

Subsidiary Legislation made under s. 697.

**EXCHANGE OF CRIMINAL RECORDS REGULATIONS  
2014**

**Revoked by LN.2020/514 as from 1.1.2021**

**(LN. 2014/226)**

*Commencement*            **1.12.2014**

| Amending enactments | Relevant current provisions | Commencement date |
|---------------------|-----------------------------|-------------------|
|---------------------|-----------------------------|-------------------|

**Transposing:**

Framework Decision 2009/315/JHA

Council Decision 2009/316/JHA

**EU Legislation/International Agreements involved:**

European Criminal Records Information System (ECRIS)

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**ARRANGEMENT OF REGULATIONS.**

Regulation

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**SCHEDULE 1**

This Schedule reproduces the Annex to the Framework Decision

**SCHEDULE 2**

This Schedule reproduces Annex A to the Council Decision

**SCHEDULE 3**

This Schedule reproduces Annex B to the Council Decision

*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 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States and, in part, Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of article 11 of the Framework Decision 2009/315/JHA, the Minister has made the following Regulations—*

### **Title and commencement.**

1. These Regulations may be cited as the Exchange of Criminal Records Regulations 2014 and come into operation on the day of publication.

### **Interpretation.**

2. In these Regulations—

“Annex” means the Annex to the Framework Decision, which is set out in Schedule 1 for information purposes only;

“Annex A” means Annex A to the decision, which is set out in Schedule 2 for information purposes only;

“Annex B” means Annex B to the decision, which is set out in Schedule 3 for information purposes only;

“central authority” means the authority or authorities designated by a Member State for the purposes of complying with the Framework Decision, and in the case of Gibraltar shall be construed in accordance with regulation 3;

“conviction” means—

- (a) any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent these decisions are entered in the criminal record of the convicting Member State, and
- (b) in the case of Gibraltar means a conviction which is entered in the conviction register and includes a spent conviction within the meaning of the Criminal Procedure and Evidence Act if it is entered in the conviction register;

“conviction register” means the record of criminal convictions maintained by the Royal Gibraltar Police;

“Council Decision” means Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of article 11 of the Framework Decision 2009/315/JHA, as amended from time to time;

“criminal proceedings” means the pre-trial stage, the trial stage itself and the execution of the conviction;

“criminal record” means the national register or registers recording convictions in accordance with national law, and as regards Gibraltar means the conviction register;

“Framework Decision” means Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States, as amended from time to time; and

“Gibraltarian” means a person registered as such under the Gibraltarian Status Act;

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

“third country” means a State which is not a Member State;

“working day” means a day other than a day which is a Saturday, Sunday, or a bank holiday or public holiday as respectively defined in the Banking and Financial Dealings Act and the Interpretation and General Clauses Act.

#### **Central Authority in Gibraltar.**

3.(1) The Commissioner of Police is designated as the Central Authority for the purposes of implementing the Framework Decision in Gibraltar.

(2) The Commissioner of Police may discharge his responsibilities under these Regulations through any officer under his command.

#### **Process upon conviction of a European national.**

4.(1) When entering the details of a conviction handed down by a court in Gibraltar in the conviction register the Commissioner shall ensure that the nationality or nationalities of the convicted person are entered if that person is a national of a Member State.

(2) As soon as possible after a person to whom subregulation (1) applies is convicted, the Commissioner must inform the central authority of another Member State of a conviction and of the details of the conviction handed down in Gibraltar against a national of that Member State.

(3) Where a convicted person has more than one nationality the Commissioner, when acting in accordance with subregulation (2), must inform all the central authorities of the Member States of which the convicted person is known to be a national.

(4) Subregulation (3) applies where the convicted person is a Gibraltarian if he is also a national of a Member State.

(5) Where information on the conviction register is altered or deleted and that information relates to a national of a Member State, the Commissioner shall immediately transmit information on such alteration or deletion to the central authority of that State.

(6) Where information has been provided under subregulations (2) to (5) to another central authority and that central authority, for the purpose of ascertaining whether there is a need to take any measures in that State, requests a copy of the conviction and subsequent measures and any other relevant information relating to the conviction, the Commissioner must provide that information to it.

### **Information to be transmitted by the Central Authority.**

5.(1) Information transmitted pursuant to regulation 4(2) to (5) shall comprise such obligatory, optional and additional information as is further provided for in this regulation.

