

Thursday 25 October 2007

67. Has increased the appropriations made available by the Council in the draft budget by EUR 83 058 to maintain its level of development, which represents an increase of 7,10 % over the 2007 budget;

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\*   \*

68. Instructs its President to forward this resolution together with the amendments to Sections I, II, IV, V, VI, VII, VIII and IX of the draft general budget to the Council, the Commission and the other institutions and bodies concerned.

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P6\_TA(2007)0475

### **Recognition and supervision of suspended sentences, alternative sanctions and conditional sentences \***

**European Parliament legislative resolution of 25 October 2007 on the initiative of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision on the recognition and supervision of suspended sentences, alternative sanctions and conditional sentences (6480/2007 — C6-0129/2007 — 2007/0807(CNS))**

(Consultation procedure)

*The European Parliament,*

- having regard to the initiative of the Federal Republic of Germany and of the French Republic (6480/2007) <sup>(1)</sup>,
- having regard to Article 31(1)(a) and (c) and Article 34(2)(b) of the EU Treaty,
- having regard to Article 39(1) of the EU Treaty, pursuant to which the Council consulted Parliament (C6-0129/2007),
- having regard to Rules 93 and 51 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0356/2007),

1. Approves the initiative of the Federal Republic of Germany and by the French Republic as amended;
2. Calls on the Council to amend the text accordingly;
3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
4. Calls on the Council to consult Parliament again if it intends to amend the initiative by the Federal Republic of Germany and by the French Republic substantially;
5. Instructs its President to forward its position to the Council and the Commission, and to the governments of the Federal Republic of Germany and of the French Republic.

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<sup>(1)</sup> OJ C 147, 30.6.2007, p. 1.

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TEXT PROPOSED BY THE FEDERAL REPUBLIC OF GERMANY AND  
BY THE FRENCH REPUBLIC

AMENDMENTS  
BY PARLIAMENT

Amendment 1

*Title*

Initiative of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision on the recognition **and** supervision of suspended sentences, alternative sanctions and conditional sentences

Initiative of the Federal Republic of Germany and of the French Republic with a view to adopting a Council Framework Decision on the recognition, supervision **and execution** of suspended sentences, alternative sanctions and conditional sentences

Amendment 2

*Recital 5*

(5) This Framework Decision respects fundamental rights and adheres to the principles recognised in Article 6 of the Treaty on European Union, which are also expressed in the Charter of Fundamental Rights of the European Union, especially in Chapter VI thereof. No provision of this Framework Decision should be interpreted as prohibiting refusal to recognise a judgment and/or supervise a suspensory measure or alternative sanction if there are objective indications that the suspensory measure or alternative sanction 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.**

(5) This Framework Decision respects fundamental rights and adheres to the principles recognised in Article 6 of the Treaty on European Union, which are also expressed in the Charter of Fundamental Rights of the European Union, especially in Chapter VI thereof. No provision of this Framework Decision should be interpreted as prohibiting refusal to recognise a judgment and/or supervise a suspensory measure or alternative sanction if there are objective indications that the suspensory measure or alternative sanction was imposed **in clear infringement of the fundamental rights laid down in the European Union treaties.**

Amendment 3

*Recital 6*

(6) 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 and freedom of expression in other media.

(6) 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 and freedom of expression in other media **and, in general, any constitutional rules relating to fundamental rights whose scope is not incompatible with the way in which measures are implemented.**

Amendment 4

*Recital 8*

(8) The aim of mutual recognition and supervision of suspended sentences, alternative sanctions and conditional sentences in the executing State is to enhance the prospects of the sentenced person's being re-integrated into society, by enabling him to preserve family, linguistic, cultural and other ties, but also to improve monitoring of compliance with suspensory measures and alternative sanctions, with a view to preventing recidivism, thus paying due regard to the protection of victims.

