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I

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

REGULATIONS

COMMISSION REGULATION (EC) No 277/2009**of 6 April 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) ⁽¹⁾,

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 ⁽²⁾, 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 7 April 2009.

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

Done at Brussels, 6 April 2009.

For the Commission

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ 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 ⁽¹⁾	Standard import value
0702 00 00	JO	88,9
	MA	46,8
	SN	208,5
	TN	134,4
	TR	105,6
	ZZ	116,8
0707 00 05	JO	155,5
	MA	51,1
	TR	137,9
	ZZ	114,8
0709 90 70	JO	249,0
	MA	85,2
	TR	107,3
	ZZ	147,2
0709 90 80	EG	60,4
	ZZ	60,4
0805 10 20	CN	39,7
	EG	41,3
	IL	58,5
	MA	48,9
	TN	48,8
	TR	63,8
	ZZ	50,2
0805 50 10	TR	64,3
	ZZ	64,3
0808 10 80	AR	86,7
	BR	78,8
	CA	110,7
	CL	88,3
	CN	81,0
	MK	24,7
	NZ	93,9
	US	122,4
	UY	57,0
	ZA	77,2
	ZZ	82,1
0808 20 50	AR	90,5
	CL	100,4
	CN	59,2
	UY	52,8
	ZA	102,2
	ZZ	81,0

⁽¹⁾ 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 278/2009**of 6 April 2009****implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for no-load condition electric power consumption and average active efficiency of external power supplies****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2005/32/EC of the European Parliament and of the Council of 6 July 2005 establishing a framework for the setting of ecodesign requirements for energy-using products and amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council ⁽¹⁾ and in particular Article 15(1) thereof,

After consulting the Ecodesign Consultation Forum,

Whereas:

- (4) The Commission has carried out a preparatory study to analyse the technical, environmental and economic aspects of external power supplies. The study has been carried out together with stakeholders and interested parties from the Community and third countries, and the results have been made publicly available.
- (5) It is stated in the preparatory study that external power supplies are placed on the Community market in large quantities, with their annual energy consumption in all lifecycle stages being the most significant environmental aspect, and their annual electricity consumption due to losses for power conversion and no-load amounting to 17 TWh, corresponding to 6,8 Mt of CO₂ emissions. In the absence of measures this consumption is predicted to increase to 31 TWh in 2020. It has been concluded that the lifecycle energy consumption and the use-phase electricity consumption can be improved significantly.
- (1) Under Directive 2005/32/EC ecodesign requirements are to be set by the Commission for energy-using products representing significant volumes of sales and trade, having a significant environmental impact and presenting significant potential for improvement in terms of their environmental impact without entailing excessive costs.
- (6) Improvements in the electricity consumption of external power supplies should be achieved by applying existing non-proprietary cost-effective technologies that can reduce the total costs of purchasing and operating external power supplies.
- (2) Article 16(2) of Directive 2005/32/EC provides that in accordance with the procedure referred to in Article 19(3) and the criteria set out in Article 15(2), and after consulting the consultation forum, the Commission will as appropriate introduce an implementing measure for office equipment and consumer electronics.
- (7) Ecodesign requirements should harmonise electricity consumption requirements for no-load condition power consumption and average active efficiency of external power supplies throughout the Community, thus contributing to the functioning of the internal market and to the improvement of the environmental performance of these products.
- (3) Office equipment and consumer electronics are often powered by external power supplies (EPS) which convert electricity from the mains power source. The power conversion efficiency of external power supplies is an important aspect of the energy performance of such products, and thus external power supplies are one of the priority product groups for which ecodesign requirements should be established.
- (8) The ecodesign requirements should not have negative impact on the functionality of the product and should not affect negatively health, safety and the environment. In particular, the benefits of reducing electricity consumption during the use phase should more than offset potential additional environmental impacts during the production phase.

⁽¹⁾ OJ L 191, 22.7.2005, p. 29.

- (9) The two-staged entry into force of the ecodesign requirements should provide an appropriate time-frame for manufacturers to redesign products. The timing of the stages should be such that negative impacts on the functionalities of equipment on the market are avoided, and cost impacts for manufacturers, in particular small and medium-sized enterprises, are taken into account, while ensuring timely achievement of the objectives of the Regulation. Measurements of the power consumption should be performed taking into account the generally recognised state of the art. Manufacturers may use harmonised standards established in accordance with Article 10 of Directive 2005/32/EC.
- (10) This Regulation should increase the market penetration of technologies that improve the lifecycle environmental impact of external power supplies, leading to estimated lifecycle energy savings of 118 PJ and electricity savings of 9 TWh by 2020, respectively, compared to the situation without taking any measures.
- (11) In conformity with Article 8 of Directive 2005/32/EC, this Regulation should specify that the applicable conformity assessment procedures are the internal design control set out in Annex IV of Directive 2005/32/EC and the management system set out in Annex V of Directive 2005/32/EC.
- (12) In order to facilitate compliance checks manufacturers should be requested to provide information in the technical documentation referred to in Annexes IV and V of Directive 2005/32/EC on average active efficiency and no-load electric power consumption.
- (13) Benchmarks for currently available technologies with high active efficiency and low no-load power consumption should be identified. This will help to ensure the wide availability and easy accessibility of information, in particular for small and medium-sized enterprises and very small firms, which will further facilitate the integration of best design technologies for reducing energy consumption.
- (14) Ecodesign requirements for the no-load condition of low voltage external power supplies address the same environmental impact parameter as ecodesign requirements for the off-mode condition of electrical and electronic household and office equipment placed on the market with a low voltage external power supply. As ecodesign requirements for the no-load condition of low voltage external power supplies should be more demanding than ecodesign requirements for off-mode condition of electrical and electronic household and office equipment placed on the market with a low voltage external power supply, the requirements of Regulation (EC) No 1275/2008 of 17 December 2008 implementing Directive 2005/32/EC of the European Parliament and

of the Council with regard to ecodesign requirements for standby and off-mode power consumption of electrical and electronic household and office equipment ⁽¹⁾, should not apply to electrical and electronic household and office equipment which is placed on the market with a low voltage external power supply. Regulation (EC) No 1275/2008 should therefore be amended accordingly.

- (15) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 19(1) of Directive 2005/32/EC,

HAS ADOPTED THE FOLLOWING REGULATION:

Article 1

Subject matter and scope

1. This Regulation establishes ecodesign requirements related to electric power consumption in no-load condition and average active efficiency of external power supplies.
2. This Regulation shall not apply to:
 - (a) voltage converters;
 - (b) uninterruptible power supplies;
 - (c) battery chargers;
 - (d) halogen lighting converters;
 - (e) external power supplies for medical devices;
 - (f) external power supplies placed on the market no later than 30 June 2015 as a service part or spare part for an identical external power supply which was placed on the market not later than one year after this Regulation has come into force, under the condition that the service part or spare part, or its packaging, clearly indicates the primary load product(s) for which the spare part or service part is intended to be used with.

Article 2

Definitions

For the purposes of this Regulation, the definitions set out in Directive 2005/32/EC shall apply.

The following definitions shall also apply:

1. 'external power supply' means a device which meets all of the following criteria:

⁽¹⁾ OL L 339, 18.12.2008, p. 45.

- (a) it is designed to convert alternating current (AC) power input from the mains power source input into lower voltage direct current (DC) or AC output;
 - (b) it is able to convert to only one DC or AC output voltage at a time;
 - (c) it is intended to be used with a separate device that constitutes the primary load;
 - (d) it is contained in a physical enclosure separate from the device that constitutes the primary load;
 - (e) it is connected to the device that constitutes the primary load via a removable or hard-wired male/-female electrical connection, cable, cord or other wiring;
 - (f) it has nameplate output power not exceeding 250 Watts;
 - (g) it is intended for use with electrical and electronic household and office equipment as referred to in Article 2(1) of Regulation (EC) No 1275/2008;
2. 'low voltage external power supply' means an external power supply with a nameplate output voltage of less than 6 volts and a nameplate output current greater than or equal to 550 milliamperes;
3. 'halogen lighting converter' means an external power supply used with extra low voltage tungsten halogen lamps;
4. 'uninterruptible power supply' means a device providing automatically backup power when the electrical power from the mains power source drops to an unacceptable voltage level;
5. 'battery charger' means a device which connects directly to a removable battery at its output interface;
6. 'voltage converter' means a device converting 230 V mains power source output to 110 V power output with characteristics similar to mains power source output characteristics;
7. 'nameplate output power' (P_O) means the output power as specified by the manufacturer;
8. 'no-load condition' means the condition in which the input of an external power supply is connected to the mains power source, but the output is not connected to any primary load;

9. 'active mode' means a condition in which the input of an external power supply is connected to the mains power source and the output is connected to a load;

10. 'active mode efficiency' means the ratio of the power produced by an external power supply in active mode to the input power required to produce it;

11. 'average active efficiency' means the average of the active mode efficiencies at 25 %, 50 %, 75 % and 100 % of the nameplate output power.

Article 3

Ecodesign requirements

The ecodesign requirements related to no-load electric power consumption and average active efficiency of external power supplies placed on the market are set out in Annex I.

Article 4

Conformity assessment

The procedure for assessing conformity referred to in Article 8 of Directive 2005/32/EC shall be the internal design control system set out in Annex IV of Directive 2005/32/EC or the management system for assessing conformity set out in Annex V of Directive 2005/32/EC.

Article 5

Verification procedure for market surveillance purposes

Surveillance checks shall be carried out in accordance with the verification procedure set out in Annex II.

Article 6

Indicative benchmarks

The indicative benchmarks for best-performing products and technology currently available on the market are identified in Annex III.

Article 7

Revision

No later than four years after the entry into force of this Regulation the Commission shall review it in the light of technological progress and present the result of this review to the consultation forum.

Article 8

Amendments to Regulation (EC) No 1275/2008

Regulation (EC) No 1275/2008 is amended as follows:

1. The following second paragraph is added to Article 1:

'This Regulation shall not apply to electrical and electronic household and office equipment placed on the market with a low voltage external power supply.'

2. The following point 9 is added to Article 2:

'9. "low voltage external power supply" means an external power supply with a nameplate output voltage of less than 6 volts and a nameplate output current greater than or equal to 550 milliamperes.'

Article 9

Entry into force

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

Point 1(a) of Annex I shall apply as from one year after the date referred to in the first paragraph.

Point 1(b) of Annex I shall apply as from two years after the date referred to in the first paragraph.

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

Done at Brussels, 6 April 2009.