(2) Transmission of the information set out in this subregulation is obligatory and must be transmitted, unless in any particular case such information is not known to the Commissioner—

- (a) information on the convicted person, including his—
  - (i) full name,
  - (ii) date of birth,
  - (iii) place of birth (town and State),
  - (iv) gender,
  - (v) nationality,

- (vi) previous names (where applicable);
- (b) information on the nature of the conviction, including the-
  - (i) date of conviction,
  - (ii) name of the convicting court,
  - (iii) date on which the decision became final;
- (c) information on the offence giving rise to the conviction, including the-
  - (i) date of the offence underlying the conviction,
  - (ii) name or legal classification of the offence and reference to the applicable legal provision relating to the offence; and
- (d) information on the contents of the conviction, including-
  - (i) the sentence and any supplementary penalties,
  - (ii) security measures,
  - (iii) any subsequent decisions modifying the enforcement of the sentence.

(3) Transmission of the information set out in this subregulation (optional information) must be transmitted only if such information has been entered in the conviction register-

- (a) the convicted person's parents' names;
- (b) the reference number of the conviction;
- (c) the place of the offence; and
- (d) disqualifications arising from the conviction.

(4) Transmission of the information set out in this subregulation (additional information) must be transmitted if available to the Commissioner-

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

- (b) fingerprints which have been taken from the convicted person;
- (c) where applicable the convicted person's use of any pseudonym or alias.

(5) Nothing in subregulations (3) to (5) shall prevent the Commissioner from transmitting any other information relating to a conviction entered in the conviction register.

### **Obligations on storage and accuracy of information.**

6.(1) The Commissioner must, in the case of a Gibraltarian, store the information–

- (a) referred to in regulation 5;
- (b) transmitted pursuant to regulation 4(2) to (5);
- (c) of the type listed in article 11(1)(a) and (b) of the Framework Decision, which it has received from a central authority,

to enable it to be retransmitted in accordance with regulations 8, 9 10 or 11.

(2) The Commissioner may store the information of the type listed in article 11(1)(c) which it has received from a central authority, to enable it to be retransmitted in accordance with regulations 8, 9 10 or 11.

(3) Information stored under subregulation (1) and which relates to a Gibraltarian shall be amended on identical terms to the notification of alteration or deletion which the Commissioner receives pursuant to article 4(3) of the Framework Decision.

(4) Retransmission of information to which subregulation (1) applies is not permitted if that information has not been amended in the manner provided for in subregulation (3).

### **Requests for information on convictions.**

7.(1) The Commissioner may submit a request to a central authority for information and related data to be extracted from the criminal record of that State, for the purposes of–

- (a) criminal proceedings; or
- (b) any purposes other than criminal proceedings.

(2) The Commissioner may, subject to any provision made in any other enactment, make a request under subregulation (1) if he receives a request from a person who is or was—

- (a) a Gibraltarian or a resident of Gibraltar; or
- (b) a national or a resident of the Member State to which the request is to be made,

and that person seeks information on his own criminal record.

(3) If a person, who is not a Gibraltarian, requests information on his own criminal record, the Commissioner shall submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include such information and related data in the extract to be provided to the person concerned, and subregulation (2) shall not apply to such a person.

(4) Requests under this regulation shall be made using the form set out in the Annex.

**Replies to requests for information - criminal.**

8.(1) When the Commissioner receives a request pursuant to article 6 of the Framework Decision from a central authority of the Member State of the person's nationality for the purposes of criminal proceedings, the Commissioner shall transmit to the requesting central authority information on—

- (a)
  - (i) convictions handed down in Gibraltar and entered in the conviction register, if the person is a Gibraltarian, or
  - (ii) convictions handed down in the Member State of the person's nationality and entered in the criminal record;
- (b) any conviction handed down against the person in a Member State and transmitted to the Commissioner after 1 December 2014 in accordance with the article 4 of the Framework Decision and stored in accordance with regulation 6;
- (c) any convictions handed down in third countries and transmitted to the Commissioner and entered in the conviction register.

(2) The reply to a request made pursuant to article 6 of the Framework Decision shall be made using the form set out in the Annex and shall be accompanied by a list of convictions.

### **Replies to requests for information - non-criminal.**

9.(1) When information relating to a Gibraltarian and contained in the conviction register is requested from the Commissioner under article 6 of the Framework Decision for any purposes other than that of criminal proceedings, the Commissioner shall in respect of convictions handed down in Gibraltar and of convictions handed down in countries which are not Member States, which have been subsequently transmitted to him and entered in the conviction register, reply in accordance with any applicable law.

