

Ireland

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.

PARTIALLY SUSPENDED SENTENCE	
Name of the judgement or the probation decision	Partially suspended sentence
Classification of this judgement or the probation decision	Suspended sentence
Legal basis of this judgement or the probation decision	Section 99 (Power to suspend sentence) of the Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009
Definition of this judgement or the probation decision	<p>A partially suspended sentence means the sentencing court makes an order suspending the execution of the sentence of imprisonment in part, subject to the person entering into a recognisance (Bond) to comply with the conditions of, or imposed in relation to, the Order. Two mandatory conditions are attached to the order - the person must keep the peace and be of good behaviour during the period of imprisonment and the period of the suspended sentence concerned. The court has wide discretion to impose other conditions.</p> <p>If a person is convicted of another offence (committed after the making of the order) or breaches the conditions of the order during the period the order is in force the order may be revoked and the court may require the person to serve all of the sentence originally imposed or such part of the sentence as the court considers just in all the circumstances less any period of the sentence already served in prison and any period spent in custody pending the revocation of the Order.</p>
Legal	A person must be sentenced to a term of imprisonment (other than a

<p>Conditions of this judgement or the probation decision</p>	<p>mandatory term of imprisonment) for an offence. The person must enter a recognisance (bond) to comply with the conditions of, or imposed in relation to, the Order.</p> <p>Signing by the offender of the recognisance is an acknowledgement of their consent to the making of the Order and application of the conditions attached.</p>
<p>Type of probation measures</p>	<p>Where probation supervision in the community is designated by a Court as a condition of an Order the types of measures may include:</p> <ul style="list-style-type: none"> (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place; (b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State; (c) an obligation containing limitations on leaving the territory of the executing State; (d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity; (e) an obligation to report at specified times to a specific authority; (f) an obligation to avoid contact with specific persons; (g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence; (j) an obligation to co-operate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons; (k) an obligation to undergo therapeutic treatment or treatment for addiction.
<p>Combination of sanctions or measures</p>	<p>It is a matter for the discretion of the Court under the Criminal Justice Act, 2006 to fully or part suspend a custodial sentence. A part suspended sentence with supervision thereby can be a combination of a custodial penalty and a probation measure in one Order.</p>
<p>Authority responsible for taking such a decision</p>	<p>All Court dealing with criminal proceedings. Each Court is the decision maker in matters properly set before it.</p>
<p>Authority responsible for supervising</p>	<p>Where probation supervision in the community is designated as a condition of an Order part suspending a custodial sentence the Probation Service has responsibility for that supervision.</p> <p>The Probation Service is an agency within the Department of Justice and Law Reform. It provides the assessment and management of offenders in the community. Operating on a national basis and organised regionally services are delivered locally, often in conjunction with local communities and community based groups.</p> <p>The aim of the Probation Service is to increase public safety by the effective management of offenders, by challenging offending behaviour and facilitating the integration of ex-offenders in their communities.</p> <p>The Probation Service prepares pre-sanction reports for the Courts to assist judges in determining appropriate sentences and prepares reports for the Parole Board. Probation Officers also work in Prisons and to address offending and related issues and to assist in the settlement, in their community, of prisoners on release.</p> <p>At any one time, the Probation Service is supervising, in the community,</p>

	<p>approximately 8,500 offenders.</p> <p>The Probation Service works closely with offenders, their families, the Court Service, the Prison Service, the Garda Síochána and community organisations and interests.</p>
<p>Authority responsible in case of infringement</p>	<p>An infringement of a condition of a sentence suspended by a Court is a matter for that Court.</p> <p>Where a person is convicted of another offence during the period of suspension (being an offence committed during that period) before determining sentence the court must refer the person to the original sentencing court to deal with the question of whether the order imposing the partially suspended sentence should be revoked.</p> <p>In the case of any other infringement it is for one of the following to take action :</p> <ul style="list-style-type: none"> - Member of the Garda Síochána (Police force) - Prison governor - Officer of the Probation Service <p>Depending on when the infringement occurs (eg during the period of imprisonment or partial suspension) and on the nature of the infringement any of the above may apply to the court to fix a date for the hearing of the application for an Order revoking the partially suspended sentence order where he or she has reasonable grounds for believing that a person to whom such an Order applies has contravened a condition of the Order.</p>