For the Commission

Andris PIEBALGS

Member of the Commission

ANNEX I

ECODESIGN REQUIREMENTS

1. NO-LOAD POWER CONSUMPTION AND AVERAGE ACTIVE EFFICIENCY

(a) **One year** after this Regulation has come into force:

The no-load condition power consumption shall not exceed 0,50 W.

The average active efficiency shall be not less than:

$0,500 \cdot P_O$, for $P_O < 1,0$ W;

$0,090 \cdot \ln(P_O) + 0,500$, for $1,0$ W $\leq P_O \leq 51,0$ W;

0,850, for $P_O > 51,0$ W.

(b) **Two years** after this Regulation has come into force:

The no-load condition power consumption shall not exceed the following limits:

	AC-AC external power supplies, except low voltage external power supplies	AC-DC external power supplies except low voltage external power supplies	Low voltage external power supplies
$P_O \leq 51,0$ W	0,50 W	0,30 W	0,30 W
$P_O > 51,0$ W	0,50 W	0,50 W	n/a

The average active efficiency shall be not less than the following limits:

	AC-AC and AC-DC external power supplies, except low voltage external power supplies	Low voltage external power supplies
$P_O \leq 1,0$ W	$0,480 \cdot P_O + 0,140$	$0,497 \cdot P_O + 0,067$
$1,0$ W $< P_O \leq 51,0$ W	$0,063 \cdot \ln(P_O) + 0,622$	$0,075 \cdot \ln(P_O) + 0,561$
$P_O > 51,0$ W	0,870	0,860

2. MEASUREMENTS

The no-load condition power consumption and the average active efficiency referred to in point 1 shall be established by a reliable, accurate and reproducible measurement procedure, which takes into account the generally recognised state of the art.

Measurements of power of 0,50 W or greater shall be made with an uncertainty of less than or equal to 2 % at the 95 % confidence level. Measurements of power of less than 0,50 W shall be made with an uncertainty of less than or equal to 0,01 W at the 95 % confidence level.

3. INFORMATION TO BE PROVIDED BY MANUFACTURERS

For the purposes of conformity assessment pursuant to Article 4, the technical documentation shall contain the following elements:

Reported quantity	Description
Root mean square (Rms) output current (mA)	Measured at load conditions 1-4
Rms output voltage (V)	
Active output power (W)	
Rms input voltage (V)	Measured at load conditions 1-5
Rms input power (W)	
Total harmonic distortion (THD)	
True power factor	
Power consumed (W)	Calculated at load condition 1-4, measured at load condition 5
Efficiency	Calculated at load conditions 1-4
Average efficiency	Arithmetic average of efficiency at load conditions 1-4

The relevant load conditions are as follows:

Percentage of nameplate output current	
Load condition 1	100 % $\pm$ 2 %
Load condition 2	75 % $\pm$ 2 %
Load condition 3	50 % $\pm$ 2 %
Load condition 4	25 % $\pm$ 2 %
Load condition 5	0 % (no-load condition)

ANNEX II

VERIFICATION PROCEDURE

When performing the market surveillance checks referred to in Article 3(2) of Directive 2005/32/EC, the authorities of the Member States shall apply the following verification procedure for the requirements set out in Annex I.

1. Authorities of the Member State shall test one single unit.
 2. The model shall be considered to comply with the provisions set out in Annex I, if:
 - (a) the result for no-load condition does not exceed the applicable limit value set out in Annex I by more than 0,10 W; and
 - (b) the arithmetic average of efficiency at load conditions 1-4 as defined in Annex I does not fall below the applicable limit value for average active efficiency by more than 5 %.
 3. If the results referred to in points 2(a) and (b) are not achieved, three additional units of the same model shall be tested.
 4. After three additional units of the same model have been tested, the model shall be considered to comply with the requirements if:
 - (a) the average of the results for no-load condition does not exceed the applicable limit value set out in Annex I by more than 0,10 W; and
 - (b) the average of the arithmetic averages of efficiency at load conditions 1-4 as defined in Annex I does not fall below the applicable limit value for average active efficiency by more than 5 %.
 5. If the results referred to in points 4(a) and (b) are not achieved, the model shall be considered not to comply with the requirements.
-

ANNEX III

INDICATIVE BENCHMARKS REFERRED TO IN ARTICLE 6

(a) **No-load condition**

The lowest available no-load condition power consumption of external power supplies can be approximated by:

- 0,1 W or less, for $P_O \leq 90$ W,
- 0,2 W or less, for 90 W < $P_O \leq 150$ W,
- 0,4 W or less, for 150 W < $P_O \leq 180$ W,
- 0,5 W or less, for $P_O > 180$ W.

(b) **Average active efficiency**

The best available active average efficiency of external power supplies according to most recent available data (status January 2008) can be approximated by:

- $0,090 \cdot \ln(P_O) + 0,680$, for $1,0$ W $\leq P_O \leq 10,0$ W,
 - 0,890, for $P_O > 10,0$ W.
-

COMMISSION REGULATION (EC) No 279/2009**of 6 April 2009****amending Annex II to Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ⁽¹⁾, and in particular its Article 11(c)(ii),

Whereas:

- (1) Slovakia has submitted a reasoned request for amendment to Annex II to Directive 2005/36/EC. It has requested the addition of the profession of dental technician (zubný technik), which meets the conditions provided for in Article 11(c)(ii) of Directive 2005/36/EC, as is apparent from the Government Regulation No 742/2004 Coll. on professional qualifications of health professionals.
- (2) Denmark has submitted a reasoned request for amendments to Annex II to Directive 2005/36/EC. It has requested the removal from Annex II to Directive 2005/36/EC of the profession of optician (optometrist) which has been upgraded to the level of the diploma, as provided for in Article 11(d) of Directive 2005/36/EC,

and therefore no longer meets the requirements of Article 11(c)(ii) of that Directive. Denmark has also requested the removal from Annex II to Directive 2005/36/EC of the professions of orthopaedic technician (ortopædimekaniker) and of orthopaedic boot and shoemaker (ortopædiskomager) which are no longer regulated in Denmark.

- (3) Directive 2005/36/EC should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the recognition of professional qualifications,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Directive 2005/36/EC is amended as set out in the Annex to this Regulation.

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, 6 April 2009.

For the Commission

Charlie MCCREEVY

Member of the Commission

⁽¹⁾ OJ L 255, 30.9.2005, p. 22.

ANNEX

Annex II to Directive 2005/36/EC is amended as follows:

1. in point 1, under the heading 'in Slovakia', the following is added:

‘— dental technician (zubný technik),

which represents education and training of at least 14 years, including eight or nine years of primary school education, four years of secondary education followed by two years of post-secondary education at a secondary healthcare school, completed by theoretical-practical General Certificate of Education (GCE) examination (maturitné vysvedčenie).’;

2. in point 2, the heading 'in Denmark' and the entries for Denmark are deleted.
-

COMMISSION REGULATION (EC) No 280/2009**of 6 April 2009****amending Annexes I, II, III and IV to Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾, and in particular Article 74 thereof,

Whereas:

- (1) Annex I to Regulation (EC) No 44/2001 lists the rules of national jurisdiction referred to in Articles 3(2) and 4(2) of the Regulation. Annex II contains the lists of courts or competent authorities that have jurisdiction in the Member States to deal with applications for a declaration of enforceability. Annex III lists the courts with which appeals may be lodged against decisions on a declaration of enforceability, and Annex IV enumerates the final appeal procedures against such decisions.
- (2) Annexes I, II, III and IV to Regulation (EC) No 44/2001 were amended on several occasions, lastly by Council Regulation (EC) No 1791/2006 ⁽²⁾ so as to include the rules of national jurisdiction, the lists of courts or competent authorities and the redress procedures of Bulgaria and Romania.

- (3) Member States have notified the Commission of additional amendments to the lists set out in Annexes I, II, III and IV. It therefore appears appropriate to publish consolidated versions of the lists contained in these annexes.

- (4) Denmark, in accordance with Article 3 of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽³⁾, should not take part in the adoption of amendments to the Brussels I Regulation and no such amendments should be binding upon or applicable in Denmark.

- (5) Regulation (EC) No 44/2001 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I to IV to Regulation (EC) No 44/2001 are replaced by the corresponding Annexes to this Regulation.

Article 2

This Regulation shall enter into force on the 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 in accordance with the Treaty establishing the European Community.

Done at Brussels, 6 April 2009.

For the Commission

Jacques BARROT

Vice-President

⁽¹⁾ OJ L 12, 16.1.2001, p. 1.

⁽²⁾ OJ L 363, 20.12.2006, p. 1.

⁽³⁾ OJ L 299, 16.11.2005, p. 62.

ANNEX I

Rules of jurisdiction referred to in Article 3(2) and Article 4(2)

- in Belgium: Articles 5 through 14 of the Law of 16 July 2004 on private international law,
- in Bulgaria: Article 4(1)(2) of the International Private Law Code,
- in the Czech Republic: Article 86 of Act No 99/1963 Coll., the Code of Civil Procedure (*občanský soudní řád*), as amended,
- in Germany: Article 23 of the code of civil procedure (*Zivilprozeßordnung*),
- in Estonia: Article 86 of the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*),
- in Greece: Article 40 of the code of civil procedure (*Κώδικας Πολιτικής Δικονομίας*),
- in France: Articles 14 and 15 of the civil code (*Code civil*),
- in Ireland: the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland,
- in Italy: Articles 3 and 4 law 218 of 31 May 1995,
- in Cyprus: section 21(2) of the Courts of Justice Law No 14 of 1960, as amended,
- in Latvia: section 27 and paragraphs 3, 5, 6 and 9 of section 28 of the Civil Procedure Law (*Civilprocesa likums*),
- in Lithuania: Article 31 of the Code of Civil Procedure (*Civilinio proceso kodeksas*),
- in Luxembourg: Articles 14 and 15 of the civil code (*Code civil*),
- in Hungary: Article 57 of Law Decree No 13 of 1979 on International Private Law (*a nemzetközi magánjogról szóló 1979. évi 13. törvényerejű rendelet*),
- in Malta: Articles 742, 743 and 744 of the Code of Organisation and Civil Procedure – Cap. 12 (*Kodiċi ta' Organizzazzjoni u Proċedura Ċivili – Kap. 12*) and Article 549 of the Commercial Code – Cap. 13 (*Kodiċi tal-kummerċ – Kap. 13*),
- in Austria: Article 99 of the Law on court Jurisdiction (*Jurisdiktionsnorm*),
- in Poland: Articles 1103 and 1110 of the Code of Civil Procedure (*Kodeks postępowania cywilnego*), in so far as they establish jurisdiction on the basis of the defendant's residence in Poland, the possession by the defendant of property in Poland or his entitlement to property rights in Poland, the fact that the object of the dispute is located in Poland and the fact that one of the parties is a Polish citizen,
- in Portugal: Article 65 and Article 65A of the code of civil procedure (*Código de Processo Civil*) and Article 11 of the code of labour procedure (*Código de Processo de Trabalho*),
- in Romania: Articles 148-157 of Law No 105/1992 on Private International Law Relations,
- in Slovenia: Article 48(2) of the Private International Law and Procedure Act (*Zakon o mednarodnem zasebnem pravu in postopku*) in relation to Article 47(2) of Civil Procedure Act (*Zakon o pravdnem postopku*) and Article 58 of the Private International Law and Procedure Act (*Zakon o mednarodnem zasebnem pravu in postopku*) in relation to Article 59 of Civil Procedure Act (*Zakon o pravdnem postopku*),
- in Slovakia: Articles 37 to 37e of Act No 97/1963 on Private International Law and the Rules of Procedure relating thereto,
- in Finland: the second, third and fourth sentences of the first paragraph of Section 1 of Chapter 10 of the Code of Judicial Procedure (*oikeudenkäymiskaari/rättegångsbalken*),
- in Sweden: the first sentence of the first paragraph of Section 3 of Chapter 10 of the Code of Judicial Procedure (*rättegångsbalken*),
- in the United Kingdom: the rules which enable jurisdiction to be founded on:
 - (a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or
 - (b) the presence within the United Kingdom of property belonging to the defendant; or
 - (c) the seizure by the plaintiff of property situated in the United Kingdom.