(2) Information on convictions handed down in a Member State which have been transmitted to the Commissioner shall in accordance with the law of Gibraltar be transmitted to the requesting Member State where the information has been stored in accordance with regulation 6(1) and (3) and has been entered in the conviction register.

(3) Where the central authority of the Member State transmitted information to the Commissioner in respect of which it has stated that such information may not be retransmitted for any purposes other than that of criminal proceedings, the Commissioner shall, in respect of such information, inform the requesting Member State which Member State had transmitted such information, so as to enable the requesting Member State to submit a request directly to the convicting Member State in order to receive information on these convictions.

(4) The reply to a request made pursuant to article 6 of the Framework Decision shall be made using the form set out in the Annex and shall be accompanied by a list of convictions.

### **Replies to requests for information - non-EU countries.**

10.(1) Where a country which is not a Member State requests information on convictions from the conviction register, Commissioner may, in respect of convictions transmitted to him by a central authority, reply only within the limitations applicable to the transmission of information to other Member States and set out in regulations 8 and 9.

(2) The reply to a request made pursuant subregulation (1) shall be made using the form set out in the Annex and shall be accompanied by a list of convictions.

### **Replies to requests for information - EU country, but not the country of the person's nationality.**

11.(1) Where a central authority requests information on the convictions of a person who is not a Gibraltarian, the Commissioner must transmit information on—

- (a) convictions handed down against the person in Gibraltar;
- (b) convictions handed down against non-European nationals; and
- (c) convictions handed down against stateless persons,

contained in the register of convictions to the same extent as provided for in article 13 of the European Convention on Mutual Assistance in Criminal Matters.

(2) The reply to a request made pursuant subregulation (1) shall be made using the form set out in the Annex and shall be accompanied by a list of convictions.

**Deadlines for replies.**

12.(1) Subject to subregulation (2), replies to the requests referred to in article 6(1) of the Framework Decision shall be transmitted by the Commissioner to the central authority of the requesting Member State immediately and in any event within a period not exceeding 10 working days from the date the request was received.

(2) If the Commissioner requires further information to identify the person involved in the request, it shall immediately consult the requesting Member State with a view to providing a reply within 10 working days from the date the additional information is received.

(3) Replies to the request referred to in article 6(2) of the Framework Decision shall be transmitted to the central authority of the requesting Member State within 20 working days from the date the request was received.

**Conditions for the use of personal data.**

13.(1) Subject to subregulation (3), personal data provided to the Commissioner under article 7(1) and (4) of the Framework Decision for the purposes of criminal proceedings may be used by him and by any person or body in Gibraltar only for the purposes of the criminal proceedings for which it was requested, as specified in the form set out in the Annex to the Framework Decision, which is set out in Schedule 1 for information purposes.

(2) Subject to subregulation (3), personal data provided to the Commission under article 7(2) and (4) of the Framework Decision for any purposes other than that of criminal proceedings may be used by him and any person or body within Gibraltar only for the purposes for which it was requested and within the limits specified by the requested Member State in the form set out in the Annex.

(3) Notwithstanding subregulations (1) and (2), personal data provided under article 7(1), (2) and (4) may be used by the Commissioner and any person or body in Gibraltar for preventing an immediate and serious threat to public security.

(4) In relation to personal data received from a Member State under article 4 of the Framework Decision, if transmitted to a third country in accordance with regulation 10, the Commissioner shall—

- (a) take the necessary measures to ensure that such personal data is subject to the same usage limitations as those applicable in a requesting Member State in accordance with subregulation (2); and
- (b) specify that personal data, if transmitted to a third country in accordance with regulation 10 for the purposes of criminal proceedings, may be further used by that third country only for the purposes of criminal proceedings.

(5) This regulation does not apply to personal data obtained by the Commissioner under the Framework Decision and originating from within Gibraltar.

### **Language.**

14. The Commissioner shall accept requests under article 6(1) of the Framework Decision if they are in English.

### **Further rules relating to the format of transmission of information – legal classification.**

15.(1) Subject to subsection (2), when transmitting information in accordance with regulations 4(2), (3), (4), (5), 8, 9, 10 or 11, relating to the name or legal classification of the offence and to the applicable legal provisions, the Commissioner must refer to the corresponding code for each offence referred to in the transmission, as provided for in the table of offences in Annex A.

