

# Northern Ireland

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

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

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

SUSPENDED SENTENCE OF IMPRISONMENT	
<b>Name of the judgement or the probation decision</b>	Suspended sentence of imprisonment
<b>Classification of this judgement or the probation decision</b>	Suspended sentence
<b>Legal basis of this judgement or the probation decision</b>	Suspended sentence as defined in section 18 of Treatment of Offenders Act NI 1968 as amended by Criminal Justice (Northern Ireland) Order 1996 article 23
<b>Definition of this judgement or the probation decision</b>	The 1968 Act provides that where a court gives a custodial sentence, no more than 2 years, for a non serious offence it may suspend that sentence for a period of not less than one year or more than three. Likewise for serious offences attracting a custodial sentence of no more than 7 years. If the offender commits another offence punishable with imprisonment they will be returned to court and they have the power to order that the original sentence shall take effect.
<b>Legal Conditions of this judgement or the probation decision</b>	Suspended sentence only given for offences which carry a custodial sentence.

<b>Type of probation measures</b>	There are no probationary measures set out in statute
<b>Combination of sanctions or measures</b>	The 1996 Order has not commenced however it provides that a court which passes a suspended sentence for an offence shall consider whether the circumstances of the case are such as to warrant in addition the imposition of a fine or the making of a compensation order.
<b>Authority responsible for taking such a decision</b>	The court makes the decision to suspend the sentence.
<b>Authority responsible for supervising</b>	There are <b>no</b> supervision measures set out in statute.
<b>Authority responsible in case of infringement</b>	Police Service of Northern Ireland.

<b>DEFERRED SENTENCE</b>	
<b>Name of the judgement or the probation decision</b>	Deferred sentence
<b>Classification of this judgement or the probation decision</b>	Alternative sanction
<b>Legal basis of this judgement or the probation decision</b>	Deferred sentence as defined in section 3 of Treatment of Offenders Act NI 1968.
<b>Definition of this judgement or the probation decision</b>	Deferment of sentences is available to the Crown Court or a magistrate's court when determining a sentence. The court may defer passing sentence on an offender for the purpose of allowing them to have regard to their conduct after conviction (including where appropriate, the making of reparation for their offence) or to any change in their circumstances.

<b>Legal Conditions of this judgement or the probation decision</b>	<p>The 1968 Act provides for sentences to be deferred for a period of up to 6 months. The draft Justice (NI) Bill 2010 which will be going through the NI Assembly later this year proposes to increase this to 1 year.</p> <p>The offender must consent and court satisfied that it would be in the interests of justice.</p> <p>Court may pass sentence before the expiration of the period of deferment if he is convicted in NI of any offence during that period.</p>
<b>Type of probation measures</b>	There are no supervision measures set out in statute.
<b>Combination of sanctions or measures</b>	Would not be combined with other orders.
<b>Authority responsible for taking such a decision</b>	The court makes the decision to defer the sentence.
<b>Authority responsible for supervising</b>	<p>Not Applicable</p> <p>There are <b>no</b> probation supervision measures set out in statute.</p>
<b>Authority responsible in case of infringement</b>	Police Service of Northern Ireland.

<b>ALTERNATIVE SANCTION</b>	
<b>Name of the judgement or the probation decision</b>	<p>A Community Sentence</p> <ul style="list-style-type: none"> <li>- Probation Order</li> <li>- Community Service order</li> <li>- Combination Order</li> <li>- Drug treatment and testing order (not yet commenced)</li> </ul>
<b>Classification of this judgement or the probation decision</b>	Alternative sanction
<b>Legal basis</b>	As defined in:

<p><b>of this judgement or the probation decision</b></p>	<ul style="list-style-type: none"> <li>- Article 10 (1) Criminal Justice (Northern Ireland) Order 1996- Probation Order.</li> <li>- Article 13 (1) Criminal Justice (Northern Ireland) Order 1996- Community Service Order.</li> <li>- Article 15 (1) Criminal Justice (Northern Ireland) Order 1996- Combination Order.</li> </ul> <p>Schedule 4 of the 1996 Order inserted provision for Supervision and Treatment Orders into the Mental Health NI Order 1986</p>
<p><b>Definition of this judgement or the probation decision</b></p>	<p><b>Probation Order</b></p> <p>A sentence of the Court requiring the offender to be under the supervision of a probation officer.</p> <p><b>Community Service Order</b></p> <p>A sentence of the court which can be made when an offender, of 16 years. If the offender consents they will be required to carry out unpaid work in the community.</p> <p><b>Combination Order</b></p> <p>A sentence of the court which combines a Probation Order and a Community Service Order, where an offender, aged 16 years of age or over, is found guilty of an offence punishable by imprisonment.</p> <p><b>Drug Treatment and Testing Order</b></p> <p>Criminal Justice (NI) Order 1998 (not yet in force)</p> <p><b>Supervision and Treatment Order</b></p> <p>Person under the supervision of a social worker or probation officer for a period of not more than 2 years and person submits, during the whole of the period or part of the period specified in the order, to treatment by or under the direction of a medical practitioner with a view to the improvement of his mental condition.</p>
<p><b>Legal Conditions of this judgement or the probation decision</b></p>	<p><b>Probation Order</b></p> <p>Court is of the opinion that the supervision of the offender by a probation order is desirable in the interests of :</p> <ul style="list-style-type: none"> <li>a) securing the rehabilitation of the offender; or</li> <li>b) protection the public from harm from him or preventing the commission by him of further offences.</li> </ul> <p>A probation order can be made for between 6 months and 3 years.</p> <p>Where the offender is convicted of an offence.</p> <p>Offender's Consent is required.</p> <p><b>Community Service Order</b></p> <p>The court will make an order of not less than 40 and not more than 240. For 2 or more offences the court may direct hours of work shall be concurrent or additional but total number of hours must not exceed the maximum of 240 hours. Offence punishable by imprisonment.</p> <p>Offender's Consent is required.</p> <p><b>Combination Order</b></p>

	<p>Where the Court is of the opinion that the supervision of the making of a Combination Order is desirable in the interests of :</p> <p>a) securing the rehabilitation of the offender; or</p> <p>b) protection the public from harm from him or preventing the commission by him of further offences.</p> <p>A Combination Order will be the supervision of a probation officer for a period specified in the order not less than 12 months nor more than 3 years and to perform unpaid work for a number of hours not less than 40 nor more than 100.</p> <p>Offence punishable by imprisonment</p> <p>Offender's Consent is required.</p> <p><b>Supervision and Treatment Order</b></p> <p>Court must be satisfied and hear oral evidence of a medical practitioner along with oral or written evidence from one other practitioner that the mental condition of the accused is such as requires or may be susceptible to treatment and is not such as to warrant the making of a Hospital or guardianship order. Specifies the Health Board or authorised HSS trust for the area where they will reside and requires him to be under the supervision of a social worker or authorised HSS trust <b>or</b> specifies the petty session's district in which they will reside and requires him to be under the supervision of a probation officer. Supervised person must keep in touch with supervising officer and notify of any change of address. Includes a requirement that the person shall submit to treatment with a view to improving his mental condition. Treatment required may be as an in patient in a hospital or nursing home, as an out patient at specified hospital and under the direction of specified medical practitioner.</p>
<b>Type of probation measures</b>	<p>The Court can include a range of Additional requirements for Probation Orders and Custody Probation Orders, set out in Schedule 1 of the Criminal Justice (Northern Ireland) Order 1996 . Article 11 of the same legislation can require the offender to comply during the whole or any part of the probation period with such requirements as the court considers desirable in the interests of :</p> <p>a) securing the rehabilitation of the offender; or</p> <p>b) protecting the public from harm from him or preventing the commission by him of further offences.</p> <p>Requirements can include:</p> <ul style="list-style-type: none"> <li>- residence;</li> <li>- activities ( not more than 60 days);</li> <li>- attendance at day centre (not more than 60 days);</li> <li>- treatment for mental condition;</li> <li>- treatment for drug or alcohol dependency;</li> <li>- Oral or written evidence of a registered medical practitioner is required that the mental condition of the offender:</li> </ul> <p>a) is such as requires and may be susceptible to treatment; but</p> <p>b) is not so as to warrant detention under a hospital order. The Offender is required to submit for part of or for the whole period of the probation order as specified to treatment or be under the direction of a registered medical</p>

