Belgium

1) Judgements and, where applicable, probation decisions entering into the scope of this Framework Decision (Article 2)

a) Member States are asked to describe the judgments and, where applicable, probation decisions, as defined in Article 2, which have to be recognised by a Member State.

In this regard, Member States are asked to make a separated table for **each** judgement and **each** probation decision, entering into the scope of the Framework Decision and indicate for each one the following information.

PROBATIONARY SUSPENDED SENTENCE	
Name of the judgement or the probation decision	Le sursis probatoire / Probatieuitstel (probationary suspended sentence)
Classification of this judgement or the probation decision	Suspended sentence
Legal basis of this judgement or the probation decision	Law of 29 June 1964 on suspension, deferment and probation
Definition of this judgement or the probation decision	The 'sursis probatoire / probatieuitstel' means that the judge may, if he does not sentence to one or more principal custodial sentences of more than five years' imprisonment, order that the enforcement of the principal and additional sentences, or part thereof is suspended for a certain period, during which the person concerned must fulfil certain conditions. Within this period, if the sentenced person commits new offences or violates the probation conditions, the sentence may be executed. At the end of a successful probationary period, the execution of the sentence can no longer be enforced.
Legal Conditions of this judgement or the probation decision	- The sentence pronounced by the judge is a custodial sentence which does not exceed 5 years' imprisonment. - Suspension is not possible for confisation, neither for the sentence under electronic monitoring, the working penalty and the probation penalty.

	- If the concerned person appears before the court for sexual offences committed on minors or with their participation, the court shall seek the reasoned opinion of a service specialising in counselling or treatment of sex offenders before imposing a probation measure. - The duration of the probationary period is decided by the judge and can run from 1 till 5 years from the date of the judicial decision, but may not be longer than 3 years for fines and custodial sentences which not exceed 6 months. - The consent of the sentenced person is required. - The judge granting or refusing a probationary suspended sentence must give reasons for his decision.
Type of probation measures	A probationary suspendend sentence is always subject to the following general conditions: 1° to commit no criminal offences; 2° to have a fix address and, in the event of a change of address, immediately communicate the new place of residence to the justice assistant in charge of the guidance; 3° to comply with the summonses of the probation commission and those of the justice assistant in charge of the guidance. These general conditions may be accompanied by individualised conditions aimed at preventing recidivism and to circumscribe the guidance. The Belgian law does not provide an exhaustive list of the individualised conditions that can be imposed. Therefore, it is at the sole discretion of the judge to determine any obligation deemed necessary, depending on the facts of the case submitted. Examples of individualised probation conditions are: - obligation to receive budgeting assistance; - instruction to undergo a detoxification program; - instruction to undergo training schemes; - obligation to compensate financially for the prejudice caused by the offence. If postponement of the enforcement of the entire prison sentence or fine is ordered, the special conditions may include, inter alia, the obligation to undergo certain training within 12 months from

	the day on which the judgment became final. However, for the same offences, the training may not be imposed together with effective imprisonment, unless the person has undergone pre-trial detention for those offences and the judge imposes imprisonment that is at most equal to the pre-trial detention already undergone. In that case, the court takes into account the duration of the imprisonment imposed when determining the number of hours of training. The duration of the training shall be not less than twenty hours and not more than two hundred and forty hours. The Probation Commission (see further under Authority responsible for supervising) determines the nature of the training after to have heard the person concerned and taking into account his comments. The training must be appropriate to his physical and mental aptitude, and the place where it is to be followed. The Probation Commission may also take into account the interests of the victims. If the probationary suspended sentence is accompanied by a probation measure consisting of attending counselling or treatment, the Probation commission shall invite the person concerned to choose a competent person or service (see the obligatory advice the court must ask in case of sexual offences committed on a minor or with his participation) Such choice shall be submitted to the commission for approval. This service or person accepting the assignment shall report to the Probation commission (as well as to the justice assistant), within one month of the commencement of such counselling or treatment and whenever the service or person considers it useful, or at the request of the Probation commission and at least every six months, on the counselling or treatment. This report must deal with the following points : the actual attendance of the person concerned at the proposed consultations, the unauthorised absences, the unilateral discontinuation of the counselling or treatment by the person concerned, the difficulties encountered in its implementation and the situations which pose a serious risk to third parties. The service or person must inform the Probation commission of the cessation of counselling or treatment.
Combination of sanctions or measures	The law does not provide for any possibility of combination with other judgements or decisions.
Authority responsible for	All judgement jurisdictions.

taking such a decision	
Authority responsible for supervising	The Probation Commission (administrative authority) is competent for the follow-up and the observance of the probation measures. This Commission is composed of a magistrate (chairman), a lawyer and a civil servant designated for a mandate of three years. This authority is designated on the basis of the residence of the supervised person at the time the judicial decision is considered as a final decision. When the sentenced person does not have his/her residence in Belgium, the Probation Commission is designated on the basis of the place of the jurisdiction where the sentence has been originally pronounced. The probation measures are supervised by a justice assistent of the compentent services of the 3 communities (Houses of Justice of the Flemisch Community, the French-speaking Community and the German-speaking Community). They are responsible for assistance and guidance of persons under certain judicial decisions concerning probation measures and alternative sanctions. In that regard, the justice assistant offers assistance and guidance in ensuring compliance with the conditions imposed. The justice assistance submits accordingly a social report to the Probation Commission. This social report includes a state of play of the execution of the probation measures and the eventual problems arisen. The Probation Commission takes its decision on the basis of this social report. It can adapt probation measures to new circumstances, but cannot make them more severe. Only the court is entitled to do this.
Authority responsible in case of infringement	- The Probation Commission - The Public Prosecutor Office - The criminal jurisdiction of the residence of the sentenced person. These authorities can legally revoke the 'sursis probatoire / probatieuitstel' when the person infringes the probation terms or commits, during the probationary period, a new offence for

	which he is convicted to a criminal penalty or a custodial sentence without 'sursis / uitstel' that exceeds 6 months. The Probation Commission reports to the Public Prosecutor Office on the violation of probation terms or commitment of a new offence. The Public Prosecutor Office summons the sentenced person before the criminal jurisdiction which can decide : - the revocation of the 'sursis probatoire / Probatieuitstel' (and the execution of the custodial sentence or the working penalty); - the continuation of the 'sursis / uitstel' with the same probation terms; or - the continuation of the 'sursis / uitstel' with new probation terms. The 'sursis probatoire / probatieuitstel' is automatically revoked in the event that a new offence has been committed during the probation period, which has resulted in conviction to a criminal sentence or main prison sentence of more than six months without postponement or to an equivalent sentence handed down by the criminal courts of another Member State of the European Union.