(8) The aim of mutual recognition and supervision of suspended sentences, alternative sanctions and conditional sentences in the executing State is to enhance the prospects of the sentenced person's being re-integrated into society, by enabling him to preserve family, linguistic, cultural and other ties, but also to improve monitoring of compliance with suspensory measures and alternative sanctions, with a view to preventing recidivism, thus paying due regard to the protection of victims **and the defence of society in general.**

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## Amendment 5

*Recital 9*

(9) To ensure the effective exchange of information concerning all circumstances relevant to the suspension of sentences, Member States are encouraged to include provisions in their national legislation enabling them to assume the responsibility for the supervision of suspensory measures **and** alternative sanctions to be documented in their national registers.

(9) To ensure the effective exchange of information concerning all circumstances relevant to the suspension of sentences, Member States are encouraged to include provisions in their national legislation enabling them to assume the responsibility for the supervision of suspensory measures, alternative sanctions **and conditional sentences** to be documented in their national registers.

## Amendment 6

*Article 1, paragraph 1*

1. **The objective of this Framework Decision is, with a view to facilitating the social re-integration of sentenced persons and improving the protection of victims, to lay down the rules according to which one Member State supervises suspensory measures imposed on the basis of a judgment which was issued in another Member State, or alternative sanctions contained in such a judgment and takes all other decisions relating to the execution of that judgment, insofar as this falls within its competence.**

1. This Framework Decision **seeks to facilitate** the social re-integration of sentenced persons, **to improve** the protection of victims **and society and to facilitate the application of appropriate suspended sentences, alternative sanctions and conditional sentences in the case of offenders who are not resident in the sentencing State. With a view to achieving these objectives, this Framework Decision lays down rules pursuant to which the Member State in which the sentenced person has his lawful and ordinary residence must recognise the judgments passed in another Member State and supervise and execute suspended sentences, alternative sanctions and conditional sentences.**

## Amendment 7

*Article 1, paragraph 2*

2. This Framework Decision shall apply only to the recognition of judgments and the transfer of responsibility for the supervision of **suspensory measures and** alternative sanctions and all other **judicial** decisions provided for in this Framework Decision. This Framework Decision shall not apply to the execution of judgments in criminal cases imposing custodial sentences or measures involving deprivation of liberty which fall within the scope of Council Framework Decision 2007/.../JHA. Recognition and execution of financial penalties and confiscation orders are governed by the legal instruments applicable between Member States, in particular Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

2. This Framework Decision shall apply only to the recognition of judgments and the transfer of responsibility for the supervision **and execution of suspended sentences,** alternative sanctions **and conditional sentences,** and all other **subsequent** decisions provided for in this Framework Decision. This Framework Decision shall not apply to the execution of judgments in criminal cases imposing custodial sentences or measures involving deprivation of liberty which fall within the scope of Council Framework Decision 2007/.../JHA. Recognition and execution of financial penalties and confiscation orders are governed by the legal instruments applicable between Member States, in particular Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties and Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

## Amendment 8

*Article 2, point (b) (ii)*

(ii) after part of the custodial sentence or measure involving deprivation of liberty has been served (conditional release/parole);

(ii) after part of the custodial sentence or measure involving deprivation of liberty has been served (conditional release/parole **decision**), **with the imposition of one or more suspensory measures;**

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Amendment 9

Article 2, point (c)

(c) 'alternative sanction' shall mean an obligation or instruction, imposed as an **independent** sanction, **which is not a custodial sentence, a measure involving deprivation of liberty or a financial penalty;**

(c) 'alternative sanction' shall mean an obligation or instruction, imposed as an **autonomous** sanction, **which does not constitute a deprivation of liberty or involve the payment of a sum of money;**

Amendment 10

Article 2, point (d)

(d) 'conditional sentence' shall mean a decision by a court in which the imposition of a sentence has been conditionally suspended **by imposing** one or more suspensory measures;

