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THE EUROPEAN UNION**

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COPEN 44

OUTCOME OF PROCEEDINGS

of : Working Party on Cooperation in Criminal Matters

on : 3 and 4 April 2006

No. prev. doc. : 7724/06 COPEN 29

7936/06 COPEN 31

7570/06 JUR 114 COPEN 28

Subject : Council Framework Decision 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

I INTRODUCTION

The Working Party on cooperation in criminal matters examined at its meeting on 3 and 4 April 2006:

- double criminality
- consent of the convicted person and criteria for forwarding a judgment (Article 3bis(1) and Article 5(1) and (1bis))
- languages and time limits (Articles 10, 11, 12 and 18bis)
- adaptation of the sentence (Article 8).

The text resulting from those proceedings is set out in the Annex. Questions related to double criminality have been submitted in separate documents to the Article 36 Committee and to Coreper/Council (8207/06 COPEN 40 and 8426/06 COPEN 42). Awaiting the outcome of these discussions, the text of Article 7 as set out in 7724/06 COPEN 29 is reproduced in the Annex.

Observations on the consent of the convicted person and the requirements for forwarding a judgment and a certificate are set out under II below.

The relationship between the draft Framework Decision and the Framework Decision on the European arrest warrant was discussed at previous meetings of the Working Party (see in detail point II in 7724/06 COPEN 29).

The European Parliament has been invited to give its opinion on the draft.

The proposal is subject to general scrutiny reservations and general parliamentary scrutiny reservations by some delegations.

II. CONSENT OF THE CONVICTED PERSON AND CRITERIA FOR FORWARDING A JUDGMENT TOGETHER WITH THE CERTIFICATE

Following the opinion of the Legal Service of the Council¹, the Presidency made a proposal for amendments to Article 3bis(1) and (2) and Article 5(1)². This proposal is based on the principle that the issuing State may forward the judgment and the certificate only if the sentenced person gives his or her consent. However, by virtue of exception from this principle, the consent of the sentenced person is not required in the following cases:

- where the executing State is the State of nationality of the sentenced person where he or she has his or her permanent residence (Article 3bis(1)(a));
- where the sentenced person would be deported to the executing State after having served the sentence as a consequence of the judgment (Article 3bis(1)(b)); or
- where the sentenced person has returned to the executing State and that State is the person's State of nationality or the State of his or her permanent legal residence (Article 5(1bis)(c)). Priority is to be given to the latter (Article 3bis(2), second subparagraph).

¹ See 7570/06 JUR 114 COPEN 28.

² Presidency proposal set out in 7936/06 COPEN 31.

The majority of delegations could accept the Presidency proposal. However, a number of delegations [REDACTED] were against an exception to the consent requirement of the person in cases where the executing State would be the person's State of nationality in which he or she has his or her permanent residence (Article 3bis(a)). Other delegations [REDACTED] maintained their scrutiny reservations on the link between nationality and permanent residence as a requirement to forward the certificate and the judgment without the agreement of the executing State irrespective of the content of Article 3bis paragraph 1bis..

[REDACTED] thought that the exception to the person's consent requirement in deportation cases (Article 3bis(1)(b)) should be limited to the extent provided for in the 1997 Protocol to the 1983 CoE Convention on Transfer. SE and [REDACTED] thought that cases covered by Article 3bis(1)(c), i.e. where the executing State would be the State of the person's permanent legal residence, should also be exempted from the person's consent as a requirement for forwarding the judgment and the certificate. That proposal was not acceptable [REDACTED].

A number of delegations thought that a definition of "permanent legal residence" should be introduced. That was acceptable to virtually all delegations.

Following these discussions the Presidency proposes:

- a definition of "permanent legal residence" to be introduced as new paragraph (e) in Article 1;
- to revise the text of Article 5(1), and in particular to split it up into two paragraphs (new paragraphs 1 and 1bis);
- that the issue of consent in EAW cases is not dealt with in Article 5(1), as the decision resulting in that the sentenced person shall serve the sentence in the executing State is already taken in the proceedings under the Framework Decision on the EAW (see also Recital 6bis).

The Presidency proposals are set out in detail in the Annex.

ANNEX
COUNCIL FRAMEWORK DECISION 2005/ JHA
of

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 2}

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31(1)(a) and 34(2)(b)
thereof,

Having regard to the initiative of the Republic of Austria, the Republic of Finland and the Kingdom
of Sweden,

Having regard to the Opinion of the European Parliament³,

Whereas:

- (1) The European Council meeting in Tampere on 15 and 16 October 1999 endorsed the principle
of mutual recognition, which should become the cornerstone of judicial cooperation in both
civil and criminal matters within the Union.

¹ Changes to the text are indicated as compared with 7936/06 COPEN 31 regarding Article
3bis(1),(1bis) and (2) and Article 5(1), 7724/06 COPEN 29 regarding Articles 8, 10-12, 18bis,
6886/06 COPEN 19 regarding Articles 7 and 13 - 18, 5786/06 COPEN 8 regarding other
Articles and 7307/05 COPEN 54 regarding the Certificate in the Annex to the Framework
Decision.

² The Presidency proposes the following simplified wording of the title: "Council Framework
Decision on the application of the principle of mutual recognition to the enforcement of
sentences in the European Union".

