VERŻJONI ELETTRONIKA

L.N. 55 of 2012

CRIMINAL CODE
(CAP. 9)

Custodial Sentences or Measures Involving Deprivation of Liberty Orders (Execution in the European Union) Regulations, 2012

IN exercise of the powers conferred by article 628A of the Criminal Code, the Minister for Justice, Dialogue and the Family has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Custodial Sentences or Measures Involving Deprivation of Liberty Orders (Execution in the European Union) Regulations, 2012.

(2) The purpose of these Regulations is to transpose the provisions of Council Framework Decision 2008/909/JHA of 27 November 2008 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, hereinafter referred to as the "Arrangement".

Definitions.

2. In these regulations, unless the context otherwise requires -

"the Arrangement" means the Council Framework Decision 2008/909/JHA of 27 November 2008 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, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009;

"certificate" means the certificate set out in Schedule II;

"Director" means the Director of Correctional Services and includes any other public officer authorised on his behalf by such Director;

"the European Union" means the European Union as referred to in the Treaty;

"executing State" means the Member State to which a judgment is forwarded for the purpose of its recognition;

"issuing State" means the Member State in which a judgment is delivered;

"judgment" means a final decision or order of a court of the issuing State imposing a sentence on a natural person;

"the notification" means the notification set out in Schedule III;

"relevant offence" means:

(a) a scheduled offence; or

(b) any other offence liable to the punishment of imprisonment or of detention for a term of more than one year;

"scheduled offence" means any offence in the list of offences set out in Schedule I;

"sentence" means any custodial sentence or any measure involving deprivation of liberty imposed upon a conviction for a relevant offence;

"the Treaty" shall have the same meaning assigned to it by article 2 of the European Union Act.

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Limitation.

3. These regulations shall be limited to the transmission of judgments between Malta and a Member State of the European Union and shall apply to judgments issued after the 5th December, 2011, made in terms of the Arrangement.

Competent authorities.

4. For purposes of these regulations:

(a) the Attorney General shall be competent to receive judgments issued in the issuing State and to transmit to the executing State judgments issued in Malta by the courts of criminal jurisdiction;

(b) the courts of criminal jurisdiction shall be competent to issue judgments.

Transmission.

5. (1) A judgment shall be transmitted with the certificate provided for in Schedule II and containing the information prescribed therein, by any means capable of producing a written record under conditions allowing the executing State to establish authenticity.

(2) The certificate shall be in either the Maltese or English language:

Provided that it shall not be necessary for the judgment to be in either the Maltese or English language.

(3) The original of the judgment, or a certified copy thereof,

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and the original of the certificate shall be transmitted to the executing State if it so requires.

States receiving judgment.

6. (1) The following provisions of this regulation shall apply where the sentenced person is in the issuing State or in the executing State, and provided the said person has given his consent where required under regulation 8.

(2) The judgment, together with the certificate, shall be transmitted to one of the following Member States:

(a) the Member State of nationality of the sentenced person in which the said person habitually resides; or

(b) the Member State of nationality, to which, while not being the Member State where the said person habitually resides, the sentenced person will be deported, once he is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment; or

(c) any Member State other than a Member State referred to in paragraphs (a) or (b), the competent authority of which consents to the forwarding of the judgment and the certificate to that Member State.

Details of judgment.

7. (1) A judgment shall contain a statement that the judgment relates to:

(a) conduct which:-

(i) is a scheduled offence; and

(ii) carries a sentence of imprisonment or another form of detention of a maximum period of at least three years in the issuing Sate:

Provided that in such cases there shall be no verification of the double criminality of the act; or

(b) conduct which:-

(i) would constitute an offence under the law of Malta if it occurred in Malta;

(ii) is punishable under the laws of Malta with imprisonment or another form of detention for a term of

twelve months or a greater punishment.

(2) In determining, for the purposes of this regulation, whether an offence falls within the requirements of sub-regulation (1)(b)(i):

(a) the description of the offence shall not be regarded as material if the offence under the law of Malta and the law of the issuing State are substantially of the same nature;

(b) if the conduct relates to a tax or duty, it is immaterial that the law of Malta does not impose the same kind of tax or duty or does not contain rules of the same kind as those of the law of the issuing State;

(c) if the conduct relates to customs or exchange, it is immaterial that the law of Malta does not contain rules of the same kind as those of the law of the issuing State.

Consent and opinion of sentenced person.

