

Subsidiary Legislation made under s. 697.

**EUROPEAN SUPERVISION ORDER REGULATIONS
2014**

(LN. 2014/228)

Commencement **1.12.2014**

Amending
enactments

Relevant current
provisions

Commencement
date

Transposing:

Council Framework Decision 2009/829/JHA

EU Legislation/International Agreements involved:

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SCHEDULE

Grounds for refusal to monitor supervision measures

In exercise of the powers conferred upon him by section 697 of the Criminal Procedure and Evidence Act 2011 and all other enabling powers, and in order to transpose Council Framework Decision 2009/829/JHA of 23rd October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention, the Minister has made the following Regulations—

Title and Commencement.

1. These Regulations may be cited as the European Supervision Order Regulations 2014 and shall come into force on 1st December 2014.

Interpretation.

2. In these Regulations—

“central authority”, in relation to a Member State, means an authority designated by the State as a central authority for the purposes of the Framework Decision;

“the central authority for Gibraltar” means the Minister with responsibility for Justice;

“certificate requesting monitoring under the Framework Decision” means the certificate required by article 10 of the Framework Decision;

“competent authority”, in relation to a Member State, means an authority designated by the State as a competent authority for the purposes of the Framework Decision;

“court” means the magistrates’ court or the Supreme Court; and references to a court include a judge of the Supreme Court, a stipendiary magistrate, or a justice of the peace;

“the Framework Decision” means Council Framework Decision 2009/829/JHA of 23rd October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention;

“Member State” means a Member State of the European Union to which the Framework Decision applies;

“notify” means notify in writing (and “notification” is to be read accordingly).

Recognition of supervision measures: requests to Member States

Requests to Member States for monitoring supervision measures.

3.(1) A court which makes a decision on supervision measures may request a competent authority of a Member State (“the executing State”) to monitor the supervision measures under the Framework Decision where—

- (a) the measures are suitable for monitoring in the executing State, and
 - (b) the executing State is one to which the request may be made.
- (2) To make the request, the court must—
- (a) issue a certificate requesting monitoring under the Framework Decision in respect of the decision on supervision measures, and
 - (b) give the documents set out in subregulation (3) to the competent authority or to the central authority of the executing State.
- (3) The documents are—
- (a) the decision on supervision measures or a certified copy of it,
 - (b) the certificate, and
 - (c) a copy of the certificate translated into the official language, or one of the official languages, of the executing State.
- (4) But paragraph (3)(c) does not apply if—
- (a) English is an official language of the executing State, or
 - (b) the executing State has declared under article 24 of the Framework Decision that it will accept a certificate translated into English.
- (5) A court makes a “decision on supervision measures” if—
- (a) it grants bail in accordance with the Criminal Procedure and Evidence Act 2011, to a person who is charged with an offence, and

- (b) requirements are imposed on the person in accordance with section 112 of that Act, as a condition of bail.

For the purposes of these Regulations the requirements that may be imposed on a person under that Act as a condition of bail include requirements which can only be complied with in a Member State.

(6) “Supervision measures” means the requirements imposed on the person as a condition of bail.

(7) A supervision measure is “suitable for monitoring in the executing State” if it constitutes—

- (a) a supervision measure of a kind mentioned in article 8(1) of the Framework Decision (types of supervision measures), or
- (b) a supervision measure of a kind which the executing State has given notice, under article 8(2) of that Decision, that it is prepared to monitor.

(8) The executing State is “one to which the request may be made” if—

- (a) the person is lawfully and ordinarily resident in the executing State and consents to return to that State with a view to the supervision measures being monitored there under the Framework Decision, or
- (b) the person is not lawfully and ordinarily resident in the executing State but—
 - (i) the person asks for the request to be made to a competent authority of the executing State, and
 - (ii) the competent authority consents to the making of the request.

(9) In regulations 4 to 10—

“the competent authority of the executing State”, in relation to a request under this regulation, means the competent authority to which the request is made;

“decision on supervision measures” and “supervision measures” are to be read in accordance with this regulation;

“the executing State”, in relation to a request under this regulation, means the Member State of the competent authority to which the request is made.

