

Austria

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.

Conditional Suspension of a Sentence	
Name of the judgement or the probation decision	Conditional suspension of a sentence (orig. Bedingte Strafnachsicht)
Classification of this judgement or the probation decision	Conditional suspension
Legal basis of this judgement or the probation decision	§ 43 Criminal Code (CC) (orig. Strafgesetzbuch (StGB))
Definition of this judgement or the probation decision	A sentence of imprisonment is not executed on the condition that certain requirements are fulfilled.
Legal Conditions of this judgement or the probation decision	<ul style="list-style-type: none"> > A judgement of no more than two years. The limits do not apply to juveniles (§ 5/9 YCA). > A probation period of no less than one, and no more than three years. > Not applicable in convictions for rape > It can be presumed that the mere prospect of the enforcement of the sentence, possibly combined with other measures (orders or directives), will suffice to prevent the person committing other offences. > The enforcement of the sentence is not needed to thwart the commission of offences by others. > To be particularly considered: the nature of the offence, the character of the person, the degree of the person's culpability, the person's prior record, and the person's behaviour after the offence.
Type of probation measures	<p>The court can place the person under directives and/or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the</p>

	<p>person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <ul style="list-style-type: none"> > to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance; > if there is cause to revoke the probation assistance; > in any event, however, six months after the probation assistance has been ordered and upon its termination.
Authority responsible in case of infringement	The Court.

Conditional Partial Suspension of a Sentence	
Name of the judgement or the probation decision	Conditional partial suspension of a sentence (orig. Bedingte Nachsicht eines Teiles der Strafe)
Classification of this judgement or the probation decision	Conditional suspension
Legal basis of this judgement or the probation decision	§ 43a Criminal Code (CC) (orig. Strafgesetzbuch (StGB))
Definition of this judgement or the probation decision	A part of a sentence of imprisonment is not executed on the condition that certain requirements are fulfilled.

<p>Legal Conditions of this judgement or the probation decision</p>	<ul style="list-style-type: none"> > The person is sentenced to imprisonment for more than six months but no more than two years, considering previous convictions, which do not allow for a conditional suspension of the whole sentence. > The person is sentenced to imprisonment for more than two years but no more than three years, considering the high probability that he/she will not commit any further offences. > The part to be served has to be a minimum of one month and must not exceed one third of the sentence.
<p>Type of probation measures</p>	<p>The court can place the person under directives and/or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
<p>Combination of sanctions or measures</p>	<p>The above listed measures can be combined at the discretion of the judge.</p>
<p>Authority responsible for taking such a decision</p>	<p>The Court.</p>
<p>Authority responsible for supervising</p>	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <ul style="list-style-type: none"> > to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance; > if there is cause to revoke the probation assistance;

	> in any event, however, six months after the probation assistance has been ordered and upon its termination.
Authority responsible in case of infringement	The Court.

Suspended Sentencing (for juveniles and young adults only)	
Name of the judgement or the probation decision	Suspended Sentencing (for juveniles and young adults only) (orig. Schuldspruch unter Vorbehalt der Strafe)
Classification of this judgement or the probation decision	Suspended Sentencing
Legal basis of this judgement or the probation decision	§ 13 Youth Court Act (YCA) (orig. Jugendgerichtsgesetz (JGG))
Definition of this judgement or the probation decision	In cases concerning juveniles or young adults until the age of 21 the court may decide to suspend the sentencing and impose a probation period.
Legal Conditions of this judgement or the probation decision	<ul style="list-style-type: none"> > Suspended sentencing has to be included and explained in the judgement. > A required probationary period of no less than one, and no more than three years, and starts with the pronouncement of the judgement. > The convicted person has to be informed of the meaning of the conviction and, as soon as the decision becomes final, receive a document stating the obligations imposed on him/her and the grounds on which a sentence may be imposed retrospectively. > The presumption by the judge that the guilty verdict and the mere prospect of the sentencing, possibly combined with other measures (order and directives), will suffice to prevent the person from committing other offences. > The judge has to consider whether a sentence may be needed to prevent the commission of offences by others.
Type of probation measures	<p>The court can place the person under directives or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her

	<p>knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals.</p> <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>Probation Service: If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court: > to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance; > if there is cause to revoke the probation assistance; > in any event, however, six months after the probation assistance has been ordered and upon its termination.</p>
Authority responsible in case of infringement	The Court.