WORK PENALTY	
Name of the judgement or the probation decision	La peine de travail / werkstraf (work penalty)
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Criminal Code (Article 37*quinquies*, 37*sexies* and 37*septies*) Introduced by the Law of 17 April 2002 establishing the working penalty as autonomous punishment in minor criminal matters and police matters.
Definition of this judgement or the probation decision	If an offence is of that nature to be punished by a police penalty or a correctional penalty, the judge may impose a work penalty

	as the principal punishment (instead of a custodial sentence and or a fine). The judge has to pronounce a subisidiary penalty (custodial sentence or a fine within the limits as foreseen for in this case) which can be applicable in case of non-execution of the working penalty (subsidiary penalty).
Legal Conditions of this judgement or the probation decision	- The work penalty may not be pronounced for certain offences: * crimes punishable with a maximum penalty of 20 years of imprisonment (reclusion/opsluiting) if not converted into a misdemeanour (délit/wanbedrijf); * certain sexual offences committed on minors or with their help (Articles 417/25 tot 417/41, 417/44 till 417/47, 417/52 en 417/54 of the Criminal Code); * hostage taking, homicide and murder in order to facilitate a theft (Articles 347 bis, 375 to 377, 379 to 387, 393 to 397 and 475 of the Criminal Code). - If the court considers to impose a work penalty, if a work penalty is demanded by the public prosecutor or requested by the accused, the judge shall inform the latter of the scope of such punishment before the conclusion of the debates and shall hear him in his remarks. In doing so, the judge may also take into account the interests of the victims. The court can pronounce a work penalty only if the accused is present or represented at the hearing and after he has given his consent, either in person or through his counsel. - A court who refuses to pronounce a work penalty ordered by the prosecution or requested by the accused must give reasons for his decision. - The duration of the work penalty is decided by the court and may not be less than 20 hours nor exceed 300 hours. A work penalty of less then 45 hours is a police penalty, a work penalty of more then 45 hours is a correctional sentence. - The working penalty must be executed within the twelve months following the date to which the judicial decision is considered as a final decision.

	- The working penalty must be executed without payment outside the professional or educational activities of the sentenced person. - The working penalty may only be executed in public services of the State, cities, provinces, communities and regions or for non-profit organisations.
Type of probation measures	Not applicable.
Combination of sanctions or measures	No
Authority responsible for taking such a decision	All judgement jurisdictions. The judge determines the duration of the working penalty and can give some indications concerning the concrete content of this sentence. Upon conviction under the criminal provisions of the Laws of 30 July 1981 punishing certain acts motivated by racism or xenophobia, of 23 March 1995 punishing the denial, minimisation, justification or approval of the genocide committed by the German National Socialist regime during the Second World War, of 10 May 2007 combating certain forms of discrimination of 10 May 2007 on combating discrimination between women and men and of 22 May 2014 on combating sexism in public spaces and amending the Law of 10 May 2007 on combating discrimination between women and men in order to punish the act of discrimination, the court may give instructions so that the content of the work penalty would be related to, respectively, the fight against racism or xenophobia, discrimination, sexism and negationism, in order to reduce the risk of repetition of such crimes.
Authority responsible for supervising	A Probation Commission (administrative authority) follows up the observance of the work penalty. This Commission is composed of a magistrate (chairman), a lawyer and a civil servant designated for a mandate of three years. This authority is designated on the basis of the residence of the supervised person at the time the judicial decision is considered as a final decision. When the sentenced person does not have his/her residence in Belgium, the Probation Commission is designated on the basis of

	the place of the jurisdiction where the sentence has been originally pronounced. After having heard the sentenced person and taken into account its observations, the justice assistant determines the concrete content of the working penalty, under the supervision of the Probation Commission. In that regard, justice assistant offers assistance and guidance in ensuring compliance with the imposed work penalty. The probation officer submits accordingly a social report to the Probation Commission. This social report includes a state of play of the execution of the work penalty and the eventual problems arisen. The Probation Commission takes its decision on the basis of this social report. It can adapt and precise the concrete substance of the working penalty.
Authority responsible in case of infringement	The Probation Commission is also responsible in case of infringement In case of infringement (non or partial execution), the justice assistant informs the Probation Commission, which summons the sentenced person. After this hearing, the Probation Commission writes a report on the possible application of the subsidiary penalty (the fine or the custodial sentence set out in the judicial decision). On the basis of this report, the Public Prosecutor Office can decide to maintain the working penalty or to execute the subsidiary penalty (fine or custodial sentence), taking into account the part of the working penalty already carried out by the sentenced person.

CONDITIONAL RELEASE	
Name of the judgement or the probation decision	*<u>Preliminary note</u>: the Law of 17 May 2006 concerning the external statute of persons convicted to a prison sentence and the rights accorded to victim in the frame of the modalities of sentences (hereinafter "Law of 17 May 2006") distinguishes between convicts with a **sentence total of less or more than 3 years** as regards the allocation of sentence execution modalities. The provisions of the law came into force in stages on 1 September 2022:* *- from 1 September 2022 the law applies to convicts with a sentence total of more than 2 years up to and including 3 years;*

	- from (no later than) 1 September 2023 the law becomes applicable to convicts with a penalty total of 2 years or less. In addition to the phased entry into force, there is also an important transitional provision. Pursuant to that provision, several convicts with a sentence total of more than 2 years to 3 years will continue to be subject to the current system of the circulars even after 1 September 2022 (and the same will apply to those with a sentence total of 2 years or less at the time the law enters into force for that penalty category as well). I. Libération provisoire / voorlopige invrijheidstelling (provisional release) - for convicts subject to the application of Ministerial Circular No. 1817 of 15 July 2015 on provisional release (last modification 24.12.2021) II. Libération conditionnelle / voorwaardelijke invrijheidstelling (conditional release) - for convicts under the application of the law.
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	*Provisional release:* Ministerial circular 1817 of 15 July 2015, as unofficially coordinated on 24 December 2021, concerning the provisional release of convicts serving one or more custodial sentences of which the enforceable part amounts three years or less. *Conditional release:* Law of 17 May 2006
Definition of this judgement or the probation decision	Conditional releases are considered as a way of enforcing a custodial sentence which enables the sentenced person to serve its sentence outside the prison. Regarding provisional release, individualised special conditions *may* be imposed.
Legal Conditions of this judgement or the probation decision	*Provisional release:* 1. Convicts serving only **alternative prison sentence for a fine** are released immediately without any specific contraindications. 2. Persons sentenced to one or more custodial sentences which enforceable part amounts **up to four months** are released immediately without any specific contraindications.