Recognition of request.

4.(1) A court which has made a decision on supervision measures ceases to be responsible for monitoring the supervision measures if–

- (a) the court makes a request under regulation 3 for the competent authority of the executing State to monitor those measures under the Framework Decision, and
- (b) the competent authority notifies the court that it has decided to recognise the decision on supervision measures under the Framework Decision.

(2) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect the court’s jurisdiction to take subsequent decisions in relation to the decision on supervision measures, including decisions about–

- (a) renewal, review or withdrawal of the decision on supervision measures,
- (b) modification of the supervision measures, and
- (c) the issue of a warrant for the arrest of the person subject to the decision.

(3) Where the person subject to the decision on supervision measures is in the executing State, the court may permit the person to attend through a live link any hearing as to whether or not to take a subsequent decision in relation to the decision.

(4) “Live link” means an arrangement by which a person (when not in the place where a hearing is being held) is able–

- (a) to see and hear the court during the hearing, and
- (b) to be seen and heard by the court during the hearing;

(and for this purpose any impairment of eyesight or hearing is to be disregarded).

(5) The fact that the court has ceased to be responsible for monitoring the supervision measures does not affect any power conferred on a police

officer by the Police and Criminal Evidence Act 2011 to arrest without warrant the person subject to the decision on supervision measures.

Power to withdraw certificate.

5.(1) A court which has made a request under regulation 3 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must consider whether to withdraw the certificate requesting monitoring under that Decision if the competent authority informs the court that—

- (a) the competent authority could refuse to monitor the supervision measures on the ground mentioned in article 15(1)(h) of that Decision (grounds for non-recognition) but is nevertheless willing to monitor them,
- (b) the competent authority has taken a decision, in accordance with article 13 (adaptation of supervision measures) of that Decision, adapting the supervision measures, or
- (c) there is a maximum period during which, under the law of the executing State, the supervision measures may be monitored.

(2) But a decision to withdraw the certificate under paragraph (1)(b) or (c) may be made only if monitoring of the supervision measures in the executing State has not yet started.

(3) If the court withdraws the certificate under this regulation, it must inform the competent authority.

(4) A decision to withdraw the certificate under this regulation must be taken, and the competent authority must be informed under subregulation (3), no later than 10 days after the day on which the competent authority informs the court as mentioned in subregulation (1).

(5) This regulation applies in relation to a decision by the court renewing a decision on supervision measures, or modifying supervision measures, as it applies to the original decision on supervision measures, and references in this regulation to the supervision measures are to be read accordingly.

Duties where measures being monitored by executing State.

6.(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—

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- (a) has ceased under regulation 4 to be responsible for monitoring the supervision measures, and
 - (b) has not yet become responsible under regulation 8 for monitoring them again.
- (2) The court must immediately inform the competent authority of the executing State if–
- (a) legal proceedings are brought in relation to the decision on supervision measures, or
 - (b) the court takes a subsequent decision in relation to the decision on supervision measures, as mentioned in regulation 4(2) (a “supervening decision”).
- (3) The court must consider whether to take a supervening decision if the competent authority of the executing State notifies the court, using the form set out in Annex II to the Framework Decision, of–
- (a) a breach of the supervision measures, or
 - (b) any other finding which could result in the court taking a supervening decision.
- (4) Where the decision on supervision measures provides for the measures to have effect for a specified period, the court must, before the expiry of that period, inform the competent authority of the executing State–
- (a) as to whether the court expects the monitoring of the supervision measures to be necessary for a further period, and
 - (b) if so, of the expected length of that period.
- (5) The court must inform the competent authority under subregulation (4)–
- (a) following a request from that authority, or
 - (b) if no such request is made, on the initiative of the court.
- (6) If the competent authority of the executing State requests information from the court as to whether monitoring of the supervision measures is still necessary in the circumstances of the case, the court must respond without delay.
- (7) If–

- (a) the law of the executing State requires periodic confirmation of the need to prolong the monitoring of the supervision measures, and
- (b) the competent authority of the executing State requests that confirmation from the court and sets a reasonable time limit for the request to be complied with,

the court must respond within that time limit.