Conditional Suspension of Preventative Measures in facilities for the treatment of addiction	
Name of the judgement or the probation decision	Conditional suspension of preventative measures in facilities for the treatment of addiction (orig. Bedingte Nachsicht von vorbeugenden Maßnahmen in Anstalten für entwöhnungsbedürftige Rechtsbrecher)
Classification of this judgement or the probation decision	Suspended sentencing
Legal basis of this judgement or the probation decision	§ 45 (2) Criminal Code (CC) (orig. Strafgesetzbuch (StGB))

Definition of this judgement or the probation decision	The detention in a facility for the treatment of addiction (§ 22 CC) is not executed if certain requirements are fulfilled.
Legal Conditions of this judgement or the probation decision	<p>> Detention in a facility for the treatment of addiction may only be suspended together with the sentence.</p> <p>> It can be presumed that the mere prospect of detention in that facility in combination with one or more directives will suffice to overcome the person's addiction to intoxicating substances.</p>
Type of probation measures	<p>The court can place the person under directives or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized (health) institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <ul style="list-style-type: none"> > to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance; > if there is cause to revoke the probation assistance;

	> in any event, however, six months after the probation assistance has been ordered and upon its termination.
Authority responsible in case of infringement	The Court.

Postponement of the Execution of a Preventative Measure and Subsequent Suspension of the measure	
Name of the judgement or the probation decision	Postponement of the Execution of a Preventative Measure and Subsequent Suspension of the measure (orig. Vorläufiges Absehen vom Vollzug der mit Freiheitsentziehung verbundenen vorbeugenden Maßnahmen)
Classification of this judgement or the probation decision	Postponement of the execution of a preventative measure and subsequent suspended measure
Legal basis of this judgement or the probation decision	§ 157a Prison Act (PA) / (orig. Strafvollzugsgesetz (StVG))
Definition of this judgement or the probation decision	The execution of a preventative measure is postponed and suspended if a probationary period is completed without revocation.
Legal Conditions of this judgement or the probation decision	<p>> If and as long as the person concerned can be treated and cared for outside a forensic mental health facility, and</p> <p>> if suitable other directives will suffice to contain the dangerousness against which the preventative measure was imposed.</p> <p>> To be particularly considered: the person's character, health, prior life and record, the nature and severeness of the offence, the threat resulting from this, the achievements of the treatment so far as well as the opportunities and necessities of suitable care as well as the prospects of the person's upright development.</p> <p>> The court has to determine the conditions necessary.</p> <p>> The court has to determine a probationary period between one and five years. Within six months before the end of the probationary period the court may prolong the probationary period for a maximum of three more years, if compelling reasons require continuing probation. This may be done repeatedly.</p>
Type of probation measures	<p>> Probation assistance shall be ordered unless it is dispensable for special reasons (§ 157b PA).</p> <p>To prevent the person concerned from committing further offences he/she may in particular be ordered (§ 157c PA):</p> <p>> To live in a certain place, with a certain family, in a certain home or in a socio-therapeutic residential facility;</p> <p>> To undergo some other form of outpatient care or otherwise to be cared for in a day structure;</p> <p>> To avoid a certain home, certain places or certain contact, in particular contact with persons at risk;</p> <p>> To abstain from alcoholic beverages or other intoxicating substances;</p> <p>> To learn or practice a suitable occupation which corresponds as far as possible to his or her knowledge, abilities and inclinations;</p> <p>> To report any change of residence or place of work; and</p> <p>> To report to court or other authority at specified intervals.</p>

	> With his or her consent, the person concerned may also be ordered to undergo withdrawal treatment, medical, clinical-psychological or psycho- or socio-therapeutic treatment.
Combination of sanctions or measures	If the person concerned is also sentenced to a prison term (§ 21(2) CC), a postponement of the execution of a preventative measure is only applicable if the prison term is suspended conditionally.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	The Court, requiring the offender to provide certificates on the treatment.
Authority responsible in case of infringement	The Court.