	<p>practitioner. Court has to be satisfied that arrangements for such treatment have been made.</p> <p>Requirement as to treatment for drug or alcohol dependency. Court has to be satisfied that :</p> <p>a) the offender is dependent on drugs or alcohol;</p> <p>b) the dependency caused or contributed to the offence in respect of which the order is proposed to be made; and</p> <p>c) the dependency is such as requires and may be susceptible to treatment.</p> <p>Treatment shall be for whole or part of period of the order and may be in-patient or out-patient. Treatment by or under the direction of a person having the necessary qualifications or experience.</p>
<b>Combination of sanctions or measures</b>	<p><b>Custody Probation Order</b></p> <p>Provided for in Article 24(1) of the Criminal Justice (Northern Ireland) Order 1996.</p> <p>Where a court believes that a custodial sentence of 12 months or more is justified the court shall consider whether it would be appropriate to make a Custody Probation Order requiring the offender to serve a custodial sentence and on his release from custody to be under the supervision of a probation officer for a period specified in the order of between 12 months and 3 years. The offender must consent to the making of the order. This Order now only applies to offences committed prior to 1<sup>st</sup> April 2009 (Now superseded by a Determinate Custodial Sentence or Extended and Indeterminate Custodial Sentences).</p>
<b>Authority responsible for taking such a decision</b>	Court
<b>Authority responsible for supervising</b>	<p>Supervision is provided by the Probation Board for Northern Ireland :</p> <ul style="list-style-type: none"> <li>- The Probation Board for Northern Ireland (PBNI) has the status of an executive Non-Departmental Public Body. The functions of PBNI are set out in the Probation Board (Northern Ireland) Order 1982 and further responsibilities are outlined in the Criminal Justice (Northern Ireland) Orders 1996, 2005 and 2008. The main strands of PBNI's work are to: <ul style="list-style-type: none"> <li>o assess convicted offenders and prepare reports for Courts, Parole Commissioners and others;</li> <li>o supervise court orders and licences in the community;</li> <li>o provide a range of services and interventions to prisoners;</li> <li>o provide a Victim Information Scheme to any person who is the direct victim of a criminal offence where the offender has been put under probation supervision;</li> <li>o work alongside the police, prison service and other agencies to manage risks posed by the most serious offenders as part of the Public Protection Arrangements Northern Ireland (PPANI).</li> </ul> </li> </ul> <p>Supervision and Treatment Orders can also be supervised by Health Trusts as specified in each case by the court.</p>

<b>Authority responsible in case of infringement</b>	The Probation Board for Northern Ireland is responsible for taking enforcement action, including returning the respective Orders to court where the order requirements have been infringed.
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<b>RELEASE ON LICENCE</b>	
<b>Name of the judgement or the probation decision</b>	Release on Licence
<b>Classification of this judgement or the probation decision</b>	Conditional release
<b>Legal basis of this judgement or the probation decision</b>	<p>A release on licence of Sexual Offenders under <b>Article 26 of the Criminal Justice (Northern Ireland) Order 1996</b>.</p> <p>A release on licence of <b>Life Sentenced prisoners</b> under the <b>Life Sentences (Northern Ireland) Order 2001</b>.</p> <p>A release under the <b>Criminal Justice (Northern Ireland) Order 2008</b></p> <ul style="list-style-type: none"> <li>• Article 17 deals with the release of prisoners serving fixed term sentences- Determinate Custodial Sentences</li> <li>• Article 18 deals with the release of prisoners serving Indeterminate Custodial Sentences or Extended Custodial Sentences</li> </ul>
<b>Definition of this judgement or the probation decision</b>	<p><b>A release on licence of Sexual Offenders -Article 26 Criminal Justice ( Northern Ireland) Order 1996</b></p> <p>Where a prison sentence has been imposed for a sexual offence committed prior to <b>1<sup>st</sup> April 2009</b> the Court may order that instead of being granted remission of his sentence he be released on licence. Release on licence takes place on the day the offender would have been granted remission. Following release the offender will remain under the supervision of a probation officer until the date on which he would have served the whole of his sentence.</p> <p>For offences committed on or after <b>1<sup>st</sup> April 2009</b> where the court considers a sentence of less than 12 months.</p> <p><b>A release on licence of Life Sentenced prisoners</b></p> <p>The Parole Commissioners Northern Ireland may direct the release of life sentenced prisoners and the Minister of Justice (MOJ) is required to release them. Article 8 provides that where a life sentence prisoner is released on licence that licence remains in force for life unless revoked under Article 9.</p> <p><b>A release under the Criminal Justice (NI) Order 2008</b></p>

