

Portugal

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 release	
Name of the judgement or the probation decision	Conditional release Liberdade condicional
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	<p>Conditional release is provided for in articles 61.º to 64.º (and by cross-reference article 52.º, article 53.º, n.ºs 1 and 2, article 54.º, article 55.º, para. a) to c), article 56.º, n.º 1, and article 57.º of the Criminal Code, approved by Decree-Law n.º 48/95, of 15 March (originally Decree-Law n.º 400/82, of 23 of September), with the most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January.</p> <p>The execution of the conditional release is provided for in articles 173.º to 188.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures, approved by Law n.º 115/2009, of 12 October, with the most recent amendment introduced and republished in its entirety by Law n.º 27/2019, of 28 March.</p>
Definition of this judgement or the probation decision	<ul style="list-style-type: none"> · Conditional release consists of forth bringing the freedom of the convicted person, after he/she/they has served a legally provisioned minimum period of imprisonment, in accordance with his/her/their consent, by means of a judicial decision. · The judge may impose certain rules of conduct, i.e. conditions, and prohibit certain actions during conditional release. · Conditional release lasts for the remaining period of time set for the imprisonment sentence, up to a maximum of 5 years, after which the imprisonment sentence is considered extinguished. · If, due to a breach of the imposed conditions, conditional release is revoked, the convicted person shall serve the remaining time of the sentence.

<p>Legal Conditions of this judgement or the probation decision</p>	<p>The court determines the conditional release if:</p> <ul style="list-style-type: none"> · The convicted person has given his/her/their consent; and · Regarding the amount of sentence served: <ul style="list-style-type: none"> a) The convicted person has served 1/2 of the imprisonment sentence and a minimum of 6 months, if: <ul style="list-style-type: none"> o It is expected that, taking into account the circumstances of the concrete case, the previous life of the individual, his/her/their personality and its progress throughout the execution of the sentence, the convicted person will lead his/her/their life in a socially responsible manner, without committing crimes; and o conditional release is compatible with the protection of the legal order and social peace. b) The convicted person has served 2/3 of the imprisonment sentence and a minimum of 6 months if: <ul style="list-style-type: none"> o It is expected that, taking into account the circumstances of the concrete case, the previous life of the individual, his/her/their personality and its progress throughout the execution of the sentence, the convicted person will lead his/her/their life in a socially responsible manner, without committing crimes; c) The convicted person has served 5/6 of the imprisonment sentence, when the sentence exceeds 6 years.
<p>Type of probation measures</p>	<p>The judge may determine (article 64.º, in articulation with article 52.º of the Portuguese Criminal Code) the imposition of, among others, the following rules of conduct:</p> <ul style="list-style-type: none"> · To reside in a determined place; · To attend specific programs or activities; · To comply with determined obligations; · Refrain from working in determined professional occupations; · Refrain from entering specific locations and/or environments; · Refrain from residing in determined places or regions; · Refrain from accompanying, hosting or receiving certain persons; · Refrain from joining specified associations or participating in determined meetings;

	<ul style="list-style-type: none"> · Refrain from possessing certain objects which would facilitate the commitment of criminal offences. <p>With the prior consent of the convicted person, the judge may also determine the obligation to be subjected to clinical follow-up or undergo therapeutic treatment in an adequate institution.</p> <p>If the judge finds it appropriate the conditional release is issued together with a social reintegration plan (Article 64.º, in conjunction with article 54.º of the Portuguese Criminal Code). This plan may include any of the above referred rules of conduct, as well as other conditions, such as:</p> <ul style="list-style-type: none"> · The obligation to answer to a notification to present before the judge and/or the social reinsertion officer; · The obligation to host visits from the social reinsertion services and provide them with information and documents confirming his/her/their means of subsistence; · The obligation to inform the social reinsertion officer about any changes to residence, occupation and any absence/travel lasting for more than 8 days; · The obligation to obtain prior authorization to travel abroad from the judge responsible for the execution of the sentence.
Combination of sanctions or measures	The above-mentioned measures may be combined with one another; similarly the presented list is merely exemplificatory.
Authority responsible for taking such a decision	<p>The competent authority is the judge of the Supervisory Court, after requesting the issuing of specific reports and relevant information (article 173.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures) hearing the technical committee (article 174.º and article 175.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures), the public prosecutor (article 177.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures) and the convicted person (article 176.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures).</p> <ol style="list-style-type: none"> 1 - The technical committee is chaired by the judge of the Supervisory Court with jurisdiction over the location area of the prison and it may include a public prosecutor of the same court. 2 - When taking part in the Technical committee, the public prosecutor may intervene to require or to obtain information he deems necessary for the exercise of his powers. 3 - The members of the technical committee include the director of the prison that has the casting vote, the person responsible for the

