Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.



Number 21 *of* 2020

CRIMINAL JUSTICE (MUTUAL RECOGNITION OF DECISIONS ON SUPERVISION MEASURES) ACT 2020

REVISED

Updated to 3 May 2023

This Revised Act is an administrative consolidation of the *Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023* (10/2023), enacted 2 May 2023, and all statutory instruments up to and including the *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023 (Commencement) Order 2023* (S.I. No. 213 of 2023), made 2 May 2023, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 21 *of* 2020

CRIMINAL JUSTICE (MUTUAL RECOGNITION OF DECISIONS ON SUPERVISION MEASURES) ACT 2020

REVISED

Updated to 3 May 2023

CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title and commencement
2. Interpretation
3. Means of transmission of document or information by Central Authority
4. Application of Act
5. Central Authority in State
6. Orders and regulations
7. Expenses

PART 2

ISSUING STATE IS IRELAND

8. Application of Part 2
9. Interpretation - Part 2
10. Obligation to consult with competent authority in executing State
11. Power of court to make supervision decision
12. Application for supervision decision from person granted bail in State
13. Provisions supplementary to sections 11 and 12
14. Forwarding of supervision decision to competent authority in executing State
15. Response of competent authority in executing State to supervision decision
16. Decision of executing State to monitor supervision decision
17. Notifications from executing State

18. Expiry of supervision decision

19. Subsequent decisions in relation to supervision decision

20. Revocation of supervision decision

21. Issue of arrest warrant

22. Certain hearings may be conducted through live television link

PART 3

EXECUTING STATE IS IRELAND

23. Application of Part 3

24. Definitions - Part 3

25. Obligation to consult with competent authority in issuing State

26. Corresponding offences

27. Supervision measures to which Part 3 applies

28. Forwarding of supervision decision to Central Authority

29. Grounds on which supervision decision may or may not be monitored in State

30. Application to court for endorsement of supervision decision

31. Endorsement of supervision decision by court

32. Time limits for decision

33. Notification of endorsement of supervision decision

34. Obligation to provide certain information to issuing State

35. Issuing State to have jurisdiction for subsequent decisions

36. Extension of period of monitoring

37. Breach of supervision decision

38. Supervised person cannot be found in State

SCHEDULE

COUNCIL FRAMEWORK DECISION 2009/829/JHA

ACTS REFERRED TO

Bail Act 1997 (No. 16)
Criminal Procedure Act 1967 (No. 12)
European Arrest Warrant Act 2003 (No. 45)

Number 21 *of* 2020

CRIMINAL JUSTICE (MUTUAL RECOGNITION OF DECISIONS ON SUPERVISION MEASURES) ACT 2020

REVISED

Updated to 3 May 2023

An Act to give effect to Council Framework Decision 2009/829/JHA of 23 October 2009[1] on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention; and to provide for related matters.

[26*th November*, 2020]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title and commencement

1. (1) This Act may be cited as the Criminal Justice (Mutual Recognition of Decisions on Supervision Measures) Act 2020.

(2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. (1) In this Act—

"Act of 1967" means the Criminal Procedure Act 1967;

"Article 10 certificate", in relation to a decision on supervision measures, means the certificate—

(a) provided for in Article 10 of the Framework Decision, and

(b) the standard form of which is set out in Annex I to the Framework Decision,

[1] OJ L 294, 11.11.2009, p. 20

that is required to accompany the decision;

"Central Authority" shall be read in accordance with *section 5*;

"enactment" means—

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of coming into operation of the Constitution and that continued in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under an Act of the Oireachtas or a statute referred to in *paragraph (b)*;

"executing State" means a Member State—

(a) in which a decision on supervision measures is monitored, or

(b) to which a request to monitor a decision on supervision measures has been sent in accordance with the provisions of this Act;

"Framework Decision" means Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (the text of which is set out for ease of reference in the Schedule);

"General Secretariat" means the General Secretariat of the Council of the European Union;

"Minister" means the Minister for Justice and Equality.

(2) A word or expression that is used in this Act and is also used in the Framework Decision has, unless the context otherwise requires, the same meaning in this Act as it has in the Framework Decision.

Means of transmission of document or information by Central Authority

3. Where the Central Authority is required by a provision of this Act to forward a document or information to the competent authority of a Member State, executing State or issuing State, he or she shall forward the document or information directly to the competent authority by any means capable of producing a record in writing of the document or information under conditions allowing such competent authority to establish the authenticity of that document or information.

Application of Act

4. The provisions of this Act shall apply in relation to an offence, whether committed or alleged to have been committed, before, on or after the commencement of those provisions.

Central Authority in State

5. (1) The Minister shall be the Central Authority in the State for the purposes of this Act.

(2) The Minister may, by order, designate such persons as he or she considers appropriate to perform such functions of the Central Authority in the State as are specified in the order and different persons may be so designated to perform different functions of the Central Authority in the State.

(3) For so long as an order under *subsection (2)* remains in force, a reference in this Act to the Central Authority in the State shall, in so far as it relates to the performance of a function specified in the order, be construed as a reference to the person designated by the order to perform the function concerned.

(4) The Minister shall, as soon as is practicable after the making of an order under this section, by notice in writing, inform the General Secretariat of the making of an order and of the names of the persons designated under the order.

Orders and regulations

6. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every order (other than an order under *section 1(2)*) and regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses

7. Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

PART 2

Issuing State is Ireland

Application of Part 2

8. This Part applies where the State is the issuing State.

Interpretation - Part 2

9.(1) In this Part—

"Act of 1997" means the Bail Act 1997;

"competent authority" means a judicial or other authority in the executing State meeting the criteria specified in Article 6 of the Framework Decision and notified to the General Secretariat in accordance with that Article;

"court", in relation to a supervision decision or proposed supervision decision, means, as appropriate—

(a) the court which made the supervision decision,

(b) the court considering the proposed supervision decision, or

(c) in the case of *section 10(3)*, *18* , *19(1)*, *(2)* or *(3)* or *20* , the court before which the supervised person is to stand trial for the offence to which the supervision decision or proposed supervision decision relates but only if that court has jurisdiction in relation to bail matters;

"former supervised person" includes a person the subject of a supervision decision that has never come into effect pursuant to *section 11(7)*;

"offence", in relation to a supervision decision or proposed supervision decision, means alleged offence;

"proposed supervision decision" means a supervision decision that the court is considering whether or not to make;

"proposed supervised person", in relation to a proposed supervision decision, means the person who would be the subject of such decision if it were made;

"prosecutor", in relation to an offence, means—

(a) the Director of Public Prosecutions,

(b) a person prosecuting the offence at the suit of the Director of Public Prosecutions, or

(c) a person authorised by law to prosecute the offence;

"relevant recognisance", in relation to a supervised person, means—

(a) subject to *paragraph (b)*, the recognisance referred to in *section 11(3)* entered, or to be entered, into by the supervised person, or

(b) if the recognisance referred to in *section 11(3)* is varied under *section 15(3)*, the recognisance as so varied entered, or to be entered, into by the supervised person;

"supervision decision" means a decision on supervision measures made under—

(a) *section 11(2)*, or

(b) *section 12* as read with *section 11* ;

"supervision measures", in relation to a supervision decision and the supervised person, means one or more than one of the following conditions of bail as may be specified in the supervision decision:

(a) an obligation on the person to keep a specified authority in the executing State informed of his or her place of residence and of any change in such residence in that state;

(b) an obligation on the person to refrain from attending at a specified premises or other place in the executing State;

(c) an obligation on the person to reside or remain in a specified place in the executing State, where appropriate, at specified times;

(d) an obligation on the person to obey general or specified restrictions in relation to travel outside of the territory of the executing State;

(e) an obligation on the person to report at specified times to a specified authority in the executing State;

(f) an obligation on the person to refrain from having contact with specified persons;

(g) an obligation, referred to in Article 8(2) of the Framework Decision, prescribed for the purposes of this paragraph;

"supervised person", in relation to a supervision decision, means the person the subject of the supervision decision (whether or not the supervision decision has come into effect pursuant to *section 11(7)*).

(2) A reference in this Part to monitoring a supervision decision means monitoring the supervised person's compliance with the supervision measures specified in the supervision decision.

Obligation to consult with competent authority in executing State

10. (1) (a) For the purposes to which this paragraph applies by virtue of *paragraph (b)*, the Central Authority shall, in so far as is practicable and reasonable, consult with the competent authority—

(i) in the executing State in relation to a supervision decision, and

(ii) in the proposed executing State in relation to a proposed supervision decision.

(b) The purposes to which *paragraph (a)* applies are the following:

(i) to facilitate the preparation or forwarding of the supervision decision;

(ii) to facilitate the monitoring of the supervision decision;

(iii) where the supervised person has committed a serious breach of the supervision decision, to notify such breach or clarify—

(I) any matter in connection with it, or

(II) any action necessary as a consequence of such breach.

(2) (a) The application of *subsection (1)* shall include the exchange of information.

(b) Without prejudice to the generality of *paragraph (a)*, such information includes information verifying the identity and place of residence of the supervised person or proposed supervised person and the exchange of information extracted from criminal records as permitted by law.

(3) Where the Central Authority is given information by the competent authority in the executing State (whether during a consultation under *subsection (1)* or at any time) which indicates that the supervised person or proposed supervised person might pose a risk to the victim of the offence to which the supervision decision or proposed supervision decision relates or to the public, the Authority shall bring such information to the attention of the court and the court shall have due regard to such information in the exercise of its responsibilities under this Part.

Power of court to make supervision decision

11. (1) *Subsection (2)* applies where a person—

(a) is before a court charged with an offence for which the person would, if convicted of the offence, be liable to a term of imprisonment of 12 months or more than 12 months,

F1**[**(b) establishes that he or she—

(i) is lawfully and ordinarily resident in another Member State, or

(ii) intends to reside in a Member State, other than that referred to in *subparagraph (i)*, and the competent authority of the other Member State has consented to the forwarding of the proposed supervision decision,

and**]**

(c) makes an application, on notice to the Central Authority and the prosecutor, for a supervision decision.

(2) Subject to *subsections (3)* to *(7)*, the court may make a supervision decision and grant bail conditional on the competent authority in the other Member State agreeing to recognise the supervision decision and to take the necessary measures to monitor compliance with the supervision decision.

(3) (a) Subject to *section 15(3)*, a supervision decision shall be conditional on the supervised person entering into a recognisance—

(i) subject to one or more supervision measures as specified by the court, and

(ii) that, if the executing State agrees to monitor the supervision decision, requires the supervised person to report to the competent authority in the executing State as soon as is practicable after the supervision decision comes into effect pursuant to *subsection (7)*.