WHOLLY SUSPENDED SENTENCE	
<p>Name of the judgement or the probation decision</p>	<p>Wholly suspended sentence</p>
<p>Classification of this judgement or the probation decision</p>	<p>Suspended sentence</p>
<p>Legal basis of this judgement or the probation decision</p>	<p>Section 99 (Power to suspend sentence) of the Criminal Justice Act 2006 as amended by section 60 of the Criminal Justice Act 2007 and section 51 of the Criminal Justice (Miscellaneous Provisions) Act 2009</p>
<p>Definition of this judgement or the probation decision</p>	<p>A suspended sentence means the sentencing court makes an order suspending the execution of the sentence of imprisonment in full, subject to the person entering into a recognisance (bond) to comply with the conditions of, or imposed in relation to, the Order. Two mandatory conditions attach to the Order - the person must keep the peace and be of good behaviour during the period of suspension of the sentence concerned. The court has wide</p>

	<p>discretion to impose other conditions.</p> <p>If a person is convicted of another offence (after the making of the Order) or breaches the conditions of the order during the period the order is in force the order may be revoked and the court may require the person to serve all of the sentence originally imposed or such part of the sentence as the court considers just in all the circumstances less any period spent in custody pending the revocation of the order.</p>
Legal Conditions of this judgement or the probation decision	A person must be sentenced to a term of imprisonment (other than a mandatory term of imprisonment) for an offence. The person must enter into a recognisance (bond) to comply with the conditions of, or imposed in relation to, the Order.
Type of probation measures	<p>Where probation supervision in the community is designated by a Court as a condition of an Order the types of measures may include:</p> <p>(a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place;</p> <p>(b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State;</p> <p>(c) an obligation containing limitations on leaving the territory of the executing State;</p> <p>(d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;</p> <p>(e) an obligation to report at specified times to a specific authority;</p> <p>(f) an obligation to avoid contact with specific persons;</p> <p>(g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence;</p> <p>(j) an obligation to co-operate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;</p> <p>(k) an obligation to undergo therapeutic treatment or treatment for addiction.</p>
Combination of sanctions or measures	It is a matter for the discretion of the Court under the Criminal Justice Act, 2006 to fully or part suspend a custodial sentence. A part suspended sentence with supervision thereby can be a combination of a custodial penalty and a probation measure in one Order.
Authority responsible for taking such a decision	All Court dealing with criminal proceedings. Each Court is the decision maker in matters properly set before it.
Authority responsible for supervising	<p>Where probation supervision in the community is designated as a condition of an Order part suspending a custodial sentence the Probation Service has responsibility for that supervision.</p> <p>The Probation Service is an agency within the Department of Justice and Law Reform. It provides the assessment and management of offenders in the community. Operating on a national basis and organised regionally services are delivered locally, often in conjunction with local communities and community based groups.</p>

	<p>The aim of the Probation Service is to increase public safety by the effective management of offenders, by challenging offending behaviour and facilitating the integration of ex-offenders in their communities.</p> <p>The Probation Service prepares pre-sanction reports for the Courts to assist judges in determining appropriate sentences and prepares reports for the Parole Board. Probation Officers also work in Prisons and to address offending and related issues and to assist in the settlement, in their community, of prisoners on release.</p> <p>At any one time, the Probation Service is supervising, in the community, approximately 8,500 offenders.</p> <p>The Probation Service works closely with offenders, their families, the Court Service, the Prison Service, the Garda Síochána and community organisations and interests.</p>
Authority responsible in case of infringement	<p>An infringement of a condition of a sentence suspended by a Court is a matter for that Court.</p> <p>Where a person is convicted of another offence during the period of suspension (being an offence committed during that period) before determining sentence the court must refer the person to the original sentencing court to deal with the question of whether the order imposing the partially suspended sentence should be revoked.</p> <p>In the case of any other infringement it is for one of the following to take action :</p> <ul style="list-style-type: none"> - Member of the Garda Síochána (Police force) - Officer of the Probation Service <p>Depending on the nature of the infringement either of the above may apply to the court to fix a date for the hearing of the application for an order revoking the suspended sentence order where he or she has reasonable grounds for believing that a person to whom such an order applies has contravened a condition of the order.</p>

COMMUNITY SERVICE ORDER	
Name of the judgement or the probation decision	Community Service Order
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation	<p>Criminal Justice (Community Service) Act 1983</p> <p>Children Act 2001</p> <p>Section 115 of the Children Act 2001 makes provision for a Community Service Order under section 3 of the Act of 1983 as a community sanction which may be made by a Court on being satisfied that a child of 16</p>

