



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 July 2011

13300/11

**COPEN 191
EUROJUST 118
EJN 97**

NOTE

from:	General Secretariat
to:	Delegations
Subject:	Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial - Consolidated version of the certificate concerning the execution of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

Delegations find attached the consolidated version of the certificate concerning the execution of judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions.

CERTIFICATE

**referred to in Article 6 of Council Framework Decision 2008/947/JHA of 27 November 2008
on the application of the principle of mutual recognition to judgments and probation decisions
with a view to the supervision of probation measures and alternative sanctions¹**

(a)	Issuing State: Executing State:
-----	--

¹ This certificate must be written in, or translated into, the official language or one of the official languages of the executing Member State, or any other official language of the Institutions of the European Union that is accepted by that State.

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

Official name:

Please indicate whether any additional information concerning the judgment is to be obtained from:

the court specified above

the central authority; if you ticked this box, please provide the official name of this central authority:

another competent authority; if you ticked this box, please provide the official name of this authority:

Contact details of the court/central authority/other competent authority

Address:

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

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

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

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

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

E-mail (if any):

Languages that may be used for communication:

(c) Authority which issued the probation decision (where applicable)

Official name:

Please indicate whether any additional information concerning the probation decision is to be obtained from:

the authority specified above

the central authority; if you ticked this box, please provide the official name of this central authority if this information has not yet been provided under point (b):

another competent authority; if you ticked this box, please provide the official name of this authority

Contact details of the authority, the central authority or other competent authority, if this information has not yet been provided under point (b)

Address:

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

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

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

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

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

E-mail (if any):

Languages that may be used for communication:

(d) Competent authority for supervision of the probation measures or alternative sanctions

Authority which has competence in the issuing State for supervising the probation measures or alternative sanctions:

the court/authority referred to in point (b)

the authority referred to in point (c)

another authority (please provide its official name):

Please indicate which authority is to be contacted if any additional information is to be obtained for the purposes of supervising the probation measures or alternative sanctions:

the authority specified above

the central authority; if you ticked this box, please provide the official name of this central authority if this information has not yet been provided under point (b) or (c):

Contact details of the authority, or of the central authority if this information has not yet been provided under point (b) or (c)

Address:

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

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

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

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

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

E-mail (if any):

Languages that may be used for communication:

(e) Information regarding the natural person in respect of whom the judgment and, where applicable, the probation decision has been issued

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Last known addresses/residences (if any):

- in the issuing State:
- in the executing State:
- elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

- Type and number of the identity document(s) of the sentenced person (ID card, passport):
- Type and number of the residence permit of the sentenced person in the executing State:

(f) Information regarding the Member State to which the judgment and, where applicable, the probation decision, together with the certificate are being forwarded

The judgment and, where applicable, the probation decision, together with the certificate are being forwarded to the executing State indicated in point(a) for the following reason:

the sentenced person has his/her lawful and ordinary residence in the executing State and has returned or wants to return to that State

the sentenced person has moved or intends to move to the executing State for the following reason(s) (please tick the relevant box):

- ◇ the sentenced person has been granted an employment contract in the executing State;
- ◇ the sentenced person is a family member of a lawful and ordinary resident person of the executing State;
- ◇ the sentenced person intends to follow a study or training in the executing State;
- ◇ other reason (please specify):

(g) Indications regarding the judgment and, where applicable, the probation decision

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

Where applicable, the probation decision was issued on (date: DD-MM-YYYY):

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

Where applicable, the probation decision became final on (date: DD-MM-YYYY):

The execution of the judgment started on (if different from the date on which the judgment became final) (date: DD-MM-YYYY):

Where applicable, the execution of the probation decision started on (if different from the date on which the probation decision became final) (date: DD-MM-YYYY):

File reference of the judgment (if available):

Where applicable, file reference of the probation decision (if available):

1. The judgment covers in total: offences.

Summary of the facts and description of the circumstances in which the offence(s) was (were) committed, including the time and place, and the nature of the involvement of the sentenced person:

Nature and legal classification of the offence(s) and applicable statutory provisions on the basis of which the judgment was issued:

2. If the offence(s) referred to in point 1 constitute(s) one or more of the following offences, as defined in the law of the issuing State which are punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least three years, please confirm by ticking the relevant box(es):

participation in a criminal organisation

terrorism

trafficking in human beings

sexual exploitation of children and child pornography

illicit trafficking in narcotic drugs and psychotropic substances

illicit trafficking in weapons, munitions and explosives

corruption

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

laundering of the proceeds of crime

counterfeiting of currency, including the euro

computer-related crime

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

facilitation of unauthorised entry and residence

murder, grievous bodily injury

illicit trade in human organs and tissue

kidnapping, illegal restraint and hostage-taking

racism and xenophobia

organised or armed robbery

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

swindling

racketeering and extortion

counterfeiting and piracy of products

forgery of administrative documents and trafficking therein
forgery of means of payment
illicit trafficking in hormonal substances and other growth promoters
illicit trafficking in nuclear or radioactive materials
trafficking in stolen vehicles
rape
arson
crimes within the jurisdiction of the International Criminal Court
unlawful seizure of aircraft/ships
sabotage