(b) A supervision decision shall not specify a supervision measure referred to in Article 8(2) of the Framework Decision unless the other Member State has notified the General Secretariat that it is prepared to monitor such measure.

(4) A supervision decision shall specify—

(a) the intended duration of the decision,

(b) whether the decision can be renewed, and

(c) the provisional length of time for which monitoring of the decision may be required in so far as it is practicable to indicate that having regard to all the circumstances of the case and of the supervised person.

(5) *Subsection (2)* shall not be construed to prejudice the generality of the court's power, under section 2 of the Act of 1997 or under any other enactment or rule of law, to refuse bail in respect of the accused person.

(6) (a) Subject to *subsection (3)*, where bail is granted under *subsection (2)* by the District Court, Part III of the Act of 1967 shall, with all necessary modifications, apply to such bail as that Part applies to bail granted under section 22 of that Act.

(b) An appeal may be made under section 28(3)(a) of the Act of 1967 against—

(i) a refusal by the District Court to make a supervision decision under *subsection (2)*, or

(ii) the supervision measures specified in a supervision decision made under *subsection (2)*.

(7) A supervision decision shall come into effect when—

(a) in a case in which the supervised person has been remanded in custody—

(i) the Central Authority informs, in writing, the governor of the prison to which the person is remanded that the executing State has agreed to recognise the supervision decision, and

(ii) the person has entered into a recognisance in accordance with *subsection (3)* taken by the governor of a prison or a prison officer designated by such governor for that purpose, or

(b) in a case in which the supervised person has been remanded on bail—

(i) the Central Authority informs, in writing, the person that the executing State has agreed to recognise the supervision decision, and

(ii) the person has entered into a recognisance in accordance with *subsection (3)*.

(8) The court or the governor of the prison (if any) to which the supervised person is remanded, as appropriate, shall, as soon as is practicable after the supervised person has entered into a recognisance in accordance with *subsection (3)*, inform, in writing, the Central Authority of that matter.

(9) The court shall, as soon as is practicable after making the supervision decision, cause the decision, or a certified copy thereof, to be sent to—

(a) the Central Authority,

(b) the prosecutor,

(c) the governor of the prison (if any) to which the accused person is remanded, and

(d) the supervised person.

(10) Pending the coming into effect, pursuant to *subsection (7)*, of a supervision decision in the executing State, the court shall treat the supervised person in the same manner as it treats a person who is not a supervised person.

(11) The court shall cause the information required to be included in an Article 10 certificate in respect of the supervision decision, in so far as such information is known to the court, to be forwarded to the Central Authority as soon as is practicable after making the decision.

F2**[**(12) In this section, "other Member State", in relation to a person, means—

(a) where *subsection (1)(b)(i)* applies, the Member State in which the person is lawfully and ordinarily resident, and

(b) where *subsection (1)(b)(ii)* applies, the Member State in which the person intends to reside.**]**

Application for supervision decision from person granted bail in State

12. (1) *Subsection (2)* applies where a person—

F3**[**(a) is—

(i) lawfully and ordinarily resident in another Member State, or

(ii) a person in respect of whom the competent authority of another Member State has consented to the forwarding of the proposed supervision decision,**]**

(b) has been granted bail in the State, and

(c) subsequent to being granted such bail, wishes to F3**[**reside in the other Member State**]** pending the trial of the offence to which the bail relates.

(2) The person may, on notice to the Central Authority and the prosecutor, make an application to the court that granted bail to request that court to make a supervision decision in his or her case as regards his or her wish to F3**[**reside in**]** the other Member State.

(3) *Section 11* shall, with all necessary modifications, apply to an application under *subsection (2)* as that section applies to an application under *section 11(1)*.

F4**[**(4) In this section, "other Member State", in relation to a person, means—

(a) where *subsection (1)(a)(i)* applies, the Member State in which the person is lawfully and ordinarily resident, and

(b) where *subsection (1)(a)(ii)* applies, the Member State the competent authority of which has consented to the forwarding of a proposed supervision decision in relation to the person.**]**

Provisions supplementary to *sections 11* and *12*

13. Where an appeal is made under section 28(3)(a) of the Act of 1967 to the High Court against a decision of the court under *section 11* or *12*, the High Court shall direct the Central Authority to inform the competent authority in the other Member State F5**[**(within the meaning of *section 11* or *12*, as the case may be)**]** of that matter.

Forwarding of supervision decision to competent authority in executing State

14. (1) On receipt of a supervision decision, the Central Authority shall forward the decision, or a certified copy thereof, to the competent authority in the other Member State F6**[**(within the meaning of *section 11* or *12*, as the case may be)**]**.

(2) Where the Central Authority forwards the supervision decision under *subsection (1)* to the competent authority in the executing State, he or she shall—

(a) forward with it an Article 10 certificate, and

(b) where the official language of the executing State is not English, forward a translation of the Article 10 certificate into the official language or one of the official languages of the executing State, unless the Central Authority knows that such a translation is not required by the competent authority in that state.

(3) *Subsection (4)* applies if the competent authority in the executing State to which the supervision decision has been forwarded under *subsection (1)* makes a request to the Central Authority to be provided with the original supervision decision or a certified copy thereof.

(4) (a) The Central Authority shall comply with a request under *subsection (3)* as soon as is practicable.

(b) For the purposes of such compliance, the Central Authority may request the registrar or clerk of the court which made the supervision decision to provide the Central Authority with the original supervision decision or a certified copy thereof.

(5) The registrar or clerk of the court concerned the subject of a request under *subsection (4)(b)* shall comply with the request as soon as is practicable after he or she receives it.

(6) *Subsection (7)* applies if the competent authority in the executing State to which the Article 10 certificate has been forwarded under this section makes a request to the Central Authority to be provided with the original Article 10 certificate.

(7) The Central Authority shall comply with a request under *subsection (6)* as soon as is practicable after he or she receives it.

F7**[**(8) The Central Authority shall not forward a supervision decision to more than one executing state at any one time.**]**

Response of competent authority in executing State to supervision decision

15. (1) Where the competent authority in the executing State informs the Central Authority—

(a) (i) that, because of exceptional circumstances, it is not possible to make a decision on monitoring the supervision decision within the time limits referred to in Article 12(1) and (2) of the Framework Decision,

(ii) subject to *subsection (2)(b)*, of the reasons for the delay, and

(iii) subject to *subsection (2)(b)*, of the estimated time needed for the final decision to be taken on the supervision decision,

(b) that the competent authority in the executing State has adapted a supervision measure specified in the supervision decision in line with its law,

(c) that there is a maximum length of time during which the supervision decision can be monitored in that state, or

(d) that the competent authority in the executing State will not agree to monitor the supervision decision and of the reasons for not so agreeing,

the Central Authority shall inform the court, the prosecutor and the supervised person of that matter or those matters, as appropriate.

(2) (a) Subject to *paragraph (b)*, where *subsection (1)(a)* applies, the prosecutor, on notice to the supervised person, or the supervised person, on notice to the prosecutor, may make an application to the court to revoke the supervision decision.

(b) An application may be made under *paragraph (a)* notwithstanding that the competent authority in the executing State has not informed the Central Authority of the matter referred to in *subsection (1)(a)(ii)* or *(iii)*, or both such matters.

(c) The court shall determine an application under *paragraph (a)* by, as it thinks it appropriate to do so in all the circumstances of the case and of the supervised person—

(i) revoking the supervision decision, or

(ii) refusing to revoke the supervision decision.

(3) (a) Where *subsection (1)(b)* applies, the prosecutor, on notice to the supervised person, shall, as soon as is practicable, make an application to the court to—

(i) note the adaptation on the supervision decision and, if necessary, modify the supervision decision or vary the relevant recognisance, or do both, to take account of that adaptation, or

(ii) revoke the supervision decision.

(b) The court shall determine an application under *paragraph (a)* (regardless of whether the application falls within *paragraph (a)(i)* or *(ii)*) by, as it thinks it appropriate to do so in all the circumstances of the case and of the supervised person—

(i) with the consent of the supervised person, noting the adaptation on the supervision decision and, if necessary, modifying the supervision decision or varying the relevant recognisance, or do both, to take account of that adaptation, or

(ii) revoking the supervision decision.

(4) (a) Where *subsection (1)(c)* applies, the prosecutor, on notice to the supervised person, shall, as soon as is practicable, make an application to the court to—

(i) limit the duration of the supervision decision and modify the supervision decision accordingly, or

(ii) revoke the supervision decision.

(b) The court shall determine an application under *paragraph (a)* (regardless of whether the application falls within *paragraph (a)(i)* or *(ii)*) by, as it thinks appropriate to do so in all the circumstances of the case and of the supervised person—

(i) limiting the duration of the supervision decision and modifying the supervision decision accordingly, or

(ii) revoking the supervision decision.

(5) (a) Where *subsection (1)(d)* applies, the prosecutor, on notice to the supervised person, shall, as soon as is practicable, make an application to the court to revoke the supervision decision.

(b) The court shall determine an application under *paragraph (a)* by revoking the supervision decision.

(c) The information referred to in *subsection (7)(a)* shall include the reasons specified by the competent authority in the executing State for not agreeing to monitor the supervision decision.

(6) (a) Where the court modifies the supervision decision, or varies the relevant recognisance, under this section, it shall cause the supervision decision as so modified or the relevant recognisance as so varied, or both, as appropriate, or a certified copy or copies thereof, to be sent to—

(i) the Central Authority,

(ii) the prosecutor,

(iii) the governor of the prison (if any) to which the supervised person or former supervised person is remanded, and

(iv) the supervised person.

(b) The Central Authority shall, as soon as is practicable after he or she receives the supervision decision as so modified, or a certified copy

thereof, forward the supervision decision or certified copy to the competent authority in the executing State.

(7) Where the court revokes the supervision decision under this section, it shall—

(a) subject to *subsection (5)(c)*, cause the following persons to be informed of such revocation:

(i) the Central Authority;

(ii) the prosecutor;

(iii) the governor of the prison (if any) to which the former supervised person is remanded;

(iv) the former supervised person,

and

(b) treat the former supervised person in the same manner as it treats a person who has not been a supervised person.

(8) The Central Authority shall, as soon as is practicable after being informed under *subsection (7)* of a decision of the court to revoke the supervision decision under this section, inform the competent authority in the executing State of the court's decision.

Decision of executing State to monitor supervision decision

16. (1) Subject to *section 15* , where the Central Authority is informed by the competent authority in the executing State that it will agree to monitor the supervision decision, the Central Authority shall inform the following persons both of that agreement and of the name of the authority in the executing State to whom the supervised person should report as soon as is practicable after his or her arrival in the executing State:

(a) the court;

(b) the prosecutor;

(c) the governor of the prison (if any) to which the supervised person is remanded;

(d) the supervised person.

