or is released on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision, or
6. any Member State other than a Member State referred to in (a) or (b), the competent authority of which consents to the forwarding of the judgment and the certificate to that Member State.
7. The judgment is forwarded to only one executing State at any one time.
8. The judgment together and the certificate are forwarded by the Public Prosecutor of the Court that issued the judgment acting ex officio or at the request of the competent authority of the executing State or at the request of the sentenced person to the competent authority of the executing State. Requests made under this paragraph shall not create an obligation of the Public Prosecutor to forward the judgment together with the certificate.
9. The judgment or a certified copy thereof, together with the certificate which shall be signed and its content certified as accurate by the Public Prosecutor of the Court that issued the judgment, shall be forwarded by the latter to the competent authority of the executing State. The certificate shall be translated into the official language or one of the official languages of the executing State. A judgment and a certificate shall be forwarded by any means which leaves a written record, under conditions allowing the executing State to establish authenticity. The original of the judgment, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires.
10. If the competent authority of the executing State is not known, the competent Public Prosecutor shall make all necessary inquiries with the Ministry of Justice, Transparency and Human Rights, which shall be required to obtain information from the competent authority of the executing State by all necessary means, including via the contact points of the European Judicial Network.
11. The Public Prosecutor of the Court that issued the judgment, before forwarding the judgment and the certificate, may consult, by any appropriate means, the competent authority of the executing State. Consultation shall be obligatory in the cases referred to in paragraph 3(c).

**Article 5 – Withdrawal of the Certificate**

**(Framework Decision Articles 4.4, 13 and 17.3)**

1. The Public Prosecutor of the Court that issued the judgment may withdraw the certificate referred to in Article 4, if the competent authority of the executing State presents it with a reasoned opinion, that enforcement of the sentence in the executing State would not serve the purpose of facilitating the social rehabilitation and successful reintegration of the sentenced person into society.
2. The Public Prosecutor of the Court that issued the judgment may request the competent authority of the executing State to inform it of the applicable provisions on possible early or conditional release or the adaptation of the judgment in accordance with the law of the executing State. Following such information, the Public Prosecutor may withdraw the certificate.
3. The Public Prosecutor of the Court that issued the judgment may withdraw the certificate, as long as the enforcement of the judgment has not begun, giving reasons for doing so.
4. If the competent authority of the executing State informs the Public Prosecutor of the Court that issued the judgment that the judgment may be recognized or enforced in part, then the Public Prosecutor may withdraw the certificate.

**Article 6 – Consent, Opinion and Notification of the Sentenced Person**

**(Framework Decision Article 6)**

1. The judgment together with the certificate may be forwarded to the executing State for the purpose of its recognition and enforcement of the sentence only with the consent of the sentenced person in accordance with the domestic law, subject to the provision of paragraph 2. The consent shall be given before the Public Prosecutor of the Court that issued the judgment either by the sentenced person appearing in person or by his or her representative who must be authorized in writing.
2. The consent of the sentenced person shall not be required where the judgment together with the certificate is forwarded:

a. to the Member State of nationality of the sentenced person, in which he or she ordinarily resides, or

b. to the Member State of nationality, to which, while not being the Member State where he or she ordinarily resides, the sentenced person will be deported, once he or she has served the sentence or is released on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision, or

c. to any Member State other than a Member State referred to in (a) or (b), to which the sentenced person has fled or otherwise returned in view of the criminal proceedings pending against him or her in Greece or following the conviction in Greece.

1. If the sentenced person is still in the issuing State, he or she shall be given an opportunity to state his or her opinion orally or in writing. The opinion of the sentenced person shall be taken into account when deciding the issue of forwarding the judgment together with the certificate. Where the person has availed him or her self of the opportunity provided in this paragraph, the opinion of the sentenced person shall be forwarded to the executing State, in particular with a view to Article 4.1(c). If the sentenced person stated his or her opinion orally, the competent Public Prosecutor of the Court that issued the judgment shall ensure that the written record of such statement is available to executing State. Where the Public Prosecutor considers it necessary in view of the sentenced person’s age or his or her physical or mental condition, that opportunity to state an opinion shall be given to his or her legal representative.
2. The Public Prosecutor of the Court that issued the judgment shall inform the sentenced person, in a language which he or she understands, that he or she has decided to forward the judgment together with the certificate by using the standard form of the notification set out in Annex II. When the sentenced person is in the executing State at the time of that decision, that form shall be transmitted to the executing State.

**Article 7**

**Consequences of the Transfer of the Sentenced Person to the Executing State**

**(Framework Decision Article 22)**

1. Subject to paragraph 2, Greece shall not proceed with the enforcement of the sentence once its enforcement in the executing State has begun.
2. The right to enforce the sentence shall revert to the Greek State upon its being informed by the executing State of the partial non-enforcement of the sentence.

**CHAPTER C**

**RECOGNITION AND ENFORCEMENT OF JUDGMENTS**

**Article 8 – Double criminality**

**(Framework Decision Article 7)**

1. The following offences, as these are created by the law of the issuing State, provided these are punishable in that State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years, shall give rise to recognition of the judgment and enforcement of the sentence imposed, without verification of the double criminality of the act:

— 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 currency, including of the euro,

— computer-related crime,

— environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

— facilitation of unauthorized 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,

— extortion and racketeering,

— 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.

1. For offences other than those covered by paragraph 1, the recognition of the judgment and enforcement of the sentence shall be subject to the condition that it relates to acts which also constitute an offence under the Greek criminal law, irrespective of their legal characterization in the issuing State.
2. Where the offence is a crime related to taxes or duties, customs and exchange, execution of a judgment and enforcement of a sentence may not be refused on the ground that the Greek criminal law does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and exchange regulations as the law of the issuing State.