	<p>area of correctional treatment, the head of the surveillance and security and the person leading the social services team with competence in the case.</p> <p>4 - The judge in the Supervisory Court can ask any worker to participate in any meeting of the technical committee, without voting rights, if his cooperation concerning the issues under discussion is deemed useful.</p> <p>5 - The technical committee meets in the prison.</p>
<p>Authority responsible for supervising</p>	<p>The social reinsertion services and other services that intervene in the execution of the conditional release should issue periodic reports in the frequency and within the deadlines determined by the court and whenever there is a relevant change in the behaviour of the convicted person.</p> <p>These institutions are also responsible for the communication to the court of any breach of the rules of conduct established (according to article 184.º of the Portuguese Code for the Enforcement Sentences and Liberty Depriving Measures).</p> <p>The Directorate-General for Social Reintegration has competence to:</p> <ul style="list-style-type: none"> - Contribute to the definition of the criminal policy, particularly in the areas of the social reintegration of young people and crime prevention; - Ensure technical support to the courts when taking decisions in criminal and juvenile protection proceedings; - Ensure the implementation of measures of educational and custodial sentences and alternative measures to imprisonment; - Collaborate with the Directorate-General of Prison Services in the preparation of probation and support during the probation time; - Ensure the implementation of sentences and measures that require electronic monitoring; - Ensure the management of the electronic monitoring; - Ensure the management of educational centres and other facilities for the social reintegration of young people; - Contribute to the development of instruments of international judicial cooperation and ensure the procedures arising from conventions to which the Directorate-General is the central authority; - Contribute to a greater community involvement in the administration of criminal justice and protecting education, through

	<p>cooperation with other public and private institutions or citizens that pursue an aim of crime prevention and social reintegration</p>
<p>Authority responsible in case of infringement</p>	<p>Judicial court (Supervisory Court)</p> <ul style="list-style-type: none"> · The court of enforcement of sentences has the competence to ensure the respect for the rights of the prisoner, ruling on the legality of the decisions of prison services, as provided for by law. · After the decision that has determined the application of a sentence or measure involving deprivation of liberty has become <i>res judicata</i> the Supervisory Court has the competence to monitor and supervise its execution and decide on its modification, substitution and revocation, without prejudice to Article 371.º-A of the Criminal Procedure Code. · Supervisory Court is similarly competent for monitoring and supervising the execution of the provisional custodial measures and pre-trial detention. Its decisions have to be communicated to the court that has ordered the preventive measures. · Without prejudice to other legal provisions the Supervisory Court is competent, according to the matter to: <ul style="list-style-type: none"> a) approve individual social reintegration plans, as well as approve treatment and rehabilitation plans of accountable and non-accountable persons suffering from a mental disorder, including amendments thereto; b) grant and revoke authorizations to leave the prison during a determined period of time; c) grant and revoke conditional releases and adjustments to conditional releases; d) approve the decision, issued by the Directorate-General for the prison systems, to place the convicted individual subjected to open regime in the exterior, before <i>de facto</i> open regime execution; e) determine the execution of the sentence of deportation, declaring the extinction of the imprisonment sentence and further determine the advanced execution of said sentence of deportation; f) summon the Technical Committee whenever necessary or when provided for by law; g) rule on appeals concerning the decisions of prison services; h) determine what to do with the retained mail;