(2) Where *subsection (1)* applies, the court or the governor of the prison (if any) to which the supervised person is remanded, as appropriate, shall—

(a) where the relevant recognisance has not already been taken, arrange for the taking of the relevant recognisance from the supervised person and, as soon as is practicable after that action is taken, cause the Central Authority to be informed of that matter, and

(b) where the supervised person is in custody, arrange for the subsequent release of the supervised person from custody and, as soon as is practicable after such release, cause the Central Authority to be informed of that matter.

(3) The Central Authority shall, as soon as is practicable after the supervision decision comes into effect pursuant to *section 11(7)*, inform the competent authority in the executing State of that matter and the date on which the supervision decision came into effect.

(4) The monitoring of the supervision decision shall be subject to the law of the executing State for so long as the supervision decision remains in force.

Notifications from executing State

17. Where the Central Authority is informed by the competent authority in the executing State monitoring the supervision decision—

(a) of the change of address of the supervised person,

(b) that the person cannot be found in the executing State,

(c) that a legal remedy has been introduced against the decision in the executing State to recognise the supervision decision, or

(d) any breach of a supervision measure specified in the supervision decision, or any other finding which could result in the taking of a subsequent decision referred to in Article 18(1) of the Framework Decision,

the Central Authority shall inform the court and the prosecutor of that matter.

Expiry of supervision decision

18. (1) A supervision decision shall cease to have effect—

(a) subject to *paragraphs (b)* and *(d)*, on the date on which the intended duration of the decision, as specified in the decision pursuant to *section 11(4)(a)*, expires,

(b) subject to *paragraph (d)*, if *section 15(4)(b)(i)* or *19(1)(a)* and *(b)(i)* applies, on the date on which the new intended duration of the decision, as specified in the decision pursuant to that section, expires,

(c) subject to *paragraph (d)*, if *subsection (4)(b)* applies, on the date on which the new intended duration of the decision, as specified in the decision pursuant to that subsection, expires, or

(d) if the decision has been revoked under this Part, on the date on which the executing State is given notice of the revocation by the Central Authority pursuant to *section 15(8)*, *19(3)* or *20(4)*, as appropriate.

(2) (a) Subject to *paragraph (b)*, the court may, in relation to the supervision decision—

(i) on its own initiative, or

(ii) on application made to it by the prosecutor, on notice to the supervised person, or on application made to it by the supervised person, on notice to the prosecutor,

direct the Central Authority to request the competent authority in the executing State to extend the monitoring of the supervision decision for the further period specified in the direction.

(b) The court shall give a direction under *paragraph (a)* if the court thinks that it is appropriate to do so in all the circumstances of the case and of the supervised person.

(c) The Central Authority shall comply with a direction given under *paragraph (a)* as soon as is practicable after the direction is given to him or her.

(3) (a) Where the Central Authority complies with a direction given to him or her under *subsection (2)(a)* but the competent authority in the executing State refuses to comply with the request referred to in that subsection, the Central Authority shall, as soon as is practicable after he or she receives such refusal, inform the court and the supervised person of the refusal.

(b) The supervision decision the subject of such refusal shall cease to have effect in accordance with this Part as if the request referred to in *subsection (2)(a)* had never been made.

(4) (a) Where the Central Authority complies with a direction given to him or her under *subsection (2)(a)* and the competent authority in the executing State agrees with the request referred to in that subsection, the Central Authority shall, as soon as is practicable after he or she receives such agreement, inform the court of that matter.

(b) The court may, as soon as is practicable after being informed that the competent authority in the executing State has agreed to the request referred to in *subsection (2)(a)*, extend the monitoring of the supervision decision for the further period specified in the agreement and modify the decision accordingly.

(c) Where the court modifies the supervision decision under *paragraph (b)*, it shall cause the supervision decision as so modified, or a certified copy thereof, to be sent to—

(i) the Central Authority,

(ii) the prosecutor, and

(iii) the supervised person.

(d) The Central Authority shall, as soon as is practicable after he or she receives the supervision decision as so modified, or a certified copy thereof, forward the supervision decision or certified copy to the competent authority in the executing State.

(5) Where a former supervised person appears before the court on a date after the expiry of the period for the monitoring by the executing State of the supervision decision, the court shall treat the person as if he or she has, during the period for which the supervision decision was in force in the executing State, been a person on bail in the State.

Subsequent decisions in relation to supervision decision

19. (1) (a) Subject to *paragraph (c)*, the court may, in relation to the supervision decision—

(i) on its own initiative, or

(ii) on application made to it by the prosecutor, on notice to the supervised person, or on application made to it by the supervised person, on notice to the prosecutor,

make a decision to which this paragraph applies by virtue of *paragraph (b)*.

(b) The following are the decisions to which *paragraph (a)* applies:

(i) to renew the supervision decision (if such renewal is within any maximum period notified to the court as the maximum period during which the supervision decision can be monitored in the executing State) and to modify the supervision decision accordingly;

(ii) subject to *section 20(1)*, to revoke the supervision decision;

(iii) to modify a supervision measure specified in the supervision decision provided that the supervision measure as so modified still falls within the definition of "supervision measures" in *section 9(1)*.

(c) The court shall make a decision to which *paragraph (a)* applies if the court thinks it is appropriate to do so in all the circumstances of the case and of the supervised person.

(2) (a) Any modification of a supervision measure under this section shall cease to have effect on notification to the court by the Central Authority that the competent authority in the executing State does not agree to such modification.

(b) The court may revoke the supervision decision if it considers it necessary to do so where it is informed under *paragraph (a)* that the competent authority in the executing State does not agree to the modification.

(3) (a) The court shall direct the Central Authority to inform the competent authority in the executing State or former executing State and the supervised person or former supervised person of any decision taken by the court under *subsection (1)* or *(2)(b)*.

(b) The Central Authority shall comply with a direction given under *paragraph (a)*, as soon as is practicable after the direction is given to him or her.

Revocation of supervision decision

20. (1) The prosecutor, on notice to the supervised person (other than where *paragraph (a)* applies), shall make an application to the court to revoke the supervision decision on the ground that—

(a) the competent authority in the executing State has indicated to the Central Authority that the supervised person—

(i) cannot be found in that state, or

(ii) has established his or her lawful and ordinary residence in a state other than the executing State,

(b) the competent authority in the executing State has indicated to the Central Authority that the supervision decision has been breached and the prosecutor considers that the breach is sufficiently serious to warrant the revocation of the supervision decision, or

(c) the competent authority in the executing State has indicated to the Central Authority that the executing State can no longer monitor the supervision decision.

(2) (a) Where *subsection (1)(a)* or *(c)* applies, the court shall revoke the supervision decision.

(b) Where *subsection (1)(b)* applies, the court may, if it thinks it appropriate to do so in all the circumstances of the case and of the supervised person, revoke the supervision decision.

(3) When the court revokes a supervision decision under *section 15* or *19* or *subsection (2)* —

(a) the court shall order the former supervised person to appear before it on a specified date as soon as may be after the revocation takes effect, and

(b) the court shall treat the former supervised person in the same manner as it treats a person who has not been a supervised person.

(4) (a) The court shall cause the Central Authority to be informed of a decision made by the court under *subsection (2)*.

(b) The Central Authority shall, as soon as is practicable after being informed of a decision made by the court under *subsection (2)*, inform the competent authority of that matter.

Issue of arrest warrant

21. (1) The prosecutor may make an application to the court for a warrant for the arrest of a supervised person or former supervised person where, as appropriate—

(a) such person fails to appear before the court on the date specified in the supervision decision on which he or she is required to do so following the expiration of the period during which the supervision decision can be monitored by the executing State, or

(b) such person fails to appear before the court in accordance with the order concerned made by the court under *section 20(3)(a)*.

(2) The court may issue a warrant for the arrest of the supervised person or former supervised person.

(3) A member of the Garda Síochána may arrest the supervised person or former supervised person pursuant to a warrant issued under *subsection (2)* notwithstanding that the member does not have the warrant concerned in his or her possession at the time of the arrest.

(4) The member of the Garda Síochána arresting the supervised person or former supervised person under *subsection (3)* shall, as soon as is practicable, produce and serve on the person the warrant concerned.

(5) The arrested supervised person or former supervised person shall, as soon as is practicable, be brought before the court that made the order directing that the relevant recognisance be entered into and the person may be treated in accordance with section 6(9) of the Act of 1997.

Certain hearings may be conducted through live television link

22. (1) This section applies where—

(a) an application is proposed to be made under *section 18(2)(a)(ii)*, *19(1)(a)(ii)* or *20(1)* (in this section referred to as the "proposed application") to the court, and

(b) the supervised person to whom the proposed application relates is in the executing State (in this section referred to as the "relevant executing State").

(2) An application may be made by or on behalf of the supervised person, or by the prosecutor, to a judge of the court at a sitting of the court to issue a notice (in this section referred to as a "notice of request") requesting the provision of facilities in the relevant executing State to enable the supervised person to appear, through a live television link, at the hearing that will arise from the proposed application when it is made (in this section referred to as the "relevant hearing") to the court.

(3) The judge hearing the application under *subsection (2)* may grant the application if he or she is satisfied that—

(a) it would not be prejudicial to the supervised person to not appear in person at the relevant hearing, and

(b) the interests of justice do not require the supervised person to appear in person at the hearing.

(4) The notice of request shall state—

(a) the name, address and, if known, the nationality of the supervised person,

(b) the court which will hear the proposed application when it is made,

(c) subject to *subsection (6)*, the name of the judge who will conduct the relevant hearing, and

(d) the likely date on which the relevant hearing will be held.

(5) The notice of request shall be sent to the Central Authority for transmission to the competent authority in the relevant executing State.

(6) If the name of the judge referred to in *subsection (4)(c)* is not available at the time the notice of request is issued, it shall, as soon as it becomes available, be sent to the Central Authority for transmission to the competent authority in the relevant executing State.

(7) Where the provisions of this section are complied with in relation to the relevant hearing, the supervised person is deemed to be present at the relevant hearing for the purposes of any enactment or rule of law or order of any court requiring—

(a) the presence in court of an accused person during criminal proceedings against him or her, and

(b) the presence in court of a supervised person during any proceedings under this Act which relate to him or her.

(8) Nothing in this section shall affect the right of the supervised person to be present during any criminal proceedings other than the relevant hearing.