(d) 'conditional sentence' shall mean a decision by a court in which the imposition of a sentence has been conditionally suspended, **with the imposition of** one or more suspensory measures;

Amendment 11

Article 2, point (g)

(g) 'executing State' shall mean the Member State in which the suspensory measures and alternative sanctions are supervised and in which all other decisions relating to the execution of **the judgment** are taken, **insofar as it has assumed competence to do so.**

(g) 'executing State' shall mean the Member State in which the suspensory measures and alternative sanctions are supervised and in which all other decisions relating to the execution of **suspended sentences, alternative sanctions and conditional sentences** are taken, **following a decision pursuant to Article 7.**

Amendment 12

Article 2, point (ga) (new)

(ga) '**lawful and ordinary residence**' shall mean the place in which the individual concerned has established the permanent centre of his interests, which must be determined on the basis of all the relevant facts.

Amendment 13

Article 3

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.

This Framework Decision shall not have the effect of modifying the **duty** to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union **and in the Member States' constitutions.**

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## Amendment 14

Article 4, paragraph 1

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

1. Each Member State shall inform the General Secretariat of the Council which authority or authorities, under its national legislation, are competent to act according to this Framework Decision in the situation where that Member State is the issuing State or the executing State. **The list of competent authorities shall be published in the Official Journal of the European Union.**

## Amendment 15

Article 5, paragraph 1, introductory part

1. A judgment that contains one or more of the following suspensory measures or **alternative sanctions** may be transferred to another Member State, in which the sentenced person is lawfully and ordinarily resident, for the purpose of recognition and supervision of those measures **and sanctions**:

1. A judgment **or decision granting conditional release** that contains one or more of the following suspensory measures, **obligations or instructions** may be transferred to another Member State, in which the sentenced person is lawfully and ordinarily resident, for the purpose of recognition and supervision of those measures **or obligations or instructions. The certificate referred to in Article 6 may, for supervision purposes, include one or more of the suspensory measures, obligations or instructions contained in a judgment:**

## Amendment 16

Article 5, paragraph 1, point (a)

(a) an obligation for the sentenced person to inform the competent authority in the executing State of any change of residence;

(a) an obligation for the sentenced person to inform the competent authority in the executing State of any change of residence **or place of work or study;**

## Amendment 17

Article 5, paragraph 1, point (b)

(b) an obligation not to **leave or** enter certain localities in the issuing or executing State without permission, and other orders relating to life-style, residence, education and training, professional activity or leisure activities;

(b) an obligation not to enter certain localities in the issuing or executing State without permission, and other orders relating to life-style, residence, education and training, professional activity or leisure activities;

## Amendment 18

Article 5, paragraph 1, point (e)

(e) an obligation to compensate for the prejudice caused by the offence;

(e) an obligation to compensate for the prejudice caused by the offence **and to notify the executing State's competent authority that this obligation has been fulfilled;**

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Amendment 19

Article 5, paragraph 1a (new)

**1a. For the purposes of this Framework Decision, the person standing trial must be heard before the judgment or the decision granting conditional release is transmitted.**

Amendment 20

Article 5, paragraph 3

3. Apart from the measures and sanctions referred to in paragraph 1, the certificate referred to in Article 6 shall include only such measures or **sanctions** as notified by the executing State concerned in accordance with paragraph 2.

3. Apart from the measures and sanctions referred to in paragraph 1, the certificate referred to in Article 6 shall include only such **suspensory** measures or **obligations or instructions** as notified by the executing State concerned in accordance with paragraph 2.

Amendment 21

Article 6, paragraph 1

1. The **judgment or a certified copy of it, together with a** certificate, the standard form for which is set out in Annex I, shall be forwarded by the competent judicial authority in the issuing State directly to the competent judicial 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 judgment, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. All official communications shall also be made directly between the said competent judicial authorities.