<p>decision</p>	<p>or 17 years of age is guilty of an offence.</p> <p>Fines Act 2010 Section 18 of the Fines Act 2010 makes provision for the requirement of an offender in particular to complete a specified number of Community Service under the Act of 1983 in lieu of payment of a fine.</p>
<p>Definition of this judgement or the probation decision</p>	<p>The Criminal Justice (Community Service) Act, 1983 provides for Courts to order the performance of between 40 and 240 hours of unpaid work in the community by a person aged 16 years or over, who has been <i>convicted</i> of an offence, for which the appropriate penalty would be a custodial sentence. The work to be performed under a community service order shall be performed in the period of one year beginning on the date of the Order.</p> <p>(Under section 18 (c)(2) of the Fines Act 2010 a Community Service Order in specified circumstances will be for not less than 30 hours and not greater than 100 hours).</p>
<p>Legal Conditions of this judgement or the probation decision</p>	<p>Section 4 of the Criminal Justice (Community Service) Act, 1983 requires that a Court shall not make a community service order unless the following conditions have been complied with</p> <p>(a) the Court is satisfied, after considering the offender's circumstances and a report about him by a Probation Officer (including, if the Court thinks it necessary, hearing evidence from such an Officer), that the offender is a suitable person to perform work under such an order and that arrangements can be made for him to perform such work, and (b) the offender has consented.</p> <p>Before making a community service order in respect of an offender the Court is obliged to explain to him the effect of the order and, in particular, to comply with direction of the Probation Officer in the requirements under Section 7 of the Act, the consequences which may follow if he fails to comply with any of the requirements and that the District Court may review the order on the application of either the offender or Probation Service.</p>
<p>Type of probation measures</p>	<p>4 1 (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place; (e) an obligation to report at specified times to a specific authority; (i) an obligation to carry out community service; (j) an obligation to cooperate with a Probation Officer or with a representative of a social service having responsibilities in respect of sentenced persons;</p>
<p>Combination of sanctions or measures</p>	<p>No provision for combination of sanctions or measures in Irish law in relation to Community Service.</p>
<p>Authority responsible for taking such a decision</p>	<p>The Judge in Court determines the duration of the Community Service Order and specifies the alternative custodial sentence that would apply in the matter of the conviction if the Community Service Order had not been made and to apply in default.</p>
<p>Authority responsible for supervising</p>	<p>The Probation Service in each Court area is the designated body for the completion of assessments of suitability for Community Service, supervision of the completion of the Orders by the offenders and the return and reporting to Court of offenders who have not complied with the requirements of the</p>

	Act.
Authority responsible in case of infringement	The Court (District, Circuit or other sitting in criminal business) in which the original Community Service Order was made has responsibility for decision in any application by the Probation Service or the offender to vary, amend or revoke a Community Service Order as provided for in Section 11 in the matter of infringements.

SUPERVISION ORDER UNDER THE MISUSE OF DRUGS ACT 1977	
Name of the judgement or the probation decision	Supervision Order under the Misuse of Drugs Act 1977[1]
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Misuse of Drugs Act 1977 (with subsequent amendments) is the legislative instrument dealing with matters in relation to the misuse of drugs including the provision of reports on offenders to Courts as well as supervision and treatment options.
Definition of this judgement or the probation decision	<p>Prior to making a Supervision Order under the Misuse of Drugs Act Courts, in normal circumstances, seek and consider medical and social back round reports on convicted persons (Section 28(1) A&B)). In practice, the provision of all social back round reports and supervision orders in the community has been managed by the Probation Service.</p> <p><i>Reports :</i></p> <p>The medical and social back round reports requested are defined as :</p> <p>(i) 'a medical report in writing on the convicted person together with such recommendations (if any) as to medical treatment which the person making the report considers appropriate to the needs, arising because of his being dependent on drugs, of the convicted person`.</p> <p>(ii) 'a report in writing as to the vocational and educational circumstances and social background of the convicted person together with such recommendations (if any) as to care which the body or person considers appropriate to the said needs`.</p> <p><i>Supervision :</i></p> <p>Section 28(2) of the Misuse of Drugs Act 1977 (as amended) outlines the details of a supervision order which the Court shall, if in it's opinion the welfare of the convicted person warrants its so doing, allow a convicted person enter in lieu of the imposition of any other penalty. The supervision order may contain such of the following conditions as the Court considers appropriate :</p>