PART 3

Executing State is Ireland

Application of Part 3

23. This Part applies where the State is the executing State.

Definitions - Part 3

24. In this Part—

"competent authority" means a judicial or other authority in the issuing State meeting the criteria specified in Article 6 of the Framework Decision and notified to the General Secretariat in accordance with that Article;

"court" means—

(a) subject to *paragraph (b)*, the District Court, or

(b) the High Court where the supervision decision relates to an offence corresponding to an offence referred to in section 29(1) of the Act of 1967;

"endorsement order", in relation to a supervision decision, means an order made under *section 31(2)(a)* endorsing the decision for the purpose referred to in that section;

"endorsed supervision decision" means a supervision decision the subject of an endorsement order which is in force;

"former supervised person" includes a person the subject of a supervision decision that has never come into effect;

"offence", in relation to a supervision decision or proposed supervision decision, means alleged offence;

"supervision decision" means a decision on supervision measures consisting of an order forwarded to the State in accordance with the provisions of *section 28* authorising the State to monitor the supervision measures specified in the order and to take other actions in accordance with the Framework Decision;

"supervision measure" shall be read in accordance with *section 27*;

"supervised person", in relation to a supervision decision, means the person the subject of the supervision decision (whether or not the supervision decision has come into effect).

Obligation to consult with competent authority in issuing State

25. (1) (a) For the purposes to which this paragraph applies by virtue of *paragraph (b)*, the Central Authority shall, in so far as is practicable and reasonable, consult with the competent authority in the issuing State or proposed issuing State in relation to a supervision decision forwarded or proposed to be forwarded to the State in accordance with this Part.

(b) The purposes to which *paragraph (a)* applies are the following:

(i) to facilitate the preparation or forwarding of the supervision decision;

(ii) to facilitate the monitoring of the supervision decision;

(iii) to facilitate the issuing State taking any subsequent decisions referred to in *section 35(1)*;

(iv) where the supervised person has committed a serious breach of the supervision decision, to notify such breach or clarify any matter in connection with it or any action necessary as a consequence of such breach.

(2) (a) The application of *subsection (1)* shall include the exchange of information.

(b) Without prejudice to the generality of *paragraph (a)*, such information includes information verifying the identity and place of residence of the supervised person and the exchange of information extracted from criminal records as permitted by law.

Corresponding offences

26. For the purposes of this Part, an offence specified in a supervision decision corresponds to an offence under the law of the State where the act or

omission that constitutes the offence so specified would, if committed or made in the State on the date on which the supervision decision issued, constitute an offence under the law of the State.

Supervision measures to which Part 3 applies

27. (1) In this Part, "supervision measures", in relation to a supervision decision and the supervised person, means one or more than one of the following measures as may be specified in the supervision decision:

(a) an obligation on the person to keep the authority in the State specified in the decision informed of his or her place of residence in the State and of any change in such residence;

(b) an obligation on the person to refrain from attending at a specified premises or other place in the State;

(c) an obligation on the person to reside or remain in a specified place in the State, where appropriate, at specified times;

(d) an obligation on the person to obey general or specified restrictions in relation to travel outside of the territory of the State;

(e) an obligation on the person to report at specified times to the authority in the State specified in the decision;

(f) an obligation on the person to refrain from having contact with specified persons;

(g) an obligation, referred to in Article 8(2) of the Framework Decision, prescribed for the purposes of this paragraph.

(2) The Minister shall, as soon as is practicable after an obligation referred to in *paragraph (g)* of the definition of "supervision measures" has been prescribed for the purposes of that paragraph, inform the General Secretariat, by notice in writing, of such obligation which may now be included as a supervision measure in a supervision decision monitored or proposed to be monitored in the State.

Forwarding of supervision decision to Central Authority

28. (1) *Subsection (2)* applies if one or more than one of the following matters (in this section referred to as a "relevant matter") arises:

(a) a supervision decision forwarded to the Central Authority pursuant to Article 10 of the Framework Decision is not accompanied by—

(i) an Article 10 certificate, or

(ii) if the Article 10 certificate is in a language other than the Irish language or the English language, a translation of that certificate in the Irish language or the English language;

(b) the Central Authority considers that an Article 10 certificate accompanying a supervision decision forwarded to the Central Authority pursuant to Article 10 of the Framework Decision—

(i) is incomplete, or

(ii) obviously does not correspond to that supervision decision.

(2) The Central Authority shall, as soon as is practicable after a relevant matter arises, by notice in writing given to the competent authority in the issuing State—

(a) inform the competent authority in the issuing State of the relevant matter, and

(b) specify a reasonable period of time within which the competent authority in the issuing State may take the necessary remedial action in relation to the relevant matter.

(3) *Subsection (4)* applies if a document forwarded to the Central Authority for the purposes of this Part has been directly forwarded to the Central Authority by a means which has produced a record in writing of the document under conditions allowing the Central Authority to establish the authenticity of that document.

(4) The record in writing of the document shall be deemed to be the document that was forwarded.

(5) For the purposes of this Part, a document shall be deemed to be a true copy of an original document if it has been certified as a true copy of the original document by the competent authority in the issuing State.

(6) In proceedings to which this Part applies, a document shall be received in evidence without further proof if the document purports to be—

(a) a supervision decision issued by the competent authority in the issuing State,

(b) an Article 10 certificate issued by the competent authority in an issuing State or a translation referred to in *subsection (1)(a)(ii)* of the Article 10 certificate, or

(c) a certified copy of such decision, Article 10 certificate or translation.

(7) In proceedings to which this Part applies, a document that purports to be a certified copy of a supervision decision or Article 10 certificate referred to in *subsection (6)* shall, unless the contrary is shown, be evidence of the supervision decision or Article 10 certificate, as the case may be.

F8**[**(8) Where a court or person employed by, or acting for or on behalf of, the public administration of the State receives a supervision decision and Article 10 certificate directly from the competent authority of an issuing State, the court or person, as the case may be, shall—

(a) as soon as practicable send or arrange for the sending of, the documents to the Central Authority, and

(b) as soon as practicable so inform the competent authority of the issuing State by any means capable of producing a record in writing.

(9) For the purposes of this Part, the sending of a supervision decision and Article 10 certificate to the Central Authority under *subsection (8)* shall be deemed to constitute the forwarding of the documents to the Central Authority.**]**

Grounds on which supervision decision may or may not be monitored in State

29. (1) A supervision decision shall not be endorsed or executed in the State under this Act where—

(a) the supervised person is neither lawfully and ordinarily residing in the State nor an Irish citizen,

(b) the supervised person the subject of the decision does not wish to return to the State,

(c) the offence to which the supervision decision relates is a summary offence that could have been prosecuted in the State but for the fact that it has become statute-barred,

(d) the supervised person is not a person who is the subject of proceedings in the issuing State for an offence to which an European arrest warrant could relate, or

(e) it is immediately clear from the information provided in the Article 10 certificate concerned that endorsement of the supervision decision would infringe the *ne bis in idem* principle.

(2) The court may refuse to endorse a supervision decision where—

(a) a relevant matter within the meaning of *section 28(1)* applies in relation to the Article 10 certificate which accompanied, or which should have accompanied, that decision, and the reasonable period of time specified in the notice concerned under *section 28(2)* given to the competent authority in the issuing State in respect of that matter has expired without the necessary remedial action referred to in *section 28(2)(b)* having been taken in respect of that matter, or

(b) the Article 10 certificate includes a proposed supervision measure that does not fall within the definition of "supervision measures" in *section 27*.

(3) Subject to *subsection (4)*, a supervision decision shall not be endorsed or executed in the State unless the decision relates to an offence which corresponds to an offence under the law of the State.

(4) The endorsement and execution of a supervision decision under this Part shall not be refused on the ground that, in relation to a revenue offence—

(a) no tax or duty of the kind to which the offence relates is imposed in the State, or

(b) the rules relating to taxes, duties, customs or exchange control that apply in the issuing State differ in nature from the rules that apply in the State to taxes, duties, customs or exchange control.

(5) The court may refuse to endorse a supervision decision where the supervised person has, by virtue of any enactment, become immune from prosecution or punishment for an offence consisting of an act or omission that constitutes, whether in whole or in part, the offence to which the supervision decision relates.

(6) A supervision decision shall not be endorsed or executed under this Part if the offence to which the supervision decision relates corresponds to an offence under the law of the State in respect of which a person of the same age as the supervised person could not be proceeded against by reason of his or her age at the time of the offence.

(7) In the cases referred to in *subsections (1)* to *(6)*, the Central Authority may, by any means capable of producing a record in writing, request the competent authority in the issuing State to supply the Central Authority with any additional information required as soon as is practicable, before the court refuses to endorse a supervision decision.

(8) In this section—

"European arrest warrant" has the meaning it has in the European Arrest Warrant Act 2003;

"ordinarily residing in the State", in relation to a supervision decision and a supervised person, means the person has had his or her principal residence in the State for the 12 months immediately preceding the date of receipt by the Central Authority of the supervision decision in accordance with *section 28*;

"revenue offence", in relation to an issuing State, means an offence in connection with taxes, duties, customs or exchange control.

Application to court for endorsement of supervision decision

30. (1) Subject to *subsection (3)*, the Central Authority shall, as soon as may be after he or she receives a supervision decision in accordance with *section 28*, make an application, on notice to the supervised person, to the court for the endorsement by the court of the decision, or a certified copy thereof, for execution.

(2) An application under *subsection (1)* shall include—

(a) the supervision decision or a certified copy thereof, and

(b) the Article 10 certificate or a certified copy thereof.

(3) (a) The Central Authority shall not make an application under *subsection (1)* where the Article 10 certificate is incomplete or obviously does not correspond to the supervision decision.

(b) The Central Authority shall make an application under *subsection (1)* where he or she is satisfied that the Article 10 certificate is completed or corrected within the period set in accordance with *section 28(2)(b)*.

(4) In making an application under *subsection (1)*, the Central Authority shall inform the court of the following:

(a) the date of receipt by the Central Authority of the supervision decision together with the Article 10 certificate;

(b) in a case to which *subsection (3)* applies, the date of receipt by the Central Authority of the completed or corrected Article 10 certificate.

Endorsement of supervision decision by court

31. (1) *Subsection (2)* applies where an application under *section 30(1)* is made to the court and the court is—

(a) satisfied that the supervision decision the subject of the application complies with the provisions of this Part applicable to the supervision decision,

(b) not prevented by *section 29(1), (3)* or *(6)* from endorsing the supervision decision, and

(c) not relying upon *section 29(2)* or *(5)* to refuse to endorse the supervision decision.