³ OJ


- (2) On 29 November 2000 the Council, in accordance with the Tampere conclusions, adopted a programme of measures to implement the principle of mutual recognition of decisions in criminal matters¹, in which it called for an assessment of the need for modern mechanisms for the mutual recognition of final sentences involving deprivation of liberty (Measure 14) and for extended application of the principle of the transfer of sentenced persons to cover persons resident in a Member State (Measure 16).
- (3) The Hague Programme on strengthening freedom, security and justice in the European Union² requires the Member States to complete the programme of measures, in particular in the field of enforcing final custodial sentences.
- (4) All the Member States have ratified the Council of Europe Convention on the Transfer of Sentenced Persons of 21 March 1983. Under that Convention, sentenced persons may be transferred to serve the remainder of their sentence only to their State of nationality and only with their consent and that of the States involved. The Additional Protocol to the Convention of 18 December 1997, which allows transfer without the person's consent, subject to certain conditions, has not been ratified by all the Member States. Neither instrument imposes any basic duty to take charge of sentenced persons for enforcement of a sentence or order.
- (5) Relations between the Member States, which are characterised by special mutual confidence in other Member States' legal systems, enable recognition by the executing State of decisions taken by the issuing State's authorities. Therefore, a further development of the cooperation provided for in the Council of Europe instruments concerning the enforcement of criminal judgments should be envisaged, in particular where EU nationals or other persons legally residing in one Member State have been subject of a criminal judgment and were sentenced to a custodial sentence or a measure involving deprivation of liberty in another Member State. Notwithstanding the necessity of providing the sentenced person with adequate safeguards, his or her involvement in the proceedings should no longer be dominant by requiring his or her consent to the forwarding of a judgment to another Member State for the purpose of its recognition and enforcement of the sentence imposed.

¹ OJ

² OJ

- (6) The transfer of sentenced persons to the State of nationality or the State of permanent legal residence to serve their sentence will facilitate their social rehabilitation.
- (6bis) This Framework Decision should also apply to the enforcement of sentences in the cases under Articles 4(6) und 5(3) of the Framework Decision on the European Arrest Warrant, while the decision resulting in that the person concerned shall serve the sentence in the executing State is taken in the proceedings under that Framework Decision.¹
- (7) This Framework Decision respects fundamental rights and observes the principles recognised by Article 6 of the Treaty and reflected by the Charter of Fundamental Rights of the European Union, in particular Chapter VI thereof. Nothing in this Framework Decision should be interpreted as prohibiting refusal to execute a decision when there are objective reasons to believe that the sentence was imposed for the purpose of punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that person's position may be prejudiced on anyone of those grounds.
- (8) This Framework Decision does not prevent any Member State from applying its constitutional rules relating to due process, freedom of association, freedom of the press and freedom of expression in other media.
- (9) The provisions of this Framework Decision should be applied in conformity with the right of citizens of the European Union to move and reside freely within the territory of the Member States conferred by Article 18 TEU, and in particular Directive 2004/38/EG².

¹ Presidency proposal.

² Presidency proposal based on a suggestion by 

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1¹
Definitions

For the purposes of this Framework Decision:

- (a) "Judgment" shall mean a final decision or order of a court of the issuing State imposing a sentence on a natural person;²
- (b) "sentence" shall mean any custodial sentence or any measure involving deprivation of liberty³ 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 within the meaning of this Framework Decision was delivered;
- (d) "executing State" shall mean the Member State to which a judgment has been forwarded for the purpose of its recognition and enforcement of the sentence imposed;
- (e)⁴ "permanent legal residence" shall mean
- the right of permanent residence for a person deriving from national provisions implementing Chapter IV of Directive 2004/38/EC; or
 - the right of long-term resident status for a person granted under national provisions implementing Chapter II of Directive 2003/109/EC.

¹ ■ suggested that a text indicating the purpose of this instrument, along the lines of Article 3(1) except the last nine words, should become Article 1. The present Article 1 should become Article 1(a).

² Text based on Article 1(b) of the Convention on the Transfer of Sentenced Persons of 21 March 1983.

³ Presidency proposal based on Article 1(a) of the 1983 Convention following a proposal made by ■ (see COPEN 100). Reservation by ■ on the inclusion of "measures involving deprivation of liberty" linked to the issue of possibility of transfer of persons suffering from mental diseases. Scrutiny reservation by ■

⁴ Presidency proposal. See also cover note.

Article 2¹

Determination of the competent authorities

1. Each Member State shall inform the General Secretariat of the Council which authority or authorities, under its national law, are competent in accordance with this Framework Decision, when that Member State is the issuing State or the executing State.
2. (...)
3. The General Secretariat of the Council shall make the information received available to all Member States and the Commission.

Article 3²

Purpose

- 1.³ The purpose of this Framework Decision is to establish the rules under which a Member State shall recognise a judgment and enforce the sentence imposed irrespective of whether or not enforcement has already started.
2. This Framework Decision is applicable where the sentenced person is in the issuing State or in the executing State.⁴

¹ ■ thought that the content of Article 2 should come after Article 3.

² ■ thought that the content of Article 3(1), except the words "irrespective of whether or not enforcement has already started", should become Article 1.

³ Scrutiny reservation by ■ in view of the obligation to recognise a foreign decision.

⁴ ■ thought that the Framework Decision should also apply when the sentenced person is in a Member State other than the issuing or the executing State.

2bis. This Framework Decision only applies to the recognition of judgments and the enforcement of sentences within the meaning of the Framework Decision. The fact that, in addition to the sentence, a fine and/or a confiscation order has been imposed, which has not yet been paid, recovered or enforced, shall not prevent a judgment from being forwarded. The recognition and enforcement of such fines and confiscation orders in another Member State shall be based on the instruments applicable between the Member States, in particular the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties and on the Council Framework Decision 2005/xxx/JHA of xx.xx.2005 on the application of the principle of mutual recognition to confiscation orders.

3.(a)¹ The following Articles of this Framework Decision shall also apply to the enforcement of sentences where, pursuant to a requirement of Article 5(3) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States ², the person is returned to the executing State in order to serve the sentence passed against him or her in the issuing State:

- Article 1; Definitions,
- Article 2; Determination of the competent authorities,
- Article 3 (2bis); Purpose,
- Article 4(1), (3bis), (4), (5) and (6) ; Forwarding of the judgment and the certificate,
- Article 8; Recognition and enforcement of the judgment;
- Article 10; Decision on the enforcement of the sentence and time limits,

¹ The Presidency suggested that paragraph 3 should be discussed at a future meeting of the Working Party.

² OJ L 190, 18.7.2002, p. 1.