	3. Persons sentenced to one or more custodial sentences which enforceable part amounts **more than four months and up to six months,** all of which became **final after 31 January 2014**, are released once the convicted person has served one month of imprisonment without any specific contraindications. 4. Persons sentenced to one or more custodial sentences which enforceable part amounts **more than four monts and up to six months,** all or part of which became **final after 31 January 2014**, are released immediatly without any specific contraindications. 5. Persons sentenced to one or more custodial sentences which enforceable part amounts to **more than six months and up to one year** are released as soon as they have served the prescribed part of the sentence without any specific contraindications. 6. Persons sentenced to one or more custodial sentences which enforceable part amounts to **more than one year** are eligible for a provisional release as soon as they reach the eligibility date and after examination of the contraindications. The contraindications are the following: - Not being able to provide for oneself materially; - Presenting a great risk for the integrity of third parties. 7. Convicts serving at least one **conviction for terrorism offences** (offences stated in Articles 135 to 141 of the Criminal Code[1]) shall be granted provisional release as soon as the convicted person is in the time conditions as mentioned in the above-mentioned numbers and after examination of the following contra-indications: - Not being able to provide for oneself materially; - Presenting a great risk for the integrity of third parties; - The risk of the convicted person leaving the country; - The risk of harassment of the victim. 8. Convicts serving at least one **conviction for sexual offences** (offences stated in Articles 371/1 to 378 or 379 to 387 of the Criminal Code, committed on Minors or with their participation) shall be granted provisional release as soon as the convicted person is in the time conditions as mentioned in the above-mentioned numbers and after examination of the following contra-indications: - Not being able to provide for oneself materially; - Presenting a great risk for the integrity of third parties; - The risk of harassment of the victim.

[1] now articles 417/5 à 417/41, 417/43 à 417/47, 417/50 à 417/55, 433quater/1 à 433quater/4

	9. Convicts serving a **alternative prison sentence for community service, electronic monitoring as an autonomous sentence or probation as an autonomous sentence** and whose enforceable part does **not exceed one year** are eligible for a provisional release as soon as they reach the eligibility date without specific contraindications. 10. Convicts serving a alternative prison sentene for community service or probation as an autonomous sentence and whose enforceable part does exceed one year are subject to the same rules als mentioned under number 6. 11. Provisional release with the intention of extradition takes place as soon as the convicted person is in the time conditions as mentioned in the numbers 1 to 6. 12. When a convicted person undergoes a conviction to which a placement at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" is attached, a provisional release is not possible. In contrast, provisional release may be granted when a prison sentence of up to and including three years is executed while the convicted person is only undergoing a placement at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" 13. Provisional release can also be applied to sentenced persons without lawful residence under similar conditions. *Conditional release:* In the case of a conviction of one or more custodial sentences which enforceable part amounts to **three years or less**, conditional release shall be granted to the extent that the convicted person has served 1/3 of his sentence(s). Conditional release may be granted to the sentenced person to the extend that there are no contraindications with regard to the senteced person, that cannot be met by imposing special conditions. These contraindications are related to: - not being able to provide for oneself materially; - presenting a great risk for the integrity of third parties; - the risk of harassment of the victim; - the behaviour of the sentenced person towards the victims; - the efforts made by the convicted person to compensate the civil party, taking into account the financial situation of the convicted person as it has changed through his action since the commission of the offences for which he was convicted.

	Conditional release is granted to each person sentenced to one or more custodial sentences which enforceable part amounts to **more than three years**, to the extent that the sentenced person: - either, served one third of these sentences; - or, in case of a sentece of 30 years or a life sentence, served 15, 19 or 23 years (depending on the legally defined situation that applies[1]). Moreover, conditional release can only be granted to the extent that there are no contraindications with regard to the sentenced person, that cannot be met by imposing special conditions. These contraindications are related to: - the lack of prospects concerning the social rehabilitation of the sentenced person; - the risk of new serious offences to be committed; - the risk of harassment of the victim; - the behaviour of the sentenced person towards the victims; - the efforts made by the convicted person to compensate the civil party, taking into account the financial situation of the convicted person as it has changed through his action since the commission of the offences for which he was convicted. [1] Art. 26, §2 Law of 17 May 2006.
Type of probation measures	The Belgian law does not provide for an exhaustive list of probation measures which can be imposed by the judge (conditional release), the prison manager or the department Detention Management (provisional release) to the sentenced person. Therefore, it is at the sole discretion of the judge to determine any obligation deemed necessary, depending on the facts of the case submitted. A few examples are listed below: - to maintain close contact with the probation officer and report any changes in their situation; - ban on alcohol consumption; - to follow a budgetary guidance.
Combination of sanctions or measures	The law does not provide for any possibility of combination with other judgements or decisions.

Authority responsible for taking such a decision	*Provisional release:* In general, the prison manager is competent for granting a provisional release. Nevertheless, concerning terror offenders and sexual offenders, the Ministry of Justice (more specifically, the department Detention Management) is competent. *Conditional release:* Decisions regarding conditional release of a convict with a **sentence total of three years or less** are made by a single-seat "juge de l'application des peines / strafuitvoeringsrechter". Decisions regarding conditional release of a convict with a **sentence total of more than three years** are made by the "tribunal de l'application des peines / strafuitvoeringsrechtbank". The "tribunal de l'application des peines / strafuitvoeringsrechtbank" is composed by a Judge (chair) and two assessors, one specialised in custodial matters and one specialised in social reintegration. There is also a specialised public Prosecutor. Both autorities are competent for : - granting conditional release; - revocation, suspension, revision/review. In general, it is the "juge de l'application des peines / strafuitvoeringsrechter" and the "tribunal de l'application des peines / strafuitvoeringsrechtbank" linked to the court district of the prison in which the sentenced person was detained who has jurisdiction. The public Prosecutor at the "tribunal de l'application des peines / strafuitvoeringsrechtbank"is in charge of monitoring the convicted person. The competent service of the Communities ("Communautes/Gemeenschappen") is in charge of the follow-up and control of the individualised special conditions imposed by the "juge de l'application des peines / strafuitvoeringsrechter" and the "tribunal de l'application des peines / strafuitvoeringsrechtbank".
Authority responsible for supervising	*Provisional release:* When individualised conditions are imposed, mandate is given to the competent service of the Communities ("Communautés/Gemeenschappen") to provide guidance and control of the compliance with the conditions. *Conditional release:*

	The public Prosecutor at the “tribunal de l'application des peines / strafuitvoeringsrechtbank” is in charge of monitoring the convicted person. The competent service of the Communities (“Communautes/Gemeenschappen”) is in charge of the follow-up and control of the individualised special conditions imposed by the “juge de l'application des peines / strafuitvoeringsrechter” and the “tribunal de l'application des peines / strafuitvoeringsrechtbank”.
Authority responsible in case of infringement	*Provisional release:* Depending on who took the decision to grant provisional release, either the prison manager or The Department Detention Management will be able to revoke the provisional release. *Conditional release:* The “juge de l'application des peines / strafuitvoeringsrechter” and the “tribunal de l'application des peines / strafuitvoeringsrechtbank” are responsible for revocation, suspension, revision/review.