**Article 9 - Recognition of the judgment and enforcement of the sentence**

**(Framework Decision Articles 4.4, 8, 11, 12, 13 and 20)**

1. The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence, within a period of ninety days of receipt of the judgment and the certificate, shall recognize the judgment and shall forthwith take all the necessary measures for the enforcement of the sentence, unless he or she decides to invoke one of the grounds for non-recognition and non-enforcement provided for in Article 10. The same Public Prosecutor shall inform the competent authority of the issuing State whether he or she consents or not to the forwarding in the cases of Article 4.3(c).
2. If, in exceptional cases, the Public Prosecutor is unable to comply with the period provided for in paragraph 1, he shall without delay inform the competent authority of the issuing State by any means, giving the reasons for the delay and the estimated time needed for the final decision to be taken.
3. If the Public Prosecutor who receives the judgment or a certified copy thereof together with the certificate has no competence to recognize it and take the necessary measures for its enforcement, he or she shall forthwith forward the judgment to the competent Public Prosecutor and shall inform the judicial authority of the issuing State.
4. Where the certificate referred to in Article 4 is not translated into Greek, is incomplete or manifestly does not correspond to the judgment, the recognition of the judgment may be postponed until such reasonable deadline set by the Public Prosecutor for the certificate to be translated, completed or corrected. The same Public Prosecutor may, without delay after receiving the judgment and the certificate, request, in cases where he or she finds the content of the certificate insufficient to decide on the enforcement of the sentence, that the judgment or essential parts of it be accompanied by a translation into Greek. Such a request shall be made, after consultation, where necessary, with the competent authority of the issuing State, to indicate the essential parts of the judgments to be translated. The decision on recognition of the judgment and enforcement of the sentence may be postponed until the translation has been transmitted by the issuing State to said Public Prosecutor, or where the latter decides to have the judgment translated at the expense of the Greek State, until the translation has been obtained.
5. Where the Public Prosecutor considers that the recognition of the judgment and the enforcement of the sentence shall not facilitate the social rehabilitation of the sentenced person, then he or she shall inform the competent authority of the issuing State in order for the latter to decide whether to withdraw the certificate or not.
6. Where the duration of the sentence exceeds the maximum period provided under the Greek criminal law for similar offences, the Public Prosecutor shall introduce a relevant request before the competent Three-Member First Instance Criminal Court, which may adapt the sentence to be enforced. The adapted sentence shall not be less than the maximum penalty provided for similar offences under the Greek criminal law.
7. Where the sentence is incompatible with the law of the executing State in terms of its nature, the Public Prosecutor shall introduce a relevant request before the competent Three-Member First Instance Criminal Court, which may adapt it to the punishment or measure provided for under the Greek criminal law for similar offences. Such a punishment or measure shall correspond as closely as possible to the sentence imposed in the issuing State and therefore the sentence shall not be converted into a pecuniary punishment.
8. The adapted sentence shall not aggravate the sentence passed in the issuing State in terms of its nature or duration.
9. If prior to the beginning of the enforcement of the sentence the certificate is revoked, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall not enforce the sentence.
10. If the certificate is withdrawn prior to the beginning of the enforcement of the sentence, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence, in case of any decision or measure as a result of which the sentence ceases to be enforceable immediately or within a certain period of time, said Public Prosecutor shall order forthwith the enforcement of the sentence terminated.

**Article 10 – Grounds for Non-Recognition and Non-Enforcement**

**(Framework Decision Article 9)**

1. The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence may refuse to recognize the judgment and enforce the sentence, if:

a) the certificate referred to in Article 4 is incomplete or manifestly does not correspond to the judgment and has not been completed or corrected within a reasonable deadline set by the Public Prosecutor,

b) the sentenced person is not in Greece or in the issuing State or does not consent, where this is a requirement,

c) enforcement of the sentence would be contrary to the principle of ne bis in idem,

d) the judgment does not relate to one of the offences of Article 8,

e) the sentence has been imposed on persons enjoying immunity under the national law, which makes it impossible to enforce it,

f) the sentence has been imposed on a person who, under the Greek criminal law, owing to his or her age, could not have been held criminally liable for the acts in respect of which the judgment was issued,

g) at the time the judgment was received by the competent Public Prosecutor, less than six months of the sentence remain to be served,

h) the enforcement of the sentence is statute-barred according to the Greek criminal law,

i) according to the certificate referred to in Article 4, the sentenced person did not appear in person at the trial resulting in the judgment, unless the certificate states that the person, in accordance with further procedural requirements defined in the national law of the issuing Member State:

i) in due time:

aa) either was summoned in person and thereby informed of the scheduled date and place of the trial which resulted in the judgment, or by other means actually received official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and

bb) was informed that a decision may be handed down if he or she does not appear for the trial; or

ii) being aware of the scheduled trial, had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial; or

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

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

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

j) the Public Prosecutor makes a request, in accordance with Article 16.3, and the competent authority of the issuing State does not consent, in accordance with Article 16.2(g), to the person concerned being prosecuted, sentenced or otherwise deprived of his or her liberty in the executing State for an offence committed prior to the transfer other than that for which the person was transferred,

k) the sentence imposed includes a measure of psychiatric or health care or another measure involving deprivation of liberty, which, notwithstanding the possibility of being adapted to the national law under Article 9.7, cannot be executed by the executing State in accordance with its legal or health care system,

l) the judgment relates to criminal offences which under the domestic law are regarded as having been committed wholly or for a major or essential part within the Greek territory, or in a place equivalent to the Greek territory.

2. In the cases referred to in paragraph 1(a), (b), (c), (i), (k) and (l), the Public Prosecutor, before deciding not to recognize the judgment and enforce the sentence, shall consult the competent authority of the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary additional information without delay.

**Article 11 – Partial recognition and enforcement**

**(Framework Decision Article 10)**

1. If the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence could consider recognition of the judgment and enforcement of the sentence in part, it may, before deciding to refuse recognition of the judgment and enforcement of the sentence in whole, consult the competent authority of the issuing State with a view to finding an agreement, as provided for in the following paragraph.
2. The Public Prosecutor with the competent authority of the executing State may agree, on a case-by-case basis, to the partial recognition and enforcement of a sentence in accordance with the conditions set out by them, provided such recognition and enforcement does not result in the aggravation of the duration of the sentence.

**Article 12 – Provisional Arrest, Custody, Sentenced Person’s Rights**

**(Framework Decision Articles 14 and 15.1)**

1. Where the sentenced person is in the Greek territory, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence may, at the request of the competent authority of the issuing State, before the receipt of the judgment and the certificate, or before recognition of the judgment and the enforcement of the sentence, arrest the sentenced person, or take any other measure to ensure that the sentenced person remains in its territory, pending a decision to recognize the judgment and enforce the sentence. If the arrested person disputes his or her identity, the provisions of Article 564 of the Greek Code of Criminal Procedure shall apply.
2. Where the sentenced person is arrested on the basis of the request of the previous paragraph, he or she shall be forthwith led to the Public Prosecutor. The latter, after verifying his or her identity, shall inform the sentenced person of the presence and contents of the request and of his or her right to legal counsel. A report shall be drawn in testimony of such information and the sentenced person’s response in accordance with Articles 148 to 153 of the Code of Criminal Procedure. The arrested person shall be entitled, either in person or through his or her counsel, to ask for and receive copies of all the documents at his or her cost.
3. After the sentenced person has been arrested and his or her identity verified, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall decide whether it is necessary to place him or her in custody in order to prevent escape. The period during which the sentenced person may be held in custody is up to fifteen days, within which the judgment and the certificate must arrive. This period may be extended by the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence, with good reason. The Public Prosecutor shall inform of any extension of this period the competent authority of the issuing State that submitted the request. In any event, thirty days after the arrest, the sentenced person shall be released.
4. Where the sentenced person is placed in custody, he or she shall be entitled, within two days of the issue of the relevant decision, to appeal to the Three-Member First Instance Criminal Court of his or her place of custody. That court’s decision shall be final. The court may order the early or conditional release of the sentenced person.

**Article 13 – Transfer of sentenced persons**

**(Framework Decision Article 15)**

1. If the sentenced person is in the issuing State, he or she shall be transferred to the executing State at a time agreed between the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence and the competent authoritiy of the issuing State, and no later than 30 days after the Public Prosecutor’s decision on the recognition of the judgment and enforcement of the sentence has been issued.
2. If the transfer of the sentenced person within the period laid down in paragraph 1 is prevented by unforeseen circumstances, the above-mentioned competent authorities shall immediately contact each other and transfer shall take place as soon as these circumstances cease to exist. In that event, transfer shall take place within 10 days of the new date agreed between said authorities.