(2) By way of exception to subregulation (1), where the offence does not correspond to a specific subcategory, the Commissioner must use the ‘open

category' code of the relevant or closest category of offence, or in absence of the latter, the 'other offences' code for the particular offence.

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

**Further rules relating to the format of transmission of information – content of the conviction.**

16.(1) Subject to subsection (2), when transmitting information in accordance with regulations 4(2), (3), (4), (5), 8, 9, 10 or 11, relating to the contents of the conviction (sentence and supplementary provisions), security measures and subsequent decisions modifying the enforcement of the sentence, the Commissioner must refer to the corresponding code for each penalty and measure referred to in the transmission, as provided for in Annex B.

(2) By way of exception to subregulation (1), when the penalty or measure does not correspond to a specific subcategory the Commissioner must use the 'open category' code of the relevant or closest category of penalty, or in absence of the latter, the 'other penalties and measures' code for the particular penalty or measure, as provided for in Annex B.

(3) The Commissioner shall also provide, where applicable, available information relating to the nature and conditions of execution of the penalty or measure imposed as provided for in the parameters of Annex B.

(4) In complying with subregulation (3), the parameter 'non-criminal ruling' must only be indicated in cases where information on such a ruling is provided on a voluntary basis by the central authority of the Member State of nationality of the convicted person, and in the case of a Gibraltarian by the Commissioner, when replying to a request for information on convictions.

**Relationship to other legal instruments.**

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

(2) In relations as between Gibraltar and the Member States the Framework Decision replaces article 22 of the European Convention on

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Mutual Assistance in Criminal Matters, as supplemented by article 4 of the additional Protocol of 17 March 1978.

(3) These regulations shall not affect the application of more favourable provisions provided in any bilateral or multilateral agreements which are extended to or which apply to Gibraltar and any Member States.

**SCHEDULE 1**

This Schedule reproduces the Annex to the Framework Decision

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

**Request for information extracted from the criminal record**

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

(a) Information on the requesting Member State:

Member State:

Central authority(ies):

Contact person:

Telephone (with STD code):

Fax (with STD code):

E-mail address:

Correspondence address:

File reference, if known:

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

Full name (forenames and all surnames)

Previous names:

Pseudonym and/or alias, if any: Gender: M  F

Nationality:

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

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Place of birth (town and State):

Father's name:

Mother's name:

Residence or known address:

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

Fingerprints:

Other available identification information:

\_\_\_\_\_

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

(c) Purpose of the request:

Please tick the appropriate box

(1)  criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number).....  
.....  
.....

(2)  request outside the context of criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number, while ticking the relevant box):

(i)  from a judicial authority .....  
.....  
.....

(ii)  from a competent administrative authority .....  
.....  
.....

(iii)  from the person concerned for information on own criminal record  
.....  
.....

Purpose for which the information is requested:

Requesting authority:

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

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

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

**Reply to the request**

Information relating to the person concerned

Please tick the appropriate box

The undersigned authority confirms that:

there is no information on convictions in the criminal record of the person concerned

there is information on convictions entered in the criminal record of the person concerned; a list of convictions is attached

there is other information entered in the criminal record of the person concerned; such information is attached(optional)

there is information on convictions entered in the criminal record of the person concerned but the convicting Member State intimated that the information about these convictions may not be retransmitted for any purposes other than that of criminal proceedings. The request for more information may be sent directly to ..... (please indicate the convicting Member State)

in accordance with the national law of the requested Member State, requests made for any purposes other than that of criminal proceedings may not be dealt with.

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Contact person for any further information needed:

Name:

Telephone:

E-mail address:

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

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

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Done at

On

Signature and official stamp (if appropriate):

Name and position/organisation:

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

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**SCHEDULE 2**

This Schedule reproduces Annex A to the Council Decision

**Common table of offences categories referred to in article 4**

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

| Code                 | Categories and sub-categories of offences                                       |
|----------------------|---|
| 0100 00open category | <b>Crimes within the jurisdiction of the International Criminal Court</b>       |
| 0101 00              | Genocide  |
| 0102 00              | Crimes against humanity   |
| 0103 00              | War crimes  |
| 0200 00open category | <b>Participation in a criminal organisation</b>                                 |
| 0201 00              | Directing a criminal organisation   |
| 0202 00              | Knowingly taking part in the criminal activities of a criminal organisation     |
| 0203 00              | Knowingly taking part in the non-criminal activities of a criminal organisation |
| 0300 00open category | <b>Terrorism</b>  |