PROBATIONARY CONDITIONAL SENTENCE	
Name of the judgement or the probation decision	La suspension probatoire / probatie-opschorting
Classification of this judgement or the probation decision	Conditional suspension of the imposition of a sentence
Legal basis of this judgement or the probation decision	Law of 29 June 1964 on suspension, deferment and probation
Definition of this judgement or the probation decision	The “suspension probatoire / probatie-opschorting” is a judicial decision according to which the imposition of the sentence is suspended with the condition that the person complies with probation measures. This decision stops further proceedings unless it is revoked. The duration of the probationary period is decided by the judge and can run from 1 to 5 years from the date of the judicial decision.

Legal Conditions of this judgement or the probation decision	- The suspension may be ordered if the accused has not yet been sentenced to a criminal sentence or a principal term of imprisonment of more than six months or to an equivalent sentence handed down by the criminal courts of another Member State of the European Union, if the offence is not punishable by a correctional sentence of more than 20 years, and it does not appear to be of such a nature that it should be punished by a principal sentence of more than five years of correctional imprisonment - The charge has been proven. - Suspension can always be ordered ex officio, requested by the prosecution or requested by the accused. - The consent of the person is required. - If the concerned person appears before the court for sexual offences committed on minors or with their participation, the court shall seek the reasoned opinion of a service specialising in counselling or treatment of sex offenders before imposing a probation measure. - The duration of the probationary period is decided by the judge and can run from 1 till 5 years from the date of the judicial decision. - The decision granting or refusing suspension and, where appropriate, probation must be reasoned.
Type of probation measures	A probationary conditional sentence is always subject to the following <u>general conditions</u>: 1° to commit no criminal offences; 2° to have a fix address and, in the event of a change of address, immediately communicate the new place of residence to the justice assistant in charge of the guidance; 3° to comply with the summonses of the probation commission and those of the justice assistant in charge of the guidance. These general conditions may be accompanied by <u>individualised conditions</u> aimed at preventing recidivism and to circumscribe the guidance. The Belgian law does not provide an exhaustive list of the individualised conditions that can be. Therefore, it is at the sole

	discretion of the judge to determine any obligation deemed necessary, depending on the facts of the case submitted. Examples of individualised probation conditions are: - obligation to receive budgeting assistance; - instruction to undergo a detoxification program; - instruction to undergo training schemes; - obligation to compensate financially for the prejudice caused by the offence. If suspension of the pronouncement of the entire prison sentence or fine is ordered, the special conditions may include, inter alia, the obligation to undergo certain training within 12 months from the day on which the judgment became final. However, for the same offences, the training may not be imposed together with effective imprisonment, unless the person has undergone pre-trial detention for those offences and the judge imposes imprisonment that is at most equal to the pre-trial detention already undergone. In that case, the court takes into account the duration of the imprisonment imposed when determining the number of hours of training. The duration of the training shall be not less than twenty hours and not more than two hundred and forty hours. The Probation Commission (see further under Authority responsible for supervising) determines the nature of the training after to have heard the person concerned and taking into account his comments. The training must be appropriate to his physical and mental aptitude, and the place where it is to be followed. The Probation Commission may also take into account the interests of the victims.
Combination of sanctions or measures	No
Authority responsible for taking such a decision	All judgement jurisdictions except for the ‘Cour d’assises’. The investigative jurisdictions when they consider that the publicity of the debates could cause the defendant's declassification or endanger his re-integration.
Authority responsible for supervising	The Probation Commission (administrative authority) follows up the observance of the probation measures. This Commission is composed of a magistrate (chairman), a lawyer and a civil servant designated for a mandate of three years.

	This authority is designated on the basis of the residence of the supervised person at the time the judicial decision is considered as a final decision. When the sentenced person does not have his/her residence in Belgium, the Probation Commission is designated on the basis of the place of the jurisdiction where the sentence has been originally pronounced. The probation measures are supervised by a justice assistent of the compentent services of the 3 communities (Houses of Justice of the Flemisch Community, the French-speaking Community and the German-speaking Community) under the authority of the Probation Commission. The justice assistants are responsible for assistance and guidance of persons under certain judicial decisions concerning probation measures and alternative sanctions. In that regard, the justice assistant offers assistance and guidance in ensuring compliance with the conditions imposed. The justice assistantr submits accordingly a social report to the Probation Commission. This social report includes a state of play of the execution of the probation measures and the eventual problems arisen. The Probation Commission takes its decision on the basis of this social report. It can adapt probation measures to new circumstances, but cannot make them more severe. Only the court is entitled to do this.
Authority responsible in case of infringement	- The Probation Commissions (see the answer supra for their composition) - The Public Prosecutor Office - The criminal jurisdiction of the residence of the sentenced person. The probationary suspension may be revoked in case a new offence is committed during the probation period that results in conviction to a criminal penalty or a capital prison sentence of at least one month or to an equivalent sentence handed down by the criminal courts of another Member State of the European Union. The probationary suspension may also be revoked if the person for whom the measure was taken for an offence under the Law of 16 March 1968 on police over road traffic or its implementing decrees has committed a new offence during the probationary period that resulted in conviction under the Law of 16 March

	1968 on police over road traffic. This also applies if the measure was simultaneously taken for a violation of the law of 16 March 1968 on police over road traffic or its implementing decrees and for a violation of articles 419 or 420 of the Criminal Code. If the court does not revoke the suspension, it may replace the ordinary suspension with the probationary suspension or attach new conditions to the latter. The probationary suspension can also be revoked if the person for whom that measure was taken fails to comply with the conditions imposed and the probation committee has deemed the non-compliance sufficiently serious to bring it to the attention of the public prosecutor. The Probation Commission reports to the Public Prosecutor Office on the violation of probation terms. The Public Prosecutor Office summons the sentenced person before the criminal jurisdiction which can decide : - the revocation of the 'suspension probatoire' (and the imposition of the sentence); - the continuation of the 'suspension' with new probation terms.