**Article 14 – Sentenced Person’s Transit**

**(Framework Decision Article 16)**

1. Transit through the Greek territory of a sentenced person who is being transferred to the executing State may be permitted, provided that a copy of the certificate referred to in Article 4 has been forwarded to the Public Prosecutor of the Court of Appeal of Athens by the competent authority of the issuing State together with the transit request. The transit request may be transmitted by any means capable of producing a written record. The issuing State shall provide a translation of the certificate into Greek.
2. The Public Prosecutor, if unable to guarantee that the sentenced person will not be prosecuted or, except as provided in paragraph 4, detained or otherwise subjected to any restriction of his or her liberty in the Greek territory for any offence committed or sentence imposed before his or her departure from the territory of the issuing State, shall inform the issuing State upon receiving the request.
3. The Public Prosecutor shall notify his or her decision, which shall be taken on a priority basis and not later than one week after having received the request, by the same procedure. Such a decision may be postponed until the translation has been transmitted.
4. The Public Prosecutor may hold the sentenced person in custody only for such time as transit through the Greek territory requires.
5. A transit request shall not be required in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs, the competent authority of the issuing State shall provide the information provided for in paragraph 1 within 72 hours.

**Article 15 – Law Governing the Enforcement of the Sentence**

**(Framework Decision Article 17)**

1. The enforcement of the sentence shall be governed by the Greek law.
2. The full period of deprivation of liberty already served in connection with the sentence in respect of which the judgment was issued shall be deducted from the total duration of the deprivation of liberty to be served.
3. The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall, upon request, inform the competent authority of the issuing State of the applicable provisions on possible early or conditional release.
4. Any decision on early or conditional release may take account of those provisions of national law, indicated by the competent authority of the issuing State, under which the person is entitled to early or conditional release at a specified point in time.

**Article 16 – The Specialty Rule**

**(Framework Decision Article 18)**

1. A person transferred to the Greek territory pursuant to Articles 1 to 22 shall not, subject to paragraph 2, be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed before his or her transfer other than that for which he or she was transferred.
2. Paragraph 1 shall not apply in the following cases:
3. A request for consent shall be submitted to the competent authority of the issuing State, accompanied by the information mentioned in Article 2.1, Law 3251/2004 (Official Journal A/127) and a translation in accordance with the provisions of Article 2.3 of the same Law. The provisions of Article 4.4 et seq. shall apply, mutatis mutandis, to the decision on a request for consent.

**Article 17 – Information to be given by the Executing State**

**(Framework Decision Article 21)**

The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall inform without delay the competent authority of the issuing State by any means which leaves a written record:

a) of the receipt of the judgment and the certificate,

b) of the fact that it is in practice impossible to enforce the sentence because after transmission of the judgment and the certificate, the sentenced person cannot be found in the Greek territory,

c) of the decision to recognize the judgment and enforce the sentence together with the date of the decision,

d) of any decision not to recognize the judgment and enforce the sentence in accordance with Article 10, together with the reasons for the decision,

e) of any decision to adapt the sentence in accordance with Article 9.6 or 9.7, together with the reasons for the decision,

f) of any decision not to enforce the sentence for the reasons referred to in Article 18.1 together with the reasons for the decision,

g) of the beginning and the end of the period of conditional release, where so indicated in the certificate by the issuing State,

h) of the sentenced person’s escape from custody;

i) of the enforcement of the sentence as soon as it has been completed.

**CHAPTER D**

**FINAL PROVISIONS**

**Article 18 – Amnesty, Pardon and Review of Judgment**

**(Framework Decision No 25)**

1. An amnesty or pardon may be granted to the sentenced person both by the issuing State and the executing State.
2. Only the issuing State may decide on applications for review of the judgment imposing the sentence to be enforced under the provisions of Articles 1 to 22.

**Article 19 – Enforcement of Sentences following a European Arrest Warrant**

**(Framework Decision Article 25)**

The provisions of Articles 1 to 22 shall apply mutatis mutandis, to the extent that they are compatible with the provisions of Articles 11 case (f), 12 case (e) and 13.3 of Law 3251/2004, to enforcement of sentences on the basis of a European arrest warrant.

The provisions of Articles 1 to 22 shall apply mutatis mutandis where there is a case for the application of the provisions of Articles 11 point (f) and 12 point € of Law 3251/2004 or where there is a case for the application of the provision of Article 13.3 of the same law.

**Article 20 – Costs**

**(Framework Decision Article 24)**

Costs resulting from the recognition of the judgment and the enforcement of the sentence shall be borne by the Greek State, except for the costs of the transfer of the sentenced person to Greece and those arising exclusively in the sovereign territory of the issuing State.

**Article 21 - Relationship with other Agreements and Arrangements**

**(Framework Decision Article 26)**

1. Without prejudice to their application between Greece and third States, the provisions of Articles 1 to 22 shall replace the corresponding provisions of the following conventions applicable in relations between EU Member States:

a) The European Convention on the transfer of sentenced persons of 21 March 1983 and the Additional Protocol thereto of 18 December 1997,

b) The European Convention on the International Validity of Criminal Judgements of 28 May 1970,

c) Title III, Chapter 5, of the Convention of 19 June 1990 implementing the Schengen Convention of 14 June 1985 on the gradual abolition of checks at common borders,

d) The Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences of 13 November 1991.

1. Bilateral or multilateral agreements or arrangements between Greece and EU Member States shall continue to apply in so far as they help to simplify or facilitate further the procedures for the enforcement of sentences.

**Article 22 – Transitional Provision**

Requests having arrived before the commencement of effect of this Law shall continue to be governed by the provisions previously in effect.

**PART B**

**INCORPORATION INTO THE GREEK LAW OF COUNCIL FRAMEWORK DECISION 2008/947/JHA OF 27 NOVEMBER 2008, AS AMENDED BY COUNCIL FRAMEWORK DECISION 2009/299/JHA OF 26 FEBRUARY 2009, 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 IN THE EUROPEAN UNION**

**CHAPTER A**

**GENERAL PRINCIPLES**

**Article 23 – Subject Matter of Regulation**

**(Framework Decision Articles 1 and 15)**

1. The provisions of Articles 23 to 40 regulate: a) the recognition and enforcement in Greece of judgments issued by an EU Member State imposing a suspended sentence, a conditional sentence, an alternative sanction or granting a conditional release, and b) the request for recognition and enforcement of similar judgments issued by the national courts addressed by Greece to other EU Member States.
2. The competent authorities of the States involved may consult each other with a view to facilitating the smooth and efficient application of the provisions of Articles 23 to 40.

**Article 24 – Definitions**

**(Framework Decision Article 2)**

For the purposes of the provisions of Articles 23 to 40:

A. ‘judgment’ shall mean an enforceable final decision or order of a court of the issuing State, establishing that a natural person has committed a criminal offence and imposing:

a) a custodial sentence or measure involving deprivation of liberty, if a conditional release has been granted on the basis of that judgment or by a subsequent probation decision;

b) a suspended sentence;

c) a conditional sentence;

d) an alternative sanction;

B. ‘suspended sentence’ shall mean a custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed by imposing one or more probation measures. Such probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;

C. ‘conditional sentence’ shall mean a judgment in which the imposition of a sentence has been conditionally deferred by imposing one or more probation measures or in which one or more probation measures are imposed instead of a custodial sentence or measure involving deprivation of liberty. Such probation measures may be included in the judgment itself or determined in a separate probation decision taken by a competent authority;

D. ‘alternative sanction’ shall mean a sanction, other than a custodial sentence, a measure involving deprivation of liberty or a financial penalty, imposing an obligation;

E. ‘probation decision’ shall mean a judgment or a final decision of a competent authority of the issuing State taken on the basis of such judgment:

a) granting a conditional release; or

b) imposing probation measures;

F. ‘conditional release’ shall mean a final decision of a competent authority or stemming from the national law on the early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served by imposing one or more probation measures;

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

H. ‘issuing State’ shall mean the Member State in which a judgment is delivered;

J. ‘executing State’ shall mean the Member State in which the probation measures and alternative sanctions are supervised.