8. (1) Saving the provisions of sub-regulation (2), a judgment together with the certificate shall only be transmitted to the executing State with the consent of the sentenced person.

(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 in which the sentenced person habitually resides; or

(b) to the Member State to which the sentenced person will be deported once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure consequential to the judgment; or

(c) to the Member State to which the sentenced person has fled or otherwise returned in view of the criminal proceedings pending against him in the issuing State or following the conviction in that issuing State.

(3) (a) Where the sentenced person is still in the issuing State, the said person shall be given an opportunity to state his opinion orally or in writing. Where the issuing State considers it necessary in view of the sentenced person’s age or his physical or mental condition, that opportunity shall be given to the person vested with legal representation of the sentenced person.

(b) The opinion of the sentenced person shall be taken into account by the issuing State when deciding the issue of

forwarding the judgment together with the certificate. Where the person has availed himself of the opportunity provided for in this sub-regulation, that opinion shall be forwarded to the executing State. If the sentenced person stated his opinion orally, the issuing State shall ensure that the written record of such statement is available to executing State.

(4) The competent authority of the issuing State shall inform the sentenced person, in a language which he understands, that it has decided to forward the judgment together with the certificate by using the standard form of the notification set out in Schedule III. When the sentenced person is in the executing State at the time of that decision, that form shall be transmitted to the executing State which shall inform the sentenced person accordingly.

Withdrawal of the certificate.

9. (1) As long as the enforcement of the sentence has not begun in the executing State, the issuing State may withdraw the certificate from that State, giving reasons for doing so.

(2) Upon withdrawal of the certificate, the executing State shall no longer be required to enforce the sentence.

Certificate by Attorney General.

10. (1) Where the Attorney General receives a judgment within the meaning of these regulations, the Attorney General shall, in his own individual judgment and subject to the provisions of regulations 11 and 12, issue a certificate to the effect that the authority which issued the judgment has the function of issuing judgments in the issuing State and such certificate shall be conclusive of its contents.

(2) The certificate issued under sub-regulation (1), together with the judgment to which it refers, shall be communicated to the Director for enforcement.

Grounds for non-recognition.

11. (1) Subject to the provisions of regulation 12, a judgment shall not be recognized by the Attorney General if:

(a) the certificate provided for in Schedule II is not produced, is incomplete or manifestly does not correspond to the judgment and has not been completed or corrected within a reasonable deadline set by the competent authority of the executing State;

(b) the provisions of regulation 6 are not satisfied;

(c) enforcement of the sentence would be contrary to the principle of *ne bis in idem*;

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(d) the act on which the judgment is based is not one falling within the list of scheduled conduct and does not constitute an offence under the law of Malta;

(e) the enforcement of the judgment is barred by prescription according to the law of Malta;

(f) there is an immunity or privilege under the law of Malta which makes it impossible to enforce the judgment;

(g) the sentence has been imposed on a person who, under the law of Malta, owing to his age, could not have been held criminally liable for the acts in respect of which the judgment was issued;

(h) at the time the judgment was received less than six months of the sentence remain to be served;

(i) according to the certificate provided for in Schedule II, the person did not appear personally at the trial resulting in the decision, unless the said certificate states that the person, in accordance with procedural requirements defined in the law of the issuing State:

(i) in due time 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 was aware of the scheduled trial and was informed that a decision may be handed down if he does not appear for the trial, or

(ii) being aware of the scheduled trial, had given a mandate to his legal counsel appointed by the said person or by the State, to defend him at his trial, and was indeed defended by the said legal counsel at the trial, or

(iii) after being served with the decision and being expressly informed of 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, he expressly stated that he does not contest the decision, or he did not request a retrial or an appeal within the applicable time-frame;

(j) before a decision is taken on the recognition of the judgment a request is made to the issuing State in terms of Article 18(3) of the Arrangement, and the issuing State does not consent, in accordance with Article 18(2)(g) of the Arrangement, to the person concerned being prosecuted, sentenced or otherwise deprived of his 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 provisions of regulation 14(3) cannot be executed in Malta in accordance with its legal or health care system;

(l) the judgment relates to criminal offences which:

(i) under the law of Malta, are regarded as having been committed wholly or partly within its territory, or

(ii) were committed outside the territory of the issuing State, and the law of Malta does not permit legal proceedings to be taken in respect of such offences where they are committed outside the Maltese territory;

(2) Before a decision is taken by the Attorney General to refuse recognition of the judgment in cases referred to in sub-regulation (1) (a), (b), (c), (i), (k) and (l), the competent authority of the executing State shall be consulted and shall, where appropriate, be requested to supply any necessary additional information without delay:

Provided that any decision under sub-regulation (1)(l) shall be taken by the Attorney General in exceptional circumstances and on a case-by-case basis, having regard to the specific circumstances of the case, and in particular to whether a major or essential part of the conduct in question has taken place in the issuing State.