	<p>(i) A condition that the person concerned be placed under the supervision of such body (including a Health Board) or a person as may be named in the Order and during a period specified in the Order,</p> <p>(ii) in case the person concerned is placed under such supervision, a condition requiring such person, at the place at which he normally resides or at any other place as may be specified in the Order and during such period and at such intervals as shall be so specified, to receive visits from and permit visits by an officer of that body or that specified person, a condition requiring such person to undergo medical or other treatment recommended in the report, a condition requiring such person for such treatment to attend or remain in a hospital, clinic or other place specified in the order for a period so specified, a condition requiring the person to attend a specified course of education, instruction or training, being a course which, undergone by such person, would, in the opinion of the Court, improve his vocational opportunities or social circumstances, facilitate his social rehabilitation or reduce the likelihood of his committing a further offence under the Misuse of Drugs Act.</p> <p><i>Consent :</i></p> <p>There is no provision in Irish criminal law for treatment without consent. In practice, consent is always required where a person, in the conditions of a recognizance, will be required to undergo a course of treatment.</p> <p>The only exception to prior consent is where there is an issue of fitness or life/death where an application to the High Court to dispense with consent.</p>
<p>Legal Conditions of this judgement or the probation decision</p>	<p>All reports and supervision orders provided for under the Misuse of Drugs Act 1977 (as amended) are established specifically to deal with matters arising under the Misuse of Drugs Act 1977 (as amended) and have no application to offences under any other legislation.</p> <p>The form of the Supervision Order and related Court procedures and requirements are as laid down in Order 32 of the District Court Rules 1997 . Schedule B: Forms in criminal proceedings 32[2]</p>
<p>Type of probation measures</p>	<p>4.1 (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place;</p> <p>(d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;</p> <p>(e) an obligation to report at specified times to a specific authority;</p> <p>(j) an obligation to co-operate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;</p> <p>(k) an obligation to undergo therapeutic treatment or treatment for addiction.</p>
<p>Combination of sanctions or measures</p>	<p>No provision for combination of sanctions or measures in Irish law.</p>
<p>Authority responsible for taking such a decision</p>	<p>The Judge in the matter in Court determines whether reports are to be considered in respect of a convicted person and if, and subject to what conditions, a supervision or other order under Section 28(2) of the Misuse of Drugs Act 1977 (as amended) may be made.</p>
<p>Authority responsible for supervising</p>	<p>The Probation Service in each Court area is the established body for the completion, in practice, of social background reports and supervision of Orders made under Section 28(2) of the Misuse of Drugs Act 1977 (as amended), the satisfactory completion of the Orders by the offenders and</p>

	the return and reporting to Court of offenders who have not complied with the requirements of the Act.
Authority responsible in case of infringement	<p>The Probation Service has responsibility for the return to Court of offenders who have not complied with the requirements of a supervision order made under Section 28(2) of the Misuse of Drugs Act 1977 (as amended).</p> <p>Section 28 (5) details procedure for breach of recognisance/supervision orders under Section 28 (2).</p> <p>The Court, where it is alleged to it that a person has been in breach of a recognisance entered into under Section 28(2), has the authority, notwithstanding its decision to permit entry of the supervision order, by the convicted person, to direct that the person be brought before the Court.</p> <p>If the Court is satisfied that the person is in breach of the conditions the recognisance/supervision order may be revoked and the Court may, subject to Section 28(8), make an order for compulsory residential treatment (Section 28(2)B) or impose a penalty as laid down by Section 27 for the substantive offence.</p>

PROBATION ORDER	
Name of the judgement or the probation decision	Probation Order
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	<p>Probation of Offenders Act, 1907 Sections 2(1), 2(2) and 2(3)</p> <p>Criminal Justice Administration Act, 1914 Sections 8 and 9</p> <p>District Court Rules Order 1997 Rules: Order 28 Schedule: B Forms in criminal proceedings 28</p>
Definition of this judgement or the probation decision	<p>In the District Court the Court may, having found the facts proved but not proceeding to a finding of guilt, make a Probation Order placing an offender under the supervision of a Probation Officer for a specified period of up to three years. A Probation Order is not a recorded conviction.</p> <p>Probation Orders made in the Circuit and Higher Courts under the Probation of Offenders Act 1907 are recorded convictions.</p> <p>Conditions in an Order include: to be of good behaviour, appear before Court as required for conviction and sentence, to be under supervision of a Probation Officer, co-operate with supervision, report changes of address or</p>