Postponement of the Execution of Sentence in Case of Treatment of Addiction and Subsequent Suspension of Sentence	
Name of the judgement or the probation decision	Postponement of the execution of sentence in case of treatment of addiction and subsequent suspension of sentence
Classification of this judgement or the probation decision	Postponement of the execution of a sentence and subsequent suspended sentence
Legal basis of this judgement or the probation decision	§§ 39 and 40 Substance Abuse Act (SAA) (orig. Suchtmittelgesetz (SMG))
Definition of this judgement or the probation decision	The execution of a prison sentence based on an offence related to the acquisition of narcotics is postponed after enrolment in a treatment program for addicts.
Legal Conditions of this judgement or the probation decision	<p>> Postponement of max. 2 years is only possible, if</p> <ul style="list-style-type: none"> - the prison sentence does not exceed three years - the offence is related to the acquisition of narcotics - the offender is dependent on narcotics and has declared readiness to undergo necessary and reasonable medical treatment, which is not obviously hopeless, possibly including (stationary) admission up to six months. <p>> Excluded from postponement are serious offences involving drug trafficking (§ 28a SAA))</p> <p>> In the case of a sentence of imprisonment exceeding 18 months, the execution of the term of imprisonment does not appear necessary in view of the dangerousness of the offender.</p> <p>> An offender dependent on narcotics</p>
Type of probation measures	Health related measure
Combination of sanctions or measures	No (other directives and probation supervision can be ordered in case of subsequent suspension of the sentence)

Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	The Court, requiring the offender to provide certificates on the treatment
Authority responsible in case of infringement	The Court.

Conditional Release from Imprisonment	
Name of the judgement or the probation decision	Conditional release from imprisonment (orig. Bedingte Entlassung aus einer Freiheitsstrafe)
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	§ 46 Criminal Code (CC) / (orig. Strafgesetzbuch (StGB)) § 152 Prison Act (PA) / (orig. Strafvollzugsgesetz (StVG))
Definition of this judgement or the probation decision	The remainder of a sentence served is suspended conditionally if certain requirements are fulfilled.
Legal Conditions of this judgement or the probation decision	<ul style="list-style-type: none"> > The person must have served half of the sentence (but at least three emonths) to which he/she was sentenced to or determined by way of clemency, or of the part of such a sentence that was not conditionally suspended. > In exceptional circumstances, a person who has served more than half but no more than two thirds of the sentence may not be released conditionally despite fulfilling the requirements, if the continued enforcement of the sentence is necessary to prevent the commission of further offences by others (does not apply with juveniles - § 17 YCA). > A person sentenced to life imprisonment may not be released before having served fifteen years and if it is assumed that he/she will not commit further offences. > Juveniles have to have served at least one month before a conditional release may apply (§ 17 YCA). > It can be presumed that the conditional release does not prevent future offences any less than an execution of the remainder sentence, considering voluntary treatment already carried out during imprisonment and the effects of directives and orders. <p>Required Probationary Period:</p> <ul style="list-style-type: none"> > No less than one, and no more than three years. > If needed with respect to medical treatment or therapy the offender agreed on, the probation period may last up to five years. > If the remainder sentence is more than three years as well as in the case of sexual offences the probation period always lasts five years. > In cases of lifelong imprisonment, the probation period lasts ten years.

Type of probation measures	<p>The court can place the person under directives or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	<p>The above listed measures can be combined at the discretion of the judge.</p> <p>Directives based on §§ 51 and 52 CC may also be issued with the provision that an ordered medical or psychotherapeutic treatment or treatment of addiction shall be continued outside prison, free of charge by an institution which has a contract with the Ministry of Justice (§ 179a PA).</p>
Authority responsible for taking such a decision	<p>Respective Regional Court (Vollzugsgericht)</p>
Authority responsible for supervising	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <ul style="list-style-type: none"> > to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance; > if there is cause to revoke the probation assistance; > in any event, however, six months after the probation assistance has been ordered and upon its termination.
Authority responsible in case of infringement	<p>Respective Regional Court (Vollzugsgericht)</p>