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|----------------------|--|
| 0301 00              | Directing a terrorist group  |
| 0302 00              | Knowingly participating in the activities of a terrorist group   |
| 0303 00              | Financing of terrorism   |
| 0304 00              | Public provocation to commit a terrorist offence   |
| 0305 00              | Recruitment or training for terrorism  |
| 0400 00open category | <b>Trafficking in human beings</b>   |
| 0401 00              | Trafficking in human beings for the purposes of labour or services exploitation  |
| 0402 00              | Trafficking in human beings for the purposes of the exploitation of the prostitution of others or other forms of sexual exploitation             |
| 0403 00              | Trafficking in human beings for the purposes of organ or human tissue removal  |
| 0404 00              | Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude  |
| 0405 00              | Trafficking in human beings for the purposes of labour or services exploitation of a minor   |
| 0406 00              | Trafficking in human beings for the purposes of the exploitation of the prostitution of minors or other forms of their sexual exploitation       |
| 0407 00              | Trafficking in human beings for the purposes of organ or human tissue removal of a minor   |
| 0408 00              | Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude of a minor                                     |
| 0500 00open category | <b>Illicit trafficking <sup>(1)</sup> and other offences related to weapons, firearms, their parts and components, ammunition and explosives</b> |
| 0501 00              | Illicit manufacturing of weapons, firearms, their parts and components, ammunition and explosives  |

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| 0502 00              | Illicit trafficking of weapons, firearms, their parts and components ammunition and explosives at national level (2)                               |
| 0503 00              | Illicit exportation or importation of weapons, firearms, their parts and components, ammunition and explosives                                     |
| 0504 00              | Unauthorised possession or use of weapons, firearms, their parts and components, ammunition and explosives   |
| 0600 00open category | <b>Environmental crime</b>   |
| 0601 00              | Destroying or damaging protected fauna and flora species   |
| 0602 00              | Unlawful discharges of polluting substances or ionising radiation into air, soil or water  |
| 0603 00              | Offences related to waste, including hazardous waste   |
| 0604 00              | Offences related to illicit trafficking (1) in protected fauna and flora species or parts thereof  |
| 0605 00              | Unintentional environmental offences   |
| 0700 00open category | <b>Offences related to drugs or precursors, and other offences against public health</b>   |
| 0701 00              | Offences related to illicit trafficking (3) in narcotic drugs, psychotropic substances and precursors not exclusively for own personal consumption |
| 0702 00              | Illicit consumption of drugs and their acquisition, possession, manufacture or production exclusively for own personal consumption                 |
| 0703 00              | Aiding or inciting others to use narcotic drugs or psychotropic substances illicitly   |
| 0704 00              | Manufacture or production of narcotic drugs not exclusively for personal consumption   |
| 0800 00open category | <b>Crimes against the person</b>   |
| 0801 00              | Intentional killing  |

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|----------------------|--|
| 0802 00              | Aggravated cases of intentional killing <sup>(4)</sup>   |
| 0803 00              | Unintentional killing  |
| 0804 00              | Intentional killing of a new-born by his/her mother  |
| 0805 00              | Illegal abortion   |
| 0806 00              | Illegal euthanasia   |
| 0807 00              | Offences related to committing suicide   |
| 0808 00              | Violence causing death   |
| 0809 00              | Causing grievous bodily injury, disfigurement or permanent disability  |
| 0810 00              | Unintentionally causing grievous bodily injury, disfigurement or permanent disability                            |
| 0811 00              | Causing minor bodily injury  |
| 0812 00              | Unintentionally causing minor bodily injury  |
| 0813 00              | Exposing to danger of loss of life or grievous bodily injury   |
| 0814 00              | Torture  |
| 0815 00              | Failure to offer aid or assistance   |
| 0816 00              | Offences related to organ or tissue removal without authorisation or consent                                     |
| 0817 00              | Offences related to illicit trafficking <sup>(3)</sup> in human organs and tissue                                |
| 0818 00              | Domestic violence or threat  |
| 0900 00open category | <b>Offences against personal liberty, dignity and other protected interests, including racism and xenophobia</b> |
| 0901 00              | Kidnapping, kidnapping for ransom, illegal restraint   |
| 0902 00              | Unlawful arrest or deprivation of liberty by public authority  |
| 0903 00              | Hostage-taking   |
| 0904 00              | Unlawful seizure of an aircraft or ship  |