Request to extend maximum period for which measures may be monitored.

7.(1) This regulation applies in relation to any time when a court which has made a decision on supervision measures—

- (a) has ceased under regulation 4 to be responsible for monitoring the supervision measures, and
- (b) has not yet become responsible under regulation 8 for monitoring them again.

(2) The court may make a request under this regulation if—

- (a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored,
- (b) the period is due to expire, and
- (c) the court considers that the supervision measures are still needed.

(3) A request under this regulation is a request to the competent authority of the executing State for the period to be extended.

(4) The request must specify the period for which an extension is likely to be needed.

Court becoming responsible again for monitoring measures.

8.(1) A court which—

- (a) has made a decision on supervision measures, and

- (b) has ceased under regulation 4 to be responsible for monitoring the supervision measures,

becomes responsible for monitoring them again in any of the following cases.

(2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State other than the executing State.

(3) The second case is where the competent authority of the executing State notifies the court, in accordance with article 20(2)(c) of the Framework Decision (information from the executing state), that it is not possible, in practice, to monitor the supervision measures.

(4) The third case is where the competent authority of the executing State informs the court that it has decided, in accordance with article 23 of the Framework Decision (unanswered notices), to stop monitoring the supervision measures.

(5) The fourth case is where—

- (a) the court takes a decision modifying the supervision measures, and
- (b) the competent authority of the executing State informs the court that it has decided, in accordance with article 18(4)(b) of the Framework Decision (competence to take all subsequent decisions and governing law), to refuse to monitor the modified supervision measures.

(6) The fifth case is where the court—

- (a) withdraws the certificate requesting monitoring under the Framework Decision (whether in accordance with regulation 5 or otherwise), and
- (b) informs the competent authority of the executing State of its withdrawal.

(7) The sixth case is where—

- (a) under the law of the executing State, there is a maximum period during which the supervision measures may be monitored, and
- (b) that period expires.

(8) The court must consult the competent authority of the executing State with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.

Withdrawal of decision on supervision measures.

9. Nothing in regulations 6 to 8 applies in relation to a time when the court—

- (a) has withdrawn the decision on supervision measures, and
- (b) has informed the competent authority of the executing State of its withdrawal.

Consultation and exchange of information.

10.(1) A court which is considering making a request under regulation 3 for a competent authority of a Member State other than the United Kingdom to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

- (a) while preparing the documents mentioned in subregulation (3) of that regulation, or
- (b) at the latest, before giving those documents to the competent authority or to the central authority of that State.

(2) A court which has made a request under regulation 3 for the competent authority of the executing State to monitor supervision measures under the Framework Decision must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
- (b) if the competent authority notifies it, in accordance with article 19(3) of the Framework Decision (obligations of the authorities involved), of a serious breach of those measures.

(3) In consulting under this regulation, the court must co-operate with the competent authority with a view to the exchange of any useful information, including—

- (a) information for verifying the identity and place of residence of the person concerned, and

- (b) relevant information taken from the person's criminal records in accordance with applicable legislation.

(4) The court must take due account of any indications communicated by the competent authority as to the risk the person may pose to victims and the general public.

Recognition of supervision measures: requests from other Member States

Requests from other Member States for monitoring supervision measures.

11.(1) This regulation applies if a competent authority of a Member State ("the issuing State")–

- (a) makes a decision on supervision measures, and
- (b) makes a request for monitoring of supervision measures under the Framework Decision.

(2) The competent authority makes a "request for monitoring of supervision measures under the Framework Decision" if it or the central authority of the issuing State gives the central authority for Gibraltar–

- (a) the decision on supervision measures or a certified copy of it,
- (b) a certificate requesting monitoring under the Framework Decision, and
- (c) if the certificate is not in English, a copy of the certificate translated into English.

(3) The central authority for Gibraltar must give those documents to a magistrates' court.

(4) The magistrates' court must decide whether it is satisfied that any of the grounds for refusal in the Schedule apply.

(5) If the magistrates' court decides that none of the grounds for refusal applies, it must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.