- Article 11; Transfer of persons,
- Article 12; Transit,
- Article 13; Law governing enforcement,
- Article 15; Amnesty, pardon, review of sentence,
- Article 16; Information from the issuing State,
- Article 17(a), (a ter), (c), (d), (f) and (g); Information from the executing State,
- Article 18; Consequences of the transfer of the sentenced person,
- Article 18bis Languages,
- Article 19; Costs,
- Article 20; Relationship with other agreements and arrangements,
- Article 21; Implementation,
- Article 22; Entry into Force;

(b) The following Articles of this Framework Decision shall also apply to the enforcement of sentences where, according to Article 4(6) of Framework Decision 2002/584/JHA, the executing State undertakes to execute the sentence:

- Article 1; Definitions,

- Article 8; Recognition and enforcement of the judgment,
- Article 12; Transit,
- Article 13; Law governing enforcement,
- Article 15; Amnesty, pardon, review of sentence,
- Article 17(a ter),(c), (d), (f) and (g); Information from the executing State,
- Article 18; Consequences of the transfer of the sentenced person,
- Article 18bis Languages,
- Article 19; Costs,
- Article 20; Relationship with other agreements and arrangements,
- Article 21; Implementation,
- Article 22; Entry into Force.

The State that issued the European arrest warrant shall supply the executing State with the judgment together with a certificate as provided for in Article 4. The competent authorities shall communicate directly in matters relating to this paragraph.

- 4¹. This Framework Decision shall not have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

Article 3bis²

Criteria for forwarding a judgment and a certificate to another Member State

1. A judgment, together with a certificate as provided for in Article 4, may be forwarded to one of the following Member States:
 - a) the State of nationality of the sentenced person in which he or she lives without exercising his or her right of permanent legal residence in another Member State in conformity with Community law³;
 - b) ⁴ the Member State of nationality or permanent legal residence 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 issued as a consequence of the judgment or an administrative decision consequential to the judgment; or

¹ [REDACTED], thought that this paragraph was superfluous and suggested that it could be part of the Recitals.

² Scrutiny reservation by some delegations on Article 3bis. This was in particular linked to the scope of the instrument in relation to existing instruments, the provisions on consent (Article 5) and those on grounds for refusal (Article 9). Many delegations thought the scope should cover the 1983 European Convention and its 1997 Protocol. See also point II of the cover note. IR entered a reservation on the approach that the executing State is bound by the decision of the issuing State. The Presidency said that this approach was a necessary consequence of the application of the principle of mutual recognition.

³ Underlined wording based on a proposal made by [REDACTED]. Scrutiny reservation by [REDACTED]. Some delegations [REDACTED] were of the opinion that the criterion of "nationality" should be separated from the "permanent residence" criterion. [REDACTED] were opposed to that. [REDACTED] expressed concerns as to a). [REDACTED] suggested that the situations of "double nationality" and "double residence" should also be addressed.

⁴ Presidency proposal based on a suggestion made by [REDACTED] and amended based on a suggestion by [REDACTED]

bbis) (...) ¹

bter) (...)

- c) the State, in which the person has his or her permanent legal residence², unless he or she has lost or will lose the residence permit as a consequence of the judgment or an administrative decision consequential to the judgment.

1bis. In cases other than those provided for in paragraph 1, the judgment together with the certificate may be forwarded to a Member State which agrees to the forwarding for the purpose of recognition of the judgment and enforcement of the sentence. ³

2.⁴ Before forwarding the judgment and the certificate, the competent authority of the issuing State may consult, by any appropriate means, the competent authority of the executing State. Consultation is obligatory where, in accordance with the criteria laid down in paragraph 1, the judgment could be forwarded to any of two or more Member States, and in the cases referred to in paragraph 1bis. (...) Priority shall be given to the forwarding of the judgment together with the certificate to the State of permanent legal residence of the person. ⁵

¹ Points bbis) and bter) were linked to the cases covered by Articles 4(6) and 5(3) of the EAW. The Presidency will at a later stage propose separate provisions on the procedure to follow in these cases. These provisions will take as a starting point that the decision resulting in that the person concerned shall serve his or her sentence in the executing State is taken under the EAW. Scrutiny reservation by [REDACTED] against the deletion of points bbis and bter.

² Reservation by [REDACTED] in so far as "permanent residence" as a criterion would imply a legal obligation for the executing State to execute. Scrutiny reservation by [REDACTED] on "will lose". [REDACTED], suggested to amend the third part of paragraph c as follows:
" ..., unless the issuing State knows that he or she has lost...". This was objected by [REDACTED] thought that the last part of the sentence (relating to the loss of the residence permit) should be deleted and rather be dealt with as a ground for refusal. Scrutiny reservation by [REDACTED] on paragraph c.

³ Proposal by the Presidency based on a suggestion by [REDACTED].
Scrutiny reservation by [REDACTED].

⁴ [REDACTED] scrutiny reservation on paragraph 2.

⁵ Amendment proposed by the Presidency as a consequence of the opinion of the Council Legal Service. Scrutiny reservation by [REDACTED] who thought that the amendment was superfluous, and by [REDACTED]

3. ¹The executing State may, on its own initiative, request the issuing State to forward the judgment together with the certificate. The sentenced person may also request the competent authorities of the issuing State or of the executing State to initiate a procedure under this Framework Decision. Requests made under this paragraph do not create an obligation of the issuing State to forward the judgment together with the certificate.²

Article 4

Forwarding of the judgment and the certificate

1. For the purpose of its recognition and enforcement of the sentence imposed, the judgment or a certified copy of it³, together with the certificate, shall be forwarded in accordance with article 3 bis, by the competent authority in the issuing State directly to the competent authority in the executing State by any means which leaves a written record under conditions allowing the executing State to establish its 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. All official communications shall also be made directly between the said competent authorities.
 2. (...)
 3. (...)
- 3bis The certificate, the standard form for which is given in Annex A, must be signed, and its content certified as accurate, by the competent authority in the issuing State.
4. The issuing State shall forward the judgment together with the certificate only to one executing State at any one time.