ANNEX II

The courts or competent authorities to which the application referred to in Article 39 may be submitted are the following:

- in Belgium, the '*tribunal de première instance*' or '*rechtbank van eerste aanleg*' or '*erstinstanzliches Gericht*',
- in Bulgaria, the '*окръжния съд*',
- in the Czech Republic, the '*okresní soud*' or '*soudní exekutor*',
- in Germany:
 - (a) the presiding judge of a chamber of the '*Landgericht*';
 - (b) a notary in a procedure of declaration of enforceability of an authentic instrument,
- in Estonia, the '*maakohtus*' (county court),
- in Greece, the '*Μονομελές Πρωτοδικείο*',
- in Spain, the '*Juzgado de Primera Instancia*',
- in France:
 - (a) the '*greffier en chef du tribunal de grande instance*';
 - (b) the '*président de la chambre départementale des notaires*' in the case of application for a declaration of enforceability of a notarial authentic instrument,
- in Ireland, the '*High Court*',
- in Italy, the '*corte d'appello*',
- in Cyprus, the '*Επαρχιακό Δικαστήριο*' or in the case of a maintenance judgment the '*Οικογενειακό Δικαστήριο*',
- in Latvia, the '*rajona (pilsētas) tiesa*',
- in Lithuania, the '*Lietuvos apeliacinis teismas*',
- in Luxembourg, the presiding judge of the '*tribunal d'arrondissement*',
- in Hungary, the '*megyei bíróság székhelyén működő helyi bíróság*', and in Budapest the '*Budai Központi Kerületi Bíróság*',
- in Malta, the '*Prim Awla tal-Qorti Ċivili*', or '*Qorti tal-Maġistrati ta Għawdex fil-gurisdizzjoni superjuri tagħha*', or, in the case of a maintenance judgment, the '*Reġistratur tal-Qorti*', on transmission by the '*Ministru responsabbli għall-Gustizzja*',
- in the Netherlands, the '*voorzieningenrechter van de rechtbank*',
- in Austria, the '*Bezirksgericht*',
- in Poland, the '*sąd okręgowy*',
- in Portugal, the '*Tribunal de Comarca*',
- in Romania, the '*Tribunal*',

- in Slovenia, the '*okrožno sodišče*',
 - in Slovakia, '*okresný súd*',
 - in Finland, the '*käräjäoikeus/tingsrätt*',
 - in Sweden, the '*Svea hovrätt*',
 - in the United Kingdom:
 - (a) in England and Wales, the '*High Court of Justice*', or in the case of a maintenance judgment to the '*Magistrates Court*', on transmission by the Secretary of State;
 - (b) in Scotland, the '*Court of Session*', or in the case of a maintenance judgment to the '*Sheriff Court*' on transmission by the Secretary of State;
 - (c) in Northern Ireland, the '*High Court of Justice*', or in the case of a maintenance judgment to the '*Magistrates Court*' on transmission by the Secretary of State;
 - (d) in Gibraltar, the '*Supreme Court of Gibraltar*', or in the case of a maintenance judgment, the '*Magistrates Court*' on transmission by the Attorney General of Gibraltar.
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ANNEX III

The courts with which appeals referred to in Article 43(2) may be lodged are the following:

- in Belgium,
 - (a) as regards appeal by the defendant, the '*tribunal de première instance*' or '*rechtbank van eerste aanleg*' or '*erstinstanzliche Gericht*';
 - (b) as regards appeal by the applicant: the '*Cour d'appel*' or '*hof van beroep*',
- in Bulgaria, the '*Апелативен съд – София*',
- in the Czech Republic, the court of appeal through the district court,
- in Germany, the '*Oberlandesgericht*',
- in Estonia, the '*ringkonnakohus*',
- in Greece the '*Εφετείο*',
- in Spain, the '*Juzgado de Primera Instancia*' which issued the contested decision, with the appeal to be solved by the '*Audiencia Provincial*',
- in France:
 - (a) the '*cour d'appel*' on decisions allowing the application;
 - (b) the presiding judge of the '*tribunal de grande instance*', on decisions rejecting the application,
- in Ireland, the '*High Court*',
- in Iceland, the '*heradsdomur*',
- in Italy, the '*corte d'appello*',
- in Cyprus, the '*Επαρχιακό Δικαστήριο*' or in the case of a maintenance judgment the '*Οικογενειακό Δικαστήριο*',
- in Latvia, the '*Apgabaltiesa*' via the '*rajona (pilsētas) tiesa*',
- in Lithuania, the '*Lietuvos apeliacinis teismas*',
- in Luxembourg, the '*Cour supérieure de justice*' sitting as a court of civil appeal,
- in Hungary, the local court situated at the seat of the county court (in Budapest, the Central District Court of Buda); the appeal is adjudicated by the county court (in Budapest, the Capital Court),
- in Malta, the '*Qorti ta' l-Appell*' in accordance with the procedure laid down for appeals in the '*Kodiċi ta' Organizzazzjoni u Proċedura Ċivili – Kap.12*' or in the case of a maintenance judgment by '*ċitazzjoni*' before the '*Prim' Awla tal-Qorti ivili jew il-Qorti tal-Magistrati ta' Għawdex fil-gurisdizzjoni superjuri tagħha*',
- in the Netherlands,
 - (a) for the defendant: the '*arrondissementsrechtbank*';
 - (b) for the applicant: the '*gerechtshof*',
- in Austria, the '*Landesgericht*' via the '*Bezirksgericht*',
- in Poland, the '*sąd apelacyjny*' via the '*sąd okręgowy*',
- in Portugal, the '*Tribunal da Relação*' is the competent court. The appeals are launched, in accordance with the national law in force, by way of a request addressed to the court which issued the contested decision,
- in Romania, the '*Curte de Apel*',
- in Slovenia, the '*okrožno sodišče*',
- in Slovakia, the court of appeal through the district court whose decision is being appealed,
- in Finland, the '*hovioikeus/hovrätt*',
- in Sweden, the '*Svea hovrätt*',

— in the United Kingdom:

- (a) in England and Wales, the '*High Court of Justice*', or in the case of a maintenance judgment the '*Magistrates' Court*';
 - (b) in Scotland, the '*Court of Session*', or in the case of a maintenance judgment the '*Sheriff Court*';
 - (c) in Northern Ireland, the '*High Court of Justice*', or in the case of a maintenance judgment the '*Magistrates' Court*';
 - (d) in Gibraltar, the '*Supreme Court of Gibraltar*', or in the case of a maintenance judgment, the '*Magistrates' Court*'.
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ANNEX IV

The appeals which may be lodged pursuant to Article 44 are the following:

- in Belgium, Greece, Spain, France, Italy, Luxembourg and the Netherlands, an appeal in cassation,
 - in Bulgaria, *‘обжалване пред Върховния касационен съд’*,
 - in the Czech Republic, a *‘dovolání’* and a *‘žaloba pro zmatečnost’*,
 - in Germany, a *‘Rechtsbeschwerde’*,
 - in Estonia, a *‘kassatsioonikaebus’*,
 - in Ireland, an appeal on a point of law to the Supreme Court,
 - in Iceland, an appeal to the *‘Hæstiréttur’*,
 - in Cyprus, an appeal to the Supreme Court,
 - in Latvia, an appeal to the *‘Augstākās tiesas Senāts’* via the *‘Apgabaltiesa’*,
 - in Lithuania, an appeal to the *‘Lietuvos Aukščiausiasis Teismas’*,
 - in Hungary, *‘felülvizsgálati kérelem’*,
 - in Malta, no further appeal lies to any other court; in the case of a maintenance judgment the *‘Qorti ta’ l-Appell’* in accordance with the procedure laid down for appeal in the *‘kodiċi ta Organizzazzjoni u Procedura Ċivili – Kap. 12’*,
 - in Austria, a *‘Revisionsrekurs’*,
 - in Poland, *‘skarga kasacyjna’*,
 - in Portugal, an appeal on a point of law,
 - in Romania, a *‘contestatie in anulare’* or a *‘revizuire’*,
 - in Slovenia, an appeal to the *‘Vrhovno sodišče Republike Slovenije’*,
 - in Slovakia, the *‘dovolanie’*,
 - in Finland, an appeal to the *‘korkein oikeus/högsta domstolen’*,
 - in Sweden, an appeal to the *‘Högsta domstolen’*,
 - in the United Kingdom, a single further appeal on a point of law.
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COMMISSION REGULATION (EC) No 281/2009**of 6 April 2009****suspending the application of import duties on certain quantities of industrial sugar for the 2009/2010 marketing year**

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) ⁽¹⁾, and in particular Article 142, in conjunction with Article 4 thereof,

Whereas:

- (1) Under Article 142 of Regulation (EC) No 1234/2007, in order to guarantee the supplies necessary for the production of the products referred to in Article 62(2) of that Regulation, the Commission may suspend, in whole or in part, the application of import duties for certain quantities of sugar.
- (2) In order to ensure that the supplies necessary for the production of the products referred to in Article 62(2) of Regulation (EC) No 1234/2007 are available at a price corresponding to the world price, a complete suspension of import duties on sugar intended for the production of

those products is in the Community's interest for the 2009/2010 marketing year, for a quantity corresponding to half of its industrial sugar needs.