1. The certificate, the standard form for which is set out in Annex I, **together with the judgment (or a certified copy thereof) and, where relevant, the decision granting conditional release**, shall be forwarded by the competent judicial authority in the issuing State directly to the competent judicial 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 judgment, or a certified copy of it, and the original of the certificate, shall be sent to the executing State if it so requires. All official communications shall also be made directly between the said competent judicial authorities.

Amendment 22

Article 6, paragraph 3

3. The competent judicial authority in the issuing State shall forward the judgment together with the certificate only to one executing State at any one time.

3. The competent judicial authority in the issuing State shall forward the judgment together with the certificate (**and any decision granting conditional release**) only to one executing State at any one time.

Amendment 23

Article 6, paragraph 5

5. When a judicial authority in the executing State which receives a judgment together with a certificate has no competence to recognise it, it shall, ex officio, forward the judgment together with the certificate to the competent judicial authority. That competent judicial authority in the executing State shall immediately inform the competent judicial authority in the issuing State, by any means which leaves a written record, that the judgment and the certificate have been forwarded to it.

5. When a judicial authority in the executing State which receives a judgment together with a certificate (**and any decision granting conditional release**) has no competence to recognise it, it shall, ex officio, forward the judgment together with the certificate to the competent judicial authority. That competent judicial authority in the executing State shall immediately inform the competent judicial authority in the issuing State, by any means which leaves a written record, that the judgment and the certificate have been forwarded to it.

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## Amendment 24

*Article 7, paragraph 1*

1. The competent judicial authority in the executing State shall recognise the judgment forwarded in accordance with the procedure laid down in Article 6 and immediately take all necessary measures for the supervision of the suspensory measures **and** alternative **sanctions**, unless it decides to invoke one of the grounds for refusing to recognise and **take over supervision of** the judgment referred to in Article 9.

1. The competent judicial authority in the executing State shall recognise the judgment forwarded in accordance with the procedure laid down in Article 6 and immediately take all necessary measures for the supervision of the suspensory measures **and the obligations and instructions which constitute the** alternative **sanction**, unless it decides to invoke one of the grounds for refusing to recognise and **supervise** the judgment referred to in Article 9.

## Amendment 25

*Article 7, paragraph 2*

2. If the **nature or** duration of the suspensory measures or alternative sanctions **are** incompatible with the statutory provisions of the executing State, the competent judicial authority in that State may adapt **them** in line with the suspensory measures and alternative sanctions which are provided for, under the law of the executing State, for offences **of the same kind**. The adapted suspensory measure or alternative sanction shall correspond as far as possible to that imposed in the issuing State.

2. If the duration of the suspensory measures or alternative sanctions **is** incompatible with the statutory provisions of the executing State, the competent judicial authority in that State may adapt **it** in line with the suspensory measures and **the obligations and instructions that constitute the existing** alternative sanctions which are provided for, under the law of the executing State, for **similar** offences. The adapted suspensory measure or alternative sanction shall correspond as far as possible to that imposed in the issuing State.

## Amendment 26

*Article 7, paragraph 3a (new)*

**3a. Should suspensory measures or alternative sanctions be adapted pursuant to paragraph 2, the competent judicial authority in the executing State shall notify the competent judicial authority in the issuing State of that decision without delay. Following receipt of such a notification the competent judicial authority in the issuing State may decide to withdraw the certificate and the judgment (and also, if appropriate, the decision granting conditional release). In such cases, the person sentenced shall be guaranteed the right to a hearing.**

## Amendment 27

*Article 9, paragraph 1, introductory part*

1. The competent judicial authority in the executing State may refuse to recognise the judgment and to assume responsibility for supervising suspensory measures and alternative sanctions if:

1. The competent judicial authority in the executing State may refuse to recognise the judgment (**or, if appropriate, the decision granting conditional release**) and to assume responsibility for supervising suspensory measures and alternative sanctions if:

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Amendment 28

Article 9, paragraph 1, point (a)

- |   |   |
|---|---|
| <p>(a) the certificate referred to in Article 6 is incomplete or obviously does not correspond to the judgment and is not completed or corrected within a reasonable period set by the competent judicial authority in the executing State;</p> | <p>(a) the certificate referred to in Article 6 is incomplete or obviously does not correspond to the judgment <b>or the decision granting conditional release</b> and is not completed or corrected within a reasonable period set by the competent judicial authority in the executing State;</p> |
|---|---|

Amendment 29

Article 9, paragraph 1, point (b)

- |   |   |
|---|---|
| <p>(b) the criteria laid down in Article 5 are not met;</p> | <p>(b) the criteria laid down in Article 5 are not met (<b>including — but not limited to — the requirement of lawful and ordinary residence in the executing State</b>);</p> |
|---|---|

Amendment 30

Article 9, paragraph 1, point (e)

- |   |  |
|---|--|
| <p>(e) <b>prosecution, or the execution of a sentence</b>, is already statute-barred under the law of the executing State <b>and relates to an act which falls within the competence of the executing State under its national law</b>;</p> | <p>(e) <b>the sentence</b> is already statute-barred under the law of the executing State;</p> |
|---|--|

Amendment 31

Article 9, paragraph 1, point (i)

- |   |  |
|---|--|
| <p>(i) the judgment provides for medical/therapeutic treatment which, notwithstanding the provisions of Article 7(2), the executing State is unable to supervise in view of its <b>legal</b> or healthcare system; or</p> | <p>(i) the judgment <b>or possibly the decision granting conditional release</b> provides for medical/therapeutic treatment which, notwithstanding the provisions of Article 7(2), the executing State is unable to supervise in view of its healthcare system; or</p> |
|---|--|

Amendment 32

Article 9, paragraph 1, point (j)

- |  |                       |
|--|-----------------------|
| <p>(j) <b>in the case referred to in Article 13(1), no agreement can be reached on adaptation of suspensory measures or alternative sanctions.</b></p> | <p><b>deleted</b></p> |
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Amendment 33

Article 9, paragraph 1, point (ja) (new)

- (ja) **the certificate or judgment includes measures which are not listed or accepted under Article 5(1) and (2) of this Framework Decision.**

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Amendment 34

Article 9, paragraph 2

2. Before the competent judicial authority in the executing State decides, in the cases referred to in paragraph 1, **to refuse** to recognise the judgment and to assume responsibility for supervising suspensory measures and alternative sanctions, it shall communicate, by appropriate means, with the competent judicial authority in the issuing State and, as necessary, request the latter immediately to supply all additional information required.

2. Before the competent judicial authority in the executing State decides, in the cases referred to in paragraph 1 **(a), (b), (c), (h) and (i), not** to recognise the judgment **(or if appropriate the decision granting conditional release)** and to assume responsibility for supervising suspensory measures and alternative sanctions, it shall communicate, by appropriate means, with the competent judicial authority in the issuing State and, as necessary, request the latter immediately to supply all additional information required.

Amendment 35

Article 10, paragraph 1

1. The competent judicial authority in the executing State shall decide, within **10 days** after receipt of the judgment and the certificate, whether to recognise the judgment and assume responsibility for supervising the suspensory measures and alternative sanctions. It shall immediately inform the competent judicial authority in the issuing State, by any means which leaves a written record, of its decision. Reasons must be given for refusing to recognise the judgment and for refusing to assume responsibility for supervision.

1. The competent judicial authority in the executing State shall decide, within **30 days** after receipt of the judgment and the certificate, whether to recognise the judgment and assume responsibility for supervising the suspensory measures and alternative sanctions. It shall immediately inform the competent judicial authority in the issuing State, by any means which leaves a written record, of its decision. Reasons must be given for refusing to recognise the judgment and for refusing to assume responsibility for supervision.

Amendment 36

Article 10, paragraph 2

2. If it is not possible, in **a specific** case, for the competent judicial authority in the executing State to comply with the time-limit laid down in paragraph 1, it shall immediately inform the competent judicial 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.

2. If it is not possible, in **an exceptional** case, for the competent judicial authority in the executing State to comply with the time-limit laid down in paragraph 1, it shall immediately inform the competent judicial 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.

Amendment 37

Article 11

The supervision of suspensory measures and alternative sanctions shall be governed by the law of the executing State.

The supervision of suspensory measures and **of the obligations and instructions which constitute** alternative sanctions shall be governed by the law of the executing State.

Amendment 38

Article 12, paragraph 1

1. The competent **judicial** authority in the executing State shall have jurisdiction to take all subsequent decisions relating to the suspended sentence, alternative sanction **or** conditional sentence, such as the modification of suspensory measures, the

1. The competent authority in the executing State shall have jurisdiction to take all subsequent decisions relating to the suspended sentence, alternative sanction, conditional sentence **or conditional release**, such as the modification of suspensory

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revocation of suspension, sentencing in the case of a conditional sentence, or **remission**. The law of the executing State shall apply to the aforementioned decisions and to all subsequent consequences of the judgment.

measures, the revocation of suspension, sentencing in the case of a conditional sentence **or the revocation thereof, or lapse**. The law of the executing State shall apply to the aforementioned decisions and to all subsequent consequences of the judgment.

Amendment 39

Article 12, paragraph 2

2. The competent **judicial** authority in the issuing State may reserve competence to take all subsequent decisions relating to conditional sentences. In this case the law of the issuing State shall apply to all subsequent consequences of the judgment.

2. The competent authority in the issuing State may reserve competence to take all subsequent decisions relating to conditional sentences. In this case the law of the issuing State shall apply to **all the decisions referred to in paragraph 1 and to** all subsequent consequences of the judgment.

Amendment 40

Article 12, paragraph 3

3. When **transposing** this Framework Decision, **any Member State may indicate that as executing State it may, in individual cases, refuse** to assume responsibility provided for in paragraph 1. In these cases, the decision shall be taken and notification effected in accordance with the procedure laid down in Article 10. This shall not affect the obligation laid down in Article 7(1).

3. When **adopting** this Framework Decision **or subsequently at the time of transposition and by means of a statement lodged with the General Secretariat of the Council, each Member State may indicate that, as executing State and in the categories of cases to be specified by that Member State, it refuses** to assume responsibility provided for in paragraph 1. In these cases, the decision shall be taken (**and reasons given**) and notification effected in accordance with the procedure laid down in Article 10. This shall not affect the obligation laid down in Article 7(1). **That statement by a Member State may be withdrawn at any time. The statements or the withdrawal thereof shall be published in the Official Journal of the European Union.**

Amendment 41

Article 13

Article 13

**deleted**

*Consultations between the competent judicial authorities*

1. **If the competent judicial authority in the executing State intends to make adaptations as provided for in Article 7(2) and (3), it shall first consult the competent judicial authority in the issuing State on the adapted suspensory measures or alternative sanction.**

2. **When forwarding the judgment and the certificate as provided for in Article 6, the competent judicial authority in the issuing State may waive the consultations referred to in paragraph 1. In that case, any adaptations made by the competent judicial authority in the executing State in accordance with Article 7(2) and (3) shall subsequently be notified to the competent judicial authority of the issuing State.**

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## Amendment 42

Article 14, title

Obligations of the authorities involved where the executing State has jurisdiction for all **further** decisions

Obligations of the authorities involved where the executing State has jurisdiction for all **subsequent** decisions

## Amendment 43

Article 14, paragraph 1, point (a)

(a) modification of the suspensory measures **or alternative sanction**;

(a) **alternative sanctions and** modification of the suspensory measures;

## Amendment 44

Article 14, paragraph 1, point (b)

(b) revocation of the **suspension of the sentence**;

(b) revocation of the **suspended sentence or the conditional sentence**;

## Amendment 45

Article 14, paragraph 1, point (c)

(c) **imposition of a sentence** in the case of a conditional sentence;

(c) **sentencing** in the case of a conditional sentence;

## Amendment 46

Article 14, paragraph 1, point (d)

(d) lapsing of the **suspensory measures** or alternative sanction.

(d) lapsing of the **suspended sentence, conditional sentence** or alternative sanction.

## Amendment 47

Article 14, paragraph 1a (new)

**(1a) In cases where suspended sentences, conditional sentences or alternative sanctions are revoked, the executing State shall be responsible for executing the custodial sentence imposed in the judgment, except in the cases provided for in Article 12(2) and (3).**

## Amendment 48

Article 14, paragraph 2

2. The competent judicial authority in the issuing State shall immediately inform the competent judicial authority in the executing State, by any means which leaves a written record, of any circumstances or findings which, in its opinion, could entail revocation of the suspension of the sentence or modification of the suspensory measures or alternative sanction.

2. The competent judicial authority in the issuing State shall immediately inform the competent judicial authority in the executing State, by any means which leaves a written record, of any circumstances or findings which, in its opinion, could entail revocation of the suspension of the sentence **or the conditional sentence** or modification of the suspensory measures or **the obligations or instructions which constitute** alternative sanction.

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Amendment 49

Article 14, paragraph 2a (new)

**2a. A person must be heard by the judicial authorities before being sentenced in the case of a conditional sentence or if the suspension of the sentence is revoked, in order to ensure that the fundamental principle that defendants must be heard is upheld.**

Amendment 50

Article 15, title

Obligations of the authorities involved where the issuing State has jurisdiction for all **further** decisions

Obligations of the authorities involved where the issuing State has jurisdiction for all **subsequent** decisions

Amendment 51

Article 15, paragraph 1, introductory part

1. If the competent judicial authority in the issuing State has jurisdiction for all **further** decisions in accordance with Article 12(2) and (3), the competent judicial authority in the executing State shall immediately notify it of:

1. If the competent judicial authority in the issuing State has jurisdiction for all **subsequent** decisions in accordance with Article 12(2) and (3), the competent judicial authority in the executing State shall immediately notify it of:

Amendment 52

Article 15, paragraph 1, point (a)

(a) **any** breach of a suspensory measure or alternative sanction; and

(a) **a** breach of a suspensory measure or **the obligations and instructions which constitute an** alternative sanction; and

Amendment 53

Article 15, paragraph 1, point (b)(i)

(i) is liable to entail modification of the suspensory measures or alternative sanction,

(i) is liable to entail modification of the suspensory measures or **the obligations or instructions which constitute an** alternative sanction,

Amendment 54

Article 15, paragraph 1, point (b)(ii)

(ii) is relevant to **the imposition of a sentence** in the case of a conditional sentence, or

(ii) is relevant to **sentencing** in the case of a conditional sentence, or

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## Amendment 55

Article 15, paragraph 1, point (b) (iii)

(iii) could result in revocation of the suspension of the sentence.

(iii) could result in revocation of the suspension of the sentence **and the conditional sentence.**

## Amendment 56

Article 15, paragraph 3

3. Before a decision is taken on **the imposition of a sentence** in the case of a conditional sentence or on the revocation of the suspension of a sentence, the sentenced person must be **given a judicial hearing. If appropriate, this requirement may be met according to the procedure provided for in Article 10 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union.**

3. Before a decision is taken on **sentencing** in the case of a conditional sentence or on the revocation of the suspension of a sentence, the sentenced person must be **heard by the judicial authorities in order to ensure that the fundamental principle that defendants must be heard is upheld.**

## Amendment 57

Article 15, paragraph 4, point (a)

(a) modification of the suspensory measures or alternative sanction;

(a) modification of the suspensory measures or **of the obligations or instructions which constitute an** alternative sanction;

## Amendment 58

Article 15, paragraph 4, point (b)

(b) revocation of the suspension of sentence;

(b) revocation of the suspension of sentence **and of the conditional sentence;**

## Amendment 59

Article 15, paragraph 4, point (c)

(c) **imposition of a sentence** in the case of a conditional sentence;

(c) **sentencing** in the case of a conditional sentence;

## Amendment 60

Article 15, paragraph 4, point (d)

(d) lapsing of the **suspensory measures** or alternative sanction.