	<p>employment, do not associate with thieves and other undesirable persons and do lead an honest and industrious life.</p> <p>Specific conditions may be added to the recognisance such as remaining sober, avoiding specified company or locations, obliging residence in a specified location or participation in a specified course.</p>
<p>Legal Conditions of this judgement or the probation decision</p>	<p>The offender consents and signs a recognisance (Bond) in Court binding them to comply with the conditions outlined in the Probation Order.</p> <p>The Court is required to provide the offender with a notice in writing stating, in simple terms, the conditions to be observed.</p> <p>The Probation Officer has a duty to visit or receive reports from the person under supervision, see that he observes the conditions of his recognisance (Probation Order/Bond), report to Court as to his behaviour, to assist advise and befriend the offender and, where necessary, find him suitable employment.</p>
<p>Type of probation measures</p>	<p>(a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place;</p> <p>(b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State;</p> <p>(c) an obligation containing limitations on leaving the territory of the executing State;</p> <p>(d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity;</p> <p>(e) an obligation to report at specified times to a specific authority;</p> <p>(f) an obligation to avoid contact with specific persons;</p> <p>(g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence;</p> <p>(h) an obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation;</p> <p>(j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons</p> <p>(k) an obligation to undergo therapeutic treatment or treatment for addiction.</p>
<p>Combination of sanctions or measures</p>	<p>No</p>
<p>Authority responsible for taking such a decision</p>	<p>These measures can only be imposed by a Judge presiding in Court dealing with a criminal offence.</p> <p>A Court may vary the conditions or the length of the Order on application by the Probation Officer.</p>
<p>Authority responsible for supervising</p>	<p>The Probation Service/ The Probation Officer</p> <p>The Probation Service is an agency within the Department of Justice and Law Reform. It provides the assessment and management of offenders in the community. Operating on a national basis and organised regionally services are delivered locally, often in conjunction with local communities and community based groups.</p> <p>The aim of the Probation Service is to increase public safety by the effective</p>

	<p>management of offenders, by challenging offending behaviour and facilitating the integration of ex-offenders in their communities.</p> <p>The Probation Service prepares pre-sanction reports for the Courts to assist judges in determining appropriate sentences and prepares reports for the Parole Board. Probation Officers also work in Prisons and to address offending and related issues and to assist in the settlement, in their community, of prisoners on release.</p> <p>At any one time, the Probation Service is supervising, in the community, approximately 8,500 offenders.</p> <p>The Probation Service works closely with offenders, their families, the Court Service, the Prison Service, the Garda Síochána and community organisations and interests.</p>
Authority responsible in case of infringement	<p>A breach of the conditions of the Probation Order is prosecuted by the Probation Officer by way of an information to the Court which may issue a summons or warrant for arrest to return the offender to Court.</p> <p>The offender can be remanded in custody or on bail.</p> <p>Where the Court is satisfied that the offender has breached the conditions imposed in the Probation Order it may sentence him/her for the original sentence.</p>

A DIRECTION GRANTING TEMPORARY RELEASE WITH CONDITIONS OF SUPERVISION	
Name of the judgement or the probation decision	A direction granting Temporary Release with conditions of supervision
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	The Criminal Justice Act, 1960 as amended by the Criminal Justice (Temporary Release of Prisoners) Act, 2003
Definition of this judgement or the probation decision	The Minister for Justice and Law Reform may direct that a person who is serving a custodial sentence shall be released from prison for a temporary period subject to certain conditions which are specified in the direction.

<p>Legal Conditions of this judgement or the probation decision</p>	<p>(a) An offender may be given temporary release from prison for the purpose of:</p> <ul style="list-style-type: none"> • assessing his ability to reintegrate into society • preparing him for release at the end of his sentence • assisting the Garda Síochána (Irish police) in the prevention, detection or investigation of offences • assisting the Garda Síochána to apprehend a person guilty of an offence or suspected of committing an offence <p>(b) An offender may be given temporary release from prison if in the opinion of the Minister it is justified on grounds of health or for humanitarian reasons.</p> <p>(c) An offender may be given temporary release from prison if the Minister is of the opinion that it is necessary to:</p> <ul style="list-style-type: none"> • ensure the good governance of the prison • maintain good order in the prison • maintain humane and just management of the prison <p>(d) An offender may be given temporary release from prison if the Minister is of the opinion that the prisoner has been rehabilitated and would reintegrate into society</p> <p>(e) In making a direction granting temporary release the Minister must take into account:</p> <ul style="list-style-type: none"> • the nature and gravity of the offence • the sentence imposed by the Court and any conditions attaching • the period already served by the prisoner • the potential threat to the safety and security of the public and or the victim of the offence • previous convictions • the risk of absconding • the conduct of the prisoner which in custody or while previously on temporary release • any reports from the Garda Síochána, the prison Governor, a Probation Officer or any person assisting the Minister • the risk of further offences • the risk of non-compliance with conditions imposed • the likelihood of temporary release assisting the prisoner's reintegration or employment <p>(f) The Minister shall not make a direction granting temporary release if:</p> <ul style="list-style-type: none"> - the prisoner is remanded in custody to appear at a future sitting of a Court - the release of the person is prohibited by any other legal provision one of the considerations at (e) above mean it would be inappropriate to do so
<p>Type of probation measures</p>	<p>Where probation supervision in the community is designated as a condition of an Order the types of measures may include:</p> <ul style="list-style-type: none"> (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place; (b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State; (c) an obligation containing limitations on leaving the territory of the executing State; (d) instructions relating to behaviour, residence, education and training,