3. To the extent that the offence(s) identified under point 1 is (are) not covered by point 2 or if the judgment and, where applicable, the probation decision, as well as the certificate are forwarded to a Member State, which has declared that it will verify the double criminality (Article 10(4) of the Framework Decision), please give a full description of the offence(s) concerned:

(h) Indicate if the person appeared in person at the trial resulting in the decision:

1. Yes, the person appeared in person at the trial resulting in the decision.

2. No, the person did not appear in person at the trial resulting in the decision.

3. If you have ticked the box under point 2, please confirm the existence of one of the following:

3.1a. the person was summoned in person on ... (day/month/year) and thereby informed of the scheduled date and place of the trial which resulted in the decision and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

3.1b. the person was not summoned in person but by other means actually received official information of the scheduled date and place of the trial which resulted in the decision, in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, and was informed that a decision may be handed down if he or she does not appear for the trial;

OR

3.2. being aware of the scheduled trial the person had given a mandate to a legal counsellor, who was either appointed by the person concerned or by the State, to defend him or her at the trial, and was indeed defended by that counsellor at the trial;

OR

3.3. the person was served with the decision on ... (day/month/year) and was expressly informed about the right to a retrial or appeal, in which he or she has the right to participate and which allows the merits of the case, including fresh evidence, to be re-examined, and which may lead to the original decision being reversed, and

the person expressly stated that he or she does not contest this decision;

OR

the person did not request a retrial or appeal within the applicable timeframe.

4. If you have ticked the box under point 3.1b, 3.2 or 3.3 above, please provide information about how the relevant condition has been met:

.....
.....

(i) Indications regarding the nature of the sentence imposed by the judgment or, where applicable, the probation decision

1. This certificate is related to a:

Suspended sentence (= custodial sentence or measure involving deprivation of liberty, the execution of which is conditionally suspended, wholly or in part, when the sentence is passed)

Conditional sentence:

- ◇ the imposition of a sentence has been conditionally deferred by imposing one or more probation measures
- ◇ one or more probation measures have been imposed instead of a custodial sentence or measure involving deprivation of liberty

Alternative sanction:

- ◇ the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned
- ◇ the judgment does not contain a custodial sentence or measure involving deprivation of liberty to be enforced in case of non-compliance with the obligation(s) or instruction(s) concerned

Conditional release (= early release of a sentenced person after part of the custodial sentence or measure involving deprivation of liberty has been served)

2. Additional information

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

2.2. The person was serving a custodial sentence or measure involving deprivation of liberty during the following period (to be filled in only in case of conditional release):

2.3. In case of a suspended sentence

- duration of the custodial period imposed that was conditionally suspended:
- duration of the period of suspension:

2.4. If known, length of deprivation of liberty to be served upon

- revocation of suspension of the execution of the judgment;
- revocation of the decision on conditional release; or
- breach of the alternative sanction (if the judgment contains a custodial sentence or measure involving deprivation of liberty to be enforced in case of such a breach):

- (j) Indications regarding the duration and nature of the probation measure(s) or alternative sanction(s)
1. Total duration of the supervision of the probation measure(s) or alternative sanction(s):
 2. Where applicable, duration of each individual obligation imposed as part of the probation measure(s) or alternative sanction(s):
 3. Duration of the total probation period (if different from the duration indicated under point 1):
 4. Nature of the probation measure(s) or alternative sanction(s) (it is possible to tick multiple boxes):
 - an obligation for the sentenced person to inform a specific authority of any change of residence or working place
 - an obligation not to enter certain localities, places or defined areas in the issuing or executing State
 - an obligation containing limitations on leaving the territory of the executing State
 - instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity
 - an obligation to report at specified times to a specific authority

an obligation to avoid contact with specific persons

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

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

an obligation to carry out community service

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

an obligation to undergo therapeutic treatment or treatment for addiction

other measures that the executing State is prepared to supervise in accordance with a notification under Article 4(2) of the Framework Decision

5. Please provide a detailed description of the probation measure(s) or alternative sanction(s) indicated under 4:
6. Please tick the following box if relevant probation reports are available: If you ticked this box, please indicate in which language(s) these reports are drawn up:¹

¹ "The issuing State is not obliged to provide translations of these reports."

- (k) Other circumstances relevant to the case, including relevant information on previous convictions or specific reasons for the imposition of the probation measure(s) or alternative sanction(s) (optional information):

The text of the judgment and, where applicable, the probation decision is attached to the certificate.

Signature of the authority issuing the certificate and/or of its representative to confirm the accuracy of the content of the certificate:

Name:

Position (title/grade):

Date:

File reference (if any):

(Where appropriate) Official stamp:
