

# Official Journal

## of the European Union

L 294



English edition

Legislation

Volume 52

11 November 2009

### Contents

#### I Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory

#### REGULATIONS

Commission Regulation (EC) No 1076/2009 of 10 November 2009 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 1

★ **Commission Regulation (EC) No 1077/2009 of 10 November 2009 on fixing the closing date for the submission of applications for private storage aid for pigmeat laid down by Regulation (EC) No 1329/2008..... 3**

★ **Commission Regulation (EC) No 1078/2009 of 10 November 2009 entering a name in the register of protected designations of origin and protected geographical indications (Riso del Delta del Po (PGI)) ..... 4**

★ **Commission Regulation (EC) No 1079/2009 of 10 November 2009 on fixing the closing date for the submission of applications for private storage aid for pigmeat laid down by Regulation (EC) No 1278/2008..... 6**

Price: EUR 3

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

## DIRECTIVES

- ★ **Commission Directive 2009/137/EC of 10 November 2009 amending Directive 2004/22/EC of the European Parliament and of the Council on measuring instruments in respect of exploitation of the maximum permissible errors, as regards the instrument-specific annexes MI-001 to MI-005 <sup>(1)</sup>** ..... 7

## II Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory

### DECISIONS

#### Council

2009/825/EC:

- ★ **Council Decision of 26 October 2009 concerning the conclusion of the Protocol amending the Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part** ..... 10

#### Commission

2009/826/EC:

- ★ **Commission Decision of 13 October 2009 authorising the placing on the market of a leaf extract from Lucerne (*Medicago sativa*) as novel food or novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council (notified under document C(2009) 7641)** ..... 12

2009/827/EC:

- ★ **Commission Decision of 13 October 2009 authorising the placing on the market of Chia seed (*Salvia hispanica*) as novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council (notified under document C(2009) 7645)** ..... 14

2009/828/EC:

- ★ **Commission Decision of 3 November 2009 relating to the draft Regional Legislative Decree declaring the Autonomous Region of Madeira to be an Area Free of Genetically Modified Organisms, notified by the Republic of Portugal pursuant to Article 95(5) of the EC Treaty (notified under document C(2009) 8438) <sup>(1)</sup>** ..... 16



<sup>(1)</sup> Text with EEA relevance

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COMMISSION REGULATION (EC) No 1076/2009

of 10 November 2009

**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 11 November 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 November 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

---

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	MA	37,6
	MK	23,1
	TR	83,8
	ZZ	48,2
0707 00 05	EG	171,8
	JO	161,3
	MA	69,5
	TR	122,2
	ZZ	131,2
0709 90 70	MA	65,5
	TR	107,5
	ZZ	86,5
0805 20 10	MA	79,3
	ZZ	79,3
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	AR	49,8
	CN	52,2
	HR	54,9
	TR	81,2
	UY	49,8
	ZZ	57,6
0805 50 10	AR	61,9
	TR	79,1
	ZA	69,7
	ZZ	70,2
0806 10 10	AR	205,2
	BR	241,3
	LB	223,8
	TR	124,4
	US	259,3
	ZZ	210,8
0808 10 80	CA	71,4
	MK	20,3
	NZ	101,3
	US	101,8
	ZA	79,7
	ZZ	74,9
0808 20 50	CN	60,2
	ZZ	60,2

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 1077/2009****of 10 November 2009****on fixing the closing date for the submission of applications for private storage aid for pigmeat laid down by Regulation (EC) No 1329/2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 43(a) and (d), in conjunction with Article 4 thereof,

Whereas:

- (1) Private storage aid is granted pursuant to Commission Regulation (EC) No 1329/2008 of 22 December 2008 adopting emergency support measures for the pigmeat market in form of private storage aid in part of the United Kingdom <sup>(2)</sup>. The aid is granted due to the exceptional circumstances the pigmeat sector in Ireland and Northern Ireland experienced in December 2008 when findings revealed elevated levels of polychlorinated biphenyls (PCBs) in pigmeat originating in Ireland. The situation has changed since then and consequently the measures are no longer needed.

- (2) The granting of private storage aid for pigmeat should therefore be ended and a closing date for the submission of applications should be set.

- (3) In order to avoid speculation the Regulation should enter into force on the day of its publication and the closing date should be the day following the entry into force.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The closing date for the submission of applications for private storage aid for pigmeat provided for in Regulation (EC) No 1329/2008 shall be 13 November 2009.

*Article 2*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 November 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 345, 23.12.2008, p. 56.