- i) determine what to do with the objects seized from the prisoners;
- j) decide on the modification of the sentence of imprisonment for prisoners suffering from serious illness, progressive and irreversible or serious and permanent disability or advanced age, and the replacement or revocation of its terms;
- l) issue a decision on the approval of the social reintegration plan respective modifications, permissions to leave, modification of the imposed rules of conduct and revocation of the sentence, when prison sentence is served in a house arrest modality;
- m) review and extend the security measure of internment for non-accountable people;
- n) decide on the performance of community service and on its repeal, in cases of execution of a security measure followed by a sentence that implies deprivation of liberty;
- o) determine the relocation or suspension of the imprisonment sentence in case of a supervening mental disorder and provide for the review of the sentence;
- p) determine the compliance with the remainder of the sentence or the continuation of internment for the same time, in the case of repeal of the sentence of community service or conditional release , in cases of execution of a security measure followed by a sentence that implies deprivation of liberty;
- q) declare the termination of the changes to the normal execution of the sentence in case of simulation from a mental disorder;
- r) declare due completion of a sentence of imprisonment that would fit the particular crime committed, in cases of conviction to an indeterminate sentence, if the conditional release has been refused or revoked;
- s) declare extinct the *de facto* prison sentence, the relatively indetermined sentence and alternative measure of internment;
- t) to issue warrants of arrest and release;
- u) inform the victim of the prisoner's release or escape, as provided in articles 23.º and 97.º;
- v) lead the proceeding of granting and revoking of the pardon and proceed to its implementation;

	<p>x) issue the declaration of contumacy and order the seizure of property, if a convict intentionally hinders, totally or in part, the execution of imprisonment or of a measure of internment;</p> <p>z) decide on the provisional cancellation of a fact or decision registered on the criminal record;</p> <p>aa) decide on the appeals on the legality of the transcription to certificates of criminal record.</p>
Suspension of enforcement of the sentence	
Name of the judgement or the probation decision	<p>Suspension of enforcement of the sentence</p> <p>Suspensão da execução da pena</p>
Classification of this judgement or the probation decision	Suspended sentence
Legal basis of this judgement or the probation decision	The suspension of the enforcement of sentences is provided for in articles 50.º to 57.º of the Criminal Code, approved by Decree-Law n.º 48/95, of 15 March (originally Decree-Law n.º 400/82, of 23 of September), with the most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January.
Definition of this judgement or the probation decision	<p>The suspension of the execution of a sentence refers to the judicial decision, in cases where the penalty of imprisonment does not exceed 5 years, whereby the judge suspends the execution of the sentence as he considers, after taking into account a set of conditions (<i>infra</i>), and attending to the circumstances of the concrete case, that the mere condemnation of the act and the threat of prison are adequate and enough to fulfil the ends pursued by the penalty.</p> <p>The suspension lasts for the period of time set in the sentence for the imprisonment and in no case for a period under one year (article 50.º, n.º 5 of the Portuguese Criminal Code).</p> <p>During suspension, the convicted person may be required to comply with obligations and rules of conduct determined by the judge (articles 51.º and 52.º of the Portuguese Criminal Code).</p> <p>Within the period of suspension, if the convicted person breaches in a grave or repeated manner the conditions or rules of conduct imposed along with the suspension of the enforcement of the sentence, or if the person commits a criminal offence and is tried and convicted as a result (being shown that the objectives of the suspension of the sentence were not duly accomplished), the suspension may be revoked. Accordingly, revocation determines the due fulfilment of the prison sentence initially set (article 56.º of the Portuguese Criminal Code)</p>

	<p>At the end of a successful period of the suspension of the sentence, the execution of the sentence may no longer be enforced, as it is declared extinguished (article 57.º of the Portuguese Criminal Code).</p>
<p>Legal Conditions of this judgement or the probation decision</p>	<p>As above mentioned:</p> <ul style="list-style-type: none"> · The sentence must be a prison sentence not exceeding 5 years; · The judge takes into account the personality, living conditions, pre and post-crime behaviour of the convicted person and circumstances of the crime; and <p>The judge must consider that, the mere condemnation of the act and the threat of prison are adequate and enough to fulfil the ends pursued by the penalty.</p> <ul style="list-style-type: none"> · The judge determines the duties and rules of conduct with which the convicted person has to comply. · The suspension lasts for the same period of time as the sentence of imprisonment and is set between 1 and 5 years. · The decision must specify the grounds for suspension and imposed conditions/rules of conduct.
<p>Type of probation measures</p>	<p>The judge may determine the compliance with the following obligations, among others (Article 51.º of the Portuguese Criminal Code):</p> <ul style="list-style-type: none"> · To compensate, within a specified deadline, in full or in the part deemed feasible by judge, the damages to the injured party; · To provide moral satisfaction do the injured party; · To make a monetary contribution or another contribution of the same value, to public or private welfare institutions or the State. <p>The judge may also determine the compliance with the following non-exclusive list of rules of conduct (Article 52.º of the Portuguese Criminal Code):</p> <ul style="list-style-type: none"> · To reside in a determined place; · To attend specific programmes and activities; · To comply with certain obligations; · Refrain from working in determined professional occupations; · Refrain from entering specific locations and/or environments;