(2) (a) Subject to *paragraph (b)*, the court shall make an order endorsing the supervision decision for the purpose of its recognition and the assumption by the State of responsibility for monitoring the decision,

(b) If a supervision measure specified in the supervision decision is incompatible with the law of the State, the court may, in the endorsement order, adapt the measure to that of a supervision measure which—

(i) falls within the definition of "supervision measures" in *section 27*,

(ii) is imposable in the State as a condition of bail,

(iii) corresponds, as far as is possible, to the first-mentioned supervision measure, and

(iv) is not more severe than the first-mentioned supervision measure.

(3) Subject to *section 35*, the endorsed supervision decision shall be monitored in the State as if it were a decision to grant bail in the State.

(4) When the court makes an endorsement order, it shall direct that compliance with the endorsed supervision decision be monitored by the Garda Síochána.

(5) An endorsement order shall specify, in relation to the supervision decision, the Superintendent of the Garda Síochána for the district in which the supervised person resides or will reside to whom the supervised person shall report as soon as is practicable after his or her arrival in the State.

Time limits for decision

32. (1) Subject to *subsection (2)*, the court shall make a decision under *section 31* as soon as is practicable and, in any event—

(a) subject to *paragraphs (b)* and *(c)*, within a period of 20 working days of the receipt by the Central Authority of the supervision decision together with the Article 10 certificate,

(b) in a case where the court is informed by the Central Authority that an appeal has been lodged against the supervision decision, within a further period of 20 working days from the expiry of the period referred to in *paragraph (a)*, and

(c) in a case to which *section 30(3)(b)* applies, within a period of 20 working days of the date of receipt by the Central Authority of the completed or corrected Article 10 certificate.

(2) When, in exceptional circumstances, it is not possible for the court to comply with the time limits provided for in *subsection (1)*, it shall, as soon as is practicable, cause the Central Authority to be informed of—

(a) that delay,

(b) the reasons for the delay, and

(c) the estimated time needed for the final decision to be taken on the supervision decision.

(3) The Central Authority shall, as soon as is practicable after the receipt of information under *subsection (2)*, forward that information to the competent authority in the issuing State.

(4) If, on notification to the competent authority in the issuing State of the estimated time needed for a final decision in accordance with *subsection (2)*, the Central Authority is informed by the competent authority in the issuing State that it is withdrawing the Article 10 certificate, the Central Authority shall inform the court accordingly and the court shall refuse to make an endorsement order in relation to the supervision decision.

Notification of endorsement of supervision decision

33. Where the court has made an endorsement order in relation to the supervision decision, it shall cause a certified copy thereof together with the Article 10 certificate to be sent to—

(a) the Central Authority,

(b) the Superintendent of the Garda Síochána for the district in which the supervised person resides or will reside, and

(c) the supervised person.

Obligation to provide certain information to issuing State

34. The Central Authority shall, as soon as is practicable, send to the competent authority in the issuing State—

(a) the endorsement order (if any), or a certified copy thereof, made in relation to the supervision decision, or

(b) where *section 29* applies, a notice stating the grounds referred to in that section by virtue of which an endorsement order was not made in relation to the supervision decision and, if the ground concerned falls within *section 29(2)* or *(5)*, the reasons for the court's decision not to make such order.

Issuing State to have jurisdiction for subsequent decisions

35. (1) Notwithstanding the fact that the supervision decision is an endorsed supervision decision but subject to *subsection (2)*, the issuing State shall have jurisdiction to—

(a) renew, review or revoke the supervision decision, and

(b) modify one or more than one supervision measure specified in the decision.

(2) A decision by an issuing State to modify the endorsed supervision decision shall apply to the supervision decision only if such modification is approved by the court on application under this section.

(3) (a) The Central Authority shall, as soon as is practicable after the receipt by him or her of a notification by the issuing State of a decision to modify the supervision decision, make an application, on notice to the supervised person, to the court for the amendment of the endorsement order to take account of such modification.

(b) The court shall determine an application under *paragraph (a)* by—

(i) if necessary and subject to *subparagraphs (ii)* and *(iii)*, amending the endorsement order,

(ii) refusing to amend the endorsement order if the modified supervision decision includes a proposed supervision measure which does not fall within the definition of "supervision measures" in *section 27*, or

(iii) if any supervision measure specified in the modification of the endorsed supervision decision is incompatible with the law of the State, adapting, in the modification to the endorsement order, the measure to that of a supervision measure which—

(I) falls within the definition of "supervision measures" in *section 27*,

(II) is imposable in the State as a condition of bail,

(III) corresponds, as far as is possible, to the first-mentioned supervision measure, and

(IV) is not more severe than the first-mentioned supervision measure.

(4) (a) The Central Authority shall, as soon as is practicable after being informed that the issuing State has revoked the supervision decision, make an application to the court to revoke the endorsement order.

(b) The court shall determine an application under *paragraph (a)* by revoking the endorsement order.

(5) Where the court has modified an endorsement order under this section, it shall cause a certified copy thereof to be sent to—

(a) the Central Authority,

(b) the Superintendent of the Garda Síochána for the district in which the supervised person resides, and

(c) the supervised person.

(6) Where the court has revoked an endorsement order under this section, it shall cause notice of such revocation to be sent to—

(a) the Central Authority,

(b) the Superintendent of the Garda Síochána for the district in which the supervised person resides, and

(c) the supervised person.

(7) The Central Authority shall, as soon as is practicable, send to the competent authority in the issuing State, as appropriate:

(a) the endorsement order, or a certified copy thereof, as modified under this section;

(b) the decision of the court under *subsection (3)(b)(ii)* to refuse to modify the endorsement order and the reasons for such decision;

(c) the order, or a certified copy thereof, under *subsection (4)(b)* revoking the endorsement order.

Extension of period of monitoring

36. (1) (a) The court may at any time request the Central Authority to make enquiries of the competent authority in the issuing State as to whether the monitoring of the endorsed supervision decision specified in the request is still required.

(b) For the purposes of *paragraph (a)*, the court may authorise the Central Authority to—

(i) issue further such enquiries to that competent authority if no response to the first enquiry is received,

(ii) specify time limits for a response to be made by that competent authority to such further enquiries, and

(iii) inform that competent authority that if a decision is not received within those time limits, the court will revoke the endorsement order.

(2) (a) Where no response referred to in *subsection (1)* is received from the competent authority in the issuing State, the Central Authority shall make an application, on notice to the supervised person, to the court to revoke the endorsement order.

(b) The court shall determine an application under *paragraph (a)* by, as it thinks it appropriate to do so in all the circumstances of the case and of the supervised person—

(i) revoking the endorsement order, or

(ii) refusing to revoke the endorsement order.

(3) Where a request for renewal of the period of monitoring of the endorsed supervision decision is made to the Central Authority by the competent authority in the issuing State, the Central Authority shall make an application, on notice to the supervised person, to the court for a decision to accede to the request so that such monitoring may be continued for the further period specified in the request.

(4) The court shall determine an application under *subsection (3)* by acceding to the request the subject of the application and modifying the endorsement order accordingly.

(5) Where *subsection (4)* applies, the court shall cause the endorsement order as so amended, or a certified copy thereof, to be sent to—

(a) the Central Authority,

(b) the Superintendent of the Garda Síochána of the district in which the supervised person resides, and

(c) the supervised person.

(6) The Central Authority shall inform the competent authority in the issuing State of each decision of the court made under this section.

Breach of supervision decision

37. (1) (a) Subject to *paragraph (b)*, the court may, on the application of a member of the Garda Síochána and on information being made in writing and on oath by or on behalf of the member, determine that the supervised person the subject of an endorsed supervision decision has breached a supervision measure specified in the supervision decision.

(b) An application under *paragraph (a)* shall be on notice to the supervised person.

(2) If the court determines that a supervision measure specified in the endorsed supervision decision has been breached, it shall—

(a) cause a notice or notices of such breach to be sent through the Central Authority to the competent authority in the issuing State in the form set out in Annex II to the Framework Decision together with information on any time limits within which a response to the notice or notices should be made, and

(b) if the competent authority in the issuing State fails to modify or revoke the endorsed supervision decision within a reasonable period after 2 or more notices referred to in *paragraph (a)* have been sent to it, cause a notice to be sent through the Central Authority to the competent authority—

(i) inviting the competent authority to modify or revoke the supervision decision, and

(ii) informing the competent authority that if it fails to modify or revoke the supervision decision within the period specified in the last-mentioned notice for that purpose, the court will revoke the endorsement order.

(3) Where either—

(a) the competent authority in the issuing State fails to respond to an invitation referred to in *subsection (2)(b)(i)* made to it within the period referred to *subsection (2)(b)(ii)*, or

(b) the competent authority revokes the supervision decision,

the court shall revoke the endorsement order.

(4) The court shall cause a decision under this section made by it to be communicated to—

(a) the Central Authority,

(b) the Superintendent of the Garda Síochána for the district in which the supervised person or former supervised person resides, and

(c) the supervised person or former supervised person.

(5) The Central Authority shall, as soon as is practicable after a decision under this section by the court is communicated to him or her pursuant to *subsection (4)*, inform the competent authority in the issuing State of such decision.

Supervised person cannot be found in State

38. (1) The court may, on the application of a member of the Garda Síochána and on information being made in writing and on oath by or on behalf of the member that the supervised person the subject of an endorsed supervision decision cannot be found in the State, revoke the endorsement order.

(2) The court shall cause a decision made by it under *subsection (1)* to be communicated to—

(a) the Central Authority, and

(b) the Superintendent of the Garda Síochána for the district in which the former supervised person resided.

(3) The Central Authority shall, as soon as is practicable after a decision under *subsection (1)* by the court is communicated to him or her pursuant to *subsection (2)*, inform the competent authority in the issuing State of such decision.

SCHEDULE

Council Framework Decision 2009/829/JHA

Section 2

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2009/829/JHA

of 23 October 2009

on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ([1]),

Whereas:

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.

(2) According to the Conclusions of the European Council meeting in Tampere on 15 and 16 October 1999, and in particular point 36 thereof, the principle of mutual recognition should apply to pre-trial orders. The programme of measures to implement the principle of mutual recognition in criminal matters addresses mutual recognition of supervision measures in its measure 10.

(3) The measures provided for in this Framework Decision should aim at enhancing the protection of the general public through enabling a person resident in one Member State, but subject to criminal proceedings in a second Member State, to be supervised by the authorities in the State in which he or she is resident whilst awaiting trial. As a consequence, the present Framework Decision has as its objective the monitoring of a defendants' movements in the light of the overriding objective of protecting the general public and the risk posed to the public by the existing regime, which provides only two alternatives: provisional detention or unsupervised movement. The measures will therefore give further effect to the right of law-abiding citizens to live in safety and security.

(4) The measures provided for in this Framework Decision should also aim at enhancing the right to liberty and the presumption of innocence in the European Union and at ensuring cooperation between Member States when a person is subject to obligations or supervision pending a court decision. As a consequence, the present Framework Decision has as its objective the promotion, where appropriate, of the use of non-custodial measures as an alternative to provisional detention, even where, according to the law of the Member State concerned, a provisional detention could not be imposed *ab initio*.

(5) As regards the detention of persons subject to criminal proceedings, there is a risk of different treatment between those who are resident in the trial

[1] Opinion not yet published in the Official Journal.

state and those who are not: a non-resident risks being remanded in custody pending trial even where, in similar circumstances, a resident would not. In a common European area of justice without internal borders, it is necessary to take action to ensure that a person subject to criminal proceedings who is not resident in the trial state is not treated any differently from a person subject to criminal proceedings who is so resident.

(6) The certificate, which should be forwarded together with the decision on supervision measures to the competent authority of the executing State, should specify the address where the person concerned will stay in the executing State, as well as any other relevant information which might facilitate the monitoring of the supervision measures in the executing State.

(7) The competent authority in the executing State should inform the competent authority in the issuing State of the maximum length of time, if any, during which the supervision measures could be monitored in the executing State. In Member States in which the supervision measures have to be periodically renewed, this maximum length of time has to be understood as the total length of time after which it is legally not possible anymore to renew the supervision measures.

(8) Any request by the competent authority in the executing State for confirmation of the necessity to prolong the monitoring of supervision measures should be without prejudice to the law of the issuing State, which applies to the decision on renewal, review and withdrawal of the decision on supervision measures. Such a request for confirmation should not oblige the competent authority in the issuing State to take a new decision to prolong the monitoring of supervision measures.

(9) The competent authority in the issuing State should have jurisdiction to take all subsequent decisions relating to a decision on supervision measures, including ordering a provisional detention. Such provisional detention might, in particular, be ordered following a breach of the supervision measures or a failure to comply with a summons to attend any hearing or trial in the course of criminal proceedings.

(10) In order to avoid unnecessary costs and difficulties in relation to the transfer of a person subject to criminal proceedings for the purposes of a hearing or a trial, Member States should be allowed to use telephone- and videoconferences.

(11) Where appropriate, electronic monitoring could be used for monitoring supervision measures in accordance with national law and procedures.

(12) This Framework Decision should make it possible that supervision measures imposed on the person concerned are monitored in the executing State, while ensuring the due course of justice and, in particular, that the person concerned will be available to stand trial. In case the person concerned does not return to the issuing State voluntarily, he or she may be surrendered to the issuing State in accordance with Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States ([2]) (hereinafter referred to as the 'Framework Decision on the European Arrest Warrant').

(13) While this Framework Decision covers all crimes and is not restricted to particular types or levels of crime, supervision measures should generally be applied in case of less serious offences. Therefore all the provisions of the Framework Decision on the European Arrest Warrant, except Article 2(1) thereof, should apply in the situation when the competent authority

[2] OJ L 190, 18.7.2002, p. 1

in the executing State has to decide on the surrender of the person concerned. As a consequence, also Article 5(2) and (3) of the Framework Decision on the European Arrest Warrant should apply in that situation.

(14) Costs relating to the travel of the person concerned between the executing and issuing States in connection with the monitoring of supervision measures or for the purpose of attending any hearing are not regulated by this Framework Decision. The possibility, in particular for the issuing State, to bear all or part of such costs is a matter governed by national law.

(15) Since the objective of this Framework Decision, namely the mutual recognition of decisions on supervision measures in the course of criminal proceedings, cannot be sufficiently achieved by the Member States acting unilaterally and can therefore, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 2 of the Treaty on European Union and Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in that Article, this Framework Decision does not go beyond what is necessary in order to achieve that objective.

(16) This Framework Decision respects fundamental rights and observes the principles recognised, in particular, by Article 6 of the Treaty on European Union and reflected by the Charter of Fundamental Rights of the European Union. Nothing in this Framework Decision should be interpreted as prohibiting refusal to recognise a decision on supervision measures if there are objective indications that it was imposed to punish a person because of his or her sex, race, religion, ethnic origin, nationality, language, political convictions or sexual orientation or that this person might be disadvantaged for one of these reasons.

(17) This Framework Decision should not prevent any Member State from applying its constitutional rules relating to entitlement to due process, freedom of association, freedom of the press, freedom of expression in other media and freedom of religion.

(18) The provisions of this Framework Decision should be applied in conformity with the right of the Union's citizens to move and reside freely within the territory of the Member States, pursuant to Article 18 of the Treaty establishing the European Community.

(19) Personal data processed when implementing this Framework Decision should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters ([3]) and in accordance with the principles laid down in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which all Member States have ratified,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Subject matter

This Framework Decision lays down rules according to which one Member State recognises a decision on supervision measures issued in another Member State as an alternative to provisional detention, monitors the

[3]OJ L 350, 30.12.2008, p. 60.

supervision measures imposed on a natural person and surrenders the person concerned to the issuing State in case of breach of these measures.

Article 2

Objectives

1. The objectives of this Framework Decision are:

(a) to ensure the due course of justice and, in particular, that the person concerned will be available to stand trial;

(b) to promote, where appropriate, the use, in the course of criminal proceedings, of non-custodial measures for persons who are not resident in the Member State where the proceedings are taking place;

(c) to improve the protection of victims and of the general public.

2. This Framework Decision does not confer any right on a person to the use, in the course of criminal proceedings, of a non-custodial measure as an alternative to custody. This is a matter governed by the law and procedures of the Member State where the criminal proceedings are taking place.

Article 3

Protection of law and order and the safeguarding of internal security

This Framework Decision is without prejudice to the exercise of the responsibilities incumbent upon Member States with regard to the protection of victims, the general public and the safeguarding of internal security, in accordance with Article 33 of the Treaty on European Union.

Article 4

Definitions

For the purposes of this Framework Decision:

(a) 'decision on supervision measures' means an enforceable decision taken in the course of criminal proceedings by a competent authority of the issuing State in accordance with its national law and procedures and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;

(b) 'supervision measures' means obligations and instructions imposed on a natural person, in accordance with the national law and procedures of the issuing State;

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

(d) 'executing State' means the Member State in which the supervision measures are monitored.

Article 5

Fundamental rights

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 6

Designation of competent authorities

1. Each Member State shall inform the General Secretariat of the Council which judicial authority or authorities under its national law are competent to act according to this Framework Decision in the situation where that Member State is the issuing State or the executing State.

2. As an exception to paragraph 1 and without prejudice to paragraph 3, Member States may designate non-judicial authorities as the competent authorities for taking decisions under this Framework Decision, provided that such authorities have competence for taking decisions of a similar nature under their national law and procedures.

3. Decisions referred to under Article 18(1)(c) shall be taken by a competent judicial authority.

4. The General Secretariat of the Council shall make the information received available to all Member States and to the Commission.

Article 7

Recourse to a central authority

1. Each Member State may designate a central authority or, where its legal system so provides, more than one central authority to assist its competent authorities.

2. A Member State may, if it is necessary as a result of the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and reception of decisions on supervision measures, together with the certificates referred to in Article 10, as well as for all other official correspondence relating thereto. As a consequence, all communications, consultations, exchanges of information, enquiries and notifications between competent authorities may be dealt with, where appropriate, with the assistance of the central authority(ies) of the Member State concerned.

3. Member States wishing to make use of the possibilities referred to in this Article shall communicate to the General Secretariat of the Council information relating to the designated central authority or central authorities. These indications shall be binding upon all the authorities of the issuing Member State.

Article 8

Types of supervision measures

1. This Framework Decision shall apply to the following supervision measures:

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

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

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

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

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

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

2. Each Member State shall notify the General Secretariat of the Council, when transposing this Framework Decision or at a later stage, which supervision measures, apart from those referred to in paragraph 1, it is prepared to monitor. These measures may include in particular:

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

(b) an obligation not to drive a vehicle;

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

(d) an obligation to undergo therapeutic treatment or treatment for addiction;

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

(3) The General Secretariat of the Council shall make the information received under this Article available to all Member States and to the Commission.

Article 9

Criteria relating to the Member State to which the decision on supervision measures may be forwarded

1. A decision on supervision measures may be forwarded to the competent authority of the Member State in which the person is lawfully and ordinarily residing, in cases where the person, having been informed about the measures concerned, consents to return to that State.

2. The competent authority in the issuing State may, upon request of the person, forward the decision on supervision measures to the competent authority of a Member State other than the Member State in which the person is lawfully and ordinarily residing, on condition that the latter authority has consented to such forwarding.

3. When implementing this Framework Decision, Member States shall determine under which conditions their competent authorities may consent to the forwarding of a decision on supervision measures in cases pursuant to paragraph 2.

4. Each Member State shall make a statement to the General Secretariat of the Council of the determination made under paragraph 3. Member States may modify such a statement at any time. The General Secretariat shall make the information received available to all Member States and to the Commission.

Article 10

Procedure for forwarding a decision on supervision measures together with the certificate

1. When, in application of Article 9(1) or (2), the competent authority of the issuing State forwards a decision on supervision measures to another

Member State, it shall ensure that it is accompanied by a certificate, the standard form of which is set out in Annex I.

2. The decision on supervision measures or a certified copy of it, together with the certificate, shall be forwarded 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 their authenticity. The original of the decision on supervision measures, 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.

3. The certificate shall be signed, and its content certified as accurate, by the competent authority in the issuing State.

4. The certificate referred to in paragraph 1 of this Article shall include, apart from the measures referred to in Article 8(1), only such measures as notified by the executing State in accordance with Article 8(2).

5. The competent authority in the issuing State shall specify:

(a) where applicable, the length of time to which the decision on supervision measures applies and whether a renewal of this decision is possible;

and

(b) on an indicative basis, the provisional length of time for which the monitoring of the supervision measures is likely to be needed, taking into account all the circumstances of the case that are known when the decision on supervision measures is forwarded.

6. The competent authority in the issuing State shall forward the decision on supervision measures together with the certificate only to one executing State at any one time.

7. 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 of 29 June 1998 on the creation of a European Judicial Network ([4]), in order to obtain the information from the executing State.

8. When an authority in the executing State which receives a decision on supervision measures together with a certificate has no competence to recognise that decision, this authority shall, ex officio, forward the decision together with the certificate to the competent authority.

Article 11

Competence over the monitoring of the supervision measures

1. As long as the competent authority of the executing State has not recognised the decision on supervision measures forwarded to it and has not informed the competent authority of the issuing State of such recognition, the competent authority of the issuing State shall remain competent in relation to the monitoring of the supervision measures imposed.