	Once a fixed term prisoner has served 'the requisite' custodial period" the Minister of Justice shall release the prisoner on licence.
<b>Legal Conditions of this judgement or the probation decision</b>	<p><b>A release on licence of Sexual Offenders -Article 26 Criminal Justice (Northern Ireland) Order 1996</b></p> <p>Convicted of a Sexual offence, committed prior to 1<sup>st</sup> April 2009 or where a sexual offence has been committed on or after 1<sup>st</sup> April 2009 and where a period of custody of less than 12 months has been imposed.</p>
<b>Type of probation measures</b>	<p>The Criminal Justice (Sentencing) (Licence Conditions) NI Rules 2009 set out supervision of offenders while on licence.</p> <p><b>Standard</b> Licence conditions are:</p> <ul style="list-style-type: none"> <li>- Keep in touch with probation officer;</li> <li>- Receive visits from the probation officer;</li> <li>- Reside at an address approved by the probation officer;</li> <li>- Undertake work including that of a voluntary nature, as approved by the probation officer;</li> <li>- Obtain permission for any change of address;</li> <li>- Not travel outside the UK Channel Islands or the IOM without prior permission;</li> <li>- must not behave in a way which undermines the purposes of the release on licence which are the protection of the public, the prevention of re-offending and the rehabilitation of the offender;</li> <li>- must not commit any further offences.</li> </ul> <p><b>Additional</b> conditions of Licence, prescribed by the Secretary of State/Minister of Justice can include :</p> <ul style="list-style-type: none"> <li>• a requirement to reside at a certain place;</li> <li>• a requirement to make and maintain contact with a person(s) or identified group;</li> <li>• a restriction on making or maintaining contact with a person or identified group;</li> <li>• a restriction on participation in an activity;</li> <li>• a requirement to participate or co-operate with a programme or set of activities which may include testing e.g. alcohol or drugs;</li> <li>• a requirement to comply with a curfew;</li> <li>• a requirement to comply with an electronic monitoring arrangement;</li> <li>• a restriction on freedom of movement and any other requirement relating to supervision in the community by a probation officer;</li> <li>• a requirement relating to supervision in the community by a probation officer.</li> </ul>
<b>Combination of sanctions or measures</b>	
<b>Authority</b>	Parole Commissioners Northern Ireland



<b>responsible for taking such a decision</b>	
<b>Authority responsible for supervising</b>	Supervision is provided by the Probation Board for Northern Ireland
<b>Authority responsible in case of infringement</b>	<p>Probation Board for Northern Ireland</p> <p>Breach action through <b>Courts</b> for Sex Offenders Licences- Article 26 Criminal Justice (Northern Ireland) 1996</p> <p>Recall requests initiated by Probation Board for Northern Ireland through :</p> <p>- Parole Commissioners Northern Ireland.</p>

## 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.**

<b>Probation measures / alternative sanctions</b>	<b>Explanation</b>
<b>Obligation for the sentenced person to inform a specific authority of any change of residence or working place</b>	<p>Probation Orders, Community Service Orders, Custody Probation Orders, Combination Orders Supervision and Treatment Orders.</p> <p>Requirement of order to inform probation officer/relevant officer of change of address</p> <p>Licence - Standard Licence Condition that offender must obtain permission from the probation officer of any proposed address or work change.</p>
<b>Obligation not to enter certain localities, places or defined areas in the issuing or executing State</b>	<p>Additional Requirement can be added to a Probation Order, Custody Probation Order and Combination Order for the Offender to refrain from certain activities ( for up to 60 days)- which can specify avoiding certain places at specific times.</p> <p>Additional Licence Conditions can be added, where considered appropriate and necessary, to restrict the movement of an offender for part or all of the period of Licence.</p>
<b>Obligation containing limitations on leaving the territory of the</b>	<p>Standard Licence Conditions require the offender not to travel outside the UK, Channel Islands or Isle of Man without prior permission.</p> <p>For Probation Orders, Community Service Orders, Custody Probation Orders, Combination Orders Supervision and Treatment Orders- there</p>