(3) The competent authority of the issuing State may also be consulted by the Attorney General in cases where it is deemed possible to give partial recognition to the judgment and enforcement of the sentence with a view to finding an agreement as provided for under this sub-regulation:

Provided that if agreement is reached to give partial recognition and enforcement of the sentence in accordance to

conditions set out by them, such recognition and enforcement does not result in the aggravation of the duration of the sentence, and in the absence of such agreement, the certificate shall be withdrawn.

Grounds for postponement of execution.

12. The Attorney General may postpone recognition of the judgment where the certificate referred to is incomplete or manifestly does not correspond to the judgment, until such reasonable deadline set by him for the certificate to be completed or corrected.

Decision on enforcement and time-limits.

13. (1) The Attorney General shall, as soon as practicable, decide whether to recognise the judgment, and shall inform the issuing State thereof and of any decision to adapt the sentence in accordance with these regulations.

(2) A decision on the recognition of the judgment and the enforcement of the sentence shall be taken within a period of ninety days of receipt of the judgment and the certificate, unless there exists any ground for postponement in terms of the Arrangement. When in exceptional cases it is not practicable for a decision to be taken within this period, the Attorney General shall inform the issuing State giving the reasons for the delay and the estimated time needed for the final decision to be taken.

Enforcement of sentence.

14. (1) Where the sentence is incompatible, in terms of its duration, with the law of Malta, the sentence may only be adapted where that sentence exceeds the maximum penalty provided for similar offences under the law of Malta.

(2) The adapted sentence shall not be less than the maximum penalty provided for similar offences under the law of the executing State.

(3) Where the sentence is incompatible, in terms of its nature, with the law of Malta the sentence may be adapted to the punishment or measure provided for under its own law for similar offences:

Provided that such a punishment or measure shall correspond as closely as possible to the sentence imposed in the issuing State and that the sentence shall not be converted into a pecuniary punishment.

Law governing enforcement.

15. (1) The enforcement of a sentence shall be governed by the law of Malta.

(2) Any period spent in custody and already served in connection with the sentence in respect of which the judgment was issued shall be deducted from any sentence to be served in Malta.

(3) The Attorney General shall, upon request, inform the competent authority of the issuing State of the applicable provisions on remission and possible early or conditional release. The issuing State may agree to the application of such provisions or it may withdraw the certificate.

(4) Where the Attorney General is informed by the competent authority of the executing State of any decision or measure as a result of which the sentence ceases to be enforceable, immediately or within a certain period of time, the enforcement of that sentence shall be immediately terminated.

Provisional arrest.

16. (1) Where a sentenced person is in Malta, before the arrival of the judgment and the certificate, or before the decision to recognise the judgment and enforce the sentence, the issuing authority may request for the provisional arrest of the sentenced person or that other measures be taken to ensure that the sentenced person remains in Malta pending a decision to recognise the judgment and enforce the sentence.

(2) The duration of the sentence shall not be aggravated as a result of any period spent in custody by reason of this provision.

Speciality.

17. (1) A person transferred to Malta under the Arrangement shall not, subject to sub-regulation (2), be prosecuted, sentenced or otherwise deprived of his liberty for an offence committed before his transfer other than that for which he was transferred.

(2) Sub-regulation (1) shall not apply in the following cases:

(a) when the person having had an opportunity to leave Malta has not done so within forty-five days of his final discharge, or has returned to Malta after leaving it;

(b) when the offence is not punishable by a custodial sentence or detention order;

(c) when the criminal proceedings do not give rise to the application of a measure restricting personal liberty;

(d) when the sentenced person could be liable to a penalty or a measure not involving deprivation of liberty, in particular a financial penalty or a measure in lieu thereof, even if the penalty or measure in lieu may give rise to a restriction of his personal liberty;

(e) when the sentenced person consented to the

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transfer;

(f) when the sentenced person, after his transfer, has expressly renounced entitlement to the speciality rule with regard to specific offences preceding his transfer:

Provided that in such case renunciation shall be given before the Court in the presence of legal counsel and a record be made of the said renunciation. The renunciation shall be drawn up in such a way as to make clear that the person has given it voluntarily and in full awareness of the consequences;

(g) for cases other than those mentioned under paragraphs (a) to (f) where the issuing State gives its consent in accordance to Article 18(3) of the Arrangement.