	<ul style="list-style-type: none"> · Refrain from residing in determined places or regions; · Refrain from accompanying, hosting or receiving certain persons; · Refrain from joining specified associations or participating in determined meetings; · Refrain from possessing certain objects which would facilitate the commitment of criminal offences. <p>With the prior consent of the convicted person, the judge may also determine the obligation to be subjected to clinical follow-up or undergo therapeutic treatment in an adequate institution.</p> <p>If deemed convenient and adequate to promote the rehabilitation of the convicted person, if he/she /they is under the age of 21 or if the committed crime is one against freedom or sexual self-determination (punishable under articles 163.º to 176.º-A Portuguese Criminal Code), the judge may issue suspension with probation. This modality consists of a social reintegration plan. This plan may include any of the above referred rules of conduct, as well as other conditions, such as:</p> <ul style="list-style-type: none"> · The obligation to answer to a notification to present before the judge and/or the social reinsertion officer; · The obligation to host visits from the social reinsertion services and provide them with information and documents confirming his/her/their means of subsistence; · The obligation to inform the social reinsertion officer about any changes to residence, occupation and any absence/travel lasting for more than 8 days; · The obligation to obtain prior authorization to travel abroad from the judge responsible for the execution of the sentence.
Combination of sanctions or measures	All the measures referred above can be combined with one another.
Authority responsible for taking such a decision	Judicial court.
Authority responsible for supervising	All the authorities or offices which are responsible for supporting the convicted person in the fulfilment of his duties, namely the Directorate-General for Social Reintegration, should supervise and notify the judge of any breach of the duties or behaviour rules (Article 495.º, n.º 1 of the Portuguese Criminal Procedure Code).

Authority responsible in case of infringement	Judicial court.
Replacement of the imprisonment sentence	
Name of the judgement or the probation decision	Replacement of the prison sentence for a fine Substituição da prisão por multa
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Replacement of the prison sentence for a fine is provided for in article 45.º of the Criminal Code, approved by Decree-Law n.º 48/95, of 15 March (originally Decree-Law n.º 400/82, of 23 of September), with the most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January.
Definition of this judgement or the probation decision	<p>Whenever the prison sentence does not exceed 1 year, said sentence shall be substituted for a fine or for another applicable non-liberty depriving alternative sanction, except if the execution of the prison sentence is deemed necessary to prevent future crimes from being committed. If the fine is not duly paid, under article 45.º, n.º 2, in conjunction with article 49.º Of the Portuguese Criminal Code, the convicted person shall serve the initially issued prison sentence.</p> <p>Under article 47.º of the Portuguese Criminal Code, fine is set in days, each day corresponding to an amount set by the court in line with the financial and economic situation of the convicted individual and it can vary between 5 € and 500 €.</p> <p>In line with article 49.º of the Portuguese Criminal Code, if the convicted individual fails to pay the fine, voluntarily or coercively, he/she/they shall serve a prison sentences corresponding to the amount of time set in the fine reduced by 2/3, even if the crime is not punishable with prison sentence. The convicted individual may at anytime avoid prison, in full or partially, by paying, in full or partially, the set fine.</p>
Legal Conditions of this judgement or the probation decision	As above mentioned, prison sentence may not exceed 1 year and the execution of the sentence cannot deemed necessary to prevent the commission of future crimes.
Type of probation measures	N/A.
Combination of sanctions or measures	N/A.
Authority responsible for taking such a decision	Judicial court.
Authority responsible for supervising	The sentence is notified to the director of the convicted person in case of prohibition of exercise of a public function and in case of prohibition of exercise of a professional activity to the competent