**Article 25 – Competent Authorities**

**(Framework Decision Article 3)**

1. The competent authority for the recognition of the judgment and the supervision of the probation measures and alternative sanctions, where Greece is the executing State, shall be the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence.
2. The competent authority for the forwarding of the judgment or a certified copy thereof together with the certificate referred to in Article 27 to the competent authority of the executing State, where Greece is the issuing State, shall be the Public Prosecutor of the court that issued the judgment.
3. The Ministry of Justice, Transparency and Human Rights shall be the central authority assisting the competent judicial authorities in the administration of forwarding and receiving judgments and keeping statistics.

**Article 26 – Scope**

**(Framework Decision Article 4)**

The provisions of Articles 23 to 40 shall apply to the following probation measures or alternative sanctions:

a) an obligation to inform a specific authority of any change of residence or working place;

b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State;

c) an obligation containing limitations on leaving the territory of the executing State;

d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;

e) an obligation to report at specified times to a specific authority;

f) an obligation to avoid contact with specific persons;

g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence;

h) an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation;

i) an obligation to carry out community service;

j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;

k) an obligation to undergo therapeutic treatment or treatment for addiction.

**CHAPTER B**

**JUDGMENT FORWARDING**

**Article 27 –Procedure and Criteria for Forwarding**

**(Framework Decision Articles 5.1 and 5.2, 6.1, 6.2, 6.3, 6.5 and 6.6, 7.1 and 14.1)**

1. The Public Prosecutor of the court that issued the judgment may forward the judgment to the Member State in which the sentenced person is ordinarily residing, in cases where the sentenced person has returned or wants to return to that State.
2. The Public Prosecutor of the court that issued the judgment may, upon the request of the sentenced person, forward the judgment to a competent authority of a Member State other than the Member State in which the sentenced person is ordinarily residing, on condition that this latter authority has consented to such forwarding.
3. The Public Prosecutor of the court that issued the judgment shall forward the judgment to one executing State at any one time.
4. When the competent Public Prosecutor forwards a judgment to another Member State, he or shall ensure that it is accompanied by the certificate of Annex (III).
5. The judgment together with the certificate shall be forwarded by the competent Public Prosecutor directly to the competent authority of the executing State by any means which leaves a written record under conditions allowing the executing State to establish their authenticity. The original of the judgment or a certified copy thereof, as well as the original of the certificate, shall be sent to the competent authority of the executing State if it so requires. All official communications shall also be made directly between the said competent authorities.
6. The certificate shall be signed and its content certified as accurate by the competent Public Prosecutor of the court that issued the judgment and shall be translated into the official or one of the official languages of the executing State.
7. Ιf the competent authority of the executing State is not known, the competent Public Prosecutor shall make all necessary inquiries with the Ministry of Justice, Transparency and Human Rights, which shall be required to obtain information from the competent authority of the executing State by all necessary means, including via the contact points of the European Judicial Network.
8. Once the competent authority of the executing State has recognized the judgment forwarded to it and has informed of such recognition, the Greek authorities shall no longer have competence in relation to the supervision of the probation measures or alternative sanctions imposed, nor to take subsequent measures referred to in Article 34.2 of this Law.
9. The Public Prosecutor of the court that issued the judgment shall inform forthwith the competent authority of the executing State, by any means which leaves a written record, of any circumstances or findings capable of leading to a decision on the: a) modification of the probation measures or alternative sanctions; b) revocation of the suspension of the execution of the judgment or revocation of the decision on conditional release, and c) enforcement of a custodial sentence or measure involving deprivation of liberty, because of non-compliance with a probation measure or alternative sanction.

**Article 28 – Withdrawal of the Certificate**

**(Framework Decision Articles 9.4, 16.2 and 18.5)**

1. The Public Prosecutor of the court that issued the judgment may, immediately upon receiving the judgment and the certificate, may request the competent authority of the executing State to provide information: a) on the maximum duration of deprivation of liberty that is foreseen in the national law of the executing State for the offence which gave rise to the judgment and that could be imposed on the sentenced person in case of breach of the probation measure or alternative sanction, b) any decision to adapt the probation measures or alternative sanctions in accordance with Article 31, together with the reasons for the decision.
2. Following receipt of the information referred to in paragraph 1, the Public Prosecutor of the court that issued the judgment may decide to withdraw the certificate provided that supervision in the executing State has not yet begun. In such cases, the decision shall be taken and communicated as soon as possible and within ten days of the receipt of the information.

**Article 29 – Transfer back of Jurisdiction for the Supervision of Probation Measures and the Greek Authorities’ Jurisdiction to take Subsequent Measures**

**(Framework Decision Articles 7.2, 14.5, 17.1, 17.3, 17.5 and 20)**

1. If the sentenced person cannot be found or no longer has his or her ordinary residence in the executing State, the competent authority of the executing State may transfer the jurisdiction in respect of the supervision of the probation measures or alternative sanctions and in respect of all further decisions relating to the judgment back to the Greek authorities.
2. The Public Prosecutor of the court that issued the judgment, if new criminal proceedings against the person concerned are taking place, may request the competent authority of the executing State to transfer back to him or her the jurisdiction: a) in respect of the supervision of the probation measures or alternative sanctions, and b) in respect of the introduction of the case to the competent court for all further decisions relating to the imposed measures. For the further supervision of the probation measures or alternative sanctions, the Greek authorities shall take account of the duration and degree of compliance with the probation measures or alternative sanctions in the executing State, as well as of any decisions taken by the executing State.
3. Ιf the executing State, by declaration notified to the General Secretariat of the Council, has stated that it may, in certain cases, refuse to take a subsequent decision in the case of non-compliance with a probation measure or alternative sanction and the competent authority of the executing State is of the view that a subsequent decision needs to be taken, the relevant jurisdiction shall be transferred back to the Greek authorities without affecting the obligation to recognize the judgment and the continued supervision of the probation measure or alternative sanction by the executing State.
4. In the case of paragraph 3, the Public Prosecutor of the court that issued the judgment may request of the competent authority of the executing State to provide:

a) any information which may result in the revocation of the suspension of the execution of the judgment or the revocation of the decision on conditional release,

b) any information which may result in the imposition of a custodial sentence or measure involving deprivation of liberty,

c) any other information which is necessary in order for the competent authorities in accordance with the national law to take the subsequent decisions. The sentenced person’s judicial hearing may take place with the use of video links, where possible.

Notice of the findings mentioned in points (a) and (b) shall be given using the standard form set out in Annex IV. Notice of the facts and circumstances mentioned in point (c) shall be given by any means which leaves a written record, including, where necessary, through the form set out in Annex IV.

1. The Public Prosecutor of the court that issued the judgment shall without delay inform the competent authority of the executing State of all decisions on:

a) the revocation of the suspension of the execution of the judgment;

b) the enforcement of the custodial sentence or measure involving deprivation of liberty, where such measure is contained in the judgment;

c) the imposition of a custodial sentence or measure involving deprivation of liberty, where such measure is not contained in the judgment;

d) the lapsing of the probation measure or alternative sanction.