Release from Preventive Detention	
Name of the judgement or the probation decision	Release from preventive detention (orig. Entlassung aus einer mit Freiheitsentziehung verbundenen vorbeugenden Maßnahme)
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	§ 47 Criminal Code (CC) (orig. Strafgesetzbuch (StGB))
Definition of this judgement or the probation decision	A person who is detained in a mental health facility can only be released on condition of a probationary period. (This also applies to release from a facility for the treatment of addiction unless a continuation of treatment is deemed unpromising).
Legal Conditions of this judgement or the probation decision	<p>> It can be presumed that the dangerousness against which the preventive detention was imposed does not exist anymore, considering the person's behaviour and development in the facility, his/her character, health, prior records and the prospect of the person's upright development.</p> <p>> Persons detained in a facility for the treatment of addiction shall be released conditionally - and subject to a probationary period - if continuation or completion of the treatment of the addiction has no prospect of success.</p> <p>> The probation period may last ten years or five years. The latter if the offence that gave rise to the detention carries a penalty of imprisonment for no more than ten years. If a person is detained in a facility for the treatment of addiction the probation period is to be determined with at least one and at a maximum five years.</p>
Type of probation measures	<p>The court can place the person under directives or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.

Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	<p>The Court, based on reports from the probation service and/or certificates of attendance from mostly privately organized (health) institutions that have been vetted by the government and provide services in the context of probation and directives.</p> <p>> Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <p>> to the extent required by the court or considered necessary and appropriate for the purposes of the probation assistance;</p> <p>> if there is cause to revoke the probation assistance;</p> <p>> in any event, however, six months after the probation assistance has been ordered and upon its termination.</p>
Authority responsible in case of infringement	The Court.

Judicial Supervision in Cases of Sex Offenders or of Sexually Motivated Violent Offenders	
Name of the judgement or the probation decision	Judicial supervision in cases of sex offenders or of sexually motivated violent offenders (orig. Gerichtliche Aufsicht bei Sexualstraftätern und sexuell motivierten Gewalttätern)
Classification of this judgement or the probation decision	Judicial supervision
Legal basis of this judgement or the probation decision	§ 52a Criminal Code (CC) (orig. Strafgesetzbuch (StGB))
Definition of this judgement or the probation decision	<p>> A person who is detained in a mental health facility may only be released conditionally.</p> <p>> Unconditional release is possible only for persons who have been committed to a facility for the treatment of addiction or a facility for dangerous repeat offenders once the period of detention has lapsed or,</p> <p>> if a person is detained in a facility for the treatment of addiction and if a continuation of the treatment has no prospect of success.</p>
Legal Conditions of this judgement or the probation decision	It can be presumed that the dangerousness against which the preventive detention was imposed does not exist anymore, considering the person's behaviour and development in the facility, his/her character, health, prior records and the prospect of the person's upright development.
Type of probation measures	The court can place the person under directives or order probation assistance, if this is necessary or appropriate to prevent the person from committing further offences (§ 50 (1) CC). The court is free to order any directive deemed useful to prevent the offender from committing further offenses, provided it does not intrude unreasonably into the personal

	<p>rights or life of the person. The law lists the following examples (§ 51 CC):</p> <ul style="list-style-type: none"> > to reside in a certain place, with a certain family or in a certain home; > to avoid a certain dwelling, certain places or certain company; > to abstain from alcoholic beverages; > to learn or pursue a suitable occupation that best suits his/her knowledge, abilities and inclinations; > to report any change in his/her place of residence or employment; and > to report to the court or other authority at certain intervals. <p>The person may also be ordered to repair or restore, to the best of the person's abilities, any damage caused by his/her offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others;</p> <p>If the person consents, he/she might further be ordered to undergo treatment of addiction, psychotherapy, or medical treatment (excl. surgical procedures) (§ 51 (3) CC).</p>
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	<p>The Court, based on reports from the probation service, and where relevant in consultation with the National Security Agencies, the Youth Court Assistance, or other relevant institutions.</p> <p>Probation Service:</p> <p>If the court orders probation assistance, the probation officer has to advise and assist the person to change his/her lifestyle and attitude in a way that will deter the person from committing offences in the future. If necessary, the probation officer adequately supports the person's efforts to cover the necessities of life, especially the person's efforts to find accommodation and employment (§ 52 CC). The probation officer reports to the court:</p> <ul style="list-style-type: none"> > whenever the court so demands or > when it is required or appropriate, and, in any case, > every three months during the first half of the court supervision period, and > every six months in the second half of that period.
Authority responsible in case of infringement	The Court.