	authority when the profession depends upon a public authorization or approval. (Article 499.º of the Portuguese Criminal Procedure Code)
Authority responsible in case of infringement	Judicial court.
House arrest	
Name of the judgement or the probation decision	House arrest Regime de permanência na habitação
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	House arrest is provided for in article 43.º of the Criminal Code, approved by Decree-Law n.º 48/95, of 15 March (originally Decree-Law n.º 400/82, of 23 of September), with the most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January.
Definition of this judgement or the probation decision	House arrest corresponds to the obligation for the convicted person to stay in his habitual place of residence, monitored via distance-based technical means of supervision, for amount of time initially set for the prison sentence, notwithstanding any authorised leaves.
Legal Conditions of this judgement or the probation decision	<ul style="list-style-type: none"> · If the convicted person provides the court with his/her/their consent, and it is considered that house arrest is adequate and suffices in fulfilling the main objectives of the penalty, the judge may determine the house arrest if: · The prison sentence does not exceed 2 years; · The prison sentence resulting from the legally provisioned temporal discount, under articles 80.º to 82.º of the Portuguese Criminal Code, does not exceed 2 years; or <p>The prison sentence does not exceed 2 years, in the case of a revoked alternative measures or failure to pay the fine provisioned under article 45.º.</p>
Type of probation measures	<p>The judge may determine the compliance with the following non-exclusive list of rules of conduct (Article 43.º, n.º 4 of the Portuguese Criminal Code):</p> <ul style="list-style-type: none"> · To attend specific programmes and activities; · To comply with certain obligations; <p>With the previous consent of the convicted person, be subjected to medical or therapeutic treatment in an adequate institution;</p> <ul style="list-style-type: none"> · Refrain from working in determined professional occupations;

	<ul style="list-style-type: none"> · Refrain from contacting, hosting or accommodating specified persons; · Refrain from possessing certain objects which would facilitate the commitment of criminal offences.
Combination of sanctions or measures	N/A.
Authority responsible for taking such a decision	Judicial court.
Authority responsible for supervising	The Directorate-General for Social Reinsertion is responsible for the supervision of the electronic monitoring system, as provisioned in article 9.º of Law n.º 122/99, 20 August, that regulates Electronic monitoring), and for monitoring the compliance with imposed rules of conducted.
Authority responsible in case of infringement	Judicial court.
Community service	
Name of the judgement or the probation decision	Community service Prestação de trabalho a favor da comunidade
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Community service is provided for in article 58.º and article 59.º of the Criminal Code, approved by Decree-Law n.º 48/95, of 15 March (originally Decree-Law n.º 400/82, of 23 of September), with the most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January. Similarly, see Articles 496.º-498 of the Portuguese Criminal Procedure Code, approved by Decree-Law n.º 78/87, of 17 February, with most recent amendment introduced and republished in its entirety by Law n.º 2/2023, of 16 January.
Definition of this judgement or the probation decision	<p>Under certain circumstances the judge may replace the prison sentence with a measure in line with which the convicted person is required to work in service of the community. This measure equates to the provision of free services to the State, other public institutions, or to a private entities that, as deemed by the court, follow objective of interest to the community (Article 58.º, n.º 2 of the Portuguese Criminal Code).</p> <p>As per article 58.º, n.ºs 2 and 3 of the Portuguese Criminal Code, 1 day of imprisonment shall correspond to 1 hour of work, in a maximum of 480 hours, and may be served on weekends and public holidays, as long as it does not affect the convicted person's normal working day or exceed the legally provided limit of extraordinary hours.</p>
Legal Conditions of this judgement or the probation decision	The judge may opt for such a measure when:

	<ul style="list-style-type: none"> · The convicted person gives his/her consent; · The prison sentence does not exceed 2 years; · the judge considers, considering amongst other the age of the individual, that the measure is adequate and suffices in fulfilling the main objectives of the penalty.
Type of probation measures	<p>The judge may impose the following rules of conduct:</p> <ul style="list-style-type: none"> · To reside in a determined place; · To attend specific programs or activities; · To comply with determined obligations; · Refrain from working in determined professional occupations; · Refrain from entering specific locations and/or environments; · Refrain from residing in determined places or regions; · Refrain from accompanying, hosting or receiving certain persons; · Refrain from joining specified associations or participating in determined meetings; · Refrain from possessing certain objects which would facilitate the commitment of criminal offences. <p>With the prior consent of the convicted person, the judge may also subject him/her/them to medical or therapeutic treatment in an adequate institution.</p>
Combination of sanctions or measures	This judgement may be combined with the above mentioned measures (Article 58.º, n.º 6 of the Portuguese Criminal Code).
Authority responsible for taking such a decision	Judicial court.
Authority responsible for supervising	The Directorate-General for Social Reinsertion is responsible for sending reports to the court whenever there are irregular occurrences (Article 498.º of the Portuguese Criminal Procedure Code).
Authority responsible in case of infringement	Judicial 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.