<b>executing State</b>	is <b>no</b> standard requirement relating to travelling outside the UK, Channel Islands or Isle of Man There is the requirement that an offender must inform his/her probation officer/relevant officer of a change of address. If an offender has left the UK Channel Islands or Isle of Man and cannot meet the requirement of the order to keep in touch with the probation officer/relevant officer the Order would be unworkable and could be returned to court for revocation.
<b>Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity</b>	Additional requirements of an Order or Additional conditions of a Licence can cover issues of residence, activities and certain limitations.
<b>Obligation to report at specified times to a specific authority</b>	Offenders supervised on an Order or Licence are required to keep appointments with and report to the probation officer at times and places issued by the supervising officer. Failure to report as instructed without an acceptable explanation or prior approval results in enforcement action and can lead to breach or recall action where required.
<b>Obligation to avoid contact with specific persons</b>	Additional Condition of a Licence can include a restriction on contact with a specific person. For example for certain sexual offenders an additional condition of licence can be that they do not have any unsupervised contact with any child under the age of 18 years.
<b>Obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence</b>	Additional Licence condition can include the offender avoiding certain objects- e.g. computer and internet.
<b>Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation</b>	Compensation Order can be made by the court at time of conviction.

<b>Obligation to carry out community service</b>	<p>Court can make a Community Service Order where the offender is aged 16 and over and has been convicted of an offence punishable by imprisonment. It can be made as a stand alone order whereby the number of hours of unpaid work required can be for not less than 40 hours and not more than 240 hours.</p> <p>Community Service can also be combined with a Probation Order, in which case the number of hours required can be for not less than 40 hours to not more than 100 hours.</p>
<b>Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons</b>	<p>Offenders have to comply with the requirements of their Order or conditions of their Licence which includes keeping in touch with their probation officer and (perform work as instructed- Community Service), and informing the probation officer of any change of address.</p>
<b>Obligation to undergo therapeutic treatment or treatment for addiction</b>	<p>Supervision and Treatment Orders. The person has to submit during the whole or part of the period of the Order to 'treatment or under the direction of a medical practitioner with a view to the improvement of his mental condition'.</p> <p>Additional requirements can be included covering treatment for mental condition or treatment for drug or alcohol dependency. Consent of the offender is required.</p> <p>Oral or written evidence of a registered medical practitioner is required with regards to treatment for mental condition.</p> <p>In relation to drug and alcohol additional requirements, treatment by or under the direction of a person having the necessary qualifications or experience.</p>

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

No

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

Additional requirements and additional conditions can be included relating to specific and available programmes dealing with Sexual Offending, Domestic Violence and other offending behaviour.

(Public Protection Arrangements Northern Ireland (PPANI) manages the risks associated with sexual and violent offenders. This is a set of arrangements through which agencies can work together and share information to protect the public.)

### **3) Electronic monitoring**

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

YES to monitor curfew and compliance with license and community orders

**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)?**

Only conditional release and alternative sanction.

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

Perhaps for a life sentence prisoner.

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

Yes means of compliance.

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

An electronic monitoring (EM) requirement to monitor adherence to a curfew can be ordered as a condition of **bail, community sentence or post-custody licence**.

EM is **not satellite tracking**. The technology monitors whether a subject is at their place of curfew during the hours of their curfew but **does not show their location 24/7**.

**G4S** is the service provider for EM in Northern Ireland. EM orders are forwarded by the NI Courts and Tribunals Service or NI Prison Service to G4S for installation of the equipment. **The equipment must be installed at the individual's curfew address.**

The EM technology uses a mobile signal - there is **no requirement for a fixed telephone line**

EM requirements must last for **a minimum of 14 days**

The curfew period must last between **2 and 12 hours** a day (times can vary across days but the EM order must be specific).

A curfew should not interfere with a person's religious beliefs, other conditions or requirements to which they are subject, work or education.

A **fixed address** is required, as well as the consent of those whose cooperation is required to secure the monitoring.

Adherence to curfews is monitored by G4S and any **violations are reported to the PSNI** (bail curfews) or **YJA/PBNI** (curfews attached to community sentences and post-custody licences). An alert is sent to G4S if the individual being monitored leaves or is absent from their curfew address during their curfew period or if any of the equipment is damaged, moved or unplugged.

#### **4) Formalities**

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

- Criminal Record;
- Pre Sentence Reports. Ant other relevant such as Medical or Psychology;
- Assessment documentation.