**CHAPTER C**

**RECOGNITION AND ENFORCEMENT OF JUDGMENTS**

**Article 30 –Procedure and Conditions for Recognition**

**(Framework Decision Articles 6.7, 8 and 12)**

1. The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall decide within 60 days of receipt of the judgment together with the certificate whether or not to recognize by issuing a relevant decision the judgment and shall without delay take all necessary measures for the supervision of the probation measures or alternative sanctions, unless he or she decides to invoke one of the grounds for refusing recognition and supervision referred to in Article 33.
2. When in exceptional circumstances it is not possible for the Public Prosecutor to comply with the time limit provided for in paragraph 1, he or she shall immediately inform the competent authority of the issuing State by any means, giving the reasons for the delay and indicating the estimated time needed for the final decision to be taken.
3. The same Public Prosecutor may postpone the decision on recognition of the judgment where the certificate is incomplete or obviously does not correspond to the judgment until such reasonable deadline set for the certificate to be completed or corrected.
4. When the Public Prosecutor has no competence to recognize the judgment and take the ensuing necessary measures for the supervision of the probation measure or alternative sanction, he or she shall, ex officio, forward it to the competent Public Prosecutor and shall without delay inform the competent authority of the issuing State accordingly by any means which leaves a written record.
5. If the sentenced person cannot be found in the Greek territory, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall be under no obligation to supervise the probation measures or alternative sanction, and shall inform the competent authority of the issuing State.

**Article 31 – Adaptation of the Probation Measures or Alternative Sanctions**

**(Framework Decision Article 9.1, 9.2 and 9.3)**

1. If the nature or duration of the relevant probation measure or alternative sanction, or the duration of the probation period, are incompatible with the national law, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall introduce Prosecutor shall introduce a relevant request before the competent Three-Member First Instance Criminal Court, which may adapt them in line with the nature and duration of the probation measures and alternative sanctions, or duration of the probation period, which apply, under the national law, to equivalent offences. The adapted probation measure, alternative sanction or duration of the probation period shall correspond as far as possible to that imposed in the issuing State.
2. Where the probation measure, the alternative sanction or the probation period has been adapted because its duration exceeds the maximum duration provided for under the national law, the duration of the adapted probation measure, alternative sanction or probation period shall not be below the maximum duration provided for equivalent offences under the national law.
3. The adapted probation measure, alternative sanction or probation period shall not be more severe or longer than the probation measure, alternative sanction or probation period which was originally imposed.

**Article 32 - Double criminality**

**(Framework Decision Articles 10 and 11.1(d))**

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

— participation in a criminal organisation,

— terrorism,

— trafficking in human beings,

— sexual exploitation of children and child pornography,

— illicit trafficking in narcotic drugs and psychotropic substances,

— illicit trafficking in weapons, munitions and explosives,

— corruption,

— 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 currency, including of the euro,

— computer-related crime,

— environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

— facilitation of unauthorized 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.

1. For offences other than those covered by paragraph 1, the recognition of the judgment and supervision of probation measures and alternative sanctions shall be subject to the condition that it relates to acts which also constitute an offence under the national law, irrespective of their legal characterization in the issuing State.
2. Where the offence is a crime related to taxes or duties, customs and exchange, execution of a judgment may not be refused on the ground that the Greek State does not impose the same kind of tax or duty or does not provide for the same type of rules as regards taxes, duties and customs and exchange regulations as those of the issuing State.

**Article 33 - Grounds for Refusing Recognition and Supervision**

**(Framework Decision Article 11)**

1. The competent Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence may refuse to recognize the judgment if:

a) the certificate is incomplete or manifestly does not correspond to the judgment and has not been completed or corrected within the set reasonable period;

b) the criteria set forth in Article 27 are not met;

c) recognition of the judgment would be contrary to the principle of ne bis in idem;

d) none of the cases of Article 32 is met;

e) there is immunity under the national law for the sentenced person;

f) under the Greek criminal 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;

g) the probation measure or alternative sanction is of less than six months’ duration;

h) the enforcement of the sentence is statute-barred according to the national law and relates to an act which falls within the competence of the Greek courts according to the national law;

i) according to the certificate, the sentenced person did not attend in person the proceedings which resulted in the judgment being rendered, unless the certificate states that, pursuant to the procedural provisions of the national law of the issuing State:

i) in due time:

aa) either was duly summoned in person and thereby informed of the scheduled date and place of the trial, or actually received, by other means, official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and

bb) was informed of the possibility of a judgment being rendered in absentia, or

ii) the sentenced person was aware of the scheduled trial the person and had given a mandate to a legal counsellor, who was either appointed by the person concerned or ex officio, to defend him or her at the trial, and was indeed defended by that counsellor at the trial, or

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

aa) expressly stated that he or she does not contest the decision; or

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

j) the judgment provides for medical/therapeutic treatment which, notwithstanding Article 31.2, the Greek authorities are unable to supervise in view of the national legal or health-care system;

k) the judgment relates to criminal offences which under the Greek law are regarded as having been committed wholly or for a major or essential part within the Greek territory, or in a place equivalent to the Greek territory.

1. In the cases referred to in paragraph 1(a), (b), (c), (i) and (k), the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence, before deciding not to recognize the judgment shall communicate, by appropriate means, with the competent authority of the issuing State and shall, as necessary, ask it to supply all additional information required without delay.
2. Where the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence has decided to invoke a ground for refusal referred to in paragraph 1 of this Article, in particular the grounds referred to under paragraph 1(d) or (k), he or she may nevertheless, in agreement with the competent authority of the issuing State, decide to supervise the probation measures or alternative sanctions that are imposed in the judgment forwarded to it, without assuming the responsibility for taking any of the subsequent decisions referred to in Article 34.

**Article 34 – Governing Law and Jurisdiction to Take Subsequent Decisions**

**(Framework Decision Articles 13.1, 14 and 16.1)**

1. The supervision of probation measures and alternative sanctions shall be governed by the Greek law.
2. In case of non-compliance with a probation measure or alternative sanction or if the sentenced person commits a new criminal offence, subject to paragraph 4, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall introduce the case before the competent court in order for all subsequent decisions to be taken in accordance with the national law.
3. The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall without delay inform the competent authority of the issuing State, by any means which leaves a written record, of all decisions on the:

a) modification of the probation measure or alternative sanction;

b) revocation of the suspension of the execution of the judgment;

c) enforcement of a custodial sentence or measure involving deprivation of liberty, because of non-compliance with a probation measure or alternative sanction;

d) lapsing of the probation measure or alternative sanction.

1. In case of non-compliance with a probation measure or alternative sanction or if the sentenced person commits a new criminal offence, the Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall transfer jurisdiction back to the competent authority of the issuing State in order for subsequent decisions to be taken, if such decision involves:

a) an alternative sanction, without imposing a custodial sentence or measure involving deprivation of liberty in case of failure to comply,

b) a conditional sentence,

c) acts which do not constitute an offence under the Greek law, irrespective of their legal characterization.

**Article 35 –Executing State’s Obligation to Provide Information**

**(Framework Decision Article 18)**

The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall without delay inform the competent authority of the issuing State, by any means which leaves a written record of:

a) the fact that it is in practice impossible to enforce the penalty for the reason that, after transmission of the judgment together with the certificate to the executing State, the sentenced person cannot be found in the Greek territory, in which case Greece is under no obligation to supervise the probation measures or alternative sanctions;

b) the final decision to recognize the judgment and to supervise the probation measures or alternative sanctions;

c) any decision not to recognize the judgment and to supervise the probation measures or alternative sanctions in accordance with Article 33;

d) any decision to adapt the probation measures or alternative sanctions in accordance with Article 31;

e) any decision on amnesty or pardon which leads to not supervising the probation measures or alternative sanctions.