- (3) The quantities of industrial import sugar for the 2009/2010 marketing year should therefore be set accordingly.
- (4) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2009/2010 marketing year, the suspension of the import duties shall be applied for a quantity of 400 000 tonnes of industrial sugar falling within CN code 1701.

Article 2

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

It shall apply from 1 October 2009.

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

Done at Brussels, 6 April 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL COMMON POSITION 2009/314/CFSP

of 6 April 2009

amending Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus, and repealing Common Position 2008/844/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) On 10 April 2006, the Council adopted Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus ⁽¹⁾.

(2) Council Common Position 2008/844/CFSP of 10 November 2008 amending Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus ⁽²⁾ extended the restrictive measures provided for by Common Position 2006/276/CFSP until 13 October 2009. However, the travel restrictions imposed on certain leading figures in Belarus, with the exception of those involved in the disappearances which occurred in 1999 and 2000 and of the President of the Central Electoral Commission, were suspended until 13 April 2009.

(3) In order to encourage the adoption and implementation of further concrete measures towards democracy and respect for human rights and fundamental freedoms in Belarus, the Council agreed on 16 March 2009 that, whilst the restrictive measures provided for by Common Position 2006/276/CFSP would be extended for one year from that date, the suspension of the application of the travel restrictions imposed on certain officials of Belarus would be maintained for a period of nine months. Before the end of that period, the Council will conduct an in-depth review of the restrictive measures taking into account the situation in Belarus, and provided that there are further positive develop-

ments, it will be ready to consider the possibility of lifting the restrictive measures. At any time, the Council may decide to re-apply the travel restrictions if necessary, in the light of the actions of the Belarusian authorities in the sphere of democracy and human rights.

(4) Common Position 2006/276/CFSP should therefore be amended and Common Position 2008/844/CFSP repealed,

HAS ADOPTED THIS COMMON POSITION:

Article 1

Common Position 2006/276/CFSP is hereby extended until 15 March 2010.

Article 2

1. The measures referred to in Article 1(1)(b) of Common Position 2006/276/CFSP, insofar as they apply to Mr Yuri Nikolaïevich Podobed, are hereby suspended until 15 December 2009.

2. The measures referred to in Article 1(1)(c) of Common Position 2006/276/CFSP are hereby suspended until 15 December 2009.

Article 3

This Common Position shall be re-examined before 15 December 2009 in the light of the situation in Belarus.

Article 4

Common Position 2008/844/CFSP is hereby repealed.

⁽¹⁾ OJ L 101, 11.4.2006, p. 5.

⁽²⁾ OJ L 300, 11.11.2008, p. 56.

Article 5

This Common Position shall take effect on the date of its adoption.

Article 6

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 6 April 2009.

For the Council
The President
J. POSPÍŠIL

ACTS ADOPTED UNDER TITLE VI OF THE EU TREATY

COUNCIL FRAMEWORK DECISION 2009/315/JHA

of 26 February 2009

**on the organisation and content of the exchange of information extracted from the criminal record
between Member States**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission and the initiative of the Kingdom of Belgium,

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

Whereas:

(1) The European Union has set itself the objective of providing citizens with a high level of safety within the area of freedom, security and justice. This objective presupposes the exchange between the competent authorities of the Member States of information extracted from criminal records.

(2) On 29 November 2000 the Council, in accordance with the conclusions of the Tampere European Council of 15 and 16 October 1999, adopted a programme of measures to implement the principle of mutual recognition of decisions in criminal matters ⁽²⁾. This Framework Decision contributes to achieving the goals provided for by measure 3 of the programme, which calls for the establishment of a standard form like that drawn up for the Schengen bodies, translated into all the official languages of the Union, for criminal records requests.

(3) The Final Report on the first evaluation exercise on mutual legal assistance in criminal matters ⁽³⁾ called on the Member States to simplify the procedures for transferring documents between States, using, if necessary, standard forms to facilitate mutual legal assistance.

(4) The need to improve the quality of information exchanged on convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was reiterated in the Hague Programme ⁽⁴⁾, adopted by the European Council on 4 and 5 November 2004, which called for greater exchange of information from national conviction and disqualification registers. These objectives are reflected in the Action Plan jointly adopted by the Council and the Commission on 2 and 3 June 2005 with a view to carrying out the Hague Programme.

(5) With a view to improving the exchange of information between Member States on criminal records, projects developed with the aim to achieve this objective are welcomed, including the existing project for the interconnection of national criminal registers. The experience gathered from these activities has encouraged the Member States to further enhance their efforts and showed the importance to continue streamlining the mutual exchange of information on convictions between the Member States.

(6) This Framework Decision is a response to the wishes expressed by the Council on 14 April 2005, following the publication of the White Paper on exchanges of information on convictions and the effect of such convictions in the European Union and the subsequent general discussion thereof. Its main aim is to improve the exchange of information on convictions and, where imposed and entered in the criminal records of the convicting Member State, on disqualifications arising from criminal conviction of citizens of the Union.

(7) The application of the mechanisms established by this Framework Decision only to the transmission of information extracted from criminal records concerning natural persons should be without prejudice to a possible future broadening of the scope of application of such mechanisms to the exchange of information concerning legal persons.

⁽¹⁾ Opinion delivered on 17 June 2008 (not yet published in the Official Journal).

⁽²⁾ OJ C 12, 15.1.2001, p. 10.

⁽³⁾ OJ C 216, 1.8.2001, p. 14.

⁽⁴⁾ OJ C 53, 3.3.2005, p. 1.

- (8) Information on convictions handed down in other Member States is currently governed by Articles 13 and 22 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959. These provisions are not, however, sufficient to meet the present requirements of judicial cooperation in an area such as the European Union.
- (9) As between the Member States, this Framework Decision should replace Article 22 of the European Convention on Mutual Assistance in Criminal Matters. In addition to the obligations of a convicting Member State to transmit information to the Member States of the person's nationality concerning convictions handed down against their nationals which this Framework Decision incorporates and further defines, an obligation on the Member States of the person's nationality to store information so transmitted is also introduced, in order to ensure that they are able to reply fully to requests for information from other Member States.
- (10) This Framework Decision should be without prejudice to the possibility of judicial authorities' directly requesting and transmitting information from criminal records pursuant to Article 13 in conjunction with Article 15(3), of the European Convention on Mutual Assistance in Criminal Matters and without prejudice to Article 6(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, established by Council Act of 29 May 2000 ⁽¹⁾.
- (11) Improving the circulation of information on convictions is of little benefit if Member States are not able to take transmitted information into account. On 24 July 2008, Council adopted Framework Decision 2008/675/JHA on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings ⁽²⁾.
- (12) The main objective of the initiative of the Kingdom of Belgium is attained by this Framework Decision to the extent that the central authority of every Member State should request and include all information provided from the criminal records of the Member State of the person's nationality in its extract from criminal records when it replies to a request from the person concerned. Awareness of the existence of the conviction as well as, where imposed and entered in the criminal record, of a disqualification arising from it, is a prerequisite for giving them effect in accordance with the national law of the Member State in which the person intends to perform professional activity related to supervision of children. The mechanism established by this Framework Decision aims at inter alia ensuring that a person convicted of a sexual offence against children should no longer, where the criminal record of that person in the convicting Member State contains such conviction and, if imposed and entered in the criminal record, a disqualification arising from it, be able to conceal this conviction or disqualification with a view to performing professional activity related to supervision of children in another Member State.
- (13) This Framework Decision establishes rules on the protection of personal data transmitted between the Member States as a result of its implementation. Existing general rules on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are complemented by the rules established in this Framework Decision. Furthermore, the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data applies to the personal data handled on the basis of this Framework Decision. This Framework Decision also incorporates the provisions of Council Decision 2005/876/JHA of 21 November 2005 on the exchange of information extracted from the criminal record ⁽³⁾ which limit the use the requesting Member State can make of information asked for. This Framework Decision supplements such provisions with specific rules applying where the Member State of the person's nationality forwards information on convictions transmitted to it by the convicting Member State.
- (14) This Framework Decision does not modify obligations and practices established in relation to third States under the European Convention on Mutual Assistance in Criminal Matters, in so far as that instrument remains applicable.
- (15) Under Council of Europe Recommendation No R (84) 10 on criminal records and rehabilitation of convicted persons, the main aim of establishment of criminal records is to inform the authorities responsible for the criminal justice system of the background of a person subject to legal proceedings with a view to adapting the decision to be taken to the individual situation. Since all other use of criminal records that might compromise the chances of social rehabilitation of the convicted person must be as limited as possible, the use of information transmitted under this Framework Decision for purposes other than that of criminal proceedings can be limited in accordance with the national law of the requested Member State and the requesting Member State.

⁽¹⁾ OJ C 197, 12.7.2000, p. 3.

⁽²⁾ OJ L 220, 15.8.2008, p. 32.

⁽³⁾ OJ L 322, 9.12.2005, p. 33.

- (16) The aim of the provisions of this Framework Decision concerning the transmission of information to the Member State of the person's nationality for the purpose of its storage and retransmission is not to harmonise national systems of criminal records of the Member States. This Framework Decision does not oblige the convicting Member State to change its internal system of criminal records as regards the use of information for domestic purposes.
- (17) Improving the circulation of information on convictions is of little benefit if such information cannot be understood by the Member State receiving it. Mutual understanding may be enhanced by the creation of a 'standardised European format' allowing information to be exchanged in a uniform, electronic and easily machine-translatable way. Information on convictions sent by the convicting Member State should be transmitted in the official language or one of the official languages of that Member State. Measures should be taken by Council to set up the information exchange system introduced by this Framework Decision.
- (18) This Framework Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and reflected by the Charter of Fundamental Rights of the European Union.
- (19) This Framework Decision respects the principle of subsidiarity referred to in Article 2 of the Treaty on European Union and set out in Article 5 of the Treaty establishing the European Community since the improvement of systems for the transmission of information on convictions between Member States cannot be carried out adequately by the Member States unilaterally and requires coordinated action in the European Union. In accordance with the principle of proportionality, as set out in the Article 5 of the Treaty establishing the European Community, this Framework Decision does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objective

The purpose of this Framework Decision is:

- (a) to define the ways in which a Member State where a conviction is handed down against a national of another Member State (the 'convicting Member State') transmits the information on such a conviction to the Member

State of the convicted person's nationality (the 'Member State of the person's nationality');

- (b) to define storage obligations for the Member State of the person's nationality and to specify the methods to be followed when replying to a request for information extracted from criminal records;
- (c) to lay down the framework for a computerised system of exchange of information on convictions between Member States to be built and developed on the basis of this Framework Decision and the subsequent decision referred to in Article 11(4).