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|                      |   |
|----------------------|---|
| 0905 00              | Insults, slander, defamation, contempt  |
| 0906 00              | Threats   |
| 0907 00              | Duress, pressure, stalking, harassment or aggression of a psychological or emotional nature |
| 0908 00              | Extortion   |
| 0909 00              | Aggravated extortion  |
| 0910 00              | Illegal entry into private property   |
| 0911 00              | Invasion of privacy other than illegal entry into private property                          |
| 0912 00              | Offences against protection of personal data  |
| 0913 00              | Illegal interception of data or communication   |
| 0914 00              | Discrimination on grounds of gender, race, sexual orientation, religion or ethnic origin    |
| 0915 00              | Public incitement to racial discrimination  |
| 0916 00              | Public incitement to racial hatred  |
| 0917 00              | Blackmail   |
| 1000 00open category | <b>Sexual offences</b>  |
| 1001 00              | Rape  |
| 1002 00              | Aggravated rape <sup>(5)</sup> other than rape of a minor                                   |
| 1003 00              | Sexual assault  |
| 1004 00              | Procuring for prostitution or sexual act  |
| 1005 00              | Indecent exposure   |
| 1006 00              | Sexual harassment   |
| 1007 00              | Soliciting by a prostitute  |
| 1008 00              | Sexual exploitation of children   |
| 1009 00              | Offences related to child pornography or indecent images of minors                          |
| 1010 00              | Rape of a minor   |

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|                      |  |
|----------------------|--|
| 1011 00              | Sexual assault of a minor  |
| 1100 00open category | <b>Offences against family law</b>   |
| 1101 00              | Illicit sexual relations between close family members  |
| 1102 00              | Polygamy   |
| 1103 00              | Evading the alimony or maintenance obligation  |
| 1104 00              | Neglect or desertion of a minor or a disabled person   |
| 1105 00              | Failure to comply with an order to produce a minor or removal of a minor   |
| 1200 00open category | <b>Offences against the State, public order, course of justice or public officials</b>   |
| 1201 00              | Espionage  |
| 1202 00              | High treason   |
| 1203 00              | Offences related to elections and referendum   |
| 1204 00              | Attempt against life or health of the Head of State  |
| 1205 00              | Insult of the State, Nation or State symbols   |
| 1206 00              | Insult or resistance to a representative of public authority   |
| 1207 00              | Extortion, duress, pressure towards a representative of public authority   |
| 1208 00              | Assault or threat on a representative of public authority  |
| 1209 00              | Public order offences, breach of the public peace  |
| 1210 00              | Violence during sports events  |
| 1211 00              | Theft of public or administrative documents  |
| 1212 00              | Obstructing or perverting the course of justice, making false allegations in the course of criminal or judicial proceedings, perjury |
| 1213 00              | Unlawful impersonation of a person or an authority   |
| 1214 00              | Escape from lawful custody   |

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|----------------------|--|
| 1300 00open category | <b>Offences against public property or public interests</b>  |
| 1301 00              | Public, social security or family benefit fraud  |
| 1302 00              | Fraud affecting European benefits or allowances  |
| 1303 00              | Offences related to illegal gambling   |
| 1304 00              | Obstructing of public tender procedures  |
| 1305 00              | Active or passive corruption of a civil servant, a person holding public office or public authority                  |
| 1306 00              | Embezzlement, misappropriation or other diversion of property by a public official                                   |
| 1307 00              | Abuse of a function by a public official   |
| 1400 00open category | <b>Tax and customs offences</b>  |
| 1401 00              | Tax offences   |
| 1402 00              | Customs offences   |
| 1500 00open category | <b>Economic and trade related offences</b>   |
| 1501 00              | Bankruptcy or fraudulent insolvency  |
| 1502 00              | Breach of accounting regulation, embezzlement, concealment of assets or unlawful increase in a company's liabilities |
| 1503 00              | Violation of competition rules   |
| 1504 00              | Laundering of proceeds from crime  |
| 1505 00              | Active or passive corruption in the private sector   |
| 1506 00              | Revealing a secret or breaching an obligation of secrecy   |
| 1507 00              | 'Insider trading'  |
| 1600 00open category | <b>Offences against property or causing damage to goods</b>  |
| 1601 00              | Unlawful appropriation   |
| 1602 00              | Unlawful appropriation or diversion of energy  |