2. If competence for monitoring the supervision measures has been transferred to the competent authority of the executing State, such competence shall revert back to the competent authority of the issuing State:

[4] OJ L 191, 7.7.1998, p. 4.

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

(b) as soon as the competent authority in the issuing State has notified withdrawal of the certificate referred to in Article 10(1), pursuant to Article 13(3), to the competent authority of the executing State;

(c) where the competent authority in the issuing State has modified the supervision measures and the competent authority in the executing State, in application of Article 18(4)(b), has refused to monitor the modified supervision measures because they do not fall within the types of supervision measures referred to in Article 8(1) and/or within those notified by the executing State concerned in accordance with Article 8(2) ;

(d) when the period of time referred to in Article 20(2)(b) has elapsed;

(e) where the competent authority in the executing State has decided to stop monitoring the supervision measures and has informed the competent authority in the issuing State thereof, in application of Article 23.

3. In cases referred to in paragraph 2, the competent authorities of the issuing and executing States shall consult each other so as to avoid, as far as possible, any discontinuance in the monitoring of the supervision measures.

Article 12

Decision in the executing State

1. The competent authority in the executing State shall, as soon as possible and in any case within 20 working days of receipt of the decision on supervision measures and certificate, recognise the decision on supervision measures forwarded in accordance with Article 9 and following the procedure laid down in Article 10 and without delay take all necessary measures for monitoring the supervision measures, unless it decides to invoke one of the grounds for non-recognition referred to in Article 15.

2. If a legal remedy has been introduced against the decision referred to in paragraph 1, the time limit for recognition of the decision on supervision measures shall be extended by another 20 working days.

3. If it is not possible, in exceptional circumstances, for the competent authority in the executing State to comply with the time limits laid down in paragraphs 1 and 2, it shall immediately inform the competent authority in the issuing State, by any means of its choosing, giving reasons for the delay and indicating how long it expects to take to issue a final decision.

4. The competent authority may postpone the decision on recognition of the decision on supervision measures where the certificate provided for in Article 10 is incomplete or obviously does not correspond to the decision on supervision measures, until such reasonable time limit set for the certificate to be completed or corrected.

Article 13

Adaptation of the supervision measures

1. If the nature of the supervision measures is incompatible with the law of the executing State, the competent authority in that Member State may adapt them in line with the types of supervision measures which apply, under the law of the executing State, to equivalent offences. The adapted supervision measure shall correspond as far as possible to that imposed in the issuing State.

2. The adapted supervision measure shall not be more severe than the supervision measure which was originally imposed.

3. Following receipt of information referred to in Article 20(2)(b) or (f), the competent authority in the issuing State may decide to withdraw the certificate as long as monitoring in the executing State has not yet begun. In any case, such a decision shall be taken and communicated as soon as possible and within ten days of the receipt of the relevant notification at the latest.

Article 14

Double criminality

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

— participation in a criminal organisation,

— terrorism,

— trafficking in human beings,

— sexual exploitation of children and child pornography,

— illicit trafficking in narcotic drugs and psychotropic substances,

— illicit trafficking in weapons, munitions and explosives,

— corruption,

— fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests ([5]),

— laundering of the proceeds of crime,

— counterfeiting currency, including of the euro,

— computer-related crime,

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

— facilitation of 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,

[5] OJ C 316, 27.11.1995, p. 49.

— 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.

2. The Council may decide to add other categories of offences to the list in paragraph 1 at any time, acting unanimously after consultation of the European Parliament under the conditions laid down in Article 39(1) of the Treaty on European Union. The Council shall examine, in the light of the report submitted to it pursuant to Article 27 of this Framework Decision, whether the list should be extended or amended.

3. For offences other than those covered by paragraph 1, the executing State may make the recognition of the decision on supervision measures subject to the condition that the decision relates to acts which also constitute an offence under the law of the executing State, whatever the constituent elements or however it is described.

4. Member States may, for constitutional reasons, on the adoption of this Framework Decision, by a declaration notified to the General Secretariat of the Council, declare that they will not apply paragraph 1 in respect of some or all of the offences referred to in that paragraph. Any such declaration may be withdrawn at any time. Such declarations or withdrawals of declarations shall be published in the Official Journal of the European Union.

Article 15

Grounds for non-recognition

1. The competent authority in the executing State may refuse to recognise the decision on supervision measures if:

(a) the certificate referred to in Article 10 is incomplete or obviously does not correspond to the decision on supervision measures and is not completed or corrected within a reasonable period set by the competent authority in the executing State;

(b) the criteria laid down in Article 9(1), 9(2) or 10(4) are not met;

(c) recognition of the decision on supervision measures would contravene the *ne bis in idem* principle;

(d) the decision on supervision measures relates, in the cases referred to in Article 14(3) and, where the executing State has made a declaration under Article 14(4), in the cases referred to in Article 14(1), to an act which would not constitute an offence under the law of the executing State; in tax, customs and currency matters, however, execution of the decision may not be refused on the grounds that the law of the executing State does not prescribe any taxes of the same kind or does not contain any tax, customs or currency provisions of the same kind as the law of the issuing State;

(e) the criminal prosecution is statute-barred under the law of the executing State and relates to an act which falls within the competence of the executing State under its national law;

(f) there is immunity under the law of the executing State, which makes it impossible to monitor supervision measures;

(g) under the law of the executing State, the person cannot, because of his age, be held criminally responsible for the act on which the decision on supervision measures is based;

(h) it would, in case of breach of the supervision measures, have to refuse to surrender the person concerned in accordance with Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States ([6]) (hereinafter referred to as the 'Framework Decision on the European Arrest Warrant').

2. In the cases referred to in paragraph 1(a), (b) and (c), before deciding not to recognise the decision on supervision measures, the competent authority in the executing State shall communicate, by appropriate means, with the competent authority in the issuing State and, as necessary, request the latter to supply without delay all additional information required.

3. Where the competent authority in the executing State is of the opinion that the recognition of a decision on supervision measures could be refused on the basis of paragraph 1 under (h), but it is nevertheless willing to recognise the decision on supervision measures and monitor the supervision measures contained therein, it shall inform the competent authority in the issuing State thereof providing the reasons for the possible refusal. In such a case, the competent authority in the issuing State may decide to withdraw the certificate in accordance with the second sentence of Article 13(3). If the competent authority in the issuing State does not withdraw the certificate, the competent authority in the executing State may recognise the decision on supervision measures and monitor the supervision measures contained therein, it being understood that the person concerned might not be surrendered on the basis of a European Arrest Warrant.

Article 16

Law governing supervision

The monitoring of supervision measures shall be governed by the law of the executing State.

Article 17

Continuation of the monitoring of supervision measures

Where the time period referred to in Article 20(2)(b) is due to expire and the supervision measures are still needed, the competent authority in the issuing State may request the competent authority in the executing State

[6] OJ L 190, 18.7.2002, p. 1.

to extend the monitoring of the supervision measures, in view of the circumstances of the case at hand and the foreseeable consequences for the person if Article 11(2)(d) would apply. The competent authority in the issuing State shall indicate the period of time for which such an extension is likely to be needed.

The competent authority in the executing State shall decide on this request in accordance with its national law, indicating, where appropriate, the maximum duration of the extension. In these cases, Article 18(3) may apply.

Article 18

Competence to take all subsequent decisions and governing law

1. Without prejudice to Article 3, the competent authority in the issuing State shall have jurisdiction to take all subsequent decisions relating to a decision on supervision measures. Such subsequent decisions include notably:

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

(b) modification of the supervision measures;

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

2. The law of the issuing State shall apply to decisions taken pursuant to paragraph 1.

3. Where required by its national law, a competent authority in the executing State may decide to use the procedure of recognition set out in this Framework Decision in order to give effect to decisions referred to in paragraph 1(a) and (b) in its national legal system. Such a recognition shall not lead to a new examination of the grounds of non-recognition.

4. If the competent authority in the issuing State has modified the supervision measures in accordance with paragraph 1(b), the competent authority in the executing State may:

(a) adapt these modified measures in application of Article 13, in case the nature of the modified supervision measures is incompatible with the law of the executing State;

or

(b) refuse to monitor the modified supervision measures if these measures do not fall within the types of supervision measures referred to in Article 8(1) and/or within those notified by the executing State concerned in accordance with Article 8(2).

5. The jurisdiction of the competent authority in the issuing State pursuant to paragraph 1 is without prejudice to proceedings that may be initiated in the executing State against the person concerned in relation with criminal offences committed by him/her other than those on which the decision on supervision measures is based.

Article 19

Obligations of the authorities involved

1. At any time during the monitoring of the supervision measures, the competent authority in the executing State may invite the competent authority in the issuing State to provide information as to whether the monitoring of the measures is still needed in the circumstances of the

particular case at hand. The competent authority in the issuing State shall, without delay, reply to such an invitation, where appropriate by taking a subsequent decision referred to in Article 18(1).

2. Before the expiry of the period referred to in Article 10(5), the competent authority in the issuing State shall specify, ex officio or at the request of the competent authority in the executing State, for which additional period, if any, it expects that the monitoring of the measures is still needed.

3. The competent authority in the executing State shall immediately notify the competent authority in the issuing State of any breach of a supervision measure, and any other finding which could result in taking any subsequent decision referred to in Article 18(1). Notice shall be given using the standard form set out in Annex II.

4. With a view to hearing the person concerned, the procedure and conditions contained in instruments of international and European Union law that provide for the possibility of using telephone- and videoconferences for hearing persons may be used *mutatis mutandis*, in particular where the legislation of the issuing State provides that a judicial hearing must be held before a decision referred to in Article 18(1) is taken.

5. The competent authority in the issuing State shall immediately inform the competent authority in the executing State of any decision referred to in Article 18(1) and of the fact that a legal remedy has been introduced against a decision on supervision measures.

6. If the certificate relating to the decision on supervision measures has been withdrawn, the competent authority of the executing State shall end the measures ordered as soon as it has been duly notified by the competent authority of the issuing State.

Article 20

Information from the executing State

1. The authority in the executing State which has received a decision on supervision measures, which it has no competence to recognise, together with a certificate, shall inform the competent authority in the issuing State to which authority it has forwarded this decision, together with the certificate, in accordance with Article 10(8).

2. The competent authority in the executing State shall, without delay, inform the competent authority in the issuing State by any means which leaves a written record:

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

(b) of the maximum length of time during which the supervision measures can be monitored in the executing State, in case the law of the executing State provides such a maximum;

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

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

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

(f) of any decision to adapt the supervision measures in accordance with Article 13;

(g) of any decision not to recognise the decision on supervision measures and to assume responsibility for monitoring of the supervision measures in accordance with Article 15, together with the reasons for the decision.