Article 2

Definitions

For the purposes of this Framework Decision:

- (a) 'conviction' means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent these decisions are entered in the criminal record of the convicting Member State;
- (b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;
- (c) 'criminal record' means the national register or registers recording convictions in accordance with national law.

Article 3

Central authority

1. For the purposes of this Framework Decision, each Member State shall designate a central authority. However, for the transmission of information under Article 4 and for replies under Article 7 to requests referred to in Article 6, Member States may designate one or more central authorities.

2. Each Member State shall inform the General Secretariat of the Council and the Commission of the central authority or authorities designated in accordance with paragraph 1. The General Secretariat of the Council shall notify the Member States and Eurojust of this information.

Article 4

Obligations of the convicting Member State

1. Each Member State shall take the necessary measures to ensure that all convictions handed down within its territory are accompanied, when provided to its criminal record, by information on the nationality or nationalities of the convicted person if he is a national of another Member State.

2. The central authority of the convicting Member State shall, as soon as possible, inform the central authorities of the other Member States of any convictions handed down within its territory against the nationals of such other Member States, as entered in the criminal record.

If it is known that the convicted person is a national of several Member States, the relevant information shall be transmitted to each of these Member States, even if the convicted person is a national of the Member State within whose territory he was convicted.

3. Information on subsequent alteration or deletion of information contained in the criminal record shall be immediately transmitted by the central authority of the convicting Member State to the central authority of the Member State of the person's nationality.

4. Any Member State which has provided information under paragraphs 2 and 3 shall communicate to the central authority of the Member State of the person's nationality, on the latter's request in individual cases, a copy of the convictions and subsequent measures as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measure at national level.

Article 5

Obligations of the Member State of the person's nationality

1. The central authority of the Member State of the person's nationality shall store all information in accordance with Article 11(1) and (2) transmitted under Article 4(2) and (3), for the purpose of retransmission in accordance with Article 7.

2. Any alteration or deletion of information transmitted in accordance with Article 4(3) shall entail identical alteration or deletion by the Member State of the person's nationality regarding information stored in accordance with paragraph 1 of this Article for the purpose of retransmission in accordance with Article 7.

3. For the purpose of retransmission in accordance with Article 7 the Member State of the person's nationality may only use information which has been updated in accordance with paragraph 2 of this Article.

Article 6

Request for information on convictions

1. When information from the criminal record of a Member State is requested for the purposes of criminal proceedings against a person or for any purposes other than that of

criminal proceedings, the central authority of that Member State may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record.

2. When a person asks for information on his own criminal record, the central authority of the Member State in which the request is made may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record, provided the person concerned is or was a resident or a national of the requesting or requested Member State.

3. Once the time limit set out in Article 11(7) has elapsed, whenever a person asks the central authority of a Member State other than the Member State of the person's nationality for information on his own criminal record, the central authority of the Member State in which the request is made shall submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include such information and related data in the extract to be provided to the person concerned.

4. All requests from the central authority of a Member State for information extracted from the criminal record shall be submitted using the form set out in the Annex.

Article 7

Reply to a request for information on convictions

1. When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for the purposes of criminal proceedings, that central authority shall transmit to the central authority of the requesting Member State information on:

- (a) convictions handed down in the Member State of the person's nationality and entered in the criminal record;
- (b) any convictions handed down in other Member States which were transmitted to it after 27 April 2012, in application of Article 4, and stored in accordance with Article 5(1) and (2);
- (c) any convictions handed down in other Member States which were transmitted to it by 27 April 2012, and entered in the criminal record;

(d) any convictions handed down in third countries and subsequently transmitted to it and entered in the criminal record.

2. When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for any purposes other than that of criminal proceedings, that central authority shall in respect of convictions handed down in the Member State of the person's nationality and of convictions handed down in third countries, which have been subsequently transmitted to it and entered in its criminal record, reply in accordance with its national law.

In respect of information on convictions handed down in another Member State, which have been transmitted to the Member State of the person's nationality, the central authority of the latter Member State shall in accordance with its national law transmit to the requesting Member State the information which has been stored in accordance with Article 5 (1) and (2) as well as the information which has been transmitted to that central authority by 27 April 2012, and has been entered in its criminal record.

When transmitting the information in accordance with Article 4, the central authority of the convicting Member State may inform the central authority of the Member State of the person's nationality that the information on convictions handed down in the former Member State and transmitted to the latter central authority may not be retransmitted for any purposes other than that of criminal proceedings. In this case, the central authority of the Member State of the person's nationality shall, in respect of such convictions, inform the requesting Member State which other Member State had transmitted such information so as to enable the requesting Member State to submit a request directly to the convicting Member State in order to receive information on these convictions.

3. When information extracted from the criminal record is requested from the central authority of the Member State of the person's nationality by a third country, the Member State of the person's nationality may reply in respect of convictions transmitted by another Member State only within the limitations applicable to the transmission of information to other Member States in accordance with paragraphs 1 and 2.

4. When information extracted from the criminal record is requested under Article 6 from the central authority of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit information on convictions handed down in the requested Member State and on convictions handed down against third

country nationals and against stateless persons contained in its criminal record to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

5. The reply shall be made using the form set out in the Annex. It shall be accompanied by a list of convictions, as provided for by national law.

Article 8

Deadlines for replies

1. Replies to the requests referred to in Article 6(1) shall be transmitted by the central authority of the requested Member State to the central authority of the requesting Member State immediately and in any event within a period not exceeding ten working days from the date the request was received, as provided for by its national law, rules or practice, using the form set out in the Annex.

When the requested Member State requires further information to identify the person involved in the request, it shall immediately consult the requesting Member State with a view to providing a reply within ten working days from the date the additional information is received.

2. Replies to the request referred to in Article 6(2) shall be transmitted within twenty working days from the date the request was received.

Article 9

Conditions for the use of personal data

1. Personal data provided under Article 7(1) and (4) for the purposes of criminal proceedings may be used by the requesting Member State only for the purposes of the criminal proceedings for which it was requested, as specified in the form set out in the Annex.

2. Personal data provided under Article 7(2) and (4) for any purposes other than that of criminal proceedings may be used by the requesting Member State in accordance with its national law only for the purposes for which it was requested and within the limits specified by the requested Member State in the form set out in the Annex.

3. Notwithstanding paragraphs 1 and 2, personal data provided under Article 7(1), (2) and (4) may be used by the requesting Member State for preventing an immediate and serious threat to public security.

4. Member States shall take the necessary measures to ensure that personal data received from another Member State under Article 4, if transmitted to a third country in accordance with Article 7(3), is subject to the same usage limitations as those applicable in a requesting Member State in accordance with paragraph 2 of this Article. Member States shall specify that personal data, if transmitted to a third country for the purposes of a criminal proceeding, may be further used by that third country only for the purposes of criminal proceedings.

5. This Article does not apply to personal data obtained by a Member State under this Framework Decision and originating from that Member State.

Article 10

Languages

When submitting a request referred to in Article 6(1), the requesting Member State shall transmit to the requested Member State the form set out in the Annex in the official language or one of the official languages of the latter Member State.

The requested Member State shall reply either in one of its official languages or in any other language accepted by both Member States.

Any Member State may, at the time of the adoption of this Framework Decision or at a later date, indicate, in a statement to the General Secretariat of the Council, which are the official languages of the institutions of the European Union that it accepts. The General Secretariat of the Council shall notify the Member States of this information.

Article 11

Format and other ways of organising and facilitating exchanges of information on convictions

1. When transmitting information in accordance with Article 4(2) and (3), the central authority of the convicting Member State shall transmit the following information:

- (a) information that shall always be transmitted, unless, in individual cases, such information is not known to the central authority (obligatory information):
 - (i) information on the convicted person (full name, date of birth, place of birth (town and State), gender, nationality and – if applicable – previous name(s));
 - (ii) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);

- (iii) information on the offence giving rise to the conviction (date of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions); and

- (iv) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);

(b) information that shall be transmitted if entered in the criminal record (optional information):

- (i) the convicted person's parents' names;

- (ii) the reference number of the conviction;

- (iii) the place of the offence; and

- (iv) disqualifications arising from the conviction;

(c) information that shall be transmitted, if available to the central authority (additional information):

- (i) the convicted person's identity number, or the type and number of the person's identification document;

- (ii) fingerprints, which have been taken from that person; and

- (iii) if applicable, pseudonym and/or alias name(s).

In addition, the central authority may transmit any other information concerning convictions entered in the criminal record.

2. The central authority of the Member State of the person's nationality shall store all information of the types listed in points (a) and (b) of paragraph 1, which it has received in accordance with Article 5(1) for the purpose of retransmission in accordance with Article 7. For the same purpose it may store the information of the types listed in point (c) of the first subparagraph and in the second subparagraph of paragraph 1.

3. Until the time limit set out in paragraph 7 has elapsed, central authorities of Member States which have not carried out the notification referred to in paragraph 6 shall transmit all information in accordance with Article 4, requests in accordance with Article 6, replies in accordance with Article 7 and other relevant information by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.

Once the time limit set out in paragraph 7 of this Article has elapsed, central authorities of Member States shall transmit such information electronically using a standardised format.

4. The format referred to in paragraph 3 and any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States shall be set up by the Council in accordance with the relevant procedures of the Treaty on the European Union by 27 April 2012.

Other such means include:

- (a) defining all means by which understanding and automatically translating transmitted information may be facilitated;
- (b) defining the means by which information may be exchanged electronically, particularly as regards the technical specification to be used and, if need be, any applicable exchange procedures;
- (c) possible alterations to the form set out in the Annex.

5. If the mode of transmission referred to in paragraphs 3 and 4 is not available, the first subparagraph of paragraph 3 shall remain applicable for the entire period of such unavailability.

6. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format and electronically transmit it to other Member States. It shall notify the Council of the date from which it will be able to carry out such transmissions.

7. Member States shall carry out the technical alterations referred to in paragraph 6 within three years from the date of adoption of the format and the means by which information on convictions may be exchanged electronically.

Article 12

Relationship to other legal instruments

1. In relations between the Member States, this Framework Decision supplements the provisions of Article 13 of the European Convention on Mutual Assistance in Criminal Matters, its additional Protocols of 17 March 1978 and 8 November 2001, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and its Protocol of 16 October 2001 ⁽¹⁾.