**COMMISSION REGULATION (EC) No 1078/2009****of 10 November 2009****entering a name in the register of protected designations of origin and protected geographical indications (Riso del Delta del Po (PGI))**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

(2) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, this name should be entered in the register,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs <sup>(1)</sup>, and in particular the first subparagraph of Article 7(4) thereof,

HAS ADOPTED THIS REGULATION:

*Article 1*

The name contained in the Annex to this Regulation is hereby entered in the register.

Whereas:

(1) Pursuant to the first subparagraph of Article 6(2) of Regulation (EC) No 510/2006, Italy's application to register the name 'Riso del Delta del Po' was published in the *Official Journal of the European Union* <sup>(2)</sup>.*Article 2*This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 November 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*<sup>(1)</sup> OJ L 93, 31.3.2006, p. 12.<sup>(2)</sup> OJ C 75, 31.3.2009, p. 37.

## ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

**Class 1.6. Fruit, vegetables and cereals, fresh or processed**

ITALY

Riso del Delta del Po (PGI)

---

**COMMISSION REGULATION (EC) No 1079/2009****of 10 November 2009****on fixing the closing date for the submission of applications for private storage aid for pigmeat laid down by Regulation (EC) No 1278/2008**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ('Single CMO' Regulation) <sup>(1)</sup>, and in particular Article 43(a) and (d), in conjunction with Article 4 thereof,

Whereas:

- (1) Private storage aid is granted pursuant to Commission Regulation (EC) No 1278/2008 of 17 December 2008 adopting emergency support measures for the pigmeat market in form of private storage aid in Ireland <sup>(2)</sup>. The aid is granted due to the exceptional circumstances the pigmeat sector in Ireland experienced in December 2008 when findings revealed elevated levels of polychlorinated biphenyls (PCBs) in pigmeat originating in Ireland. The situation has changed since then and consequently the measures are no longer needed.

- (2) The granting of private storage aid for pigmeat should therefore be ended and a closing date for the submission of applications should be set.

- (3) In order to avoid speculation the Regulation should enter into force on the day of its publication and the closing date should be the day following the entry into force.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

The closing date for the submission of applications for private storage aid for pigmeat provided for in Regulation (EC) No 1278/2008 shall be 13 November 2009.

*Article 2*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 November 2009.

*For the Commission*

Mariann FISCHER BOEL

*Member of the Commission*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 339, 18.12.2008, p. 78.



## DIRECTIVES

## COMMISSION DIRECTIVE 2009/137/EC

of 10 November 2009

**amending Directive 2004/22/EC of the European Parliament and of the Council on measuring instruments in respect of exploitation of the maximum permissible errors, as regards the instrument-specific annexes MI-001 to MI-005**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2004/22/EC of the European Parliament and of the Council of 31 March 2004 on measuring instruments <sup>(1)</sup>, and in particular Article 16(2) thereof,

Whereas:

- (1) Directive 2004/22/EC harmonises the requirements for the placing on the market and/or the putting into use of measuring instruments with a measuring function defined in the instrument-specific annexes MI-001 to MI-010. Measuring instruments must meet the essential requirements laid down in Annex I and in the relevant instrument-specific Annex.
- (2) The instrument-specific annexes of Directive 2004/22/EC contain requirements adapted to the different types of measuring instruments. These requirements include specific provisions on allowable errors in order to ensure the accuracy and performance of the measuring instrument and to guarantee that the error of measurement under rated operating conditions and in the absence of a disturbance does not exceed the defined Maximum Permissible Error (MPE) value.
- (3) Since new specifications have been developed as regards gas meters and volume conversion devices, the very specific requirement of point 2.1 of Annex MI-002 could cause obstacles to technical progress and innovation and create barriers to the free circulation of gas meters. It should therefore be replaced by a more general performance requirement.
- (4) Directive 2004/22/EC provides in point 7.3 of Annex I with regard to utility measuring instruments for a general protection against unduly biased errors outside the

controlled range. However, experience has shown that in order to guarantee that a measuring instrument does not exploit the Maximum Permissible Error (MPE) and systematically favour any of the parties involved in the transaction, it is necessary to require also protection against unduly biased errors inside the controlled range of these instruments.

- (5) In accordance with point 34 of the Interinstitutional Agreement on better law-making<sup>1</sup> <sup>(2)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (6) Directive 2004/22/EC should therefore be amended accordingly.
- (7) The measures provided for in this Directive are in accordance with the opinion of the Measuring Instruments Committee set up by Article 15(1) of Directive 2004/22/EC,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The instrument-specific annexes MI-001 to MI-005 to Directive 2004/22/EC are amended in accordance with the Annex to this Directive.

*Article 2*

1. Member States shall adopt and publish by 1 December 2010 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 June 2011.

<sup>(1)</sup> OJ L 135, 30.4.2004, p. 1.

<sup>(2)</sup> OJ C 321, 31.12.2003, p. 1.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

*Article 4*

This Directive is addressed to the Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Done at Brussels, 10 November 2009.

*Article 3*

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

*For the Commission*

Günter VERHEUGEN

*Vice-President*

---

## ANNEX

Directive 2004/22/EC is amended as follows:

1. In Annex MI-001, in section 'MPE' of the Specific Requirements the following point 6a is added:

'6a. The meter shall not exploit the MPE or systematically favour any party'.

2. Annex MI-002 is amended as follows:

- (a) in point 2.1 of Part I, the paragraph under the table is replaced by the following:

'The gas meter shall not exploit the MPEs or systematically favour any party'.

- (b) In point 8 of Part II the following paragraph is added after the note:

'The volume conversion device shall not exploit the MPEs or systematically favour any party'.

3. In Annex MI-003, in point 3 of the Specific Requirements the following paragraph is added:

'The meter shall not exploit the MPEs or systematically favour any party'.

4. In Annex MI-004, in point 3 of the Specific Requirements the following paragraph is added:

'The complete heat meter shall not exploit the MPEs or systematically favour any party'.

5. In Annex MI-005, in point 2 of the Specific Requirements, the following point 2.8. is added:

'2.8. The measuring system shall not exploit the MPEs or systematically favour any party'.

---

## II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 26 October 2009

**concerning the conclusion of the Protocol amending the Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part**

(2009/825/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

(1) The Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part <sup>(1)</sup> was signed in Brussels on 6 December 2002. It was subsequently concluded on 31 January 2008 pursuant to Council Decision 2008/143/EC <sup>(2)</sup> and entered into force on 1 March 2008.

(2) A Protocol amending the Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of

Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union was signed in Beijing on 5 September 2005 and concluded pursuant to Council Decision 2008/144/EC <sup>(3)</sup>.

(3) In accordance with Article 6(2) of the 2005 Act of Accession <sup>(4)</sup>, the Republic of Bulgaria and Romania are to accede to the Agreement by way of a protocol between the Council and the People's Republic of China.

(4) The Protocol amending the Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part <sup>(5)</sup>, to take account of the accession of the Republic of Bulgaria and Romania to the European Union was signed in Brussels on 31 March 2009.

(5) The necessary constitutional and institutional procedures have been completed and the Protocol should therefore be approved,

HAS DECIDED AS FOLLOWS:

*Article 1*

The Protocol amending the Agreement on maritime transport between the European Community and its Member States, of the one part, and the Government of the People's Republic of China, of the other part, to take account of the accession of the Republic of Bulgaria and Romania to the European Union is hereby approved on behalf of the Community.

<sup>(1)</sup> OJ L 46, 21.2.2008, p. 25.

<sup>(2)</sup> OJ L 46, 21.2.2008, p. 23.

<sup>(3)</sup> OJ L 46, 21.2.2008, p. 37.

<sup>(4)</sup> OJ L 157, 21.6.2005, p. 203.

<sup>(5)</sup> OJ L 144, 9.6.2009, p. 21.

*Article 2*

The President of the Council shall, on behalf of the European Community and its Member States, give the notification provided for in Article 3 of the Protocol.

Done at Luxembourg, 26 October 2009.

*For the Council*  
*The President*  
C. MALMSTRÖM

---

# COMMISSION

## COMMISSION DECISION

of 13 October 2009

**authorising the placing on the market of a leaf extract from Lucerne (*Medicago sativa*) as novel food or novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council**

(notified under document C(2009) 7641)

(Only the French text is authentic)

(2009/826/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Nutrition and Allergies on a request from the European Commission on the safety of "Alfalfa protein concentrate as food" ' on 13 March 2009.

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients<sup>(1)</sup>, and in particular Article 7 thereof,

Whereas:

(5) In that opinion the EFSA came to the conclusion that the Lucerne (*Medicago sativa*) protein concentrate is safe for human consumption under the specified conditions of use.

(6) On the basis of the scientific assessment, it is established that the Lucerne (*Medicago sativa*) protein concentrate complies with the criteria laid down in Article 3(1) of Regulation (EC) No 258/97.

(1) On 28 February 2000 the company Viridis made a request to the competent authorities of France to place two leaf extracts from Lucerne (*Medicago sativa*) on the market as novel foods or novel food ingredients; on 28 April 2003 the competent food assessment body of France issued its initial assessment report. In that report they came to the conclusion that an additional assessment was required.

(7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

### Article 1

(2) The Commission forwarded the initial assessment report to all Member States on 27 February 2004. Some Member States made additional comments.

Lucerne (*Medicago sativa*) protein concentrate, hereinafter called the product, as specified in the Annex may be placed on the market in the Community as a novel food ingredient to be used in food supplements.

(3) On 12 October 2006, the company L.-R.D. (Luzerne — Recherche et Développement) took over the responsibility for the application; they reduced the scope of the application to a leaf extract from Lucerne and submitted responses to the initial assessment report and the additional questions raised by Member States.

### Article 2

The maximum amount of protein extract from Lucerne (*Medicago sativa*) present in a portion recommended for daily consumption by the manufacturer shall be 10 g.

(4) The European Food Safety Authority (EFSA) was consulted on 11 February 2008 and delivered its 'Scientific Opinion of the Panel on Dietetic Products

### Article 3

The designation of the novel food ingredient authorised by this Decision on the labelling of the foodstuff containing it shall be 'Lucerne (*Medicago sativa*) protein' or 'Alfalfa (*Medicago sativa*) protein'.

<sup>(1)</sup> OJ L 43, 14.2.1997, p. 1.

*Article 4*

This Decision is addressed to Luzerne — Recherche et Développement (L.-R.D.), Complexe agricole du Mont-Bernard, F-51000 Châlons-en-Champagne.

Done at Brussels, 13 October 2009.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

---

ANNEX

**SPECIFICATIONS OF PROTEIN EXTRACT FROM LUCERNE (*MEDICAGO SATIVA*)**

**Description**

The Lucerne is processed within 2 hours after harvest. It is chopped and crushed. By passing through an oleaginous-type press, the Lucerne provides a fibrous residue and press juice (10 % of dry matter). The dry matter of this juice contains about 35 % of crude protein. The press juice (pH 5,8-6,2) is neutralised. Preheating and vapour injection allows coagulation of proteins associated with carotenoid and chlorophyll pigments. The protein precipitate is separated by centrifugation and thereafter dried. After adding ascorbic acid the Lucerne protein concentrate is granulated and stored in inert gas or in cold storage.

**Composition of the protein extract from Lucerne (*Medicago sativa*)**

Protein	45-60 %
Fat	9-11 %
Free carbohydrates (soluble fibre)	1-2 %
Polysaccharides (insoluble fibre) including cellulose	11-15 % 2-3 %
Minerals	8-13 %
Saponins	Not more than 1,4 %
Isoflavones	Not more than 350 mg/kg
Coumestrol	Not more than 100 mg/kg
Phytates	Not more than 200 mg/kg
L-canavanine	Not more than 4,5 mg/kg

## COMMISSION DECISION

of 13 October 2009

**authorising the placing on the market of Chia seed (*Salvia hispanica*) as novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council**

(notified under document C(2009) 7645)

(Only the French text is authentic)

(2009/827/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients<sup>(1)</sup>, and in particular Article 7 thereof,

Whereas:

- (1) On 30 June 2003 the company Robert Craig & Sons made a request to the competent authorities of the United Kingdom to place Chia seed (*Salvia hispanica*) and grounded seed on the market as a novel food ingredient; on 7 May 2004 the competent food assessment body of the United Kingdom issued its initial assessment report. In that report it came to the conclusion that Chia (*Salvia hispanica*) is safe for the proposed uses in foodstuffs.
- (2) The Commission forwarded the initial assessment report to all Member States on 14 June 2004.
- (3) Within the 60-day period laid down in Article 6(4) of Regulation (EC) No 258/97 reasoned objections to the marketing of the product were raised in accordance with that provision; therefore the European Food Safety Authority (EFSA) was consulted on 4 April 2005 and issued its opinion on 5 October 2005. However, as the applicant could not provide sufficient data, EFSA in their opinion did not come to a conclusion on the safety, but was open to reconsider the application, if additional information would be provided by the applicant.
- (4) On 30 September 2006, the responsibility for the application was transferred to the company Columbus Paradigm Institute S.A., who submitted additional data and information as requested by EFSA. Thus, EFSA was asked to finalise the assessment of Chia seed (*Salvia hispanica*) and grounded seed on 21 January 2008.
- (5) EFSA delivered its second opinion on the safety of Chia seed (*Salvia hispanica*) and grounded seed as a food ingredient on 13 March 2009.

- (6) In that opinion the EFSA acknowledged that the information provided was supportive evidence to allow for a positive conclusion on the safety of Chia seeds and ground whole Chia seeds. In particular EFSA came to the conclusion, it is unlikely that the use of Chia seed (*Salvia hispanica*) and ground seed in bread products under the specified conditions would have an adverse effect on public health.
- (7) On the basis of the scientific assessment, it is established that the Chia seed (*Salvia hispanica*) and grounded Chia seed comply with the criteria laid down in Article 3(1) of Regulation (EC) No 258/97.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Chia seed (*Salvia hispanica*) and grounded Chia seed as specified in the Annex may be placed on the market in the Community as a novel food ingredient to be used in bread products with a maximum content of 5 % Chia (*Salvia hispanica*) seeds.

*Article 2*

The designation of the novel food ingredient authorised by this Decision on the labelling of the foodstuff containing it shall be 'Chia (*Salvia hispanica*) seeds'.

*Article 3*

This Decision is addressed to Columbus Paradigm Institute S.A., Chaussée de Tervuren 149, B-1410 Waterloo.

Done at Brussels, 13 October 2009.

For the Commission  
Androulla VASSILIOU  
Member of the Commission

<sup>(1)</sup> OJ L 43, 14.2.1997, p. 1.



## ANNEX

**SPECIFICATIONS OF CHIA SEED (*SALVIA HISPANICA*)****Description**

Chia (*Salvia hispanica*) is a summer annual herbaceous plant belonging to the *Labiatae* family.

Post-harvest the seeds are cleaned mechanically. Flowers, leaves and other parts of the plant are removed.

Whole ground Chia is produced by passing the whole seeds through a variable speed hammer mill.

**Composition of Chia seed**

Dry matter	91-96 %
Protein	20-22 %
Fat	30-35 %
Carbohydrate	25-41 %
Crude Fibre (*)	18-30 %
Ash	4-6 %

(\*) Crude fibre is the part of fibre made mainly of indigestible cellulose, pentosans and lignin.

**COMMISSION DECISION****of 3 November 2009****relating to the draft Regional Legislative Decree declaring the Autonomous Region of Madeira to be an Area Free of Genetically Modified Organisms, notified by the Republic of Portugal pursuant to Article 95(5) of the EC Treaty***(notified under document C(2009) 8438)***(Only the Portuguese text is authentic)****(Text with EEA relevance)***(2009/828/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 95(6) thereof,

the other parties concerned of the draft national measure that Portugal intended to adopt. Bulgaria, Czech Republic, Denmark, France, Latvia, Malta and Romania submitted their comments.

**COMMUNITY LEGISLATION**

Whereas:

(4) Article 95(5) and (6) of the Treaty provides:

**PROCEDURE**

(1) In a letter dated 5 May 2009, the Portuguese Permanent Representation to the European Union notified the Commission, in accordance with Article 95(5) of the EC Treaty, a draft Regional Legislative Decree (hereinafter: 'the draft decree') declaring the Autonomous Region of Madeira to be an Area Free of Genetically Modified Organisms (GMOs). The draft decree was accompanied by an explanatory statement and a document setting out the arguments reasoning and justifying the declaration of the Autonomous Region of Madeira as an Area Free from GMOs.

(2) By a letter of 26 June 2009, the Commission informed the Portuguese authorities that it had received the notification under Article 95(5) of the EC Treaty and that the six-month period for its examination pursuant to Article 95(6) had begun following this notification. The Portuguese notification contained no scientific literature, studies, or any other scientific information that would support the respective argumentation. Therefore the Commission asked Portugal by that letter to complement its notification with more concrete information in the form of relevant scientific literature which would indicate the evidence relating to the protection of the environment or the working environment on grounds of a problem specific to the region of Madeiras. Portugal submitted complementary information on 31 July 2009.

(3) The Commission published a notice regarding the request in the *Official Journal of the European Union* <sup>(1)</sup> to inform

'5. (...) If, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.'

<sup>(1)</sup> OJ C 139, 19.6.2009, p. 2.

## NATIONAL DRAFT PROVISIONS NOTIFIED

### Scope of the national draft provisions notified

- (5) In accordance with Article 1 of the draft decree, the Autonomous Region of Madeira is declared to be an area free of the cultivation of varieties of genetically modified organisms (GMOs). In accordance with Article 2, the introduction of plant or seed propagating material containing GMOs into the territory of the Autonomous Region of Madeira and also its use in agriculture would be prohibited. Article 3 would define the infringement of the provisions of the above article as administrative offence and Article 4 would lay down additional penalties. Article 5 would establish provisions for the investigation, prosecution and decision of the administrative offenses and Article 6 would stipulate the use of the proceeds from fines.

### Impact on Community legislation of the national draft provisions notified

- (6) The scope of the latter draft provisions, in conjunction with the explanation of the explanatory note, implies that it will primarily impact on:
- the cultivation of genetically modified seed varieties authorised under the provisions of part C (Articles 12 – 24) of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC <sup>(1)</sup> (hereinafter 'Directive 2001/18/EC'),
  - the cultivation of genetically modified seed varieties already approved under the provisions of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms <sup>(2)</sup> and now notified as existing products under Articles 8 and 20 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed <sup>(3)</sup> (hereinafter 'Regulation (EC) No 1829/2003'),
  - the cultivation of genetically modified seed varieties authorised under the provisions of Regulation (EC) No 1829/2003.
- (7) Directive 2001/18/EC is based on Article 95 of the EC Treaty. It aims at approximating legislation and procedures in Member States for the authorisation of

GMOs intended for deliberate release into the environment. In accordance with its Article 34, Member States were required to transpose it into national law by 17 October 2002.

- (8) According to its Article 1, Regulation (EC) No 1829/2003 aims at (a) providing the basis for ensuring a high level of protection of human life and health, animal health and welfare, environment and consumer interests in relation to genetically food and feed, whilst ensuring the effecting functioning of the internal market; (b) in laying down Community procedures for the authorization and supervision of genetically modified food and feed and (c) in laying down provisions for the labeling of genetically modified food and feed.

### JUSTIFICATION PUT FORWARD BY PORTUGAL

- (9) Information for the draft Act, offering interpretation about the Act's impact on and conformity with Community legislation, is provided in:
- The document submitted together with the notification of 5 May 2009 and titled 'Establishment of the Autonomous Region of Madeira (RAM) as an "Area Free of Genetically Modified Organisms (GMOs)" — Arguments',
  - The additional information submitted on 31 July 2009 titled 'Establishment of the Autonomous Region of Madeira as an Area Free of Genetically Modified Organisms (GMOs) — Additional information'.
- (10) In its justification, Portugal points to agricultural and natural reasons.
- (11) The agricultural reasons refer to the impossibility of co-existence between GM crops and conventional and/or organic crops in the Autonomous Area of Madeira. They particularly invoke aspects such as the distance between fields, border strips, sowing of varieties with different growth cycles, refuge areas, installation of pollen traps or barriers to prevent pollen dispersion, crops rotation systems, crop production cycles, reduction of the size of the seed banks through adequate soil tillage, management of populations in field borders, choosing of optimal sowing dates, handling of seeds to avoid mixing or the prevention of seed spillage when travelling to and from the field and on field boundaries.

<sup>(1)</sup> OJ L 106, 17.4.2001, p. 1.

<sup>(2)</sup> OJ L 117, 8.5.1990, p. 15.

<sup>(3)</sup> OJ L 268, 18.10.2003, p. 1.

(12) The natural reasons claim that the effects of introducing GMOs into nature (in the case of the RAM, the natural Madeiran forest) have not been adequately studied, although many articles have been published in which concerns are raised with regard to the consequences of deliberately releasing GMOs into nature and to the resulting environmental effects which might be expected. However there may be other potential risks which are not covered by these scientific studies.

(13) The natural reasons further refer to:

(a) preliminary tests carried out using GM varieties;

(b) model showing the invasive capacity of GM varieties;

(c) interaction of the model to the use of plants containing GMOs;

(d) capacity of transgenic plants to cross-pollinate;

(e) parallel effects with other species;

(f) production of toxins;

(g) collateral interactions;

(h) effects connected with genetic alterations;

(i) implications in poor agricultural practices;

(j) gene transfer;

(k) effects on the food chain.

(14) Portugal concludes that on the basis of the above, the introduction of genetically modified material into the RAM could have extremely dangerous consequences for the Madeiran environment in general (it would be pointless to distinguish between agricultural and forest areas). Although there are no solid theories on the matter, research and experiments, as well as all the theoretical parallels, suggest that the risk to nature presented by the deliberate release of GMOs is so dangerous and poses such a threat to the environmental and ecological health of Madeira, that it is not worthwhile risking their use, either directly in the agricultural sector or even on an experimental basis.

## LEGAL ASSESSMENT

(15) Article 95(5) of the EC Treaty applies to new national measures on the basis of the protection of the environment or the working environment, on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, and which are justified by new scientific evidence.

(16) Under Article 95(6) of the EC Treaty, the Commission is either to approve or reject the draft national provisions in question after verifying whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States, and whether or not they shall constitute an obstacle to the functioning of the internal market.

(17) Nevertheless, under the same provision, when justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

(18) The notification submitted by the Portuguese authorities on 5 May 2009 is intended to obtain approval for the introduction of the draft decree.

(19) Portugal did not specify the European Community act which the draft decree derogates from. Cultivation of GMOs is to a large extent regulated by Directive 2001/18/EC, and Regulation (EC) No 1829/2003.

(20) Article 95(5) of the Treaty requires that when a Member State deems it necessary to introduce national provisions derogating from a harmonisation measure, those provisions could be justified on the following cumulative conditions <sup>(1)</sup>:

— new scientific evidence,

— relating to the protection of the environment or the working environment,

— on grounds of a problem specific to that Member State,

— arising after the adoption of the harmonisation measure.

<sup>(1)</sup> ECJ, C-439/05 P and C-454/05 P, para. 56-58.

(21) The justifications put forward by Portugal make extensive reference to the potential effects of the cultivation of GM varieties on the environment. The notification contains an analysis of extended and complicated issues such as preliminary tests carried out using GM varieties, model showing the invasive capacity of GM varieties, interaction of the model to the use of plants containing GMOs, capacity of transgenic plants to cross-pollinate, parallel effects with other species, production of toxins, collateral interactions, effects connected with genetic alterations, implications in poor agricultural practices, gene transfer and effects on the food chain.

(22) It results from these justifications that a thorough scientific risk assessment is necessary to indicate whether the submitted scientific evidence relates to the protection of the environment or the working environment on grounds of a problem specific to the Autonomous Region of Madeira arising after the adoption of Directive 2001/18/EC and Regulation (EC) No 1829/2003 or other relevant EC provisions. This assessment should be carried out by the European Food Safety Authority (EFSA) which, in accordance with Article 22(2) of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(1)</sup>, is competent to provide scientific advice and scientific and technical support for the Community's legislation and policies in all fields which have a direct or indirect impact on food and feed safety, and shall provide independent information on all matters within these fields and communicate on risks. Moreover, in accordance with Article 29 of that Regulation, EFSA shall issue a scientific opinion at the request of the Commission, in respect of any matter within its mission, and in all cases where Community legislation makes provision for the Authority to be consulted.

(23) For this reason the Commission sent on 23 September 2009 a mandate to the European Food Safety Authority (EFSA) asking it to assess, on the basis of the new evidence provided by Portugal and in the light of the requirements of Article 95(5) of EC Treaty, whether the particular evidence relates to the protection of the environment on grounds of a problem specific to the concerned area, namely the Autonomous Region of Madeira.

(24) Under those circumstances, the adoption of the EFSA Opinion is necessary before the adoption of a decision on the Portuguese notification. In view of the extended scope of the potential adverse environmental effects

indicated by the Portuguese notification and the complexity of the scientific aspects related to the cultivation of GMOs in the Autonomous Region of Madeira, it is necessary that EFSA is granted a reasonable period of time before adopting its Opinion. For this reason, the Commission asked EFSA to deliver its Opinion by 31 January 2010.

(25) The justifications put forward by Portugal make no specific reference to danger for human health, which would be caused by the cultivation of GMOs in the Autonomous Region of Madeira. While they specifically refer to risks for the environment and 'ecological health', no evidence has been presented with regards to identified or potential effects on human health. All scientific arguments have focused solely on agricultural aspects and the protection of biodiversity in Madeira.

(26) In view of the above, the adoption of a decision within the deadline of six months, namely by 4 November 2009, which is laid down by Article 95(6)(1) of EC Treaty, would lack the essential scientific support on such a complex matter. Therefore, taking into consideration the complexity of the matter and the absence of danger for human health, the Commission, in accordance with Article 95(6)(3) of EC Treaty, should extend the period to decide on the Portuguese notification to another six months, namely until 4 May 2010,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The period to approve or reject the draft Regional Legislative Decree declaring the Autonomous Region of Madeira to be an Area Free of Genetically Modified Organisms, notified by the Republic of Portugal pursuant to Article 95(5) of the EC Treaty, is extended to 4 May 2010.

#### *Article 2*

This Decision is addressed to the Republic of Portugal.

Done at Brussels, 3 November 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*

---

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

## III

(Acts adopted under the EU Treaty)

## 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 <sup>(1)</sup>,

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 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.

<sup>(1)</sup> Opinion not yet published in the Official Journal.



- (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<sup>(1)</sup> (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 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.

<sup>(1)</sup> OJ L 190, 18.7.2002, p. 1.

- (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 <sup>(1)</sup> 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 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.

<sup>(1)</sup> OJ L 350, 30.12.2008, p. 60.



*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<sup>(1)</sup>, 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:

(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.

<sup>(1)</sup> OJ L 191, 7.7.1998, p. 4.

*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 <sup>(1)</sup>,
- 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,

<sup>(1)</sup> OJ C 316, 27.11.1995, p. 49.

- 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.

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<sup>(1)</sup> (hereinafter referred to as the 'Framework Decision on the European Arrest Warrant').

<sup>(1)</sup> OJ L 190, 18.7.2002, p. 1.

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 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 <sup>(1)</sup>

(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:

<sup>(1)</sup> 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.

(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:

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):

**DECLARATION BY GERMANY**

*'The Federal Republic of Germany hereby gives notification, pursuant to Article 14(4) of the Council Framework Decision on the application of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, that it will not apply Article 14(1) in respect of all of the offences referred to in that paragraph.'*

This declaration will be published in the *Official Journal of the European Union*.

---

**DECLARATION BY POLAND**

*'Pursuant to Article 14(4) of the EU Council Framework Decision 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 Republic of Poland declares that it will not apply paragraph (1) of the aforementioned Article 14 in respect of all of the offences referred to in that paragraph.'*

This declaration will be published in the *Official Journal of the European Union*.

---

**DECLARATION BY HUNGARY**

*'Pursuant to Article 14(4) of the EU Council Framework Decision 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 Republic of Hungary declares that it will not apply paragraph (1) of Article 14 of the above Framework Decision in respect of the offences referred to in that paragraph.'*

This declaration will be published in the *Official Journal of the European Union*.

Referring to the 'constitutional reasons' mentioned in Article 14(4), Hungary provided the following explanation:

*'Following the ratification of the Lisbon Treaty, Hungary amended its Constitution in order to comply with the obligations referred to therein, including the necessity not to apply the double criminality condition in criminal matters. This constitutional provision will enter into force at the same time as the Lisbon Treaty. Nevertheless, until the entry into force of the Treaty, double criminality remains an important constitutional issue and — as a constitutional principle enshrined by Article 57 of the Constitution — cannot be, shall not be disregarded. Therefore, Article 14(1) of the Framework Decision shall not be applied to any of the offences listed (or as formulated by the relevant article: shall not be applied "in respect of all of the offences").'*

---

**DECLARATION BY LITHUANIA**

*'Pursuant to Article 14(4) of the Council Framework Decision 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 Republic of Lithuania declares that for constitutional reasons it will not apply Article 14(1) in respect of any of the offences referred to therein.'*

This declaration will be published in the *Official Journal of the European Union*.

---

III *Acts adopted under the EU Treaty*

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** ..... 20

## 2009 SUBSCRIPTION PRICES (excluding VAT, including normal transport charges)

EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 1 000 per year (*)
EU Official Journal, L + C series, paper edition only	22 official EU languages	EUR 100 per month (*)
EU Official Journal, L + C series, paper + annual CD-ROM	22 official EU languages	EUR 1 200 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 700 per year
EU Official Journal, L series, paper edition only	22 official EU languages	EUR 70 per month
EU Official Journal, C series, paper edition only	22 official EU languages	EUR 400 per year
EU Official Journal, C series, paper edition only	22 official EU languages	EUR 40 per month
EU Official Journal, L + C series, monthly CD-ROM (cumulative)	22 official EU languages	EUR 500 per year
Supplement to the Official Journal (S series), tendering procedures for public contracts, CD-ROM, two editions per week	multilingual: 23 official EU languages	EUR 360 per year (= EUR 30 per month)
EU Official Journal, C series — recruitment competitions	Language(s) according to competition(s)	EUR 50 per year

(\*) Sold in single issues: up to 32 pages: EUR 6  
from 33 to 64 pages: EUR 12  
over 64 pages: Priced individually.

Subscriptions to the *Official Journal of the European Union*, which is published in the official languages of the European Union, are available for 22 language versions. The Official Journal comprises two series, L (Legislation) and C (Information and Notices).

A separate subscription must be taken out for each language version.

In accordance with Council Regulation (EC) No 920/2005, published in Official Journal L 156 of 18 June 2005, the institutions of the European Union are temporarily not bound by the obligation to draft all acts in Irish and publish them in that language. Irish editions of the Official Journal are therefore sold separately.

Subscriptions to the Supplement to the Official Journal (S Series — tendering procedures for public contracts) cover all 23 official language versions on a single multilingual CD-ROM.

On request, subscribers to the *Official Journal of the European Union* can receive the various Annexes to the Official Journal. Subscribers are informed of the publication of Annexes by notices inserted in the *Official Journal of the European Union*.

## Sales and subscriptions

Priced publications issued by the Publications Office are available from our commercial distributors. The list of commercial distributors is available at:

[http://publications.europa.eu/others/agents/index\\_en.htm](http://publications.europa.eu/others/agents/index_en.htm)

**EUR-Lex (<http://eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.**

**For further information on the European Union, see: <http://europa.eu>**



Publications Office of the European Union  
2985 Luxembourg  
LUXEMBOURG

EN