(6) If the magistrates' court decides that the only ground for refusal which applies is that mentioned in paragraph 7 of the Schedule, it may inform the competent authority that—

- (a) it could refuse to monitor the supervision measures on the ground mentioned in article 15(1)(h) of the Framework Decision (giving reasons for the possible refusal), but
- (b) it is nevertheless willing to monitor them.

(7) If—

- (a) the magistrates' court informs the competent authority under subregulation (6), and
- (b) the competent authority does not inform the magistrates' court that it has withdrawn the certificate requesting monitoring under the Framework Decision in accordance with article 15(3) of that Decision,

the magistrates' court must notify the competent authority without delay that it has decided to recognise the decision on supervision measures and, accordingly, to take the measures necessary for securing that the supervision measures are monitored.

(8) If the magistrates' court decides that one or more of the grounds for refusal applies then, subject to subregulation 6, it must notify the competent authority without delay—

- (a) that it has decided not to recognise the decision on supervision measures and, accordingly, not to assume responsibility for monitoring the supervision measures, and
- (b) of the reasons for its decision.

(9) The magistrates' court must notify the competent authority without delay if, at any time after receiving the documents mentioned in subregulation (2) and before making a notification under subregulation (5), (7) or (8), it becomes aware of any change of residence of the person subject to the decision on supervision measures.

(10) In this regulation, regulations 12 to 20 and the Schedule “decision on supervision measures” and “supervision measures” have the meanings given by article 4 of the Framework Decision (definitions).

(11) In regulations 12 to 20 and the Schedule—

“the competent authority of the issuing State”, in relation to a request for monitoring of supervision measures under the Framework Decision, means the competent authority which makes the request;

“the issuing State”, in relation to a request for monitoring of supervision measures under the Framework Decision, means the Member State of the competent authority which makes the request;

“request for monitoring of supervision measures under the Framework Decision” is to be read in accordance with this regulation.

Procedural requirements relating to decision under regulation 11(4)

12.(1) A magistrates’ court must take a decision under regulation 11(4) as soon as possible and, in any event–

- (a) within 20 working days of the day on which the central authority for Gibraltar receives the documents mentioned in regulation 11(2), or
- (b) if legal proceedings in relation to the decision on supervision measures are brought before the end of that period, within 40 working days of that day.

(2) If, in exceptional circumstances, it is not possible to comply with that time limit, the magistrates’ court must immediately inform the competent authority of–

- (a) that fact,
- (b) the reasons for the delay, and
- (c) the time by which it expects the decision to be taken.

(3) If the magistrates’ court is of the view that one or more of the grounds for refusal mentioned in paragraphs 1 to 4 of the Schedule may apply, it must, before taking a decision under regulation 11(4)–

- (a) inform the competent authority,
- (b) request the competent authority to supply without delay any further information required, and
- (c) in the case of the ground for refusal mentioned in paragraph 1 of the Schedule, specify a reasonable period within which the certificate must be completed or corrected.

(4) Where the magistrates' court specifies under subregulation (3)(c) a period within which the certificate must be completed or corrected, the decision must be taken—

- (a) if a completed or corrected certificate is received by the magistrates' court within the specified period, as soon as reasonably practicable after its receipt;
- (b) otherwise, as soon as reasonably practicable after the specified period ends.

(5) In this regulation “working day” means a day other than—

- (a) a Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act in Gibraltar.

Adaptation of supervision measures.

13.(1) This regulation applies if a magistrates' court—

- (a) is under a duty to notify the competent authority of the issuing State under regulation 11(5) or (7) that it has decided to recognise a decision on supervision measures, but
- (b) considers that one or more of the supervision measures is not compatible with the law of Gibraltar.

(2) The magistrates' court may decide to adapt the supervision measures to bring them into line with the kind of supervision measures that are available under the law of Gibraltar in relation to alleged offences corresponding to the alleged offences to which the decision on supervision measures relates.

(3) For this purpose, the adapted measures—

- (a) must correspond as far as possible to the original measures, but
- (b) must not be more severe than the original measures.