2. For the purposes of this Framework Decision, Member States shall waive the right to rely among themselves on their

reservations to Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

3. Without prejudice to their application in relations between Member States and third States, this Framework Decision replaces in relations between Member States which have taken the necessary measures to comply with this Framework Decision and ultimately with effect from 27 April 2012 the provisions of Article 22 of the European Convention on Mutual Assistance in Criminal Matters, as supplemented by Article 4 of said Convention's additional Protocol of 17 March 1978.

4. Decision 2005/876/JHA is hereby repealed.

5. This Framework Decision shall not affect the application of more favourable provisions in bilateral or multilateral agreements between Member States.

Article 13

Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 27 April 2012.

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

3. On the basis of that information the Commission shall, by 27 April 2015, present a report to the European Parliament and the Council on the application of this Framework Decision, accompanied if necessary by legislative proposals.

Article 14

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 Brussels, 26 February 2009.

For the Council

The President

I. LANGER

⁽¹⁾ OJ C 326, 21.11.2001, p. 1.

ANNEX

Form referred to in Articles 6, 7, 8, 9 and 10 of the Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States**Request for information extracted from the criminal record**

Members States are to consult the Manual of Procedures for assistance in filling in this form correctly

(a) Information on the requesting Member State:

Member State:

Central authority(ies):

Contact person:

Telephone (with STD code):

Fax (with STD code):

E-mail address:

Correspondence address:

File reference, if known:

(b) Information on the identity of the person concerned by the request (*):

Full name (forenames and all surnames)

Previous names:

Pseudonym and/or alias, if any:

Gender: M ☐ F ☐

Nationality:

Date of birth (in figures: dd/mm/yyyy):

Place of birth (town and State):

Father's name:

Mother's name:

Residence or known address:

Person's identity number or type and number of the person's identification document:

Fingerprints:

Other available identification information:

(*) To facilitate the identification of the person as much information as possible is to be provided.

(c) Purpose of the request:

Please tick the appropriate box

- (1) ☐ criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number)
-
- (2) ☐ request outside the context of criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number, while ticking the relevant box):
- (i) ☐ from a judicial authority
-
- (ii) ☐ from a competent administrative authority
-
- (iii) ☐ from the person concerned for information on own criminal record
-

Purpose for which the information is requested:

Requesting authority:

- ☐ the person concerned does not consent for this information to be divulged (if the person concerned was asked for its consent in accordance with the law of the requesting Member State).

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (e.g. urgency of the request):

Reply to the request

Information relating to the person concerned

Please tick the appropriate box

The undersigned authority confirms that:

- ☐ there is no information on convictions in the criminal record of the person concerned
- ☐ there is information on convictions entered in the criminal record of the person concerned; a list of convictions is attached
- ☐ there is other information entered in the criminal record of the person concerned; such information is attached (optional)
- ☐ there is information on convictions entered in the criminal record of the person concerned but the convicting Member State intimated that the information about these convictions may not be retransmitted for any purposes other than that of criminal proceedings. The request for more information may be sent directly to (please indicate the convicting Member State)
- ☐ in accordance with the national law of the requested Member State, requests made for any purposes other than that of criminal proceedings may not be dealt with.

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (limitations of use of the data concerning requests outside the context of criminal proceedings):

Please indicate the number of pages attached to the reply form:

Done at

on

Signature and official stamp (if appropriate):

Name and position/organisation:

If appropriate, please attach a list of convictions and send the complete package to the requesting Member State. It is not necessary to translate the form or the list into the language of the requesting Member State.

COUNCIL DECISION 2009/316/JHA**of 6 April 2009****on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States⁽¹⁾, and in particular Article 11(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas:

- (1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety in the area of freedom, security and justice. This objective presupposes the systematic exchange between the competent authorities of the Member States of information extracted from criminal records in a way that would guarantee its common understanding and the efficiency of such exchange.
- (2) Information on convictions handed down against Member States' nationals by other Member States does not circulate efficiently on the current basis of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959. Therefore, there is a need for more efficient and accessible procedures of exchange of such information at European Union level.
- (3) The need to improve the exchange of information on convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was subsequently reiterated in the Hague Programme⁽³⁾ and in the Action Plan⁽⁴⁾ on its implementation. Furthermore, the computerised interconnection of criminal records at European Union level was recognised as a political priority by the European Council in its Conclusions of 21 and 22 June 2007.
- (4) The computerised interconnection of criminal records is part of the E-Justice project, which was acknowledged as a priority by the European Council several times in 2007.
- (5) A pilot project is currently being developed with a view to interconnecting criminal records. Its achievements constitute a valuable basis for further work on computerised exchange of information at the European Union level.
- (6) This Decision aims to implement Framework Decision 2009/315/JHA in order to build and develop a computerised system of exchange of information on convictions between Member States. Such a system should be capable of communicating information on convictions in a form which is easily understandable. Therefore, a standardised format allowing information to be exchanged in a uniform, electronic and easily computer-translatable way as well as any other means of organising and facilitating electronic exchanges of information on convictions between central authorities of Member States should be set up.
- (7) This Decision is based on the principles established by Framework Decision 2009/315/JHA and applies and supplements those principles from a technical standpoint.
- (8) The categories of data to be entered into the system, the purposes for which the data is to be entered, the criteria for its entry, the authorities permitted to access the data, and some specific rules on protection of personal data are defined in the Framework Decision 2009/315/JHA.
- (9) Neither this Decision nor Framework Decision 2009/315/JHA establishes any obligation to exchange information about non-criminal rulings.
- (10) Since the objective of this Decision is not to harmonise national systems of criminal records there is no obligation for a convicting Member State to change its internal system of criminal records as regards the use of information for domestic purposes.

⁽¹⁾ See page 23 of this Official Journal.

⁽²⁾ Opinion delivered on 9 October 2008 (not yet published in the Official Journal).

⁽³⁾ OJ C 53, 3.3.2005, p. 1.

⁽⁴⁾ OJ C 198, 12.8.2005, p. 1.

- (11) The European Criminal Records System (ECRIS) is a decentralised information technology system. The criminal records data should be stored solely in databases operated by Member States, and there should be no direct online access to criminal records databases of other Member States. Member States should bear the responsibility for the operation of national criminal records databases and for the efficient exchanges of information between themselves. The common communication infrastructure of ECRIS should be initially the Trans European Services for Telematics between Administrations (S-TESTA) network. All expenditure concerning the common communication infrastructure should be covered by the general budget of the European Union.
- (12) The reference tables of categories of offences and categories of penalties and measures provided for in this Decision should facilitate the automatic translation and should enable the mutual understanding of the information transmitted by using a system of codes. The content of the tables is the result of the analysis of the needs of all 27 Member States. That analysis took into account the pilot project categorisation and the results of the clustering exercise of various national offences and penalties and measures. Moreover, in case of the table of offences, it also took into consideration the existing harmonised common definitions on the European and international level as well as the Eurojust and Europol data models.
- (13) In order to ensure the mutual understanding and transparency of the common categorisation, each Member State should submit the list of national offences and penalties and measures falling in each category referred to in the respective table. Member States may provide a description of offences and penalties and measures and, given the usefulness of such description, they should be encouraged to do so. Such information should be made accessible to Member States.
- (14) The reference tables of categories of offences and categories of penalties and measures provided for in this Decision are not designed to set up legal equivalences between offences and penalties and measures existing at national level. They are a tool aimed at helping the recipient to gain better understanding of the fact(s) and type of penalty(ies) or measure(s) contained in the information transmitted. The accuracy of the codes mentioned cannot be fully guaranteed by the Member State supplying the information and it should not preclude the competent authorities in the receiving Member State from interpreting the information.
- (15) The reference tables of categories of offences and categories of penalties and measures should be revised and updated in accordance with the procedure for the adoption of implementing measures for decisions provided for in the Treaty on European Union.
- (16) Member States and the Commission should inform and consult one another within the Council in accordance with the modalities set out in the Treaty on European Union, with a view to drawing up a non-binding manual for practitioners which should address the procedures governing the exchange of information, in particular modalities of identification of offenders, common understanding of the categories of offences and penalties and measures, and explanation of problematic national offences and penalties and measures, and ensuring the coordination necessary for the development and operation of ECRIS.
- (17) In order to accelerate the development of ECRIS, the Commission should adopt a number of technical measures to assist Member States in preparing the technical infrastructure for interconnecting their criminal records databases. The Commission may provide reference implementation software, namely appropriate software enabling Member States to make this interconnection, which they may choose to apply instead of their own interconnection software implementing a common set of protocols enabling the exchange of information between criminal records databases.
- (18) 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 ⁽¹⁾ should apply in the context of computerised exchange of information extracted from criminal records of Member States, providing for an adequate level of data protection when information is exchanged between Member States, whilst allowing for Member States to require higher standards of protection to national data processing.
- (19) Since the objective of this Decision, namely the development of a computerised system for the exchange of information on convictions between Member States, cannot be adequately achieved by the Member States unilaterally, and can therefore, by reason of the necessity for coordinated action in the European Union, be better achieved at the level of the European Union, the Council may adopt measures, in accordance with the principle of subsidiarity referred to in Article 2 of the Treaty on European Union and set out in Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in the Article 5 of the Treaty establishing the European Community, this Decision does not go beyond what is necessary in order to achieve that objective.
- (20) This 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,
- ⁽¹⁾ OJ L 350, 30.12.2008, p. 60.

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

This Decision establishes the European Criminal Records Information System (ECRIS).

This Decision also establishes the elements of a standardised format for the electronic exchange of information extracted from criminal records between the Member States, in particular as regards information on the offence giving rise to the conviction and information on the content of the conviction, as well as other general and technical implementation means related to organising and facilitating the exchange of information.

Article 2

Definitions

For the purposes of this Decision, the definitions laid down in Framework Decision 2009/315/JHA shall apply.

Article 3

European Criminal Records Information System (ECRIS)

1. ECRIS is a decentralised information technology system based on the criminal records databases in each Member State. It is composed of the following elements:

- (a) an interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' criminal records databases;
- (b) a common communication infrastructure that provides an encrypted network.

2. This Decision is not aimed at establishing any centralised criminal records database. All criminal records data shall be stored solely in databases operated by the Member States.

3. Central authorities of the Member States referred to in Article 3 of Framework Decision 2009/315/JHA shall not have direct online access to criminal records databases of other Member States. The best available techniques identified together by Member States with the support of the Commission shall be employed to ensure the confidentiality and integrity of criminal records information transmitted to other Member States.