Amnesty, pardon, review of judgment.

18. (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 imposing the sentence to be enforced under the Arrangement.

Information on the result of the execution.

19. The Attorney General shall immediately inform the issuing State by any means capable of producing a written record:

(a) of the fact that it is not possible to enforce the sentence since the sentenced person cannot be found in Malta;

(b) of the final decision to recognise the judgment and enforce the sentence together with the date of the decision;

(c) of any decision not to recognise the judgment and enforce the sentence in accordance with regulation 11 together with the reasons for the decision;

(d) of any decision to adapt the sentence in accordance with regulation 14, together with the reasons for the decision;

(e) of any decision not to enforce the sentence for the reasons referred to in regulation 18(1) together with the reasons for the decision;

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

(g) of the sentenced person’s escape from custody;

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

Issue of judgment.

20. (1) Where a judgment has been delivered by a court of criminal jurisdiction, which judgment has become *res judicata*, the provisions of this regulation shall apply.

(2) Where the Director is satisfied that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person, a judgment shall be issued in terms of these regulations.

(3) Upon the issue of a judgment, the Attorney General shall append to the judgment the certificate provided for in Schedule II purporting to reproduce details setting out the information required by the same certificate.

(4) The Attorney General shall sign and certify as authentic the contents of the certificate.

Termination of enforcement.

21. The Attorney General shall forthwith inform the competent authority of the executing State of any decision or measure as a result of which the sentence ceases to be enforceable immediately or within a certain period of time.

Consequences of the transfer of the sentenced person.

22. (1) Subject to sub-regulation (2), the Maltese authorities shall not proceed with the enforcement of a sentence once its enforcement has commenced in the executing State.

(2) The right to enforce a sentence shall revert to the Maltese authorities upon information by the executing State of the partial non-enforcement of the sentence pursuant to the sentenced person's escape from custody.

Transfer of sentenced persons.

23. (1) If the sentenced person is in Malta, he shall be transferred to the executing State at a time agreed with the executing State which shall be within thirty days, which period shall commence to run on the date when the final decision, of the executing State on the recognition of the judgment and enforcement of the sentence, has been taken.

(2) If the transfer of the sentenced person within the period laid down in sub-regulation (1) is prevented by unforeseen circumstances, the competent authorities of the executing State shall be informed.

(3) Transfer shall take place as soon as circumstances preventing the transfer from taking place cease to exist.

(4) The Director shall immediately inform the competent authority of the executing State and agree on a new transfer date and in such case, transfer shall take place within ten days of that date.

Transit.

24. (1) The Commissioner of Police may authorize transit through Malta of a sentenced person who is being transferred to the executing State, provided that a copy of the certificate has been forwarded to it by the issuing State together with the transit request.

(2) The information referred to in sub-regulation (1) may be transmitted to the Commissioner of Police by any means capable of producing a written record.

(3) When receiving a request to permit transit, the Commissioner of Police shall inform the issuing State if it cannot guarantee that the sentenced person will not be prosecuted, or detained or otherwise subjected to any restriction of his liberty, in Malta, for any offence committed or sentence imposed before his departure from the territory of the issuing State. In such a case, the issuing State may withdraw its request.

(4) The Commissioner of Police shall notify the issuing State of his decision taken on the request, which decision shall be taken on a priority basis and not later than one week after having received the request, by the same procedure.

(5) When the transport of the sentenced person is to take place by air, it will only be necessary to provide the Commissioner of Police with the information required in sub-regulation (1) in the event that an unscheduled landing occurs.

(6) A person being conveyed through Malta in the course of his transfer to the issuing State shall be kept in custody during the period of transit.

SCHEDULE I
(Regulation 2)

Scheduled Offences

- 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 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,

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- 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.

SCHEDULE II
(Regulation 5)

CERTIFICATE

referred to in Article 4 of Council Framework Decision 2008/909/JHA of 27 November 2008 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 [1]

(a) * Issuing State: .....

* Executing State: .....

(b) The court which delivered the judgment imposing the sentence that became final:

Official name: .....

The judgment was delivered on (give date: dd-mm-yyyy): .....