	<p>leisure activities, or containing limitations on or modalities of carrying out a professional activity;</p> <p>(e) an obligation to report at specified times to a specific authority;</p> <p>(f) an obligation to avoid contact with specific persons;</p> <p>(g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence;</p> <p>(j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons;</p> <p>(k) an obligation to undergo therapeutic treatment or treatment for addiction.</p>
Combination of sanctions or measures	No
Authority responsible for taking such a decision	The Minister for Justice and Law Reform
Authority responsible for supervising	<p>The Irish Prison Service is the responsible authority since the person remains a prisoner for the duration of the period of temporary release although they are resident in the community.</p> <p>Where supervision by the Probation Service is a condition of the temporary release the Probation Service has responsibility for the supervision of the temporary release and is accountable in the matter to the Minister for Justice and Law Reform and to the Irish Prison Service for the operation and management of that prisoner.</p>
Authority responsible in case of infringement	<p>Where supervision by the Probation Service is a condition of the temporary release the Probation Officer must report a breach of conditions to the Prison Service. It is the Prison Service who notify the Garda Síochána that a prisoner is subsequently unlawfully at large.</p> <p>A person who breaches the conditions of his temporary release is considered to be unlawfully at large and can be arrested by the Garda Síochána and returned to prison to complete his sentence. The time he has been on temporary release does not count towards time served for the original conviction.</p>

POST RELEASE SUPERVISION ORDER	
Name of the judgement or the probation decision	Post Release Supervision Order
Classification of this judgement or the probation	(a) a custodial sentence or measure involving deprivation of liberty, if a conditional release has been granted on the basis of that judgment or by a subsequent probation decision..

decision	
Legal basis of this judgement or the probation decision	Part 5 of the Sex Offenders Act, 2001
Definition of this judgement or the probation decision	A Court that is imposing a custodial sentence on a person convicted of a scheduled sexual offence is obliged to consider whether or not to impose a sentence involving post-release supervision. That is supervision by the Probation Service in the community after the person has completed their custodial sentence as part of the sentencing order.
Legal Conditions of this judgement or the probation decision	<p>The sentencing Court is obliged to consider whether or not to impose a custodial sentence involving post-release supervision. In making this determination it must consider the need for the offender's rehabilitation, public protection, and the likelihood of further offences being committed after release.</p> <p>There are constraints on the combined periods of custody and supervision which cannot exceed the maximum custodial sentence provided for by domestic law for the offence committed. Neither can the custodial sentence imposed be reduced to take into account the time spent on supervision if such post release supervision had not been considered.</p> <p>The post release supervision order may be made subject to conditions such as that the offender attend specified 'psychological counselling or other appropriate treatment'.</p> <p>In imposing a sentence involving post release supervision the court is obliged to explain to the offender:</p> <ul style="list-style-type: none"> (a) the effect of the sentence (b) the consequences for a breach of compliance (c) that the Court may vary or discharge any of the conditions on the application of either the offender or a Probation Officer.
Type of probation measures	<ul style="list-style-type: none"> (a) an obligation for the sentenced person to inform a specific authority of any change of residence or working place; (b) an obligation not to enter certain localities, places or defined areas in the issuing or executing State; (c) an obligation containing limitations on leaving the territory of the executing State; (d) instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity; (e) an obligation to report at specified times to a specific authority; (f) an obligation to avoid contact with specific persons; (g) an obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence; (j) an obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons; (k) an obligation to undergo therapeutic treatment or treatment for addiction.
Combination of sanctions	<p>Yes</p> <p>A post release supervision order can be imposed together with a custodial</p>

or measures	sentence.
Authority responsible for taking such a decision	These measures can only be imposed by the Court. A Probation Officer may apply to the Court to vary the conditions of the Order or to discharge it.
Authority responsible for supervising	<p>The Probation Service is an agency within the Department of Justice and Law Reform. It provides the assessment and management of offenders in the community. Operating on a national basis and organised regionally services are delivered locally, often in conjunction with local communities and community based groups.</p> <p>The aim of the Probation Service is to increase public safety by the effective management of offenders, by challenging offending behaviour and facilitating the integration of ex-offenders in their communities.</p> <p>The Probation Service prepares pre-sanction reports for the Courts to assist judges in determining appropriate sentences and prepares reports for the Parole Board. Probation Officers also work in Prisons and to address offending and related issues and to assist in the settlement, in their community, of prisoners on release.</p> <p>At any one time, the Probation Service is supervising, in the community, approximately 8,500 offenders.</p> <p>The Probation Service works closely with offenders, their families, the Court Service, the Prison Service, the Garda Síochána and community organisations and interests.</p>
Authority responsible in case of infringement	The case for a breach of the conditions of a post release supervision order must be taken to the District Court for prosecution.