**Article 36 – End of jurisdiction of the executing State**

**(Framework Decision Article 20.1 and 20.2)**

The Public Prosecutor of the First Instance Court of the sentenced person’s place of ordinary residence shall transfer the jurisdiction in respect of the supervision of the probation measures or alternative sanctions and in respect of all further decisions relating to the imposed measures back to the competent authority of the issuing State: a) if the sentenced person cannot be found or no longer has his or her ordinary residence in Greece, and b) if new criminal proceedings against the sentenced person take place in the issuing State and the competent authority of the issuing State requests that jurisdiction in respect of the supervision of the probation measures or alternative sanctions and in respect of all further decisions be transferred back to the competent authority of the issuing State.

**CHAPTER D**

**FINAL PROVISIONS**

**Article 37 - Amnesty, Pardon, Review of Judgment**

**(Framework Decision Article 19)**

1. An amnesty or pardon may be granted by the issuing State and also by the executing State.
2. Only the issuing State may decide on applications for review of the judgment which forms the basis for the probation measures or alternative sanctions to be supervised under the provisions of Articles 23 to 40.

**Article 38 - Costs**

**(Framework Decision Article 22)**

Costs resulting from the application of the provisions of Articles 23 to 40 shall be borne by the executing State, except for costs arising exclusively within the territory of the issuing State.

**Article 39 - Relationship with Other Agreements and Arrangements**

**(Framework Decision Article 23)**

1. The provisions of Articles 23 to 40, subject to their application to the relations between Greece and third countries, shall replace the corresponding provisions of the Council of Europe Convention of 30 November 1964 “on the Supervision of Conditionally Sentenced or Conditionally Released Offenders”.
2. Bilateral or multilateral agreements or arrangements between Greece and EU Member States shall continue to apply, in so far as they allow the provisions of this Law to be extended or enlarged and help to simplify or facilitate further the procedures for the supervision of probation measures and alternative sanctions.

**Article 40 – Transitional Provision**

1. Requests for the recognition of judgments and the supervision of probation measures and alternative sanctions having arrived before the commencement of effect of this Law shall continue to be governed by the provisions previously in effect.
2. In cases of requests for the recognition of a judgments by an EU Member State which has not yet harmonized its national law with Council Framework Decision 2008/947/JHA of 27 November 2008, the provisions previously in effect on the recognition of judgments and the enforcement of penalties shall continue to apply.

**PART C**

**INCORPORATION INTO THE GREEK LAW OF COUNCIL FRAMEWORK DECISION 2009/829/JHA OF 23 OCTOBER 2009, ON THE APPLICATION, BETWEEN MEMBER STATES OF THE EUROPEAN UNION, OF THE PRINCIPLE OF MUTUAL RECOGNITION TO DECISIONS ON SUPERVISION MEASURES AS AN ALTERNATIVE TO PROVISIONAL DETENTION.**

**CHAPTER A**

**GENERAL PRINCIPLES**

**Article 41 – Subject Matter of the Regulation**

**(Framework Decision Article 1)**

The provisions of Articles 41 to 59 regulate: a) the recognition in Greece of a decision on supervision measures issued in another EU Member State as an alternative to provisional detention, b) the supervision of measures imposed on a natural person, and c) the surrender of the person concerned to the issuing State in case of breach of these measures.

**Article 42 – Definitions**

**(Framework Decision Article 4)**

For the purposes of the provisions of Articles 41 to 59:

a) ‘decision’ means an enforceable decision or order taken by a competent authority of the issuing State and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;

b) ‘supervision measures’ means obligations and instructions imposed on a natural person by the decision of point (a);

c) ‘issuing State’ means the Member State in which a decision on supervision measures has been issued;

d) ‘executing State’ means the Member State in which the supervision measures are monitored.

**Article 43 – Competent Authorities**

**(Framework Decision Articles 6, 7 and 11.2(a))**

1. The competent authority for the recognition of the decision and the monitoring of the supervision measures, where Greece is the executing State, shall be the Public Prosecutor of the First Instance Court of the place of ordinary residence of the person in respect of whom the decision on supervision measures has been issued.
2. The competent authority for the forwarding of the decision or a certified copy thereof together with the certificate referred to in Article 45.3 to the competent authority of the executing State, where Greece is the issuing State, shall be the Public Prosecutor of the court that issued the decision or to which the investigating authority that issued the decision is subordinate. To that end, the Court or the investigating magistrate, after issuing a decision imposing supervision measures on a person who has his or her lawful and ordinary residence in another Member State, shall transmit without delay an official copy thereof to said Public Prosecutor.
3. The Ministry of Justice, Transparency and Human Rights shall be the central authority assisting the competent judicial authorities in the administration of forwarding and receiving judgments and keeping statistics.

**Article 44 – Scope of Application**

**(Framework Decision Article 8)**

1. The provisions of Articles 41 to 59 shall apply to the following supervision measures:

a) an obligation for the person to inform the competent authority in the executing State of any change of residence, in particular for the purpose of receiving a summons to attend a hearing or a trial in the course of criminal proceedings;

b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State;

c) an obligation to remain at a specified place, where applicable during specified times;

d) a prohibition or an obligation containing limitations on leaving the territory of the executing State;

e) an obligation to report at specified times to a specific authority;

f) an obligation to avoid contact with specific persons in relation with the offence(s) allegedly committed;

g) an obligation not to engage in specified activities in relation with the offence(s) allegedly committed, which may include involvement in a specified profession or field of employment;

h) an obligation not to drive a vehicle;

i) an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specified number of instalments or entirely at once;

j) an obligation to undergo therapeutic treatment or treatment for addiction;

k) an obligation to avoid contact with specific objects in relation with the offence(s) allegedly committed.

**CHAPTER B**

**DECISION FORWARDING**

**Article 45 – Conditions and Procedure for Forwarding a Decision**

**(Framework Decision Articles 9, 10.1, 10.2, 10.3, 10.5, 10.6, 10.7 and 24)**

1. Α decision may be forwarded to the Member State in which the person is lawfully and ordinarily residing by the Public Prosecutor of the Court that issued the decision on supervision measures or to which the investigating authority that issued the decision is subordinate, in cases where the person, having been informed about the measures concerned, consents to return to that State.
2. Said Public Prosecutor may, upon request of the person, forward the decision directly to the competent authority of a Member State other than the Member State in which the person is lawfully and ordinarily residing, on condition that the latter authority has consented to such forwarding.
3. When the Public Prosecutor forwards a decision on supervision measures to another Member State, he or she shall ensure that it is accompanied by the certificate referred to in Annex V, which shall be signed, and its content certified as accurate, by him or her and shall be translated into the official language or one of the official languages of the executing State. The decision shall be forwarded only to one executing State at any one time.
4. The decision together with the certificate of the previous paragraph shall be forwarded by the Public Prosecutor to the competent authority in the executing State by any means which leaves a written record under conditions allowing the executing State to establish their authenticity. The original of the decision, or a certified copy thereof, and the original of the certificate shall be sent to the competent authority of the executing State if it so requires. All official communications shall be made directly between the said competent authorities.
5. Ιf the competent authority of the executing State is not known, the Public Prosecutor shall make all necessary inquiries with the Central Authority of the Ministry of Justice, Transparency and Human Rights, which shall be required to obtain information from the competent authority of the executing State by all necessary means, including via the contact points of the European Judicial Network.
6. Once the competent authority of the executing State has recognized the decision forwarded to it and has informed of such recognition, the Greek authorities shall no longer have competence in relation to the monitoring of the supervision measures.
7. The Public Prosecutor, taking into account all the circumstances of the case that are known when the decision on supervision measures is forwarded, shall inform forthwith the competent authority of the executing State, by any means which leaves a written record of, a) the length of time to which the decision on supervision measures applies, b) whether a renewal of this decision is possible, and c) on an indicative basis, the provisional length of time for which the monitoring of the supervision measures is likely to be needed.