The judgment became final on (give date: dd-mm-yyyy): .....

Reference number of the judgment (if available): .....

(c) Information related to the authority that may be contacted for any question related to the certificate:

1. Type of authority: Please tick the relevant box:

☐ Central authority .....

☐ Court .....

☐ Other authority .....

2. Contact details of the authority indicated under point (c) 1:

Official name: .....

.....

Address: .....

.....

Tel.: (country code) (area/city code) .....

Fax: (country code) (area/city code) .....

E-mail address (if available): .....

3. Languages in which it is possible to communicate with the authority:

4. Contact details of person(s) to be contacted to obtain additional information for the purposes of enforcement of the judgment or agreement on the transfer procedures (name, title/grade, telephone No, fax, e-mail address), if different from 2: .....

.....

.....

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

(d) Information regarding the person on whom the sentence has been imposed:

Name: .....

Forename(s): .....

Maiden name, where applicable: .....

Aliases, where applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number (if available): .....

Date of birth: .....

Place of birth: .....

Last known addresses/residences: .....

Language(s) which the person understands (if known): .....

.....

The sentenced person is:

☐ in the issuing State and is to be transferred to the executing State.

☐ in the executing State and enforcement is to take place in that State.

Additional information to be provided, if available and if appropriate:

1. Photo and fingerprints of the person, and/or contact details of the person to be contacted in order to obtain such information:

   .....

2. Type and reference number of the sentenced person's identity card or passport:

   .....

3. Type and reference number of the sentenced person's residence permit:

   .....

4. Other relevant information about the sentenced person's family, social or professional ties to the executing State:

   .....

   .....

(e) Request for provisional arrest by the issuing State (where the sentenced person is in the executing State):

☐ The issuing State requests the executing State to arrest the sentenced person, or to take any other measure to ensure that the sentenced person remains in its territory, pending a decision to recognise and enforce the sentence.

☐ The issuing State has already requested the executing State to arrest the sentenced person, or to take any other measure to ensure that the sentenced person remains in its territory, pending a decision to recognise and enforce the sentence. Please provide the name of the authority in the executing State that has taken the decision on the request to arrest the person (If applicable and available):

.....

.....

.....

(f) Relation to any earlier European Arrest Warrant (EAW):

☐ An EAW has been issued for the purpose of the execution of a custodial sentence or detention order and the executing Member State undertakes to execute the sentence or detention order (Article 4(6) of the EAW Framework Decision).

Date of issue of the EAW and, if available, reference number:

.....

Name of the authority that issued the EAW: .....

Date of decision to undertake execution and, if available, reference number:

.....

Name of the authority that issued the decision to undertake execution of the sentence:

.....

☐ An EAW has been issued for the purpose of prosecution of a person who is a national or resident of the executing State and the executing State has surrendered the person under the condition that the person is to be returned to the executing State in order to serve there the custodial sentence or detention order passed against him or her in the issuing Member State (Article 5(3) of the EAW Framework Decision).

Date of the decision to surrender the person: .....

Name of the authority that issued the decision to surrender: .....

Reference number of the decision, if available: .....

Date of the surrender of the person, if available: .....

(g) Reasons for forwarding the judgment and the certificate (if you have filled in Box (f), there is no need to fill in this box):

The judgment and the certificate are forwarded to the executing State because the issuing authority is satisfied that the enforcement of the sentence by the executing State would serve the purpose of facilitating the social rehabilitation of the sentenced person and:

☐ (a) The executing State is the State of nationality of the sentenced person in which he or she lives.

☐ (b) The executing State is the State of nationality of the sentenced person, to which the sentenced person will be deported, once he or she is released from the enforcement of the sentence on the basis of an expulsion or deportation order included in the judgment or in a judicial or administrative decision or any other measure taken consequential to the judgment. If the expulsion or deportation order is not included in the judgment, please provide the name of the authority that issued the order, the date of issue, and, if available, the reference number: .....

☐ (c) The executing State is a State, other than a State referred to in (a) or (b), the competent authority of which consents to the forwarding of the judgment and the certificate to that State.

☐ (d) The executing State has given a notification under Article 4(7) of the Framework Decision, and:

☐ it is confirmed that, to the knowledge of the competent authority of the issuing State, the sentenced person lives and has been legally residing continuously for at least five years in the executing State and will retain a permanent right of residence in that state, or

☐ it is confirmed that the sentenced person is a national of the executing State.