(d) lapsing of the **suspended sentence, conditional sentence** or alternative sanction.

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TEXT PROPOSED BY THE FEDERAL REPUBLIC OF GERMANY AND  
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## Amendment 61

Article 15, paragraph 4a (new)

**4a. Any modification of a suspensory measure or of the obligations or instructions which constitute alternative sanctions by the issuing State's competent judicial authority must be carried out with due regard to Article 5. In the event of a modification, the executing State's competent authority may opt to take a fresh decision pursuant to Article 7(2) or Article 9(1)(i).**

## Amendment 62

Article 15, paragraph 5

5. In the event of the imposition of a sentence or the revocation of the suspension of a sentence, the competent judicial authority of the issuing State shall at the same time inform the competent judicial authority of the executing State **whether it intends to forward to the executing State:**

5. In the event of the imposition of a sentence or the revocation of the suspension of a sentence, the competent judicial authority of the issuing State shall at the same time inform the competent judicial authority of the executing State **that there is no longer any need for supervision of the suspensory measures.**

## Amendment 63

Article 15, paragraph 5, point (a)

(a) **a judgment and certificate as provided for in Council Framework Decision 2007/.../JHA for the purpose of taking over responsibility for enforcement of the measure involving deprivation of liberty; or** **deleted**

## Amendment 64

Article 15, paragraph 5, point (b)

(b) **a European arrest warrant for the purpose of surrender of the sentenced person 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** **deleted**

## Amendment 65

Article 15, paragraph 6

6. **If the obligation to execute suspensory measures or alternative sanctions has lapsed,** 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.**

6. **When it is notified by the competent authority of the issuing State pursuant to paragraph 5,** the competent authority of the executing State shall end **the supervision and execution of suspensory measures.**

## Amendment 66

Article 16, title

Amnesty and pardon

Amnesty, pardon **and judgment review**

Thursday 25 October 2007

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TEXT PROPOSED BY THE FEDERAL REPUBLIC OF GERMANY AND  
BY THE FRENCH REPUBLIC

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AMENDMENTS  
BY PARLIAMENT

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## Amendment 67

*Article 16, paragraph 1a (new)*

**Only the issuing State can take a decision regarding requests for review of judgments involving suspended sentences, alternative sanctions and conditional sentences, the supervision and execution of which are covered by this Framework Decision.**

## Amendment 68

*Article 17*

If the sentenced person leaves the executing State **and establishes his or her lawful and ordinary residence in another Member State**, the competent judicial authority of the executing State shall transfer jurisdiction in respect of the supervision of the suspensory measures and alternative sanctions and in respect of all further decisions relating to the execution of the judgment to the competent judicial authority of the issuing State.

If the sentenced person leaves the executing State **or ceases to have a lawful and ordinary residence in the executing State**, the competent judicial authority of the executing State shall transfer jurisdiction in respect of the supervision of the suspensory measures and **the obligations or instructions which constitute** alternative sanctions and in respect of all further decisions relating to the execution of the judgment (**or if appropriate the decision granting conditional release**) to the competent judicial authority of the issuing State.

## Amendment 69

*Article 17, paragraph 1a (new)*

**The transfer of jurisdiction referred to in paragraph 1 must also take place if the issuing State issues a request to that effect to the competent judicial authority of the executing State on the grounds that further criminal proceedings against the person are taking place in the issuing State.**

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