(4) If the magistrates' court decides to adapt the supervision measures—

- (a) it must notify the competent authority of that decision without delay, and

- (b) references in regulations 14 to 20 to monitoring or breach of supervision measures are to be read as references to monitoring or breach of the adapted measures.

Effect of recognition of decision on supervision measures.

14.(1) If a magistrates' court notifies the competent authority of the issuing State under regulation 11(5) or (9) that it has decided to recognise the decision on supervision measures—

- (a) it becomes responsible for monitoring the supervision measures, and
- (b) it must without delay take the measures it considers necessary for securing that the supervision measures are monitored.

(2) But the magistrates' court must notify the competent authority without delay if it is not possible, in practice, to monitor the supervision measures because the person subject to the decision on supervision measures cannot be found in Gibraltar.

Duties of court responsible for monitoring supervision measures.

15.(1) This regulation applies in relation to any time when a magistrates' court which has decided to recognise a decision on supervision measures—

- (a) has become responsible under regulation 14 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 19 to be responsible for monitoring them.

(2) The magistrates' court must immediately notify the competent authority of the issuing State, using the form set out in Annex II to the Framework Decision (form), if it becomes aware of—

- (a) a breach of the supervision measures, or
- (b) any other finding which could result in the competent authority taking a subsequent decision in relation to the decision on supervision measures, as mentioned in article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

(3) The magistrates' court must notify the competent authority of the issuing State without delay if—

- (a) legal proceedings are brought in relation to the decision to recognise the decision on supervision measures, or
- (b) it becomes aware of any change of residence of the person subject to the decision on supervision measures.

Power to stop monitoring where no response to notification of breach.

16.(1) This regulation applies if–

- (a) a magistrates’ court makes more than one notification to the competent authority of the issuing State under regulation 15(2) in relation to a particular breach or other finding, and
- (b) the competent authority does not take a supervening decision in response to the breach or other finding.

(2) The magistrates’ court may–

- (a) make a further notification in relation to the breach or other finding,
- (b) invite the competent authority to take a supervening decision in response to the breach or other finding, and
- (c) give the competent authority a reasonable period in which to do so.

(3) If the competent authority does not take a supervening decision within that period, the magistrates’ court may decide to stop monitoring the supervision measures.

(4) If the magistrates’ court decides to stop monitoring the supervision measures under this regulation, it must inform the competent authority of its decision.

(5) In this regulation a “supervening decision” means a subsequent decision in relation to a decision on supervision measures, as mentioned in article 18(1) of the Framework Decision (competence to take all subsequent decisions and governing law).

Power of arrest where magistrates’ court responsible for monitoring supervision measures.

17.(1) Subregulation (2) applies in relation to any time when a magistrates’ court which has decided to recognise a decision on supervision measures–

- (a) has become responsible under regulation 14 for monitoring the supervision measures, and
 - (b) has not yet ceased under regulation 19 to be responsible for monitoring them.
- (2) The person subject to the decision on supervision measures may be arrested without warrant by a police officer if–
- (a) the police officer has reasonable grounds for believing that the person is likely to breach any of the supervision measures or has reasonable grounds for suspecting that the person has breached any of those measures, and
 - (b) the police officer considers the arrest necessary for the protection of victims or the general public or for the safeguarding of internal security.
- (3) A person arrested under paragraph (2) must be brought before the magistrates' court as soon as possible.
- (4) The magistrates' court may require the person to be detained if it is of the opinion that–
- (a) the person has breached or is likely to breach any of the supervision measures, and
 - (b) the detention is necessary for the protection of victims or the general public or for the safeguarding of internal security.
- (5) If the magistrates' court does not require the person to be detained, the person must be released.
- (6) A person's detention under subregulation (4) must be brought to an end if–
- (a) having been notified under regulation 15(2) of the matter that resulted in the person's detention, the competent authority of the issuing State informs the magistrates' court that it has taken a subsequent decision in relation to the decision on supervision measures, as mentioned in article 18(1) of the Framework Decision, or
 - (b) the magistrates' court ceases under regulation 19 to be responsible for monitoring the supervision measures.

(7) Nothing in this regulation affects any other power of arrest conferred on a police officer.