Probation measures / alternative sanctions	Explanation
<p>Obligation for the convicted person to inform a specific authority of any change of residence or working place</p>	<p>The judge may impose the obligation to inform the authorities and social services of any change of residence or working place when he draws up a social reintegration plan to be followed (Article 54.º, n.º 3, paragraph c) of the Portuguese Criminal Code).</p> <p>Such obligation, because it is part of a social reintegration plan, may be determined by the judge when he suspends the enforcement of a sentence or determines the conditional release.</p>
<p>Obligation not to enter certain localities, places or defined areas in the issuing or executing State</p>	<p>The obligation to refrain from entering determined places or areas is one of the rules of behaviour that the judge may impose in case of suspension of the enforcement of a sentence or conditional release. (Article 52.º, n.º 2, paragraph b) of the Portuguese Criminal Code)</p> <p>This obligation cannot be imposed if the compliance with it is more than what can reasonably be demanded of the convicted person.</p> <p>This rule of conduct may be modified during the suspension or conditional release if the circumstances justify such change.</p> <p>The judge may determine that the authorities and social services support the convicted person and supervise the compliance with this obligation.</p>
<p>Obligation containing limitations on leaving the territory of the executing State</p>	<p>In Portugal the judge may determine the obligation to ask for previous permission of a judge to leave the territory of the state. (Articles 52.º and 54.º, n.º 3, paragraph d) of the Portuguese Criminal Code)</p> <p>Such obligation may be determined by the judge when he suspends the enforcement of a sentence or determines the conditional release, if he draws up a social reintegration plan.</p>
<p>Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or</p>	<p>The judge can establish the following instructions relating to behaviour. (Article 52.º, n.º 1, paragraphs a)</p>

<p>modalities of carrying out a professional activity</p>	<p>and b), and n.º 2, paragraphs a), b), e) and 51.º, n.º 2-4, of the Portuguese Criminal Code):</p> <ul style="list-style-type: none"> · Obligation to reside in a determined place; · Obligation to attend specific programs or activities; · Refrain from working in determined professional occupations; · Refrain from entering specific locations and/or environments; · Refrain from joining specified associations or participating in determined meetings; <p>These obligations may be imposed in case of suspension of the enforcement of a sentence or conditional release but cannot be imposed if the compliance with it is more than what can reasonably be demanded of the convicted person.</p> <p>These instructions may be modified during the suspension or conditional release if the circumstances justify such change.</p> <p>The judge may determine that the authorities and social services support the convicted person and supervise the compliance with the above-mentioned rules.</p> <p>Certain instructions relating to behaviour may also be determined as a replacement of the imprisonment sentence.</p>
<p>Obligation to report at specified times to a specific authority</p>	<p>The convicted person may have to report at a specific time to the judge or the social services when he is summoned to do so. (Article 52.º, n.º 1, paragraph c), Article 53.º and Article 54.º, n.º 3, a) of the Portuguese Criminal Code)</p> <p>The judge determines this possibility but may not directly establish the specific periodicity, time and/or place, leaving the decision to summon the convicted person for when deemed necessary .</p> <p>This obligation may be imposed when the judge draws up a social reintegration plan.</p> <p>Such obligation may be determined by the judge when he suspends the enforcement of a sentence or determines the</p>

	<p>conditional release, if he draws up a social reintegration plan.</p>
<p>Obligation to avoid contact with specific persons</p>	<p>One of the behaviour rules that the judge may determine in case of suspension of the enforcement of a sentence or conditional release is the obligation to refrain from accompanying, hosting or receiving determined persons. (Article 52.º, n.º 2, paragraph d) and article 51.º, n.º 2-4, of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p> <p>This rule of conduct may be modified during the suspension or conditional release if the circumstances justify such change.</p> <p>The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.</p>
<p>Obligation to avoid contact with specific objects, which have been used or are likely to be used by the convicted person with a view to committing a criminal offence</p>	<p>In case of suspension of the enforcement of a sentence or conditional release the judge may determine the obligation refrain from possessing certain objects that facilitate the commitment of crimes. (Article 52.º, n.º 2, paragraph f) and article 51.º, n.º 2-4, of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p> <p>This rule of conduct may be modified during the suspension or conditional release if the circumstances justify such change.</p> <p>The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.</p>
<p>Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation</p>	<p>The judge may impose an obligation to compensate financially for the prejudice caused by the offence when he decides to suspend the enforcement of the sentence. (Article 51.º, n.ºs 1, paragraphs a) and c) and 2-4 of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p>