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|----------------------|--|
| 1603 00              | Fraud, including swindling   |
| 1604 00              | Dealing in stolen goods  |
| 1605 00              | Illicit trafficking <sup>(6)</sup> in cultural goods, including antiques and works of art  |
| 1606 00              | Intentional damage or destruction of property  |
| 1607 00              | Unintentional damage or destruction of property  |
| 1608 00              | Sabotage   |
| 1609 00              | Offences against industrial or intellectual property   |
| 1610 00              | Arson  |
| 1611 00              | Arson causing death or injury to persons   |
| 1612 00              | Forest arson   |
| 1700 00open category | <b>Theft offences</b>  |
| 1701 00              | Theft  |
| 1702 00              | Theft after unlawful entry into property   |
| 1703 00              | Theft, using violence or weapons, or using threat of violence or weapons against person  |
| 1704 00              | Forms of aggravated theft which do not involve use of violence or weapons, or use of threat of violence or weapons, against persons. |
| 1800 00open category | <b>Offences against information systems and other computer-related crime</b>   |
| 1801 00              | Illegal access to information systems  |
| 1802 00              | Illegal system interference  |
| 1803 00              | Illegal data interference  |
| 1804 00              | Production, possession, dissemination of or trafficking in computer devices or data enabling commission of computer-related offences |
| 1900 00open category | <b>Forgery of means of payment</b>   |
| 1901 00              | Counterfeiting or forging currency, including the euro   |

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|----------------------|--|
| 1902 00              | Counterfeiting of non-cash means of payment  |
| 1903 00              | Counterfeiting or forging public fiduciary documents   |
| 1904 00              | Putting into circulation/using counterfeited or forged currency, non-cash means of payment or public fiduciary documents                                 |
| 1905 00              | Possession of a device for the counterfeiting or forgery of currency or public fiduciary documents   |
| 2000 00open category | <b>Falsification of documents</b>  |
| 2001 00              | Falsification of a public or administrative document by a private individual   |
| 2002 00              | Falsification of a document by a civil servant or a public authority   |
| 2003 00              | Supply or acquisition of a forged public or administrative document; supply or acquisition of a forged document by a civil servant or a public authority |
| 2004 00              | Using forged public or administrative documents  |
| 2005 00              | Possession of a device for the falsification of public or administrative documents   |
| 2006 00              | Forgery of private documents by a private individual   |
| 2100 00open category | <b>Offences against traffic regulations</b>  |
| 2101 00              | Dangerous driving  |
| 2102 00              | Driving under the influence of alcohol or narcotic drugs   |
| 2103 00              | Driving without a licence or while disqualified  |
| 2104 00              | Failure to stop after a road accident  |
| 2105 00              | Avoiding a road check  |
| 2106 00              | Offences related to road transport   |
| 2200 00open category | <b>Offences against labour law</b>   |
| 2201 00              | Unlawful employment  |

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|----------------------|---|
| 2202 00              | Offences relating to remuneration, including social security contributions                  |
| 2203 00              | Offences relating to working conditions, health and safety at work                          |
| 2204 00              | Offences relating to access to or exercise of a professional activity                       |
| 2205 00              | Offences relating to working hours and rest time  |
| 2300 00open category | <b>Offences against migration law</b>   |
| 2301 00              | Unauthorised entry or residence   |
| 2302 00              | Facilitation of unauthorised entry and residence  |
| 2400 00open category | <b>Offences against military obligations</b>  |
| 2500 00open category | <b>Offences related to hormonal substances and other growth promoters</b>                   |
| 2501 00              | Illicit importation, exportation or supply of hormonal substances and other grown promoters |
| 2600 00open category | <b>Offences related to nuclear materials or other hazardous radioactive substances</b>      |
| 2601 00              | Illicit importation, exportation, supply or acquisition of nuclear or radioactive materials |
| 2700 00open category | <b>Other offences</b>   |
| 2701 00              | Other intentional offences  |
| 2702 00              | Other unintentional offences  |

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

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

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

(4) For example: particularly grave circumstances.

(5) For example rape with particular cruelty.