(8) A person may not be detained under subregulation (4) for more than 28 days beginning with the day of the person's first appearance before the court under subregulation (3).

Renewal or modification of supervision measures which are being monitored.

18.(1) This regulation applies in relation to any time when a magistrates' court which has decided to recognise a decision on supervision measures—

- (a) has become responsible under regulation 14 for monitoring the supervision measures, and
- (b) has not yet ceased under regulation 19 to be responsible for monitoring them.

(2) If the competent authority of the issuing State informs the magistrates' court that it has taken a decision renewing the decision on supervision measures, or modifying the supervision measures—

- (a) that decision does not (subject as follows) affect the court's responsibility for monitoring the renewed or modified supervision measures, and
- (b) references in regulations 14 to 20 to monitoring or breach of the supervision measures are to be read as references to monitoring or breach of the renewed or modified measures.

(3) If the magistrates' court had adapted the supervision measures under regulation 13 and the decision renews the measures—

- (a) the adaptations apply to the renewed decision as they applied to the original decision, and
- (b) regulation 13(4)(b) applies accordingly.

(4) If the decision modifies the supervision measures and the magistrates' court considers that the modified supervision measures include measures other than those of a kind mentioned in article 8(1) of the Framework Decision, the magistrates' court must—

- (a) decide to refuse to monitor the modified supervision measures, and

- (b) inform the competent authority of that decision.

(5) If the decision modifies the supervision measures and the magistrates' court—

- (a) does not decide to refuse to monitor the modified supervision measures, but
- (b) considers that one or more of those measures is not compatible with the law of Gibraltar,

regulation 14(2) to (4) applies in relation to those measures.

Court ceasing to be responsible for monitoring measures

19.(1) A magistrates' court which—

- (a) has decided to recognise a decision on supervision measures, and
- (b) has become responsible under regulation 14 for monitoring the supervision measures,

ceases to be responsible for monitoring them in any of the following cases.

(2) The first case is where the person subject to the decision on supervision measures becomes lawfully and ordinarily resident in a State.

(3) The second case is where the magistrates' court notifies the competent authority of the issuing State under regulation 14(2) that it is not possible, in practice, to monitor the supervision measures.

(4) The third case is where the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 16, to stop monitoring the supervision measures.

(5) The fourth case is where—

- (a) the supervision measures have been modified, and
- (b) the magistrates' court informs the competent authority of the issuing State that it has decided, in accordance with regulation 18(4), to refuse to monitor the modified supervision measures.

(6) The fifth case is where the competent authority of the issuing State—

- (a) withdraws the certificate requesting monitoring under the Framework Decision (whether in response to a decision under regulation 13 adapting the supervision measures or otherwise), and
 - (b) informs the magistrates' court of its withdrawal.
- (7) The sixth case is where the competent authority of the issuing State—
- (a) withdraws the decision on supervision measures, and
 - (b) informs the magistrates' court of its withdrawal.
- (8) The magistrates' court must consult the competent authority with a view to avoiding as far as possible any interruption in the monitoring of the supervision measures as a result of this regulation.
- (9) The magistrates' court may at any time ask the competent authority for information as to whether monitoring of the supervision measures is still necessary.

Consultation and exchange of information.

20.(1) If a competent authority of a Member State consults the central authority for Gibraltar about a request for monitoring of supervision measures under the Framework Decision which it is considering making, a magistrates' court specified by the central authority must, unless impracticable, co-operate in that consultation.

(2) Where a competent authority has made a request for monitoring of supervision measures under the Framework Decision, the magistrates' court to which the documents mentioned in regulation 11(2) were given must, unless impracticable, consult the competent authority—

- (a) at such times as it considers necessary, with a view to facilitating the smooth and efficient monitoring of the supervision measures;
- (b) if it notifies the competent authority under regulation 15(2) of a serious breach of those measures.

(3) In consulting or co-operating in consultation under this regulation, the magistrates' court must co-operate with the competent authority with a view to the exchange of any useful information, including—

- (a) information for verifying the identity and place of residence of the person concerned, and

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- (b) relevant information taken from the person's criminal records in accordance with applicable legislation.