	<p>This obligation may be modified during the suspension of the enforcement of the sentence if the circumstances justify such change.</p> <p>The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.</p>
<p>Obligation to carry out community service</p>	<p>Under certain circumstances the judge may replace the prison sentence with a measure in line with which the convicted person is required to work in service of the community. This measure equates to the provision of free services to the State, other public institutions, or to a private entities that, as deemed by the court, follow objective of interest to the community (Article 58.º and Article 59.º of the Portuguese Criminal Code and articles 496.º-499.º of the Portuguese Criminal Procedure Code).</p> <p>The judge may opt for such a measure when:</p> <ul style="list-style-type: none"> · The convicted person gives his/her consent; · The prison sentence does not exceed 2 years; · the judge considers, considering amongst other the age of the individual, that the measure is adequate and suffices in fulfilling the main objectives of the penalty. <p>The judgement may be combined with the following rules of conduct:</p> <ul style="list-style-type: none"> · To reside in a determined place; · To attend specific programs or activities; · To comply with determined obligations; · Refrain from working in determined professional occupations; · Refrain from entering specific locations and/or environments; · Refrain from residing in determined places or regions; · Refrain from accompanying, hosting or receiving certain persons; · Refrain from joining specified associations or participating in determined meetings;

	<ul style="list-style-type: none"> · Refrain from possessing certain objects which would facilitate the commitment of criminal offences. <p>With the prior consent of the convicted person, the judge may also subject him/her/them to medical or therapeutic treatment in an adequate institution.</p> <p>Also, during the suspension of the enforcement of the sentence, the judge may impose as an obligation to provide to welfare institutions, be it public or private, or to the State, a monetary compensation “of the equivalent value” (article 51.º, n.º 1, paragraph c) of the Portuguese Criminal Code). This may commonly be understood as community service.</p>
<p>Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of convicted persons</p>	<p>According to article 54.º, n.º 3, a) and b) of the Portuguese Criminal Code, the convicted person may have to:</p> <ul style="list-style-type: none"> · Answer to summons by the social services; · Accept visits from the social services; · Provide information and documents proving his/her/their means of subsistence; <p>These obligations may be imposed when the judge draws up a social reintegration plan. (Article 53.º of the Portuguese Criminal Code)</p> <p>He may draw up a social reintegration plan, and therefore impose these obligations, when he suspends the enforcement of the sentence or determines a conditional release.</p>
<p>Obligation to undergo therapeutic treatment or treatment for addiction</p>	<p>The judge may determine the obligation to undergo medical or therapeutic treatment. Albeit this is dependent on the prior consent of the convicted person. (Article 43.º, n.º 4, paragraph c) and Article 52.º, n.º 3, of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p> <p>This obligation may be modified during the suspension of the enforcement of the sentence if the circumstances justify such change.</p>

	The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.
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b) In your domestic law are there any probation measures and alternative sanctions which are not covered by Article 4.1?

- If yes, please define them and provide a description for each of them.

Other probation measures/alternative sanctions existing in your domestic law	Explanation
To provide moral satisfaction do the offended	<p>When the judge suspends the enforcement of the sentence he can determine that the convicted person should provide moral satisfaction to the offended. (Article 51.º, n.º 1, paragraph b) and n.ºs 2-4, of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p> <p>This obligation may be modified during the suspension of the enforcement of the sentence if the circumstances justify such change.</p> <p>The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.</p>
To deliver to public or private welfare institutions or the State a monetary contribution	<p>When the judge suspends the enforcement of the sentence he can determine that the convicted person should deliver a monetary contribution to public or private welfare institutions or the State. (Article 51.º, n.º 1, c) and n.ºs 2-4, of the Portuguese Criminal Code)</p> <p>This obligation may not be imposed if compliance with it is deemed more than what can reasonably be demanded of the convicted person.</p> <p>This obligation may be modified during the suspension of the enforcement of the sentence if the circumstances justify such change.</p> <p>The judge may determine that the social services support the convicted person and supervise the compliance with this obligation.</p>

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

No, in the context of the measures included in the framework decision under analysis, there is only the general regime above mentioned, set out in article 52.º, n.º 3 of the Portuguese Criminal Code, concerning medical or therapeutic treatment, which can only be applied with the consent of the convicted person.