¹ █████ thought the text should be changed to clarify that the rule of "non obligation to act" is without prejudice to Articles 5(3) and 4(6) of the Framework Decision on the European Arrest Warrant. This was supported by █████ thought the matter was already dealt with under the EAW itself.

² Amendment proposed by the Presidency, based on a suggestion by █████, following comments by █████.

³ █████ thought it should be possible to send only an extract of the judgment. █████ were opposed to that.

5. If the competent authority in the executing State is not known to the competent authority in the issuing State, the latter shall make all necessary inquiries, including via the Contact points of the European Judicial Network set up by Council Joint Action 98/428/JHA ¹, in order to obtain the information from the executing State.
6. When an authority in the executing State which receives a judgment together with a certificate has no competence to recognise it and take the necessary measures for its enforcement, it shall, ex officio, forward the judgment together with the certificate to the competent authority and shall inform the competent authority in the issuing State accordingly.

Article 5²

Opinion and notification of the sentenced person

1. Without prejudice to paragraph 1bis, a judgment together with a certificate may only be forwarded to the executing State with the consent of the sentenced person.

¹ OJ L 191, 7.7.1998, p. 4.

² Presidency proposal for new paragraphs 1 and 1bis covering the content of the previous paragraph 1 of Article 5. [REDACTED] scrutiny reservation on entire Article. Scrutiny reservations by all delegations at this stage on the content of the previous Article 5(1).

1bis. The consent of the sentenced person shall not be required where the judgment together with the certificate is forwarded:

- a) in the cases referred to in Article 3bis(1)(a)¹;
- aa) in the cases referred to in Article 3bis(1)b)²;
- b) (...) ³
- c) to the Member State of nationality or of permanent legal residence of the sentenced person to which the person has returned⁴.

2. In all cases where the person is still in the issuing State, the person shall be given an opportunity to state his or her opinion orally or in writing. Where the issuing State considers it necessary in view of the sentenced person's age or his or her physical or mental condition, that opportunity shall be given to his or her legal representative.

3. (...) The competent authority of the issuing State shall inform the sentenced person, in a language which he or she understands, of the decision to forward the judgment together with the certificate by using the standard form set out in Annex B. 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 person accordingly. ⁵

¹ ██████████ were against an exception to the consent requirement of the sentenced person in the cases referred to in Article 3bis(1)(a). SE, supported by ██████, suggested to include a reference to Article 3bis(1)(c). ██████ could not agree to that SE proposal.

² ██████████ wanted to limit the exceptions from the consent requirement in point b) to the cases provided for in the 1997 Protocol to the CoE Convention on Transfer of Sentenced Persons.

³ The cases relating to a European arrest warrant will be dealt with in (a) separate provision(s). The Presidency will make respective proposals at a later stage. These provisions will take as a starting point that the decision resulting in that the sentenced person shall serve the sentence in the executing State is already taken in the proceedings under the Framework Decision on the EAW. ██████████ thought that consent relating to EAW cases should be dealt with in Article 5. ██████ thought was of the opinion that consent was not required in the cases under Article 4(6) of the Framework Decision on the EAW, but was however required in the cases under Article 5(3) of that Framework Decision. That was supported by ██████████. Scrutiny reservation by ██████████ on the deletion of subparagraph b.

⁴ Scrutiny reservation by ██████████

⁵ Presidency proposal based on a suggestion by SE. ██████████ suggested that also all other information important for the sentenced person on early release, and conditions under which sentences are served, should be covered by this paragraph. ██████ was opposed to that. SE, supported by ██████, suggested that a provision along the lines of Article 2(2) of the 1997 Protocol should be inserted in Article 5 or in another Article.

Article 6

(...)

Article 7¹

Scope

1. Subject to paragraph 2, the executing State may make recognition of judgments and enforcement of sentences subject to the condition that they relate to acts which also constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.
2. Paragraph 1 does not apply if the executing State has undertaken to execute the sentence in accordance with Article 4(6) of the Framework Decision on the European Arrest Warrant or has surrendered the person to the issuing State of an EAW subject to the condition that the person be returned in order to serve the sentence in the executing State in accordance with Article 5(3) of the said Framework Decision.

Article 8²

Recognition of the judgment and enforcement of the sentence.

1. ³The competent authority of the executing State shall recognise the judgment which has been forwarded in accordance with Article 4 (...) ⁴, and shall forthwith take all the necessary measures for the enforcement of the sentence, unless the competent authority decides to invoke one of the grounds for non-recognition and non-enforcement provided for in Article 9.

¹ See 8207/06 COPEN 40 and 8426/06 COPEN 42 regarding double criminality.

² Scrutiny reservation by [REDACTED].

³ Scrutiny reservation by [REDACTED] thought the need in some cases for agreement from the executing State for the transfer of the person concerned should be addressed in Article 8 rather than in Article 3bis.

⁴ The wording "without any further formality being required" has been deleted in order to accommodate concerns expressed by [REDACTED].

2. Where the sentence is incompatible with (...) ¹ the law of the executing State in terms of its duration, the competent authority of the executing State may decide to adapt the sentence to the maximum level provided for acts of the same kind ² under the national law of that State.
3. Where the sentence is incompatible with the law of the executing State in terms of its nature, the competent authority of that State may adapt it to the punishment or measure provided for under its own law for acts of the same kind ³. Such a punishment or measure must correspond as closely as possible to the sentence imposed in the issuing State; this means that the sentence cannot be converted into a pecuniary punishment. ⁴
4. The adapted sentence shall not aggravate the sentence passed in the issuing State by its nature or duration (...) ⁵.

¹ The reference to "fundamental principles of" has been deleted following comments made by [REDACTED]

² A recital reflecting the following wording will be introduced: "The term "acts of the same kind" is to be understood as excluding the possibility to examine the constituent elements of the offence. An adaptation of the sentence is only possible in order to bring it down to the highest level of punishment for the corresponding crime category in question under the law of the executing State. No mitigating or aggravating circumstances shall be considered by that State." Scrutiny reservations by [REDACTED]. SE thought that the content of the proposed recital should be inserted into the text of Article 8 paragraph 2.