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.

General Comment on all the measures provided for in Article 4: Irish law does not provide for an exhaustive or prescriptive list of measures that can be imposed on a sentenced person. The Probation Service and the Department of Justice and Law Reform are involved in updating probation legislation which dates from 1907 and whose measures are also provided for in a variety of separate pieces of legislation. Much of the information required for this questionnaire will be easier to collate and specify when this is done. There will also be greater clarity as to how the measures imposed as part of a judgement or probation decision are to be implemented in practice.

Probation measures / alternative sanctions	Explanation

<p>Obligation for the sentenced person to inform a specific authority of any change of residence or working place</p>	<p>In many cases where a Probation Order is imposed the sentenced person will be specified by the Court to co-operate with the Probation Service for the purpose of his or her rehabilitation and this can involve keeping the Probation Service informed of residence and places or work, education or training. It can also involve an obligation not to enter certain localities, places or defined areas in the issuing or executing State as well as an obligation containing limitations on leaving the territory of the executing State. These obligations could also be considered to apply to a Partially Suspended Sentence in respect of the person's obligation to co-operate with the Probation Service for the purposes of his rehabilitation and the protection of the public. These obligations can also be applied to a prisoner granted Temporary Release and supervised by the Probation Service as well as to an offender where the Court has imposed a Post Release Supervision Order.</p> <p>A Community Service Order and a Supervision Order under the Misuse of Drugs Act, 1977 also require a person to inform a specific authority of any change of residence or working place as well as an obligation to co-operate with a Probation Officer.</p> <p>Two mandatory conditions attach to Orders Partially Suspending and Wholly Suspending a Sentence. The person must keep the peace and be of good behaviour during the period of imprisonment and the period of the suspended sentence concerned. The court may also impose additional conditions having regard to the nature of the offence and which it considers will reduce the likelihood of the person in respect of whom the order is made committing any other offence. Furthermore the legislation specifies that the court may impose one or more of the following conditions:</p> <ul style="list-style-type: none"> • That the person cooperate with the Probation Service to the extent specified by the court for the purpose of his or her rehabilitation and the protection of the public; • That the person undergo <ul style="list-style-type: none"> ◦ treatment for drug, alcohol, or other substance addiction ◦ psychological counselling, or ◦ other treatment • That the person be subject to the supervision of the Probation Service. <p>In addition a Probation Officer may at any time before the expiry of sentence apply to the court for the imposition of one or more of these listed conditions.</p>
<p>Obligation not to enter certain localities, places or defined areas in the issuing or executing State</p>	<p><i>See above</i></p>
<p>Obligation containing limitations on leaving the territory of the</p>	<p><i>See above</i></p>

<p>executing State</p>	
<p>Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity</p>	<p>Restrictions and conditions may be imposed on a sentenced person's activities requiring that person to refrain from such activities as the Court may specify or, if engaging in specified activities, to do so only subject to such conditions as the court may specify.</p> <p>Where it is provided in law the Court can impose a condition that involves any kind of instruction relating to behaviour, residence, education and training, leisure activities or other activities.</p> <p>There is no specific measure containing limitations on or modalities of carrying out a professional activity. The Sex Offenders Act, 2001 provides that it is an offence for a convicted sex offender to apply for or to accept work or to offer services, a necessary and regular part of which consists mainly of unsupervised access to or contact with children or mentally impaired persons, without informing their employer/organisation of their conviction for a scheduled sexual offence.</p> <p>Instructions relating to behaviour, residence, education and training, leisure activities or containing limitations on or modalities of carrying out a professional activity may be included as a specific condition in Orders made in Court (a) directing supervision by the Probation Service (b)Suspended or Part Suspended Sentences or in Temporary Release authorised by the Minister for Justice and Law Reform as outlined earlier in this questionnaire.</p>
<p>Obligation to report at specified times to a specific authority</p>	<p>Restrictions and conditions may be imposed on a sentenced person requiring him to attend at such premises, place or locality at such times and subject to such conditions as the Court may specify. These are usually a Garda (police) Station or sometimes to a nominated prison. There is no obligation for a sentenced person to report to the Probation Service although a sentenced person is obliged to co-operate with the Probation Service which can involve turning up to specified locations by appointment. This is arranged between the Probation Officer and the sentenced person.</p>
<p>Obligation to avoid contact with specific persons</p>	<p>Restrictions and conditions may be imposed on a sentenced person relating to their association with others (other than immediate family) requiring the offender to refrain from contacting or otherwise associating with specified persons either at all or on such conditions as may be specified by the court.</p>
<p>Obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence</p>	<p>An obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence does not usually come under the responsibility of the Probation Service to supervise. Where the obligation exists it is usually the responsibility of the Gardaí Síochána to monitor compliance. Where the Probation Service becomes aware of a breach of the obligation it can be reported to the Gardaí Síochána for appropriate action.</p>