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(h) Judgment imposing the sentence:

1. The judgment covers ..... offences in total.

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

   .....

   .....

   .....

   .....

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

   .....

   .....

   .....

2. To the extent that the offence(s) identified under point (h) 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 detention order 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 currency, including of the euro;
   ☐ computer-related crime;
   ☐ environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
   ☐ facilitation of unauthorised entry and residence;
   ☐ murder, grievous bodily injury;
   ☐ 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 the certificate is forwarded to the Member State, which has declared that it will verify the double criminality (Article 7(4) of the Framework Decision), please give a full description of the offence(s) concerned:

   .....

   .....

   .....

(i) Status of the judgment imposing the sentence:

1. Indicate if the judgement was rendered in absentia:

☐ No, it was not.

☐ Yes, it was; it is confirmed that:

☐ the person was informed in person, or via a representative competent according to the national law of the issuing State, of the time and place of the proceedings which led to the judgment in absentia or

☐ the person has indicated to a competent authority that he/she does not contest the decision.

2. Details of the length of the sentence:

2.1. Total length of the sentence (in days): .....

2.2. The full period of deprivation of liberty already served in connection with the sentence in respect of which the judgment was issued (in days):

..... as per (…) (give date on which calculation was made: dd-mm-yyyy): .....

2.3. Number of days to be deducted from total length of the sentence for reasons other than the one referred to under 2.2 (e.g. amnesties, pardons or clemencies, etc. already granted with respect to the sentence): ..... as per (give date on which calculation was made: dd-mm-yyyy): .....

2.4. Sentence expiry date in the issuing State:

☐ Not applicable, because the person is currently not in custody

☐ The person is currently in custody and the sentence, under the law of the issuing State, would be fully served by (give date: dd-mm-yyyy) [1]: .....

3. Type of sentence:

☐ custodial sentence

☐ measure involving deprivation of liberty (please specify):

.....

(j) Information related to early or conditional release:

1. Under the law of the issuing State the sentenced person is entitled to early or conditional release, having served:

☐ half the sentence

☐ two-thirds of the sentence

☐ another portion of the sentence (please indicate):

2. The competent authority of the issuing State requests to be informed of:

☐ The applicable provisions of the law of the executing State on early or conditional release of the sentenced person;

☐ The beginning and the end of the period of early or conditional release.

[1] Please insert here the date by which the sentence would be fully served (not taking into account the possibilities of any form of early and/or conditional release) if the person were to stay in the issuing State.

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(k) Opinion of the sentenced person:

1. ☐ The sentenced person could not be heard because he/she is already in the executing State.

2. ☐ The sentenced person is in the issuing State and:

a. ☐ has requested the forwarding of the judgment and the certificate

☐ consented to the forwarding of the judgment and the certificate

☐ did not consent to the forwarding of the judgment and the certificate (state reasons given by the sentenced person):

.....

.....

b. ☐ Opinion of the sentenced person is attached.

☐ Opinion of the sentenced person was forwarded to the executing State on (give date: dd-mm-yyyy):

.....

(l) Other circumstances relevant to the case (optional information):

.....

.....

(m) Final information:

The text of the judgment(s) is (are) attached to the certificate ([1]).

Signature of the authority issuing the certificate and/or its representative certifying the content of the certificate as accurate

.....

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available) .....

([1]) The competent authority of the issuing State must attach all judgments related to the case which are necessary to have all the information on the final sentence to be enforced. Any available translation of the judgment(s) may also be attached.

SCHEDULE III

(Regulation 8)

Notification of the sentenced person

You are hereby notified of the decision of ..... (competent authority of the issuing State) to forward the judgment of ..... (competent court of the issuing State) dated ..... (date of judgment) ..... (reference number; if available) to ..... (executing State) for the purpose of its recognition and enforcement of the sentence imposed therein in accordance with the national law implementing Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union.

The enforcement of the sentence will be governed by the law of..... (executing State). The authorities of that State will be competent to decide on the procedures for enforcement and to determine all the measures relating thereto, including the grounds for early or conditional release.

The competent authority of ..... (executing State) has to deduct the full period of deprivation of liberty already served in connection with the sentence from the total duration of deprivation of liberty to be served. An adaptation of the sentence by the competent authority of ..... (executing State) may take place only if it is incompatible with the law of that State in terms of its duration or nature. The adapted sentence must not aggravate the sentence passed in ..... (issuing State) by its nature or duration.

VERŻJONI ELETTRONIKA

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