4. The interconnection software and databases storing, sending and receiving information extracted from criminal

records shall operate under the responsibility of the Member State concerned.

5. The common communication infrastructure shall be the S-TESTA communications network. Any further developments thereof or any alternative secure network shall ensure that the common communication infrastructure in place continues to meet the conditions set out in paragraph 6.

6. The common communication infrastructure shall be operated under the responsibility of the Commission, and shall fulfil the security requirements and thoroughly respond to the needs of ECRIS.

7. In order to ensure the efficient operation of ECRIS, the Commission shall provide general support and technical assistance, including the collection and drawing up of statistics referred to in Article 6(2)(b)(i) and the reference implementation software.

8. Notwithstanding the possibility of using the European Union financial programmes in accordance with the applicable rules, each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the interconnection software referred to in paragraph 1.

The Commission shall bear the costs arising from the implementation, administration, use, maintenance and future developments of the common communication infrastructure of ECRIS, as well as the implementation and future developments of the reference implementation software.

Article 4

Format of transmission of information

1. When transmitting information in accordance with Article 4(2) and (3) and Article 7 of Framework Decision 2009/315/JHA relating to the name or legal classification of the offence and to the applicable legal provisions, Member States shall refer to the corresponding code for each of the offences referred to in the transmission, as provided for in the table of offences in Annex A. By way of exception, where the offence does not correspond to any specific sub-category, the 'open category' code of the relevant or closest category of offences or, in the absence of the latter, an 'other offences' code, shall be used for that particular offence.

Member States may also provide available information relating to the level of completion and the level of participation in the offence and, where applicable, to the existence of total or partial exemption from criminal responsibility or to recidivism.

2. When transmitting information in accordance with Article 4(2) and (3) and Article 7 of Framework Decision 2009/315/JHA relating to the contents of the conviction, notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence, Member States shall refer to the corresponding code for each of the penalties and measures referred to in the transmission, as provided for in the table of penalties and measures in Annex B. By way of exception, where the penalty or measure does not correspond to any specific sub-category, the 'open category' code of the relevant or closest category of penalties and measures or, in the absence of the latter, an 'other penalties and measures' code, shall be used for that particular penalty or measure.

Member States shall also provide, where applicable, available information relating to the nature and/or conditions of execution of the penalty or measure imposed as provided for in the parameters of Annex B. The parameter 'non-criminal ruling' shall be indicated only in cases where information on such a ruling is provided on a voluntary basis by the Member State of nationality of the person concerned, when replying to a request for information on convictions.

Article 5

Information on national offences and penalties and measures

1. The following information shall be provided by the Member States to the General Secretariat of the Council, with a view in particular to drawing up the non-binding manual for practitioners referred to in Article 6(2)(a):

- (a) the list of national offences in each of the categories referred to in the table of offences in Annex A. The list shall include the name or legal classification of the offence and reference to the applicable legal provisions. It may also include a short description of the constitutive elements of the offence;
- (b) the list of types of sentences, possible supplementary penalties and security measures and possible subsequent decisions modifying the enforcement of the sentence as defined in national law, in each of the categories referred to in the table of penalties and measures in Annex B. It may also include a short description of the specific penalty or measure.

2. The lists and descriptions referred to in paragraph 1 shall be regularly updated by Member States. Updated information shall be sent to the General Secretariat of the Council.

3. The General Secretariat of the Council shall communicate to the Member States and to the Commission the information received pursuant to this Article.

Article 6

Implementing measures

1. The Council, acting by a qualified majority and after consulting the European Parliament, shall adopt any modifications of Annexes A and B as may be necessary.

2. The representatives of the relevant departments of the administrations of the Member States and the Commission shall inform and consult one another within the Council with a view to:

- (a) drawing up a non-binding manual for practitioners setting out the procedure for the exchange of information through ECRIS, addressing in particular the modalities of identification of offenders, as well as recording the common understanding of the categories of offences and penalties and measures listed respectively in Annexes A and B;
- (b) coordinating their action for the development and operation of ECRIS, concerning in particular:
 - (i) the establishment of logging systems and procedures making it possible to monitor the functioning of ECRIS and the establishment of non-personal statistics relating to the exchange through ECRIS of information extracted from criminal records;
 - (ii) the adoption of technical specifications of the exchange, including security requirements, in particular the common set of protocols;
 - (iii) the establishment of procedures verifying the conformity of the national software applications with the technical specifications.

Article 7

Report

The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 6(2)(b)(i). This report shall be published for the first time one year after submitting the report referred to in Article 13(3) of Framework Decision 2009/315/JHA.

Article 8

Implementation and time limits

1. Member States shall take the necessary measures to comply with the provisions of this Decision by 7 April 2012.

2. Member States shall use the format specified in Article 4 and comply with the means of organising and facilitating exchanges of information laid down in this Decision from the date notified in accordance with Article 11(6) of Framework Decision 2009/315/JHA.

*Article 9***Taking of effect**

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 6 April 2009.

For the Council

The President

J. POSPÍŠIL

ANNEX A

Common table of offences categories referred to in Article 4

Parameters		
Level of completion:	Completed act	C
	Attempt or preparation	A
	Non-transmitted element	Ø
Level of participation:	Perpetrator	M
	Aider and abettor or instigator/ organiser, conspirator	H
	Non-transmitted element	Ø
Exemption from criminal responsibility:	Insanity or diminished responsibility	S
Recidivism		R

Code	Categories and sub-categories of offences
0100 00 open category	Crimes within the jurisdiction of the International Criminal Court
0101 00	Genocide
0102 00	Crimes against humanity
0103 00	War crimes
0200 00 open category	Participation in a criminal organisation
0201 00	Directing a criminal organisation
0202 00	Knowingly taking part in the criminal activities of a criminal organisation
0203 00	Knowingly taking part in the non-criminal activities of a criminal organisation
0300 00 open category	Terrorism
0301 00	Directing a terrorist group
0302 00	Knowingly participating in the activities of a terrorist group
0303 00	Financing of terrorism
0304 00	Public provocation to commit a terrorist offence
0305 00	Recruitment or training for terrorism
0400 00 open category	Trafficking in human beings

Code	Categories and sub-categories of offences
0401 00	Trafficking in human beings for the purposes of labour or services exploitation
0402 00	Trafficking in human beings for the purposes of the exploitation of the prostitution of others or other forms of sexual exploitation
0403 00	Trafficking in human beings for the purposes of organ or human tissue removal
0404 00	Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude
0405 00	Trafficking in human beings for the purposes of labour or services exploitation of a minor
0406 00	Trafficking in human beings for the purposes of the exploitation of the prostitution of minors or other forms of their sexual exploitation
0407 00	Trafficking in human beings for the purposes of organ or human tissue removal of a minor
0408 00	Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude of a minor
0500 00 open category	Illicit trafficking ⁽¹⁾ and other offences related to weapons, firearms, their parts and components, ammunition and explosives
0501 00	Illicit manufacturing of weapons, firearms, their parts and components, ammunition and explosives
0502 00	Illicit trafficking of weapons, firearms, their parts and components ammunition and explosives at national level ⁽²⁾
0503 00	Illicit exportation or importation of weapons, firearms, their parts and components, ammunition and explosives
0504 00	Unauthorised possession or use of weapons, firearms, their parts and components, ammunition and explosives
0600 00 open category	Environmental crime
0601 00	Destroying or damaging protected fauna and flora species
0602 00	Unlawful discharges of polluting substances or ionising radiation into air, soil or water
0603 00	Offences related to waste, including hazardous waste
0604 00	Offences related to illicit trafficking ⁽¹⁾ in protected fauna and flora species or parts thereof
0605 00	Unintentional environmental offences
0700 00 open category	Offences related to drugs or precursors, and other offences against public health
0701 00	Offences related to illicit trafficking ⁽³⁾ in narcotic drugs, psychotropic substances and precursors not exclusively for own personal consumption
0702 00	Illicit consumption of drugs and their acquisition, possession, manufacture or production exclusively for own personal consumption

Code	Categories and sub-categories of offences
0703 00	Aiding or inciting others to use narcotic drugs or psychotropic substances illicitly
0704 00	Manufacture or production of narcotic drugs not exclusively for personal consumption
0800 00 open category	Crimes against the person
0801 00	Intentional killing
0802 00	Aggravated cases of intentional killing ⁽⁴⁾
0803 00	Unintentional killing
0804 00	Intentional killing of a new-born by his/her mother
0805 00	Illegal abortion
0806 00	Illegal euthanasia
0807 00	Offences related to committing suicide
0808 00	Violence causing death
0809 00	Causing grievous bodily injury, disfigurement or permanent disability
0810 00	Unintentionally causing grievous bodily injury, disfigurement or permanent disability
0811 00	Causing minor bodily injury
0812 00	Unintentionally causing minor bodily injury
0813 00	Exposing to danger of loss of life or grievous bodily injury
0814 00	Torture
0815 00	Failure to offer aid or assistance
0816 00	Offences related to organ or tissue removal without authorisation or consent
0817 00	Offences related to illicit trafficking ⁽³⁾ in human organs and tissue
0818 00	Domestic violence or threat
0900 00 open category	Offences against personal liberty, dignity and other protected interests, including racism and xenophobia
0901 00	Kidnapping, kidnapping for ransom, illegal restraint
0902 00	Unlawful arrest or deprivation of liberty by public authority
0903 00	Hostage-taking
0904 00	Unlawful seizure of an aircraft or ship
0905 00	Insults, slander, defamation, contempt

Code	Categories and sub-categories of offences
0906 00	Threats
0907 00	Duress, pressure, stalking, harassment or aggression of a psychological or emotional nature
0908 00	Extortion
0909 00	Aggravated extortion
0910 00	Illegal entry into private property
0911 00	Invasion of privacy other than illegal entry into private property
0912 00	Offences against protection of personal data
0913 00	Illegal interception of data or communication
0914 00	Discrimination on grounds of gender, race, sexual orientation, religion or ethnic origin
0915 00	Public incitement to racial discrimination
0916 00	Public incitement to racial hatred
0917 00	Blackmail
1000 00 open category	Sexual offences
1001 00	Rape
1002 00	Aggravated rape ⁽⁵⁾ other than rape of a minor
1003 00	Sexual assault
1004 00	Procuring for prostitution or sexual act
1005 00	Indecent exposure
1006 00	Sexual harassment
1007 00	Soliciting by a prostitute
1008 00	Sexual exploitation of children
1009 00	Offences related to child pornography or indecent images of minors
1010 00	Rape of a minor
1011 00	Sexual assault of a minor
1100 00 open category	Offences against family law
1101 00	Illicit sexual relations between close family members
1102 00	Polygamy