Community Services Substituting Imprisonment in Lieu of Fines	
Name of the judgement or the probation decision	Community services substituting imprisonment in lieu of fines (orig. Gemeinnützige Leistungen als Ersatz für Freiheitsentzug anstelle von Geldstrafen)
Classification of this judgement or the probation decision	Community service

Legal basis of this judgement or the probation decision	§§ 3 and 3a Prison Act (PA) (orig. Strafvollzugsgesetz (StVB))
Definition of this judgement or the probation decision	An offender facing imprisonment in lieu of fines may carry out community services as a substitute for imprisonment.
Legal Conditions of this judgement or the probation decision	<ul style="list-style-type: none"> > Community service is not permitted for prison sentences in lieu of fines of nine months or longer. > Four hours community services substitute one day imprisonment. > The period of community service may not be longer than the sentenced person would need if he or she worked ten hours per week. > The offender has to reach an arrangement with a suitable facility within one month and inform the court about it. > At the request of the prosecutor's office and of the courts a person with experience in social work may be assigned to the offender to provide information about community services and to make the needed arrangements (§ 29b Probation Assistance Act (orig. Bewährungshilfegesetz). > Prosecution authorities must each maintain a list of facilities suitable for community service.
Type of probation measures	Community service
Combination of sanctions or measures	The above listed measures can be combined at the discretion of the judge.
Authority responsible for taking such a decision	The Court.
Authority responsible for supervising	The Court, based on reports from the person assigned to the offender.
Authority responsible in case of infringement	The Court.

2) Probation measures and alternative sanctions (Article 4)

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

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

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

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

However, directives that could constitute an unreasonable infringement of the personal rights or life of the person are not permissible.

Probation measures / alternative sanctions	Explanation
Obligation for the sentenced person to inform the authorities of any change of residence or working place	This is a measure mostly required in case of conditional or suspended sanctions. This obligation to inform of any change of residence must be reported without any delay .
Obligation not to enter certain localities, places or defined areas in the issuing or executing State	The specific content of this obligation depends on the circumstances of each case, and could be in particular : - obligation not to enter specific districts, cities, regions;
Obligation to take residence at a certain place, with a certain family	
Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity	The judge can provide for any appropriate instructions relating to behaviour, residence, education and training, leisure activities and professional activity including a ban on practising particular activities (e.g. independent profession, employment in the catering industry, etc.). Other examples are the obligation not to take drugs or alcohol, not to live in the same neighbourhood as the victim (in case of harassment) or to follow a training in violence handling (gender violence).
Obligation to report at specified times to a specific authority	This obligation consists in regular reportings to the court or to police departments.
Obligation to avoid contact with specific persons	This probation measure is in general imposed in the interest of the victim, in particular in cases of harassment or gender violence (ban on contacting person X in any way, and taking the initiative to break contact immediately when meeting by coincidence). However, it can also apply with a view to social rehabilitation (e.g. to avoid contact with certain peer groups).
Obligation to avoid contact with specific substances, which are assumed to be part of the underlying problems that have lead to offending behavior	The sentenced person may be obliged to avoid contact with specific substances such as alcohol or drugs.
Obligation to compensate financially for the prejudice caused by the offence	

Obligation to carry out community service	Not applicable.
Obligation to cooperate with a probation officer	This is maintaining close contact with a probation officer.
Obligation to undergo therapeutic treatment or treatment for addiction	- A condition to get counselling or treatment within the framework of voluntary aid can be imposed. This form of aid depends on the nature of the underlying problems (addiction problems, financial problems, aggression issues). A number of specific programmes are provided for domestic violence, sexual offences and drug related facts but also for financial problems.

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

As there exists no exhaustive list, it is possible that the judge will pronounce a probation measures that is not provided for in Article 4.1.

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

Yes, a number of specific programmes have been developed for domestic violence, sexual offences and drug related facts but also for financial problems

3) Electronic monitoring

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

Yes.

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

In general not, because EM is above all a way to execute prison sentences. The legislator however recently introduced the possibility of electronic monitoring for offenders convicted because of subversive or terror offences under certain narrowly defined conditions.

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

Yes.

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

No.

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

In Austria initially electronic monitoring was used through the "Radio Frequency (RF)" technical mean. In recent years the technical infrastructure for GPS monitoring was installed, which is the technique used today. While the persons under monitoring can be monitored all the time, focus of the supervision is the compliance with a predetermined schedule. If the person under monitoring violates the schedule for house arrest times an alarm will be raised at the monitoring center.