SUPERVISED RELEASE UNDER THE FRAMEWORK OF THE PLACEMENT AT THE DISPOSAL OF THE "TRIBUNAL DE L'APPLICATION DES PEINES / STRAFUITVOERINGSRECHTBANK"	
Name of the judgement or the probation decision	Invrijheidstelling onder toezicht / libération sous surveillance (supervised release).
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	Law of 26 april 2007 on the placement at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank".
Definition of this judgement or the probation decision	The placement at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" is a complementary sentence that in the cases determined by law must or can be pronounced in view of protecting the society against persons who commit certain

	serious offences which jeopardize the integrity of third Parties. This complementary sentence starts after the execution of the main prison sentence. In that moment, the person is under the supervision of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" who can decide to release the person under certain probation measures or order its involuntary commitment.
Legal Conditions of this judgement or the probation decision	The judge is obliged to pronounce a placement at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" for a period of minimum 5 and maximum 15 years in the following cases: 1° The convictions that apply article 54 and 57bis of the Criminal Code, except if the former punishment was imposed for a political crime; 2° The convictions which, applying article 57 and 57bis, establish a repetition of crime upon crime, except if the former punishment was imposed for a political crime; 3° Sentences to a term of imprisonment of at least 5 years for terrorist offences resulting in death, torture, non-consensual sexual acts and abduction or detention resulting in death. The judge can decide that the person must stay at the disposal of the "tribunal de l'application des peines / strafuitvoeringsrechtbank" for a period of minimum 5 and maximum 15 years in the following cases: 1° Convictions with regard to persons who, having been sentenced to a term of imprisonment of at least five years for offences intentionally causing serious suffering or serious physical injury or damage to mental or physical health, are sentenced again for similar offences within a period of ten years from the date on which the conviction became final; 2° Certain serious convictions, such as manslaughter, inhumane treatment, use of minors and vulnerable persons for the purpose of committing a crime or malpractice, ...; 3° Certain sexual offences, such as assault on sexual integrity, non-consensual distribution, with malicious intent or for profit, of sexually explicit content, rape, non-consensual sexual acts preceded or accompanied by torture, imprisonment or severe violence, ...; 4° In case articles 62 or 65 of the Criminal Code are applied, convictions for concurrent crimes not mentioned in 1° to 3°.

	Prior to the expiry of the effective principal sentence, the “tribunal de l'application des peines / strafuitvoeringsrechtbank” shall decide either on deprivation of liberty or on release under supervision. The sentenced person shall be deprived of his liberty if there is a risk on his part of committing serious offences affecting the physical or psychological integrity of third parties which, in the case of supervised release, cannot be overcome by imposing special conditions.
Type of probation measures	If the “tribunal de l'application des peines / strafuitvoeringsrechtbank” grants supervised release, it stipulates that the sentenced person shall be subjected to a number of general conditions, such as: - not committing any offences; - have a fixed address and communicate changes immediately; - comply with summonses issued by the public prosecutor or the competent department of the Communities. In addition, the “tribunal de l'application des peines / strafuitvoeringsrechtbank” may subject the sentenced person to individualised special conditions that meet the risk of committing serious offences likely to affect the physical or psychological integrity of persons or that prove necessary in the interests of victims. The “tribunal de l'application des peines / strafuitvoeringsrechtbank” may also impose attending counselling or treatment at a service specialised in counselling or treatment of sexual offenders.
Combination of sanctions or measures	The law does not provide for any possibility of combination with other judgements or decisions.
Authority responsible for taking such a decision	The placement at the disposal of the government can be imposed by all judgement jurisdictions. The actual implementation of this measure is left to the “tribunal de l'application des peines / strafuitvoeringsrechtbank”

	The “tribunal de l'application des peines / strafuitvoeringsrechtbank” is responsible to decide, when the person is at the disposal of the “tribunal de l'application des peines / strafuitvoeringsrechtbank”, to release the person under probation measures.
Authority responsible for supervising	The public Prosecutor at the “tribunal de l'application des peines / strafuitvoeringsrechtbank” is in charge of monitoring the convicted person. The competent service of the Communities (“Communautes/Gemeenschappen”) is in charge of the follow-up and control of the conditions imposed by the “tribunal de l'application des peines / strafuitvoeringsrechtbank”.
Authority responsible in case of infringement	The “tribunal de l'application des peines / strafuitvoeringsrechtbank”.

	Penalty of electronic surveillance
Name of the judgement or the probation decision	La peine sous surveillance electronique / straf onder elektronisch toezicht
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Criminal Code (Articles 37*ter*, 37*quater*) Introduced by the Law of 7 February 2014 introducing electronic surveillance as an autonomous penalty (entering into force: 1st of May 2016).
Definition of this judgement or the probation decision	If an offence is of such a nature to be punished with imprisonment for a term not exceeding one year, the court may impose, as principal punishment, a sentence under electronic surveillance of the same duration as the imprisonment it would otherwise impose, which may become applicable in the event that the sentence under electronic surveillance is not carried out.

	For the purpose of determining the duration of this substitute prison sentence, one day of the sentence imposed under electronic supervision is equivalent to one day of imprisonment. The judge has to pronounce as a subisidiary penalty the duration of the imprisonment he had otherwise imposed, which can be applicable in case of non-execution of the penalty of electronic surveillance. A penalty under electronic surveillance consists of an obligation to be present at a particular address for a period of time determined by the court, subject to authorised movements or absences, using, inter alia, electronic means to monitor this, which can be assorted by conditions.
Legal Conditions of this judgement or the probation decision	- The penalty under electronic surveillance may not be pronounced for certain offences: * crimes punishable with a maximum penalty of 20 years of imprisonment (reclusion/opsluiting) if not converted into a misdemeanour (délit/wanbedrijf); * certain sexual offences committed on minors or with their help (Articles 417/25 tot 417/41, 417/44 till 417/47, 417/52 en 417/54 of the Criminal Code); * hostage taking, homicide and murder in order to facilitate a theft (Articles 347 bis, 375 to 377, 379 to 387, 393 to 397 and 475 of the Criminal Code). - With a view to imposing a sentence under electronic surveillance, the public prosecutor, the investigating judge, the investigating courts or the sentencing courts, respectively, may instruct the competent service for the organisation and control of electronic surveillance of the communities, hereinafter referred to as "the competent service for electronic surveillance", of the judicial district of the place of residence of the person under arrest, the accused or the convicted person to carry out a summary information report and/or a social inquiry. This report or enquiry shall contain only the pertinent elements that are of a nature to inform the authority that made the request to the competent electronic surveillance service about the appropriateness of the considered punishment. Any adult with whom the accused is living is heard in his comments as part of this social inquiry. The summary information report or the report of the social inquiry shall be added to the file within one month of the request.