SCHEDULE

Regulation 11

Grounds for refusal to monitor supervision measures

PART 1

Grounds for refusal

1. The certificate requesting monitoring under the Framework Decision—
 - (a) is incomplete or obviously does not correspond to the decision on supervision measures, and
 - (b) is not completed or corrected within the period specified under regulation 12(3)(c).

- 2.(1) Where the person subject to the decision on supervision measures is lawfully and ordinarily resident in Gibraltar, the person has not consented to return there with a view to the supervision measures being monitored there under the Framework Decision.
 - (2) Where the person subject to the decision on supervision measures is not lawfully and ordinarily resident in Gibraltar, the person—
 - (a) has not asked for a request to be made for monitoring of the supervision measures under the Framework Decision by a competent authority in Gibraltar, or
 - (b) has asked for such a request to be made but has not given adequate reasons as to why it should be made.
 - (3) The certificate includes measures other than those referred to in article 8(1) of the Framework Decision (types of supervision measures).
 - (4) Recognition of the decision on supervision measures would contravene the principle of *ne bis in idem*.

- 5.(1) The decision on supervision measures was based on conduct that would not constitute an offence under the law of Gibraltar if it occurred in Gibraltar.
 - (2) But sub-paragraph (1) does not apply if—
 - (a) the conduct is specified in Part 2 of this Schedule, and

- (b) the conduct is punishable under the law of the issuing State with imprisonment or another form of detention for a term of 3 years or a greater punishment.
- (3) For the purposes of sub-paragraph (1)–
 - (a) if the conduct relates to a tax or duty, it does not matter whether the law of Gibraltar contains the same kind of tax or duty or contains rules of the same kind as those of the law of the issuing State;
 - (b) if the conduct relates to customs or exchange, it does not matter whether the law of Gibraltar contains rules of the same kind as those of the law of the issuing State.
- (4) The decision was based on conduct where, under the law of Gibraltar–
 - (a) the criminal prosecution of the conduct would be statute-barred, and
 - (b) the conduct falls within the jurisdiction of Gibraltar.
- 6. The decision on supervision measures was based on conduct by a person who was under the age of 10 when the conduct took place.
- 7. The conduct on which the decision on supervision measures was based is such that–
 - (a) if there was a breach of the supervision measures, and
 - (b) a warrant was issued by the issuing State for the arrest of the person subject to the decision,

the person would have to be discharged at a hearing under the European Arrest Warrant Act 2004.

8. It appears that the decision on supervision measures was in fact made for the purpose of punishing the person subject to the decision on account of the person's race, ethnic origin, religion, nationality, language, gender, sexual orientation or political opinions.

PART 2

- Participation in a criminal organisation.

- Terrorism.
- Trafficking in human beings.
- Sexual exploitation of children and child pornography.
- Illicit trafficking in narcotic drugs and psychotropic substances.
- Illicit trafficking in weapons, munitions and explosives.
- Corruption.
- Fraud, including that affecting the financial interests of the European Union within the meaning of the Convention of 26 July 1995 on the protection of the European Union's financial interests.
- Laundering of the proceeds of crime.
- Counterfeiting currency, including of the euro.
- Computer-related crime.
- Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties.
- Facilitation of unauthorised entry and residence.
- Murder, grievous bodily injury.
- Illicit trade in human organs and tissue.
- Kidnapping, illegal restraint and hostage-taking.
- Racism and xenophobia.
- Organised or armed robbery.
- Illicit trafficking in cultural goods, including antiques and works of art.
- Swindling.
- Racketeering and extortion.
- Counterfeiting and piracy of products.
- Forgery of administrative documents and trafficking therein.

- Forgery of means of payment.
- Illicit trafficking in hormonal substances and other growth promoters.
- Illicit trafficking in nuclear or radioactive materials.
- Trafficking in stolen vehicles.
- Rape.
- Arson.
- Crimes within the jurisdiction of the International Criminal Court.
- Unlawful seizure of aircraft or ships.
- Sabotage.

PART 3

Interpretation

In this Schedule “conduct” includes any act or omission”.