Code	Categories and sub-categories of offences
1103 00	Evading the alimony or maintenance obligation
1104 00	Neglect or desertion of a minor or a disabled person
1105 00	Failure to comply with an order to produce a minor or removal of a minor
1200 00 open category	Offences against the State, public order, course of justice or public officials
1201 00	Espionage
1202 00	High treason
1203 00	Offences related to elections and referendum
1204 00	Attempt against life or health of the Head of State
1205 00	Insult of the State, Nation or State symbols
1206 00	Insult or resistance to a representative of public authority
1207 00	Extortion, duress, pressure towards a representative of public authority
1208 00	Assault or threat on a representative of public authority
1209 00	Public order offences, breach of the public peace
1210 00	Violence during sports events
1211 00	Theft of public or administrative documents
1212 00	Obstructing or perverting the course of justice, making false allegations in the course of criminal or judicial proceedings, perjury
1213 00	Unlawful impersonation of a person or an authority
1214 00	Escape from lawful custody
1300 00 open category	Offences against public property or public interests
1301 00	Public, social security or family benefit fraud
1302 00	Fraud affecting European benefits or allowances
1303 00	Offences related to illegal gambling
1304 00	Obstructing of public tender procedures
1305 00	Active or passive corruption of a civil servant, a person holding public office or public authority
1306 00	Embezzlement, misappropriation or other diversion of property by a public official
1307 00	Abuse of a function by a public official

Code	Categories and sub-categories of offences
1400 00 open category	Tax and customs offences
1401 00	Tax offences
1402 00	Customs offences
1500 00 open category	Economic and trade related offences
1501 00	Bankruptcy or fraudulent insolvency
1502 00	Breach of accounting regulation, embezzlement, concealment of assets or unlawful increase in a company's liabilities
1503 00	Violation of competition rules
1504 00	Laundering of proceeds from crime
1505 00	Active or passive corruption in the private sector
1506 00	Revealing a secret or breaching an obligation of secrecy
1507 00	'Insider trading'
1600 00 open category	Offences against property or causing damage to goods
1601 00	Unlawful appropriation
1602 00	Unlawful appropriation or diversion of energy
1603 00	Fraud, including swindling
1604 00	Dealing in stolen goods
1605 00	Illicit trafficking ⁽⁶⁾ in cultural goods, including antiques and works of art
1606 00	Intentional damage or destruction of property
1607 00	Unintentional damage or destruction of property
1608 00	Sabotage
1609 00	Offences against industrial or intellectual property
1610 00	Arson
1611 00	Arson causing death or injury to persons
1612 00	Forest arson
1700 00 open category	Theft offences

Code	Categories and sub-categories of offences
1701 00	Theft
1702 00	Theft after unlawful entry into property
1703 00	Theft, using violence or weapons, or using threat of violence or weapons against person
1704 00	Forms of aggravated theft which do not involve use of violence or weapons, or use of threat of violence or weapons, against persons.
1800 00 open category	Offences against information systems and other computer-related crime
1801 00	Illegal access to information systems
1802 00	Illegal system interference
1803 00	Illegal data interference
1804 00	Production, possession, dissemination of or trafficking in computer devices or data enabling commitment of computer-related offences
1900 00 open category	Forgery of means of payment
1901 00	Counterfeiting or forging currency, including the euro
1902 00	Counterfeiting of non-cash means of payment
1903 00	Counterfeiting or forging public fiduciary documents
1904 00	Putting into circulation/using counterfeited or forged currency, non-cash means of payment or public fiduciary documents
1905 00	Possession of a device for the counterfeiting or forgery of currency or public fiduciary documents
2000 00 open category	Falsification of documents
2001 00	Falsification of a public or administrative document by a private individual
2002 00	Falsification of a document by a civil servant or a public authority
2003 00	Supply or acquisition of a forged public or administrative document; supply or acquisition of a forged document by a civil servant or a public authority
2004 00	Using forged public or administrative documents
2005 00	Possession of a device for the falsification of public or administrative documents
2006 00	Forgery of private documents by a private individual
2100 00 open category	Offences against traffic regulations
2101 00	Dangerous driving
2102 00	Driving under the influence of alcohol or narcotic drugs

Code	Categories and sub-categories of offences
2103 00	Driving without a licence or while disqualified
2104 00	Failure to stop after a road accident
2105 00	Avoiding a road check
2106 00	Offences related to road transport
2200 00 open category	Offences against labour law
2201 00	Unlawful employment
2202 00	Offences relating to remuneration, including social security contributions
2203 00	Offences relating to working conditions, health and safety at work
2204 00	Offences relating to access to or exercise of a professional activity
2205 00	Offences relating to working hours and rest time
2300 00 open category	Offences against migration law
2301 00	Unauthorised entry or residence
2302 00	Facilitation of unauthorised entry and residence
2400 00 open category	Offences against military obligations
2500 00 open category	Offences related to hormonal substances and other growth promoters
2501 00	Illicit importation, exportation or supply of hormonal substances and other growth promoters
2600 00 open category	Offences related to nuclear materials or other hazardous radioactive substances
2601 00	Illicit importation, exportation, supply or acquisition of nuclear or radioactive materials
2700 00 open category	Other offences
2701 00	Other intentional offences
2702 00	Other unintentional offences

(¹) Unless otherwise specified in this category, 'trafficking' means import, export, acquisition, sale, delivery, movement or transfer.

(²) For the purpose of this sub-category trafficking includes acquisition, sale, delivery, movement or transfer.

(³) For the purpose of this sub-category trafficking includes import, export, acquisition, sale, delivery, movement or transfer.

(⁴) For example: particularly grave circumstances.

(⁵) For example rape with particular cruelty.

(⁶) Trafficking includes import, export, acquisition, sale, delivery, movement or transfer.

ANNEX B

Common table of penalties and measures categories referred to in Article 4

Code	Categories and sub-categories of offences
1000 open category	Deprivation of freedom
1001	Imprisonment
1002	Life imprisonment
2000 open category	Restriction of personal freedom
2001	Prohibition from frequenting some places
2002	Restriction to travel abroad
2003	Prohibition to stay in some places
2004	Prohibition from entry to a mass event
2005	Prohibition to enter in contact with certain persons through whatever means
2006	Placement under electronic surveillance ⁽¹⁾
2007	Obligation to report at specified times to a specific authority
2008	Obligation to stay/reside in a certain place
2009	Obligation to be at the place of residence on the set time
2010	Obligation to comply with the probation measures ordered by the court, including the obligation to remain under supervision
3000 open category	Prohibition of a specific right or capacity
3001	Disqualification from function
3002	Loss/suspension of capacity to hold or to be appointed to public office
3003	Loss/suspension of the right to vote or to be elected
3004	Incapacity to contract with public administration
3005	Ineligibility to obtain public subsidies
3006	Cancellation of the driving licence ⁽²⁾
3007	Suspension of driving licence
3008	Prohibition to drive certain vehicles
3009	Loss/suspension of the parental authority
3010	Loss/suspension of right to be an expert in court proceedings/witness under oath/juror
3011	Loss/suspension of right to be a legal guardian ⁽³⁾
3012	Loss/suspension of right of decoration or title
3013	Prohibition to exercise professional, commercial or social activity
3014	Prohibition from working or activity with minors
3015	Obligation to close an establishment
3016	Prohibition to hold or to carry weapons
3017	Withdrawal of a hunting/fishing license

Code	Categories and sub-categories of offences
3018	Prohibition to issue cheques or to use payment/credit cards
3019	Prohibition to keep animals
3020	Prohibition to possess or use certain items other than weapons
3021	Prohibition to play certain games/sports
4000 open category	Prohibition or expulsion from territory
4001	Prohibition from national territory
4002	Expulsion from national territory
5000 open category	Personal obligation
5001	Submission to medical treatment or other forms of therapy
5002	Submission to a social-educational programme
5003	Obligation to be under the care/control of the family
5004	Educational measures
5005	Socio-judicial probation
5006	Obligation of training/working
5007	Obligation to provide judicial authorities with specific information
5008	Obligation to publish the judgment
5009	Obligation to compensate for the prejudice caused by the offence
6000 open category	Penalty on personal property
6001	Confiscation
6002	Demolition
6003	Restoration
7000 open category	Placing in an institution
7001	Placing in a psychiatric institution
7002	Placing in a detoxification institution
7003	Placing in an educational institution
8000 open category	Financial penalty
8001	Fine
8002	Day-fine ⁽⁴⁾
8003	Fine for the benefit of a special recipient ⁽⁵⁾
9000 open category	Working penalty
9001	Community service or work
9002	Community service or work accompanied with other restrictive measures

Code	Categories and sub-categories of offences
10000 open category	Military penalty
10001	Loss of military rank ⁽⁶⁾
10002	Expulsion from professional military service
10003	Military imprisonment
11000 open category	Exemption/deferment of sentence/penalty, warning
12000 open category	Other penalties and measures

⁽¹⁾ Fixed or mobile placement.

⁽²⁾ Reapplication in order to obtain a new driving licence is necessary.

⁽³⁾ Legal guardian for a person who is legally incompetent or for a minor.

⁽⁴⁾ Fine expressed in daily units.

⁽⁵⁾ E.g.: for an institution, association, foundation or a victim.

⁽⁶⁾ Military demotion.

Parameters (to be specified where applicable)

ø	Penalty
m	Measure
a	Suspended penalty/measure
b	Partially suspended penalty/measure
c	Suspended penalty/measure with probation/supervision
d	Partially suspended penalty/measure with probation/supervision
e	Conversion of penalty/measure
f	Alternative penalty/measure imposed as principal penalty
g	Alternative penalty/measure imposed initially in case of non-respect of the principal penalty
h	Revocation of suspended penalty/measure
i	Subsequent formation of an overall penalty
j	Interruption of enforcement/postponement of the penalty/measure ⁽¹⁾
k	Remission of the penalty
l	Remission of the suspended penalty
n	End of penalty
o	Pardon
p	Amnesty
q	Release on parole (liberation of a person before end of the sentence under certain conditions)
r	Rehabilitation (with or without the deletion of penalty from criminal records)
s	Penalty or measure specific to minors
t	Non-criminal ruling ⁽²⁾

⁽¹⁾ Does not lead to avoidance of enforcement of penalty.

⁽²⁾ This parameter will be indicated only when such information is provided in reply to the request received by the Member State of nationality of the person concerned.

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