³ Scrutiny reservation by [REDACTED] on the deletion of "by means of a court or administrative ruling".

⁴ Scrutiny reservation by [REDACTED] on paragraph 3.

⁵ The wording "nor exceed the maximum prescribed by the law of the executing State" has been deleted following discussions in the Working Party.

Article 9¹

Grounds for non-recognition and non-enforcement

1². The competent authority of the executing State may refuse to recognise the judgment and enforce the sentence, either in whole or in part, if:

(a) the certificate provided for in Art. 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 executing authority;

(abis) the criteria set forth in Article 3a paragraph 1 (a), (b), (b bis), (b ter) or (c) are not met;³

(ater) enforcement of the sentence would be contrary to the principle of ne bis in idem;⁴

(b)⁵ in a case referred to in Article 7(1), the judgment relates to acts which would not constitute an offence under the law of the executing State; however, in relation to taxes or duties, customs and exchange, execution of a judgment may not be refused on the ground that the law of the executing State 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;

¹ Scrutiny reservation by some delegations on Article 9.

² Amendment proposed by the Presidency following the discussions in the WP.

█ suggested to insert an additional ground for refusal based on the territoriality clause along the lines of Article 4(7) of the Framework Decision on the EAW.

█ suggested to insert an additional ground for refusal for cases where transfer would be against the aim of social rehabilitation. █ were opposed to that.

³ The final version of point (abis) depends on the final version of Article 3bis.

⁴ The present text of paragraph (ater) is based on Article 7(2)(a) of the Framework Decision on financial penalties. █ thought there should be an obligation to apply ne bis in idem in relation to judgments in other Member States along the lines of Article 3(2) of the Framework Decision on the European Arrest Warrant and the original proposal by the Commission for a Framework Decision on the European Evidence Warrant. It has been proposed to invite the Council Legal Service to look at this issue.

⁵ See point III of the cover note concerning the issue of double criminality.

(c) the enforcement of the sentence is statute-barred according to the law of the executing State¹ and it relates to acts which fall within the jurisdiction of the executing State under its own law;

(cbis) there is immunity under the law of the executing State, which makes it impossible to enforce the sentence;

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

(e) at the time the judgment was received by the competent authority of the executing State, less than [six] months of the sentence have not yet been served;²

(f) the judgment was rendered in absentia, unless the certificate states that the person was summoned personally or informed via a representative, competent according to the national law of the issuing State, of the time and place of the proceedings which resulted in the judgment being rendered in absentia, or that the person has indicated to a competent authority that he or she does not contest the case.³

(g) if the executing State makes a request, in accordance with Article 14(3), and the issuing State does not consent, in accordance with Article 14(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.⁴

¹ [REDACTED] called for the deletion of the last part of the sentence ("...and it relates to acts which fall under the jurisdiction of the executing State under its own law"). SE was opposed to that.

² [REDACTED] proposed the addition of a text along the lines of Article 3(2) of the 1983 European Convention on the transfer of sentenced persons providing that the executing State may agree to a transfer even if the time to be served by the sentenced person is less than the minimum period provided.

³ Scrutiny reservations by [REDACTED].

⁴ Proposal by the Presidency, which will be further examined at a later meeting.

2. In the cases referred to in paragraph 1(a), (a bis), (a ter), (b) and (f), before deciding not to recognise the judgment and enforce the sentence, the competent authority in the executing State shall consult the competent authority in the issuing State, by any appropriate means, and shall, where appropriate, ask it to supply any necessary additional information without delay.

3. Before deciding to recognise the judgment and enforce the sentence only in part, the competent authority of the executing State shall also consult, by any appropriate means, the competent authority of the issuing State. The latter shall inform the competent authority of the executing State whether it
 - withdraws the certificate; or
 - agrees to a partial enforcement of the sentence, in which case it shall inform the competent authority of the executing State which part of the sentence relates to those acts in respect of which the sentence can be enforced.¹

Article 9bis

Postponement of recognition of the judgment²

The recognition of the judgment may be postponed in the executing State where the certificate provided for in Article 4 is incomplete or manifestly does not correspond to the judgment, until such reasonable deadline set by the executing State as the certificate has been completed or corrected.

¹ The content of this para. was previously contained in Art. 17(2). It has been moved to Article 9 and amended by making reference to consultations between the executing and the issuing States following the discussions in the WP.

² Presidency proposal based on Article 18 of the draft Framework Decision on the European Evidence Warrant and amended following a suggestion by ■■■ to bring the text more in line with Art. 9(1)(a) (deadline). ■■■ thought the text was superfluous. ■■■ suggested to add a text reflecting more closely Article 9(1)(a) (deadline). SE thought it could be appropriate to add other grounds for postponement.

Article 10¹

Decision on the enforcement of the sentence and time limits

1. The competent authority in the executing State shall decide as quickly as possible whether to recognise the judgment and enforce the sentence and shall inform the issuing State thereof, including of any decision to adapt the sentence in accordance with Article 8 paras. 2 and 3.
 - 1a. ²In cases where the sentenced person consents to the forwarding of the judgment together with a certificate and unless a ground for postponement under Art. 9bis exists, the final decision on the recognition of the judgment and the enforcement of the sentence shall be taken within a period of 30 days of receipt of the judgment and the certificate.
 - 1b. In other cases and unless a ground for postponement under Art. 9bis exists, the final decision on the recognition of the judgment and the enforcement of the sentence shall be taken within a period of 60 days of receipt of the judgment and the certificate.
2. When it is not practicable in a specific case for the competent authority of the executing State to meet the deadline in paragraphs 1a or 1b respectively, it 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

¹ [REDACTED] entered scrutiny reservations on the entire Article.

² Scrutiny reservation by [REDACTED] on the time limits in paragraphs 1a and 1b. Positive scrutiny reservation by [REDACTED] thought that no differentiation should be made between cases where the person consents to the forwarding and other cases. This was opposed by [REDACTED]

³ Presidency proposal based on Article 17(3bis) of the draft Framework Decision on the European Evidence Warrant (see 15957/05 COPEN 199).