	- If the court considers to impose a penalty under electronic surveillance, if this penalty is demanded by the public prosecutor or requested by the accused, the judge shall inform the latter of the scope of such punishment before the conclusion of the debates and shall hear him in his remarks. In doing so, the judge may also take into account the interests of the victims. The court can pronounce a probation penalty only if the accused is present or represented at the hearing and after he has given his consent, either in person or through his counsel. - A court who refuses to pronounce a penalty under electronic surveillance ordered by the prosecution or requested by the accused must give reasons for his decision. - The duration of the penalty under electronic surveillance is decided by the court and may not be less than one month and not more than one year. The judge may take mitigating circumstances into account, but without setting the duration of electronic monitoring as an autonomous sentence at less than one month.
Type of probation measures	A person sentenced to a penalty under electronic surveillance is always subject to the following general conditions: 1° to commit no criminal offences; 2° to have a fix address and, in the event of a change of address, immediately communicate the new place of residence to the public prosecutor's office and the service competent for the electronic surveillance; 3° to comply with the summonses of the service competent for the electronic surveillance and to follow their instructions. The court may subject the convicted person to individualised special conditions in the interest of the victim. These conditions relate to the prohibition of entering certain places or contacting the victim and/or his compensation.
Combination of sanctions or measures	No
Authority responsible for taking such a decision	All judgement jurisdictions.

Authority responsible for supervising	Public prosecutor’s office
Authority responsible in case of infringement	The public prosecutor’s office. If the sentence under electronic surveillance is not or only partially executed, the competent service for the electronic surveillance shall notify the public prosecutor's office without delay. The latter may then decide to enforce the prison sentence provided for in the court decision, taking into account the part of the sentence under electronic surveillance that has already been carried out by the convicted person. In this case, one day of the sentence under electronic surveillance that has been carried out is equivalent to one day of imprisonment. In case the non-execution or only partial execution concerns new offences, it must have been established by a final judicial decision that during the execution of the electronically supervised penalty, the convicted person committed a crime or a misdemuour, or an equivalent offence commited in a member state of the European Union. If the sentence under electronic surveillance is or exceeds three months, there is procedure provided permitting the convicted person to ask at the public prosecutors’ office a suspension of the further monitoring by electronishc means of the penalty. The convicted person shall be informed by the competent electronic monitoring service, about the possibility of requesting a suspension of monitoring by electronic means after one third of the sentence duration. The convicted person may submit a written request for this suspension to the competent public prosecutor's office from the moment he meets the time conditions. When the suspension of electronic monitoring is granted, the convicted person undergoes a probation period for the part of the sentence under electronic monitoring that he has yet to serve. In this case, one day of probation is equivalent to one day of the sentence under electronic monitoring that was imposed. The convicted person is subject to the general conditions as well as, if applicable, to the special conditions imposed on him.

	(autonomous) Probation penalty
Name of the judgement or the probation decision	La peine de probation (autonome) / (autonome) probatiestraf (probation penalty

Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Criminal Code (Articles 37*octies*, 37*novies*, 37*decies*, 37*undecies*) Introduced by the Law of 10 April 2014 introducing probation as an autonomous penalty in the Criminal Code and amending the Code of Criminal Procedure and the Act of 29 June 1964 on suspension, deferment and probation (entering into force: 1st of May 2016).
Definition of this judgement or the probation decision	If an offence is of that nature to be punished by a police penalty or a correctional penalty, the judge may impose a probation penalty as the principal punishment (instead of a custodial sentence and or a fine). The judge has to pronounce a subisidiary penalty (custodial sentence or a fine within the limits as foreseen for in this case) which can be applicable in case of non-execution of the working penalty (subsidiary penalty). An probation sentence consists of the obligation to comply with special conditions for a certain period of time, determined by the court.
Legal Conditions of this judgement or the probation decision	- The probation penalty may not be pronounced for certain offences: * crimes punishable with a maximum penalty of 20 years of imprisonment (reclusion/opsluiting) if not converted into a misdemeanour (délit/wanbedrijf); * certain sexual offences committed on minors or with their help (Articles 417/25 tot 417/41, 417/44 till 417/47, 417/52 en 417/54 of the Criminal Code); * hostage taking, homicide and murder in order to facilitate a theft (Articles 347 bis, 375 to 377, 379 to 387, 393 to 397 and 475 of the Criminal Code). - If the court considers to impose a probation penatly, if a probation penalty is demanded by the public prosecutor or requested by the accused, the judge shall inform the latter of the scope of such punishment before the conclusion of the debates and shall hear him in his remarks. In doing so, the judge may also

	take into account the interests of the victims. The court can pronounce a probation penalty only if the accused is present or represented at the hearing and after he has given his consent, either in person or through his counsel. - A court who refuses to pronounce probation penalty ordered by the prosecution or requested by the accused must give reasons for his decision. - The duration of the probation penalty is decided by the court and may not be less than six months and not more than two years. A probation sentence of 12 months or less is a police sentence. A probation sentence of one year or more is a correctional sentence.
Type of probation measures	The Belgian law does not provide an exhaustive list of the individualised conditions that can be imposed. Therefore, it is at the sole discretion of the judge to determine any obligation deemed necessary, depending on the facts of the case submitted.
Combination of sanctions or measures	No
Authority responsible for taking such a decision	All judgement jurisdictions. The judge determines the duration of the probation penalty and can give some indications concerning the concrete content of this sentence. Upon conviction under the criminal provisions of the Laws of 30 July 1981 punishing certain acts motivated by racism or xenophobia, of 23 March 1995 punishing the denial, minimisation, justification or approval of the genocide committed by the German National Socialist regime during the Second World War, of 10 May 2007 combating certain forms of discrimination of 10 May 2007 on combating discrimination between women and men and of 22 May 2014 on combating sexism in public spaces and amending the Law of 10 May 2007 on combating discrimination between women and men in order to punish the act of discrimination, the court may give instructions so that the content of the probation penalty would be related to, respectively, the fight against racism or xenophobia, discrimination, sexism and negationism, in order to reduce the risk of repetition of such crimes.
Authority responsible for supervising	The public prosecutor’s office. Police services and the

	In that regard, justice assistant offers assistance and guidance in ensuring compliance with the imposed probation penalty. The justice assistant submits accordingly a social report to the Probation Commission. This social report includes a state of play of the execution of the probation penalty and the eventual problems arisen.
Authority responsible in case of infringement	In case of infringement (non or partial execution), the justice assistant informs the Probation Commission, which summons the sentenced person. After this hearing, the Probation Commission writes a report on the possible application of the subsidiary penalty (the fine or the custodial sentence set out in the judicial decision). The Probation commission may suspend, specify or adapt all or part of the specific details of the probation sentence to the circumstances, either ex officio, at the request of the public prosecutor or at the request of the convicted person. In case one of the conditions of the autonomous probation sentence could not be fulfilled during the initial probation period through no fault of the convicted person, the probation commission may extend the probation period once by up to one year to allow the convicted person to fulfil the condition. If the Probation commission considers it necessary to take one of these measures, the chairman shall summon the person concerned for hearing the case. The commission's file shall be made available to the person concerned and his counsel, if any, for ten days. If the probation commission considers that the autonomous probation sentence has been enforced, it may decide that it shall come to an end even if the time limit set by the court has not yet expired. The decision of the Probation commission must be reasoned. The public prosecutor's office and the person sentenced to probation penalty may appeal to the court of first instance to which the Probation commission is established against these decisions taken by the commission In case the probation sentence is not carried out or only partially carried out, the judicial assistant shall immediately report this to the Probation commission. The Probation commission organises a hearing with the sentenced person, in absence of the public

	prosecutor's office. The Probation commission dresses a reasoned report for the purpose of applying the substitute penalty and communicates this to the public prosecutor's office who can decide to enforce the substitute penalty/penalties provided for in the court decision, taking into account the probation sentence already served by the convicted person.