<p>Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation</p>	<p>Where a Court imposes a condition that a sentenced person provides financial redress for the damage done by his offence there is no requirement on the Probation Service to establish compliance with the condition.</p>
<p>Obligation to carry out community service</p>	<p>An obligation to carry out community service also involves the sentenced person in the obligation to inform a specific authority of any change of residence or working place and an obligation to report at specified times to a specific authority;</p> <p>The sentenced person is also obliged to co-operate with a Probation Officer or with a representative having responsibilities in respect of sentenced persons such as a nominated Community Service Supervisor.</p> <p>The obligation to carry out community service is contained within the Criminal Justice (Community Service) Act, 1983.</p>
<p>Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons</p>	<p>A Probation Order is provided for in domestic legislation dating from 1907. A sentenced person can be specified by the Court to co-operate with the Probation Service for the purpose of his or her rehabilitation This obligation also applies to a Partially Suspended Sentence in respect of the person's obligation to co-operate with the Probation Service for the purposes of his rehabilitation and the protection of the public, a prisoner granted Temporary Release and supervised by the Probation Service as well as to an offender where the Court has imposed a Post Release Supervision Order. Community Service also requires the sentenced person to co-operate with a Probation Officer or with a representative having responsibilities in respect of sentenced persons.</p> <p>The Probation Service deals with this obligation on a case by case basis and such co-operation can often mean that many of the other measures are involved. Updating our legislation will bring clarity to what measures are applicable to each probation decision or alternative sanction.</p>
<p>Obligation to undergo therapeutic treatment or treatment for addiction</p>	<p>As part of Post Release Supervision that may be imposed on a sex offender, a Court may include a condition requiring the sex offender to receive psychological counselling or other appropriate treatment from a body deemed by the court to be an appropriate body to provide such counselling or treatment.</p> <p>A Supervision Order made under the Misuse of Drugs Act, 1977 may contain a condition requiring the sentenced person to undergo medical or other treatment that has been recommended in a Medical Report or Report prepared by the Probation Service which has been presented to the Court.</p> <p>An obligation to undergo therapeutic treatment or treatment for addiction may be included as a specific condition in Orders made in Court (a) directing supervision by the Probation Service (b)Suspended or Part Suspended Sentences or in Temporary Release authorised by the Minister for Justice and Law Reform as outlined earlier in this questionnaire.</p> <p>There is no provision in Irish criminal law for treatment without consent.</p>

Due in part to such concerns, the Residential Treatment Order has not been operational in practice, apart from a brief period.

Consent in practice: The obligation to undergo therapeutic treatment does ordinarily depend on the prior consent of the sentenced person which is usually ascertained by the Probation Officer during assessment and included as a recommendation in the assessment report. However, consent can also be obtained in the Court and a condition of therapeutic treatment is then included as a condition of the Court Order.

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

No

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

No

3) Electronic monitoring

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

No

Part 10 of the Criminal Justice Act, 2006 contains enabling provisions for the introduction of electronic monitoring of persons in respect of their compliance with the restrictions imposed in (a) a Restriction on Movement Order (sections 101 and 102) and (b) a direction for the Temporary Release of prisoners (section 108). Part 10 of the Act was commenced in October 2006, however the enabling provisions for the introduction of electronic monitoring were not commenced.

Is Electronic Monitoring dependant on particular conditions?

There is enabling legislation that provides that electronic monitoring can only be applied to a restriction on movement order under section 102 of the Criminal Justice Act 2006 or to a condition restricting the movement of a prisoner on temporary release under section 108(4) of the Act. The offender must give consent to be electronically monitored and the householder or owner of the place where the offender is restricted must consent. The monitoring cannot be longer than 6 months and the person cannot be required to be in one place for longer than 12 hours. However, these provisions are not in operation in Ireland and cannot be applied.

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).

The Competent Authority provided for in Article 3 has not yet been designated by the Irish authorities. However, it is likely that at a minimum the national competent authorities would require a fully completed certificate to be accompanied by :

- proof of identity of the person
- details of medical conditions and special needs/drug treatment reports
- family background in Ireland/home circumstances reports
- details of previous convictions and/or previous breaches of conditions
- details of previous contact with Probation Services

Documentation establishing the legality of the judgement and probation measure or alternative sanction imposed.