Article 10bis

Withdrawal of the certificate

Without prejudice to Article 15¹, as long as the enforcement of the sentence in the executing State has not begun, the issuing State may withdraw the certificate from that State, giving reasons for doing so. Notwithstanding Article 9², upon withdrawal of the certificate, the executing State shall no longer (...) enforce the sentence³.

Article 11

Transfer of persons

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 competent authorities of the issuing and the executing State, and no later than 30 days⁴ after the final decision of the executing State on the recognition of the judgment and enforcement of the sentence has been taken.
2. (...)
3. If the transfer of the person within the period laid down in paragraph 1 is prevented by unforeseen circumstances, the competent authorities of the issuing and executing States shall immediately contact each other. Transfer shall take place as soon as these circumstances have ceased to exist. The competent authority of the issuing State shall immediately inform the competent authority of the executing State and agree on a new transfer date. In that event, transfer shall take place within 10 days of the new date thus agreed.

¹ Inserted for further consideration on proposal by [REDACTED]

² Inserted for further consideration on proposal by [REDACTED]

³ [REDACTED] suggested indicating that the decision of not to transfer the sentenced person could only be taken before the executing State has taken a decision to recognise the judgment and enforce the sentence. This was opposed by [REDACTED]

⁴ Scrutiny reservations by [REDACTED]/SE.

Article 12¹

Transit

1. Each Member State shall permit the transit through its territory of a sentenced person who is being transferred to the executing State, provided that a copy of the certificate referred to in article 4² has been forwarded to it by the issuing state together with the transit request.
2. The transit request and the certificate referred to in paragraph 1 may be transmitted by any means capable of producing a written record. The Member State of transit shall notify its decision, which shall be taken on a priority basis and not later than one week after having received the request, by the same procedure.
- 2bis. The Member State requested to permit transit may hold the sentenced person in custody only for such time as transit through its territory requires.
3. A transit request is not required in the case of transport by air without a scheduled stopover. However, if an unscheduled landing occurs, the issuing State shall provide the information provided for in paragraph 1 within 48 hours³.

¹ ██████████ entered scrutiny reservation on the entire Article.

² ██████████ thought it was not enough to forward only the certificate to the state of transfer. ██████████ considered that the certificate should be translated into the official language of the transit state. ██████████ were of the opinion that the transit State should have the possibility to refuse transit in the situation where the sentenced person is sought in that State for other offences. ██████████ were against that and referred to the possibility of issuing an EAW. No such ground for refusal was contained in the 1983 Convention nor in the EAW. ██████████ suggested to consider the introduction of a consultation procedure between the two States concerned. ██████████ also pointed out that the provisions on own nationals in the corresponding provision in Article 25(1) of the EAW had not been reflected in the present draft, and thought this may need further reflection.

³ ██████████ preferred a deadline of 96 hours, or at least 72 hours.

Article 13
Law governing enforcement

1. The enforcement of a sentence shall be governed by the law of the executing State. The authorities of the executing State alone shall, subject to paragraphs 2, and 3 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.
2. The competent authority of the executing State shall deduct the full period of deprivation of liberty already served by the sentenced person, in connection with the sentence in respect of which the judgment is issued, from the total duration of the deprivation of liberty to be served in the executing State.
3. Unless otherwise agreed between the issuing and the executing States in a particular case, early or conditional release may only be granted if the sentenced person has served a total of at least half the sentence in the issuing and executing States or in any other State¹.
4. (...) ²

Article 14³
Speciality

1. In the cases under Article 5 (1bis), a person transferred to the executing State pursuant to this Framework Decision may not, subject to paragraph 2, be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her transfer other than that for which he or she was transferred⁴.

¹ [REDACTED] reservations and thought that paragraph 3 should be deleted. This was opposed by [REDACTED]/SE/[REDACTED] entered scrutiny reservations on paragraph 3. It was agreed to discuss Article 13(3) at a later meeting together with Article 8(2) and (3).

² Scrutiny reservation on the deletion of paragraph 4 by [REDACTED]. [REDACTED] proposed to reintroduce the provision as a non-binding provision: "Any decision on early or conditional release may also take account of those provisions of national law indicated by the issuing State under which the person is entitled to early or conditional release at a specified point in time." This issue will also be discussed at a later meeting together with Articles 8(2) and (3) and 13(3).

³ Scrutiny reservation by [REDACTED]

⁴ Presidency proposal based on a suggestion by [REDACTED] which thought that the text of Article 14 should be restructured so that the starting point would be that the speciality rule would not apply, except in cases of transfer without the consent of the person concerned.

2. Paragraph 1 shall not apply in the following cases:

- (a) when the person having had an opportunity to leave the territory of the executing State has not done so within 45 days of his or her final discharge, or has returned to that territory 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 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 may give rise to a restriction of his or her personal liberty;
- (e) (...)
- (f) when the person, after his or her transfer, has expressly renounced entitlement to the speciality rule with regard to specific offences preceding his or her transfer. Renunciation shall be given before the competent judicial authorities of the executing State and shall be recorded in accordance with that State's domestic law. 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. To that end, the person shall have the right to legal counsel;
- (g) for cases other than those mentioned under points (a) to (f) above, where the issuing State gives its consent in accordance with paragraph 3.¹

3. A request for consent shall be submitted to the competent authority of the issuing State, accompanied by the information mentioned in Article 8(1) of Framework Decision 2002/584/JHA and a translation as referred to in Article 8(2) thereof. Consent shall be given if there would be an obligation to surrender under that Framework Decision. The decision shall be taken no later than 30 days after receipt of the request. For the situations mentioned in Article 5 of that Framework Decision, the executing State shall give the guarantees provided for therein.

¹ Presidency proposal linked with the new Article 9(1)(g).

Article 15

Amnesty, pardon, review of judgment

1. An amnesty or pardon may be granted by the issuing State and also by the executing State¹.
2. Only the issuing State may decide on applications for review of the judgment imposing the sentence to be enforced under this Framework Decision.