Article 21

Surrender of the person

1. If the competent authority of the issuing State has issued an arrest warrant or any other enforceable judicial decision having the same effect, the person shall be surrendered in accordance with the Framework Decision on the European Arrest Warrant.

2. In this context, Article 2(1) of the Framework Decision on the European Arrest Warrant may not be invoked by the competent authority of the executing State to refuse to surrender the person.

3. Each Member State may notify the General Secretariat of the Council, when transposing this Framework Decision or at a later stage, that it will also apply Article 2(1) of the Framework Decision on the European Arrest Warrant in deciding on the surrender of the person concerned to the issuing State.

4. The General Secretariat of the Council shall make the information received under paragraph 3 available to all Member States and to the Commission.

Article 22

Consultations

1. Unless impracticable, the competent authorities of the issuing State and of the executing State shall consult each other:

(a) during the preparation, or, at least, before forwarding a decision on supervision measures together with the certificate referred to in Article 10;

(b) to facilitate the smooth and efficient monitoring of the supervision measures;

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

2. The competent authority in the issuing State shall take due account of any indications communicated by the competent authority of the executing State on the risk that the person concerned might pose to victims and to the general public.

3. In application of paragraph 1, the competent authorities of the issuing State and of the executing State shall exchange all useful information, including:

(a) information allowing verification of the identity and place of residence of the person concerned;

(b) relevant information extracted from criminal records in accordance with applicable legislative instruments.

Article 23

Unanswered notices

1. Where the competent authority in the executing State has transmitted several notices referred to in Article 19(3) in respect of the same person to the competent authority in the issuing State, without this latter authority having taken any subsequent decision referred to in Article 18(1), the competent authority in the executing State may invite the competent authority in the issuing State to take such a decision, giving it a reasonable time limit to do so.

2. If the competent authority in the issuing State does not act within the time limit indicated by the competent authority in the executing State, the latter authority may decide to stop monitoring the supervision measures. In such case, it shall inform the competent authority in the issuing State of its decision, and the competence for the monitoring of the supervision measures shall revert back to the competent authority in the issuing State in application of Article 11(2).

3. Where the law of the executing State requires a periodic confirmation of the necessity to prolong the monitoring of the supervision measures, the competent authority in the executing State may request the competent authority in the issuing State to provide such confirmation, giving it a reasonable time limit to reply to such a request. In case the competent authority in the issuing State does not answer within the time limit concerned, the competent authority in the executing State may send a new request to the competent authority in the issuing State, giving it a reasonable time limit to reply to such a request and indicating that it may decide to stop monitoring the supervision measures if no reply is received within that time limit. Where the competent authority in the executing State does not receive a reply to such a new request within the time limit set, it may act in accordance with paragraph 2.

Article 24

Languages

Certificates shall be translated into the official language or one of the official languages of the executing State. 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 European Union.

Article 25

Costs

Costs resulting from the application of this Framework Decision shall be borne by the executing State, except for costs arising exclusively within the territory of the issuing State.

Article 26

Relation to other agreements and arrangements

1. In so far as such agreements or arrangements allow the objectives of this Framework Decision to be extended or enlarged and help to simplify or facilitate further the mutual recognition of decisions on supervision measures, Member States may:

(a) continue to apply bilateral or multilateral agreements or arrangements in force when this Framework Decision enters into force;

(b) conclude bilateral or multilateral agreements or arrangements after this Framework Decision has entered into force.

2. The agreements and arrangements referred to in paragraph 1 shall in no case affect relations with Member States which are not parties to them.

3. Member States shall, by 1 March 2010, notify the Commission and the Council of the existing agreements and arrangements referred to in paragraph 1(a) which they wish to continue applying.

4. Member States shall also notify the Commission and the Council of any new agreement or arrangement as referred to in paragraph 1(b), within three months of signing any such arrangement or agreement.

Article 27

Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 1 December 2012.

2. By the same date Member States shall transmit to the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

Article 28

Report

1. By 1 December 2013 the Commission shall draw up a report on the basis of the information received from Member States under Article 27(2).

2. On the basis of this report, the Council shall assess:

(a) the extent to which the Member States have taken the necessary measures in order to comply with this Framework Decision; and

(b) the application of this Framework Decision.

3. The report shall be accompanied, if necessary, by legislative proposals.

Article 29

Entry into force

This Framework Decision shall enter into force on the 20th day following its publication in the Official Journal of the European Union.

Done at Luxembourg, 23 October 2009.

For the Council

The President

T. BILLSTRÖM

ANNEX I

CERTIFICATE

referred to in Article 10 of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention ([7])

(a) Issuing State:

Executing State:

(b) Authority which issued the decision on supervision measures:

Official name:

Please indicate whether any additional information concerning the decision on supervision measures is to be obtained from:

☐ the authority specified above

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

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

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

Address:

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

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

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

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

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

E-mail (if any):

Languages that may be used for communication:

(c) Please indicate which authority is to be contacted if any additional information is to be obtained for the purposes of monitoring the supervision measures:

☐ the authority referred to in point (b)

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

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

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

Address:

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

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

Details of the person(s) to be contacted

Surname:

Forename(s):

Position (title/grade):

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

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

E-mail (if any):

Languages that may be used for communication:

(d) Information regarding the natural person in respect of whom the decision on supervision measures has been issued:

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Addresses/residences:

— in the issuing State:

— in the executing State:

— elsewhere:

Language(s) understood (if known):

If available, please provide the following information:

— Type and number of the identity document(s) of the person (ID card, passport):

— Type and number of the residence permit of the person in the executing State:

(e) Information regarding the Member State to which the decision on supervision measures, together with the certificate are being forwarded

The decision on supervision measures, together with the certificate are being forwarded to the executing State indicated in point (a) for the following reason:

☐ the person concerned has his/her lawful and ordinary residence in the executing State and, having been informed about the measures concerned, consents to return to that State

☐ the person concerned has requested to forward the decision on supervision measures to the Member State other than that in which the person is lawfully and ordinarily residing, for the following reason(s):

(f) Indications regarding the decision on supervision measures:

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

The decision became enforceable on (date: DD-MM-YYYY):

If, at the time of transmission of this certificate, a legal remedy has been introduced against the decision on supervision measures, please tick this box ..... ☐

File reference of the decision (if available):

The person concerned was in provisional detention during the following period (where applicable):

1. The decision covers in total:..... alleged offences.

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

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

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

☐ participation in a criminal organisation

☐ terrorism

☐ trafficking in human beings

☐ sexual exploitation of children and child pornography

☐ illicit trafficking in narcotic drugs and psychotropic substances

☐ illicit trafficking in weapons, munitions and explosives

☐ corruption

- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests
- laundering of the proceeds of crime
- counterfeiting of currency, including the euro
- computer-related crime
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties
- facilitation of unauthorised entry and residence
- murder, grievous bodily injury
- illicit trade in human organs and tissue
- kidnapping, illegal restraint and hostage-taking
- racism and xenophobia
- organised or armed robbery
- illicit trafficking in cultural goods, including antiques and works of art
- swindling
- racketeering and extortion
- counterfeiting and piracy of products
- forgery of administrative documents and trafficking therein
- forgery of means of payment
- illicit trafficking in hormonal substances and other growth promoters
- illicit trafficking in nuclear or radioactive materials
- trafficking in stolen vehicles
- rape
- arson
- crimes within the jurisdiction of the International Criminal Court
- unlawful seizure of aircraft/ships
- sabotage

3. To the extent that the alleged offence(s) identified under point 1 is (are) not covered by point 2 or if the decision, as well as the certificate are forwarded to a Member State, which has declared that it will verify the double criminality (Article 14(4) of the Framework Decision), please give a full description of the alleged offence(s) concerned:

(g) Indications regarding the duration and nature of the supervision measure(s)

1. Length of time to which the decision on supervision measures applies and whether a renewal of this decision is possible (where applicable):

2. Provisional length of time for which the monitoring of the supervision measures is likely to be needed, taking into account all the circumstances of the case that are known when the decision on supervision measures is forwarded (indicative information)

3. Nature of the supervision measure(s) (it is possible to tick multiple boxes):

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

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

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

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

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

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

 other measures that the executing State is prepared to supervise in accordance with a notification under Article 8(2) of the Framework Decision:

If you ticked the box regarding 'other measures', please specify which measure is concerned by ticking the appropriate box(es):

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

 an obligation not to drive a vehicle;

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

 an obligation to undergo therapeutic treatment or treatment for addiction;

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

 other measure (please specify):

4. Please provide a detailed description of the supervision measure(s) indicated under 3:

(h) Other circumstances relevant to the case, including specific reasons for the imposition of the supervision measure(s) (optional information):

The text of the decision is attached to the certificate.

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

Name:

Position (title/grade):

Date:

File reference (if any):

(Where appropriate) Official stamp:

ANNEX II

FORM

referred to in Article 19 of Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention

REPORT OF A BREACH OF A SUPERVISION MEASURE AND/OR ANY OTHER FINDINGS WHICH COULD RESULT IN TAKING ANY SUBSEQUENT DECISION

(a) Details of the identity of the person subject to supervision:

Surname:

Forename(s):

Maiden name, where applicable:

Aliases, where applicable:

Sex:

Nationality:

Identity number or social security number (if any):

Date of birth:

Place of birth:

Address:

Language(s) understood (if known):

(b) Details of the decision on supervision measure(s):

Decision issued on:

File reference (if any):

Authority which issued the decision

Official name:

Address:

Certificate issued on:

Authority which issued the certificate:

File reference (if any):

(c) Details of the authority responsible for monitoring the supervision measure(s):

Official name of the authority:

Name of the person to be contacted:

Position (title/grade):

Address:

Tel. (country code) (area code)

Fax (country code) (area code)

E-mail:

Languages that may be used for communication:

(d) Breach of supervision measure(s) and/or other findings which could result in taking any subsequent decision:

The person referred to in (a) is in breach of the following supervision measure(s):

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

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

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

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

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

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

 other measures (please specify):

Description of the breach(es) (place, date and specific circumstances):

— other findings which could result in taking any subsequent decision

Description of the findings:

(e) Details of the person to be contacted if additional information is to be obtained concerning the breach:

Surname:

Forename(s):

Address:

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

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

E-mail:

Languages that may be used for communication:

Signature of the authority issuing the form and/or its representative, to confirm that the contents of the form are correct:

Name:

Position (title/grade):

Date:

Official stamp (where applicable):

Number 21 *of* 2020

CRIMINAL JUSTICE (MUTUAL RECOGNITION OF DECISIONS ON SUPERVISION MEASURES) ACT 2020

REVISED

Updated to 3 May 2023

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.