2) Probation measures and alternative sanctions (Article 4)

In Article 4 of the Framework Decision types of probation measures and alternative sanctions are stated. Member States are asked to describe the probation measures and alternative sanctions attached to those judgements and probation decisions:

a) In the table below please describe how probation measures and alternative sanctions set out in Article 4.1 are reflected in your domestic law and please give a description of each of them.

Preliminary remark for all the probation measures mentioned in Article 4:

The Belgian law does not provide for an exhaustive list of individualised conditions regarding the different obligations that can be imposed to the sentenced person. Therefore, it is at the sole discretion of the competent authority to determine any obligation deemed necessary, taking into account the need to prevent recidivism, the specific needs of the sentenced person and the interests of the victim.

Probation measures / alternative sanctions	**Explanation**
Obligation for the sentenced person to inform a specific authority of any change of residence or working place	This is a general measure which is provided for in the most judicial decision imposing probation measures. This obligation to inform of any change of residence or working place must be reported without any delay to the probation officer who is in charge of the daily follow-up of the sentenced person.
Obligation not to enter certain localities, places or defined areas in the issuing or executing State	The specific content of this obligation depends on the circumstances of each case, and could be in particular : - obligation not to enter specific districts, cities, regions; - obligation not to enter specific places where children or minors are present (playgrounds, swimming pools,…) - obligation not to go to bars, dancings, etc. The obligation is imposed by the judge but its concrete content is set up by the probation officer. As it regards a negative

	obligation, the Police is responsible for the control and the follow-up of this obligation.
Obligation containing limitations on leaving the territory of the executing State	This is also a negative obligation for which the police is competent to supervise (*see supra)*.
Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity	The judge can provide for any appropriate instructions relating to behaviour, residence, education and training, leisure activities and professional activity including a ban on practising particular activities (e.g. independent profession, employment in the catering industry, etc.). Other examples are the obligation not to take drugs or alcohol, not to live in the same neighbourhood as the victim (in case of harassment) or to follow a training in violence handling (gender violence). The usual wording of the obligation related to training, education or professional activity is frequently presented as following: 'Being employed or finishing an education/retraining programme and, when unemployed, actively searching for employment. Presenting proof of this to the probation officer. A more specific interpretation of the condition concerning the nature of the employment and leisure activities is often not included. The probation officer and the sentenced person can agree upon a relevant filling in.
Obligation to report at specified times to a specific authority	This obligation consists in regular appointments with the probation officer and decided by him, who is responsible for the daily follow-up.
Obligation to avoid contact with specific persons	This probation measure is in general imposed in the interest of the victim, in particular in cases of harassment or gender violence (ban on contacting person X in any way, and taking the initiative to break contact immediately when meeting by coincidence). However, it can also apply with a view to social rehabilitation (e.g. 'the interdiction to be in contact with former prisoners').
Obligation to avoid contact with specific objects, which have been used or are likely	The sentenced person may be obliged to avoid contact with specific objects such as alcohol, drugs or specific medicines (e.g. captagon).

to be used by the sentenced person with a view to committing a criminal offence	
Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation	This obligation can be expressed as “paying the civil parties according to a predetermined plan and giving proof of this to the probation officer”.
Obligation to carry out community service	Not applicable.
Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons	This is ‘maintaining close contact with the justice assistent / competent service for electronic surveillance, following their guidelines and agreements, and cooperating with the provided social guidance by the justice assistant.’
Obligation to undergo therapeutic treatment or treatment for addiction	- A condition to get counselling or treatment within the framework of voluntary aid can be imposed. This form of aid depends on the nature of the underlying problems (addiction problems, financial problems, aggression issues). The usual wording of the obligation is the following : ‘To get treatment for alcohol problems in an appropriate setting according to the advice of the treating team (ambulatory or residential) and not to stop this treatment without a positive advice of the institution’. - In Belgium, a number of specific treatment and training projects exists. Within the scope of the training project, the framework is defined clearly and a limited number of hours need to be achieved. A number of specific programmes have been developed for domestic violence, sexual offences and drug related facts. Below you will find a short overview of these treatment and training projects.

	Issue/offer	*Name*	*Max number of hours*
	Agression *Social skills* *Social defensibility*	*Center for lifeforming/* *Center for basic education*	*30 hours*
	Drugs issues	*Specific centres for drug addiction*	*Tailored to the needs*
	Road traffic offences	*BIVV (Belgium Institute for Road Safety)*	*20 hours*
	Sexual offences	*Learning project for sexual offenders*	*30 hours*
	Lack of victim empathy	*Victims in view*	*30 hours*
	Straightening out a tangle of issues/providing insight into/motivational/behavioural alternatives	*Offenders In-Sight*	*30 hours*

b) In your domestic law are there any probation measures and alternative sanctions which are not covered by Article 4.1?

Yes. However, as there exists no exhaustive list, it will depend on each specific case if the judge will pronounce a probation measures that is not provided for in Article 4.1.

c) Does your domestic law provide for a specific treatment regarding any category of offences (e.g. sexual offences, domestic violence)?

Within the framework of projects granted by the federal and regional governments, a number of specific programmes have been developed for, among others, domestic violence, sexual offences and drug related facts.

These projects can be applied in the context of a probation measure. Please find below a short overview of these projects:

Issue/offer	*Name*	*Max number of hours*

Agression *Social skills* *Social defensibility*	*Center for lifeforming/* *Center for basic education*	*30 hours*
Drugs issues	*Specific centres for drug addiction*	*Tailored to the needs*
Road traffic offences	*BIVV (Belgium Institute for Road Safety)*	*20 hours*
Sexual offences	*Learning project for sexual offenders*	*30 hours*
Lack of victim empathy	*Victims in view*	*30 hours*
Straightening out a tangle of issues/providing insight into/motivational/behavioural alternatives	*Offenders In-Sight*	*30 hours*

3) Electronic monitoring

Does your national law provide for the possibility to use Electronic Monitoring?