Article 16²

Information from the issuing State

1. The competent authority of the issuing State 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.
2. The competent authority of the executing State shall terminate enforcement of the sentence as soon as it is informed by the competent authority of the issuing State of that decision or measure.

Article 17

Information from the executing State

1. The competent authority of the executing State shall without delay inform the competent authority of the issuing State by any means which leaves a written record:
 - (a) of the forwarding of the judgment and the certificate to the competent authority responsible for its execution in accordance with Article 4(6);

¹ Scrutiny reservation by [REDACTED] the competence to grant amnesty or pardon.
² SE thought it could be added that the issuing State would inform the executing State on rules in the issuing State for conditional release and, as the case may be, on what part of the sentence has already been served. [REDACTED] pointed out that those issues were dealt with in the Certificate annexed to the Framework Decision.

- (a bis) of the fact that it is in practice impossible to enforce the sentence for the reason that the sentenced person cannot be found in the territory of the executing State, in which case there shall be no obligation of the executing State to enforce the sentence;¹
- (a ter) of the final decision to recognise the judgment and enforce the sentence including its date;
- (b) of any decision not to recognise the judgment and enforce the sentence in accordance with Article 9, either in whole or in part, together with the reasons for the decision;
- (c) of any decision to adapt the sentence in accordance with Article 8(2) or (3), together with the reasons for the decision;
- (d) of any decision not to enforce the sentence, either in whole or in part, for the reasons referred to in Articles [13(3)]² and 15(1) together with the reasons for the decision;
- (e) (...)
- (f) of the sentenced person's escape from custody prior to completion of the sentence;
- (g) of the enforcement of the sentence as soon as it has been completed.

2. (...).

Article 18³

Consequences of the transfer of the sentenced person

1. Subject to paragraph 2, the issuing State may not proceed further with the enforcement of the sentence once its enforcement in the executing State has begun.

¹ ■ questioned the need for this provision as it thought that such cases would be covered by the Framework Decision on the European Arrest Warrant. Amendment proposed by the Presidency following a suggestion by ■.

² It will be examined later whether the reference to Article 13(3) should be retained.

³ The Presidency proposes this text in the light of comments made.

2. The right to enforce the sentence shall revert to the issuing State upon its being informed by the executing State of the partial non-enforcement of the sentence pursuant to Article (...) 17(1)(f).
3. Where the executing State recognises the judgment only in part, paragraph 1 applies only to the part of the sentence which relates to those acts in respect of which the judgment has been recognised in accordance with Article 9 (1) and (3) second indent.

Article 18bis¹

Languages

The certificate, the standard form which is set in the Annex, must be translated into the official language or one of the official languages of the executing State². Any Member State may, either when this Framework Decision is adopted or at a later date, state in a declaration deposited with the General Secretariat of the Council that it will accept a translation in one or more other official languages of the Institutions of the Union.

Article 19³

Costs

Costs resulting from the application of this Framework Decision shall be borne by the executing State, except for the costs of the transfer of the person to the executing State and those arising exclusively in the sovereign territory of the issuing State.

¹ [REDACTED] were of the opinion that upon request of the executing State, the issuing State shall provide a translation of the essential parts of the judgement if the content of the certificate has been found insufficient to decide on the enforcement of the sentence. The enforcement of the sentence may be suspended until the translation has been obtained and transmitted to the executing State. [REDACTED] were of the opinion that the entire judgment together with the certificate should be translated. [REDACTED] thought that, should translations be required (see footnote 3), the entire judgment together with the certificate should be translated. [REDACTED] entered a scrutiny reservation on this Article. In order to reach a compromise, [REDACTED] suggested that the issuing State should only be required to provide a translation of the judgment in the cases under Article 3bis(1) (no consent requirement of the executing State). This was opposed by [REDACTED]

² [REDACTED], thought that there should be no obligation to translate the certificate or, alternatively, that there should only be an obligation to translate the certificate into one basic language or into one of a limited number of basic languages.

³ Scrutiny reservation by [REDACTED] who stated that the obligation of the issuing State to bear the transfer costs was not in line with the regime of the 1983 Convention.

Article 20

Relationship with other agreements and arrangements

1. Member States may continue to apply bilateral or multilateral agreements or arrangements in force when this Framework Decision was adopted, insofar as they allow the objectives of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for the enforcement of sentences.¹
2. Member States may conclude bilateral or multilateral agreements or arrangements after this Framework Decision has come into force in so far as such agreements or arrangements allow the prescriptions of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the procedures for the enforcement of sentences.

¹ The enforcement of sentences in the relationship between Member States currently takes place mainly on the basis of the following agreements:

- European Convention on the International Validity of Criminal Judgements of 28 May 1970;
- Convention on the Transfer of Sentenced Persons of 21 March 1983;
- Additional Protocol to the Convention on the Transfer of Sentenced Persons of 18 December 1997;
- Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences of 13 November 1991;
- 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.

██████████ has suggested the inclusion of the list of relevant instruments into the text of the Framework Decision. However, since these agreements do not allow the objectives of this proposal to be extended or enlarged and therefore do not help to simplify or facilitate further the procedures for the enforcement of sentences within the meaning of Article 20, it must be assumed that they will be replaced by the proposed Framework Decision in respect of relations between Member States with regard to the enforcement of sentences covered by that Framework Decision once it has been transposed.

██████████ expressed difficulties in relation to their legal systems concerning the approach of replacing directly applicable international instruments by the provisions of a Framework Decision.

SE proposed the introduction of a text giving priority to the Framework Decision in a way similar to that applied in the draft European Evidence Warrant (see Article 23(2a) of 14760/05 COPEN 199).

The Article will need to be examined further at a later stage when the scope of the Framework Decision has been determined. See also point II of the Cover note.

3. Member States shall, within three months from the entry into force of this Framework Decision, notify the Council and the Commission of the existing agreements and arrangements referred to in paragraph 1 which they wish to continue applying. Member States shall also notify the Council and the Commission of any new agreement or arrangement as referred to in paragraph 2, within three months of signing it.