**Article 46 - Competence over the Monitoring of the Supervision Measures**

**(Framework Decision Articles 11 and 13.3)**

1. As long as the competent authority of the executing State has not recognized the decision on supervision measures forwarded to it by the Public Prosecutor of the Court that issued the decision or to which the investigating authority that issued the decision is subordinate, and has not informed the latter of the issuing State of such recognition, the Public Prosecutor shall remain competent in relation to the monitoring of the supervision measures imposed.
2. Following receipt of information referred to in Article 54.2(b) or (f), the Public Prosecutor may decide to withdraw the certificate referred to in Article 45.3 as long as monitoring in the executing State has not yet begun. In such a case, the relevant decision shall be taken and communicated as soon as possible and within ten days of the receipt of the relevant notification at the latest, and the competent authority of the executing State shall end the measures ordered as soon as it has been thus duly notified.
3. If competence for monitoring the supervision measures has been transferred to the competent authority of the executing State, such competence shall revert back to the Public Prosecutor of the Court that issued the decision or to which the investigating authority that issued the decision is subordinate, in the following cases:

a) where the person concerned has established his/her lawful and ordinary residence in a State other than the executing State;

b) if the Public Prosecutor has notified withdrawal of the certificate referred to in Article 43.3, pursuant to paragraph 2,to the competent authority of the executing State;

c) where the competent authority in the issuing State has modified the supervision measures and the competent authority in the executing State has refused to monitor the modified supervision measures referred to in Article 44 points (g), (h), (i), and (k);

d) when the period of time referred to in Article 54.2(b) has elapsed; and

e) where the competent authority in the executing State has decided to stop monitoring the supervision measures and has informed the Public Prosecutor thereof, in application of Article 56.

1. In cases referred to in paragraph 3, the same Public Prosecutor shall consult with the competent authority of the executing State so as to avoid, if necessary, any discontinuation in the monitoring of the supervision measures.

**Article 47 - Law governing Supervision, Governing Law and Competence to take Subsequent Decisions**

**(Framework Decision Articles 16, 18.1 and 18.2)**

1. The monitoring of supervision measures in Greece shall be governed by the Greek law.
2. The Public Prosecutor of the Court that issued the decision or to which the investigating authority that issued the decision is subordinate shall submit to the competent authorities proposals on taking subsequent decisions relating to already imposed supervision measures, aiming to protect the victims and the general population and safeguard law and order. Such subsequent decisions include notably:

a) renewal, review and withdrawal of the decision on supervision measures;

b) modification of the supervision measures; and

c) issuing an arrest warrant or any other enforceable judicial decision having the same effect.

1. The Greek Law shall apply to subsequent decisions taken pursuant to the previous paragraph.

**Article 48 – Consultations**

**(Framework Decision Article 22)**

1. The Public Prosecutor of the Court that issued the decision or to which the investigating authority that issued the decision is subordinate shall consult, if necessary, with the competent authority of the executing State:

a) before forwarding a decision on supervision measures together with the certificate, in order to choose and apply the indicated supervision measure;

b) to facilitate the smooth and efficient monitoring of the supervision measures in the executing State;

c) where the person has committed a serious breach of the supervision measures imposed.

1. In the framework of these consultations, the Public Prosecutor shall take due account of any indications communicated by the competent authority of the executing State on the risk that the person concerned might pose to victims and to the general public. If necessary, the Public Prosecutor shall exchange useful information with the competent authority of the executing State, allowing verification of the identity and place of residence of the person concerned as well as relevant information extracted from that person’s criminal record.

**Article 49 – Obligations of the Authorities Involved**

**(Framework Decision Articles 19 and 24)**

1. The Public Prosecutor of the Court that issued the decision or to which the investigating authority that issued the decision is subordinate, may be invited by the competent authority in the executing State that monitors the supervision measures to provide information as to whether the monitoring of the measures is still needed in the circumstances of the particular case at hand. The Public Prosecutor shall, without delay, reply to such an invitation, where appropriate submitting a proposal to the competent authorities to take a subsequent decision, in accordance with Article 47.2.
2. Before the expiry of the period specified for the monitoring of the supervision measures by the same Public Prosecutor, the latter, either ex officio or at the request of the competent authority in the executing State, shall inform that authority of the additional period, if any, he or she expects that the monitoring of the measures is still needed.
3. The competent authority in the executing State shall immediately notify the Public Prosecutor of any breach of any supervision measure, and any other finding which could result in taking any subsequent decision. Notice shall be given using the standard form of Annex VI, which shall be translated into the official language or one of the official languages of the executing State.
4. Where a subsequent decision is taken, the procedure and conditions contained in instruments of international and EU Law that provide for the possibility of using telephone- and videoconferences for hearing persons may be used mutatis mutandis.
5. The Public Prosecutor shall immediately inform the competent authority in the executing State of any decision referred to in Article 47.2 and of the fact that a legal remedy has been introduced against a decision on supervision measures.
6. If the certificate relating to the decision on supervision measures has been withdrawn by the Public Prosecutor, the competent authority of the executing State shall end the measures ordered as soon as it has been duly notified by him or her.

**CHAPTER C**

**RECOGNITION AND MONITORING OF DECISION**

**Article 50 – Conditions and Procedure for Recognition**

**(Framework Decision Articles 10.8 and 12)**

1. The Public Prosecutor of the place of the supervised person’s ordinary residence shall recognize the decision forwarded in accordance with Article 45 and without delay and take all necessary measures for monitoring the supervision measures, unless it decides to invoke one of the grounds for non-recognition referred to in Article 53 of this Law. Recognition shall take place as soon as possible and in any case within twenty (20) working days of receipt of the decision on supervision measures and the relevant certificate.
2. If a legal remedy has been introduced against the decision on supervision measures, the time limit for recognition of the decision on supervision measures shall be extended by another twenty (20) working days. In exceptional circumstances, if it is not possible for the Public Prosecutor to comply with the time limits laid down in paragraph 1, he or she shall immediately inform the competent authority in the issuing State, by any means of its choosing, giving reasons for the delay and indicating how long it expects to take to issue a final decision.
3. The same Public Prosecutor may postpone the decision on recognition of the decision on supervision measures where the certificate provided for in paragraph 3 of Article 45 is incomplete or obviously does not correspond to the decision on supervision measures, until such reasonable time limit set for the certificate to be completed or corrected.
4. If the Public Prosecutor has no competence to recognize the decision on supervision measures, he or she shall, ex officio, forward the decision to the competent authority.
5. When the person in respect of whom the decision on supervision measures has been issued cannot be found in the Greek territory, the Public Prosecutor shall have no obligation to monitor the supervision measures and shall inform the competent authority of the issuing State.