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

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## SCHEDULE 3

This Schedule reproduces Annex B to the Council Decision

**Common table of penalties and measures categories referred to in article 4**

| Code                  | Categories and sub-categories of offences   |
|-----------------------|---|
| 1000<br>open category | <b>Deprivation of freedom</b>   |
| 1001                  | Imprisonment  |
| 1002                  | Life imprisonment   |
| 2000<br>open category | <b>Restriction of personal freedom</b>  |
| 2001                  | Prohibition from frequenting some places  |
| 2002                  | Restriction to travel abroad  |
| 2003                  | Prohibition to stay in some places  |
| 2004                  | Prohibition from entry to a mass event  |
| 2005                  | Prohibition to enter in contact with certain persons through whatever means   |
| 2006                  | Placement under electronic surveillance (1)   |
| 2007                  | Obligation to report at specified times to a specific authority   |
| 2008                  | Obligation to stay/reside in a certain place  |
| 2009                  | Obligation to be at the place of residence on the set time  |
| 2010                  | Obligation to comply with the probation measures ordered by the court, including the obligation to remain under supervision |
| 3000<br>open category | <b>Prohibition of a specific right or capacity</b>  |
| 3001                  | Disqualification from function  |
| 3002                  | Loss/suspension of capacity to hold or to be appointed to public office   |
| 3003                  | Loss/suspension of the right to vote or to be elected   |
| 3004                  | Incapacity to contract with public administration   |
| 3005                  | Ineligibility to obtain public subsidies  |
| 3006                  | Cancellation of the driving licence (2)   |
| 3007                  | Suspension of driving licence   |
| 3008                  | Prohibition to drive certain vehicles   |

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|-----------------------|--|
| 3009                  | Loss/suspension of the parental authority  |
| 3010                  | Loss/suspension of right to be an expert in court proceedings/witness under oath/juror |
| 3011                  | Loss/suspension of right to be a legal guardian <sup>(3)</sup>                         |
| 3012                  | Loss/suspension of right of decoration or title  |
| 3013                  | Prohibition to exercise professional, commercial or social activity                    |
| 3014                  | Prohibition from working or activity with minors                                       |
| 3015                  | Obligation to close an establishment   |
| 3016                  | Prohibition to hold or to carry weapons  |
| 3017                  | Withdrawal of a hunting/fishing license  |
| 3018                  | Prohibition to issue cheques or to use payment/credit cards                            |
| 3019                  | Prohibition to keep animals  |
| 3020                  | Prohibition to possess or use certain items other than weapons                         |
| 3021                  | Prohibition to play certain games/sports   |
| 4000<br>open category | <b>Prohibition or expulsion from territory</b>   |
| 4001                  | Prohibition from national territory  |
| 4002                  | Expulsion from national territory  |
| 5000<br>open category | <b>Personal obligation</b>   |
| 5001                  | Submission to medical treatment or other forms of therapy                              |
| 5002                  | Submission to a social-educational programme   |
| 5003                  | Obligation to be under the care/control of the family                                  |
| 5004                  | Educational measures   |
| 5005                  | Socio-judicial probation   |
| 5006                  | Obligation of training/working   |
| 5007                  | Obligation to provide judicial authorities with specific information                   |
| 5008                  | Obligation to publish the judgment   |
| 5009                  | Obligation to compensate for the prejudice caused by the offence                       |
| 6000<br>open category | <b>Penalty on personal property</b>  |
| 6001                  | Confiscation   |

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|------------------------|---|
| 6002                   | Demolition  |
| 6003                   | Restoration   |
| 7000<br>open category  | <b>Placing in an institution</b>                                      |
| 7001                   | Placing in a psychiatric institution                                  |
| 7002                   | Placing in a detoxification institution                               |
| 7003                   | Placing in an educational institution                                 |
| 8000<br>open category  | <b>Financial penalty</b>  |
| 8001                   | Fine  |
| 8002                   | Day-fine (4)  |
| 8003                   | Fine for the benefit of a special recipient (5)                       |
| 9000<br>open category  | <b>Working penalty</b>  |
| 9001                   | Community service or work   |
| 9002                   | Community service or work accompanied with other restrictive measures |
| 10000<br>open category | <b>Military penalty</b>   |
| 10001                  | Loss of military rank (6)   |
| 10002                  | Expulsion from professional military service                          |
| 10003                  | Military imprisonment   |
| 11000<br>open category | <b>Exemption/deferment of sentence/penalty, warning</b>               |
| 12000<br>open category | <b>Other penalties and measures</b>                                   |

(1) Fixed or mobile placement.

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

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

(4) Fine expressed in daily units.

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

(6) Military demotion.

Parameters (to be specified where applicable)

|   |                                     |
|---|-------------------------------------|
| ∅ | Penalty                             |
| m | Measure                             |
| a | Suspended penalty/measure           |
| b | Partially suspended penalty/measure |

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

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

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