Article 20a¹

Transitional provision

Requests under existing legal instruments on the transfer of sentenced persons received before [date to be inserted] regarding cases [otherwise covered by this Framework Decision][referred to in Article 3a] shall continue to be governed by these existing instruments. Requests received after that date shall be governed by the rules adopted by the Member States pursuant to this Framework Decision. However, any Member State may, at the time of the adoption of this Framework Decision by the Council, make a statement indicating that as executing Member State it will continue to deal with requests relating to judgments issued before a date which it specifies in accordance with the regime under the existing legal instruments. The date in question may not be later than [date to be inserted]. The said statement will be published in the *Official Journal of the European Communities*. It may be withdrawn at any time.

Article 21

Implementation

1. Member States shall take the necessary measures to comply with this Framework Decision by *

¹ Presidency proposal based on Art. 32 of the FD on the EAW for further consideration by the Working Party.

* Two years after the date of entry into force of this Framework Decision. ■ suggested that it might be necessary to establish a longer implementation period, given the practical difficulties of certain Member States with regard to this Framework Decision. The proposal was made that there could be a transitional provision.

2. Member States shall communicate to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision¹. On the basis of a report drawn up by the Commission using this information, the Council shall, no later than ... ** , assess the extent to which Member States have complied with this Framework Decision.
3. The General Secretariat of the Council shall notify the Member States and the Commission of the declarations made pursuant to Article 6(2).
4. By ... * , the Commission shall establish a report on the basis of the information received, accompanied by any initiatives it may deem appropriate.

Article 22

Entry into force

This Framework Decision shall enter into force on the day of its publication in the Official Journal of the European Union.

Done at

For the Council
The President

¹ [REDACTED] proposed to add "and a correlative table between these provisions and the Framework Decision." [REDACTED] thought that this issue should be addressed rather in the recitals.

** Four years after the date of entry into force of this Framework Decision.

* Five years after the date of entry into force of this Framework Decision.

(...)CERTIFICATE

referred to in Art. 4 of the FD/...../JI⁺ of the Council on
the (...) application of the principle of mutual recognition to the enforcement of sentences
between Member States of the European Union

(...)

(a)

- * Issuing State:
- * Executing State:

(b) The court which issued the (...) judgment imposing the sentence:

Official name:

Address:

File reference (...)

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

Fax No (country code) (area/city code)

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

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

Contact details for 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, tel. No, fax No, and, if available, e-mail address)

⁺ OJ: please insert No of this Framework Decision.

(c) The authority in the issuing State competent for the enforcement of the (...) judgment (if the authority is different from the authority under point (b)):

Official name:

.....

Address:

.....

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

Fax No (country code) (area/city code).....

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

Languages in which it is possible to communicate with the authority competent for the enforcement

.....

Contact details for 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, tel. No, fax No, and, if available, e-mail address):.....

.....

.....

(d) Where a central authority has been made responsible for the administrative forwarding of the (...) judgment in the issuing State:

Name of the central authority:

Contact person, if applicable (title/grade and name):

Address:

File reference

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

Fax No: (country code) (area/city code)

E-mail address (if available):

(e) The authority or authorities which may be contacted (if (c) and/or (d) has been filled in):

Authority mentioned under point (b)

Can be contacted for questions concerning:

Authority mentioned under point (c)

Can be contacted for questions concerning:

Authority mentioned under point (d)

Can be contacted for questions concerning:

(f) Information regarding the natural 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:

Place of residence and/or last known address:

.....

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

.....

If the (...) judgment is forwarded to the executing State because the person on whom the sentence has been imposed has legal permanent residence in that State, add the following information:

Legal residence in the executing State:

.....

.....

If the (...) judgment is forwarded to the executing State because the person on whom the sentence has been imposed has other close links to that State, add the following information:

Nature of the close links to the executing State.....

(g) (...) Judgment imposing the sentence:

The (...) judgment was made on (date)

The (...) judgment became final on (date)

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

The (...) judgment or an administrative decision consequential to (...) judgment includes an expulsion order or any other measure as a result of which the person will no longer be allowed to remain in the territory of the issuing State after serving the sentence:

Yes

No

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 1 above 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 above is (are) not covered by point 2, please give a full description of the offence(s) concerned:

.....

.....

(h) Status of the (...) judgment imposing the sentence:

1. Confirm that:

- (a) the (...) judgment is final
- (b) to the knowledge of the authority issuing the (...) certificate, the sentenced person possesses the nationality of the executing State or has legal permanent residence in that State
- (c) to the knowledge of the authority issuing the (...) certificate, the sentenced person has other close links to the executing State and has agreed to the forwarding of the (...) judgment.
- (d) to the knowledge of the authority issuing the (...) certificate, a decision against the same person in respect of the same acts has not been delivered in the executing State and that no such decision delivered in any State other than the issuing State or the executing State has been enforced.

2. Indicate if the sentenced person appeared personally in the proceedings:

- (a) Yes, he/she did.
- (b) No, he/she did not. It is confirmed:
that the person was informed in person, or otherwise, of the date and place of the proceedings which led to the decision *in absentia*, or that the person has indicated to a competent authority that he/she does not contest the decision.

3. Details of the length of the sentence:

- 3.1. Total length of the sentence
- 3.2. The sentenced person was remanded in custody for the following period:
.....
- 3.3. The person has been in prison/serving the sentence since:
.....
- 3.4. Sentence remaining to be served on.....(give date: dd-mm-yyyy):
.....

4. Details on the type of the sentence:

custodial sentence

detention order

sentence for juveniles

other type (to be specified):
.....

(i) Under the law of the issuing State the sentenced person is entitled to conditional release, having served

half the sentence

two-thirds of the sentence

another portion of the sentence

(please indicate).....

(j) Opinion of the person on the transfer:

The person has initiated the transfer:

The person has agreed to the transfer:

The person has not agreed to the transfer because:

.....

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

.....

.....

(k) Other circumstances relevant to the case (optional information)

.....
.....
.....

The text of the (...) judgment is attached to the (...) certificate.

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)