**Article 51 – Adaptation of the Supervision Measures**

**(Framework Decision Article 13)**

1. If the nature or length of the supervision measures is incompatible with the national law, the Public Prosecutor of the person’s place of ordinary residence shall submit a relevant proposal to the Court having local jurisdiction or to the investigating authority being subject to that Court. The Court or the investigating authority may adapt the decision in line with the nature, length and types of supervision measures which apply, under the national law, to equivalent offences. The adapted supervision measure shall correspond as far as possible to that imposed in the issuing State.
2. The adapted supervision measure shall not be more severe or lengthier than the supervision measure which was originally imposed.

**Article 52 – Double Criminality**

**(Framework Decision Articles 14 and 15.1(d))**

1. The following offences, if they are punishable in the issuing State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years, and as they are defined by the law of the issuing State, may without verification of the double criminality of the act, give rise to recognition of the decision and the monitoring of supervision measures:

— 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 (5),

— laundering of the proceeds of crime,

— counterfeiting currency, including of the euro,

— computer-related crime,

— environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,

— facilitation of unauthorized 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.

1. For offences other than those covered by paragraph 1, the recognition of the decision and monitoring of the supervision measures shall be subject to the condition that it relates to acts which also constitute an offence under the national law, irrespective of their legal characterization in the issuing State. Where the offence is a crime related to taxes or duties, customs and exchange, execution of a decision may not be refused on the ground that the Greek law does not provide for the same type of rules as regards taxes, duties and customs and exchange regulations as those of the issuing State.

**Article 53 – Grounds for Non-Recognition and Monitoring**

**(Framework Decision Article 15)**

1. The Public Prosecutor of the supervised person’s place of ordinary residence may refuse to recognize the decision if:

a) the certificate referred to in Article 45.3 is incomplete or obviously does not correspond to the decision on supervision measures and is not completed or corrected within a reasonable period set by the Public Prosecutor;

b) the conditions laid down in Article 45.1 and 2 are not met;

c) recognition of the decision would contravene the ne bis in idem principle;

d) the penalty is statute-barred under the Greek criminal law and relates to an act which falls within the competence of the Greek courts under the Greek national law;

e) there is immunity under the national law, which makes it impossible to monitor supervision measures;

f) under the Greek criminal law, the person cannot, because of his or her age, be held criminally responsible for the act on which the decision on supervision measures is based;

h) he or she would, in case of breach of the supervision measures, have to refuse to surrender the person concerned in accordance with Law 3251/2004 on the European arrest warrant, as currently in force.

1. In the cases referred to in paragraph 1(a), (b) and (c), the Public Prosecutor, before deciding not to recognize the decision on supervision measures, shall communicate, by appropriate means, with the competent authority in the issuing State and, as necessary, request the latter to supply without delay any additional information required at his or her discretion.
2. Where the Public Prosecutor is of the opinion that the recognition of a decision on supervision measures could be refused on the basis of paragraph 1 under (g), he or she shall inform the competent authority in the issuing State thereof. In such a case, the competent authority in the issuing State may decide to withdraw the certificate. If the competent authority in the issuing State does not withdraw the certificate, the Public Prosecutor may recognize the decision on supervision measures and monitor the supervision measures contained therein.

**Article 54 – Information from the Executing State**

**(Framework Decision Article 20)**

1. The Public Prosecutor of the supervised person’s place of ordinary residence, who has received a decision on supervision measures together with a certificate and has forwarded it to the competent authority in accordance with Article 50.4, shall without delay inform the competent authority of the issuing State by any means which leaves a written record of that other competent authority to which the decision has been forwarded.
2. The Public Prosecutor shall, without delay, inform the competent authority of the issuing State by any means which leaves a written record:

a) of any change of residence of the person concerned;

b) of the maximum length of time during which the supervision measures can be monitored;

c) of the fact that it is in practice impossible to monitor the supervision measures for the reason that, after transmission of the decision on supervision measures and the certificate to the executing State, the person cannot be found in the Greek territory, in which case there shall be no obligation of the Public Prosecutor to monitor the supervision measures;

d) of the fact that a legal remedy has been introduced against a decision to recognize a decision on supervision measures;

e) of the decision to recognize the decision on supervision measures and take all necessary measures for the monitoring of the supervision measures;

f) of any decision to adapt the supervision measures; and

g) of any decision not to recognize the decision on supervision measures and to assume responsibility for monitoring of the supervision measures.

**Article 55 - Surrender of the Person**

**(Framework Decision Article 21)**

1. If the competent authority of the issuing State has issued an arrest warrant or any other enforceable judicial decision having the same effect, the person under supervision shall be surrendered in accordance with the provisions of Law 3251/2004 “on the European Arrest Warrant”, as currently in force.
2. In this context, the Public Prosecutor of the supervised person’s place of ordinary residence may not invoke the provisions of Article 10.1 of Law 3251/2004 “on the European Arrest Warrant”, as currently in force, in order to refuse to surrender the person.

**Article 56 – Unanswered Notices**

**(Framework Decision Article 23)**

1. Where the Public Prosecutor of the supervised person’s place of ordinary residence has transmitted several notices of breaches of supervision measures in respect of the same person to the competent authority in the issuing State, without this latter authority having taken any subsequent decision, the Public Prosecutor may invite the competent authority in the issuing State to take such a decision, giving it a reasonable time limit to do so.
2. If the competent authority in the issuing State does not act within the time limit thus indicated, the Public Prosecutor may decide to stop monitoring the supervision measures. In such case, she or she shall inform the competent authority in the issuing State of his or her decision, and the competence for the monitoring of the supervision measures shall revert back to the competent authority in the issuing State in application of Article 46.2.
3. Where a periodic confirmation of the necessity to prolong the monitoring of the supervision measures is required, the Public Prosecutor may request the competent authority in the issuing State to provide such confirmation, giving it a reasonable time limit to reply to such a request. If the Public Prosecutor does not receive an answer to this request within the time limit concerned, the provisions of the previous paragraph shall apply.

**CHAPTER D**

**FINAL PROVISIONS**

**Article 57 – Costs**

**(Framework Decision Article 25)**

Any costs resulting from the enforcement of the decision on supervision measures in Greece shall be borne by the Greek State.

**Article 58 - Relation to other agreements and arrangements**

**(Framework Decision Article 26)**

1. The provisions of Articles 41 to 59, subject to their application to the relations between Greece and third countries: a) shall not affect the application of bilateral or multilateral agreements or arrangements in force when the present Law enters into force, and b) shall not prevent the conclusion of bilateral or multilateral agreements or arrangements after this Law has entered into force, in so far as such agreements or arrangements allow the objectives of this Law to be extended or enlarged and help to simplify or facilitate further the mutual recognition of decisions on supervision measures.
2. The agreements and arrangements referred to in paragraph 1 shall in no case affect relations with Member States which are not parties to them.

**Article 59**

**Transitional Provision**

1. Requests for the recognition of decisions and the monitoring of supervision measures having arrived before the commencement of effect of this Law shall continue to be governed by the provisions previously in effect.
2. In cases of requests for the recognition of a judgments by an EU Member State which has not yet harmonized its national law with Council Framework Decision 2009/829/JHA of 23 October 2009, the provisions previously in effect on the recognition of decisions and the monitoring of supervision measures shall continue to apply.