In addition to the legal provisions mentioned above and in accordance with Article 38. of the Law No. 112/2009 of 16 September (with the most recent amendment introduced and republished in its entirety by Law n.º 57/2021, of 16 August), which establishes the legal regime applicable to domestic violence prevention, protection and assistance of victims and repeals Law No. 107/99, of 3 August, and Decree-Law No. 323/2000 of 19 December, it is also provided for:

Measures to support the reintegration of the agent

1 - The State should provide the necessary conditions for the psychological and psychiatric support of the individuals convicted for crimes of domestic violence, and of those whose procedure has been temporarily suspended, with their consent.

2 – There are defined and implemented programs for perpetrators of crimes in the context of domestic violence, particularly concerning the suspension of the imprisonment.

3) Electronic monitoring

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

Yes, for adults (over 16 years old).

- If no, do you intend to provide Electronic Monitoring in the future?

- If 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)?

Electronic monitoring is used to supervise: **(a)** pre-trial house arrest as a possible alternative to pre-trial custody; **(b)** house arrest as a sanction; **(c)** house arrest as a pre-parole measure (which can be anticipated up to a year before the date due for parole); **(d)** house arrest and a modification to the execution of a prison sentence; **(e)** a ban on contact between the offender and victim of domestic violence (reverse tagging pilot); **(f)** or house arrest determined following the suspension of the execution of the prison sentence or conditional release under article 274-A Portuguese Criminal Code.

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

Yes for (a), (b), (c) and (d)

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

It is a way of applying a probation measure for (a) and a probation measure in itself for (b), (c) and (d).

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

Portugal uses positional telematics monitoring, voice check, or other technological means deemed suitable. Suitability is determined ministerial order issued by the minister holding the ministerial office for justice.

• Is Electronic Monitoring dependant on particular conditions?

Yes.

For (a): In the case of pre-trial house arrest:

- . The defendant must give his/her consent, as well as anyone with whom he/she cohabits.
- . The crimes in question are punishable with prison sentence up to 3 years.

For (b): In the case of house arrest the court can determine Electronic Monitoring as long as:

- . The offender gives his/her consent, as well as anyone with whom he/she cohabits.
- . The court considers this sanction as adequate and sufficient to fulfil the objectives of the penalty.

§ The prison sentence does not exceed 2 years; the prison sentence resulting from the legally provisioned temporal discount, under articles 80.º to 82.º of the Portuguese Criminal Code, does not exceed 2 years; or the prison sentence does not exceed 2 years, in the case of a revoked alternative measures or failure to pay the fine provisioned under article 45.º.

For (c): In cases of pre-parole:

- . The offender must give his/her/their consent, as well as anyone with whom he/she cohabits.
- . The court is certain that the offender is able to lead his/her/their life in a responsible way without committing crimes.
- . Early release must be compatible with peace and order.

For (d): In the case of modification of the execution of a sentence:

- . The defendant must give his/her consent, as well as anyone with whom he/she cohabits.
- . If deemed necessary by the court on the basis of a medical or social reinsertion issued report

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).

For the determination of the conditional release following documents are necessary:

- A report from the prison services containing an evaluation of the prisoner's personality evolution during the period of imprisonment, of the skills acquired during that period, of his behaviour and of his relation to the committed crime.
- A report from the social services containing an evaluation of the need for social reintegration, perspectives as to the family, social and professional environment and the conditions on which the conditional release should be dependent, bearing in mind the need to protect the victim.

Law No. 122/99 of August 20, which governs electronic monitoring, provided for in Article 201 of the Criminal Procedure Code, provides for the need to always have updated information, prepared by the Directorate-General for Social Reinsertion, in cases of execution of a sentence or measure which requires the use of technical means of remote control to verify the compliance therewith, e.g. the house arrest provided for in Article 201.º of the Criminal Procedure Code.

"Article 5

Implementing authority

1 - It is up to the Social Reintegration Institute to proceed with the implementation of the electronic surveillance.

2 - For the purposes of the preceding n.º, the Social Reintegration Institute provides updated information to the judicial authorities on the existence of the necessary means.

3 - The Social Reintegration Institute may use the services of private entities to install, operate and maintain the technical means used in electronic surveillance.

4 – If, during the enforcement, circumstances occur which may justify the intervention of the judge, the Social Reintegration Institute prepares information and notifies it to the judge. "

The other judgements mentioned in question one do not require any special documents.