Yes.

Is Electronic Monitoring part of the classification provided for in Article 2 of this Framework Decision (suspended sentence, conditional sentence, conditional release or alternative sanction)?

Besides electronic monitoring as an autonomous, alternative sanction, electronic monitoring also exists as a way of executing a sentence (sentence execution modality).

Is Electronic Monitoring considered as an execution modality of imprisonment, if other than conditional release?

Yes. In Belgium, the electronic monitoring is a form of execution of the prison sentence whereby use is made of electronic means to control during a fixed term the presence of certain offenders, outside the prison and on previously agreed places and times.

Is Electronic Monitoring considered a way of applying a probation measure or as a probation measure in itself?

No.

What are the technical means provided for in your Member State that enables the use of the Electronic Monitoring (e.g. GPS)?

The electronic monitoring is used in Belgium through the "Radio Frequency (RF)" technical mean. The person under electronic monitoring is monitored by a CET (Centre for Electronic Monitoring). This Centre is in charge of the daily management of all incoming and outgoing movements of persons under electronic monitoring.

Via the anklet that he is always obliged to wear, an alarm will be raised when he does not respect predetermined schedule. In these cases, the CET informs immediately the probation officer designated for the daily follow-up of the sentenced person of any violation.

Is Electronic Monitoring dependant on particular conditions?

In Belgium, there are two legal basis for electronic monitoring:

- **The law of 17 May 2006** concerning the external statute of persons convicted to a prison sentence and the rights accorded to victim in the frame of the modalities of sentences applies to convicts with a sentence total of more than 3 years and to convicts with a sentence of 3 years or less, who are already currently covered by the application of the law (see preliminary note in the table on conditional release).

- For those convicts not yet covered by the law, the **ministerial circular ET-SE 2 of 17 July 2013** applies.

The **conditions of award as specified in the law** are as follows:

- Time condition: electronic monitoring may be granted to the convicted person who is, except for six months, in the time conditions for the grant of a conditional release.
- Electronic monitorting may be granted to the convicted person in so far as there are no counter indications on the part of the convicted person that cannot be met by imposing special conditions. For convicts with a sentence total of 3 years or less, these counter indications relate to:
    - the convict does not have the ability to meet his needs;
    - a manifest risk to the physical integrity of third parties;
    - risk that the convicted person would harass the victims;
    - the offender's attitude towards the victims of the crimes that led to his conviction;
    - the efforts made by the convicted person to compensate the civil party, taking into account the convicted person's asset situation as it has changed through his action since the commission of the offences for which he was convicted.

For convicts with a sentence total of more than 3 years, the counter indications relate to:

- the absence of prospects for social rehabilitation of the convicted person;
- the risk of committing new serious crimes;
- risk that the convicted person would harass the victims;
- the offender's attitude towards the victims of the crimes that led to his conviction;
- the efforts made by the convicted person to compensate the civil party, taking into account the convicted person's asset situation as it has changed through his action since the commission of the offences for which he was convicted.

The **conditions of award set out in the ministerial circular** are as follows:

- The sentenced person must agree to be placed under electronic monitoring;
- The sentenced person must have a residence adapted to the implementation of the electronic monitoring;
- The sentenced person must have a telephone number where he can be reached;
- The following general conditions are imposed on the convicted person:
    - not committing criminal offences;
    - refrain from any attack on the physical or psychological integrity of third parties;
    - remain reachable by telephone and, in the event of a change of telephone number, immediately communicate that number to the CET;
    - have a permanent place of residence in Belgium and change it only after obtaining permission from the director of the CET;
    - comply with calls from the CET, the judicial assistant and the prison director and provide the certificates and supporting documents they request;
    - comply with the concrete details of the sentencing modality, in particular the timetable and standard instructions to which the convicted person has agreed;
    - refrain from any manipulation of the material, except for express instructions from the CET.
- When the convicted person has been convicted of certain sexual offences, the decision is not taken by the prison director, but by the Directorate of Detention Management. The conditions are then as follows:
    - The sentenced person must agree to be placed under electronic monitoring;
    - The sentenced person must have a permanent residence in Belgium;
    - The electronic monitoring can only be granted to the extent that there are no contraindications with regard to the sentenced person. These contraindications are related to:
        - The consent of any adult housemates is required. If the sentenced person resides in an institution, the consent of the manager of the institution is necessary;
        - Familial situation;
        - Residence place and environment;
        - Nature of the facts committed;
        - Presenting a great risk for the physical or psychological integrity of third parties;
        - Risk to commit new offences;
        - Risk not to execute the sentence;
        - The sentenced person behaviour towards the victims;
        - The sentenced person must follow a daily constructive occupation, according to, in particular, the professional and educative reinsertion or the family situation.
    - The following general conditions are imposed on the convicted person:
        - not committing criminal offences;
        - refrain from any attack on the physical or psychological integrity of third parties;
        - remain reachable by telephone and, in the event of a change of telephone number, immediately communicate that number to the CET;
        - have a permanent place of residence in Belgium and change it only after obtaining permission from the director of the CET;

- comply with calls from the CET, the judicial assistant and the prison director and provide the certificates and supporting documents they request;
- comply with the concrete details of the sentencing modality, in particular the timetable and standard instructions to which the convicted person has agreed;
- refrain from any manipulation of the material, except for express instructions from the CET.

4) Formalities

Member States are invited to sum up the documents that the national competent authorities need in order to take at national level a judgement and, where applicable, a probation decision (e.g. criminal record, social inquiries, medical expertise).

In order to take a decision concerning probation measures and alternative sanctions, the judge can ask for a pre -sentence reporting to the probation officer. In Belgium two types of pre-sentencing reporting are possible:
- a summary information report: in this report the probation officer answers to a specific question from the judicial authority, e.g. a specific question on the feasibility of a probation measure that he wants to impose in the frame of a probationary suspended sentence.
- a social inquiry: in order to make this report the probation officer will discuss the offence with the offender in order to place the event in a large psycho-social context.

The basic information that contains every file that is communicated to the probation officers is: the judgement, a summary of the facts and the criminal record.

Other documents that are in general present in the judicial file are: the proces-verbal dressed up by the police officers, criminal record of the offender, medical expertises etc.

For the follow-up and the guidance of the probation measures and the alternative sanctions done by the probation officers, the basic information that they receive is: the judgement, a summary of the facts, the criminal record and if present in the file, other relevant documents such as social inquiries, a summary information report, medical expertises etc.