

Italy

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	
Name of the judgement or the probation decision	Suspended sentence
Classification of this judgement or the probation decision	Suspended sentence
Legal basis of this judgement or the probation decision	Articles from 163 to 168 of the criminal code
Definition of this judgement or the probation decision	<ul style="list-style-type: none">- The execution of the sentence is suspended for five years on condition that the sentenced person will not commit other offences- If at the end of this period, the sentenced person has not committed offences, the offence is extinguished and therefore the sentence is not executed.
Legal Conditions of this judgement or the probation decision	<p>The legal conditions are:</p> <ul style="list-style-type: none">- custodial sentence not exceeding 2 years, or three years for a minor up to 18 years.- the judge presumes that the sentenced person will not commit further offences- the sentenced person must not have previous criminal convictions, he/she must not be an habitual or professional offender- a personal security measure for the dangerousness of the sentenced person has not been provided for.- the measure can be granted only once (unless the sentence inflicted exceeds, if aggregated, the limit provided for)- it does not apply to the judgements of the Justice of the Peace. <p>The suspended sentence extends to accessory sentences, except in case of offences connected with drug-addiction, and it is not possible to apply preventive measures, neither to limit the access to public or private workplaces.</p>

Type of probation measures	<p>- The judge, with discretion, in relation to the needs of individual cases, can impose obligations to the sentenced person who shall respect them within the times and modalities indicated in the judgement.</p> <p>The obligations provided for are:</p> <ul style="list-style-type: none"> - Restitution or compensation for damage - Elimination of the harmful consequences of the offence - Non remunerated work for the community (if the sentenced person does not raise any objection).
Combination of sanctions or measures	<p>N/A</p>
Authority responsible for taking such a decision	<p>The judge jurisdictionally competent (who issued the conviction sentence).</p>
Authority responsible for supervising	<p>The local authorities and the local services who have received the communication of the judgement.</p>
Authority responsible in case of infringement	<p>If the sentenced person does not comply with the obligations, the judge who has granted the measure (the judge who issued the judgement) revokes it.</p> <p>The suspended sentence is revoked <i>ope juris</i> even when, during the term established, the sentenced person</p> <ul style="list-style-type: none"> - commits another offence or violation of the same type for which a custodial sentence is imposed. - is convicted for a previous offence, with a sentence which, when aggregated, exceeds the limit provided for. - The suspended sentence has been granted several times even if there are impedimental causes. <p>If the measure has not been issued upon the judgement, the revocation is carried out by the execution judge (674 criminal procedure code).</p>

RESPITE OF SENTENCE	
Name of the judgement or the probation decision	<p>Respite of sentence.</p> <p>Rinvio dell'esecuzione</p>
Classification of this judgement or the probation decision	<p>Conditional sentence</p>

<p>Legal basis of this judgement or the probation decision</p>	<p>Article 684 code of criminal procedure in cases as per art. 146 and 147 of the criminal code.</p>
<p>Definition of this judgement or the probation decision</p>	<p>The execution of imprisonment and of alternative sanctions of short prison sentences (semi-detention and supervised liberty) is postponed and therefore the prisoner is immediately released - in cases in which the judge (Supervisory Court) believes that the detention would be in serious contrast with the protection of health and with the aware participation of the sentenced person in the execution of the sentence; this because of the particular conditions in which he/she is at the time of the execution.</p>
<p>Legal Conditions of this judgement or the probation decision</p>	<p>The respite is compulsory if the sentenced person is :</p> <ul style="list-style-type: none"> - a pregnant woman or a mother with a child under the age of one. - Affected by full-blown HIV or other serious or incurable disease which is not compatible with detention. <p>It applies optionally when:</p> <ul style="list-style-type: none"> - the sentenced person has requested pardon - the woman is the mother of a child up to three years (has the parental authority and has not left him) - the physical infirmity is serious - a psychic infirmity is intervened before or after the conviction (art. 148 criminal code); in this case the judge orders the hospitalization in a psychiatric hospital or in a prison hospital. - the optional respite does not apply or is revoked if there is a danger that the offender commits offences. <p>When such conditions cease, the respite is revoked and therefore the execution of the sentence begins.</p>
<p>Type of probation measures</p>	<p>In case of psychic infirmity intervened before or after the execution of the prison sentence (art. 148 criminal code) the judge together with the respite of the sentence also orders the measure of the hospitalization in a psychiatric hospital or in a prison hospital implying however an obligation to undergo a therapeutic treatment.</p>
<p>Combination of sanctions or measures</p>	<p>N/A</p>
<p>Authority responsible for taking such a decision</p>	<p>The Supervisory Court (in panel) or, in case of urgency, the Supervisory Judge (single judge) (<i>Tribunale di Sorveglianza</i>, as per articles 70 and 71 of the Italian Penitentiary Act of 1975) having jurisdiction over the area where the offender is resident or domiciled or, if the latter is imprisoned at the moment of the request of the measure, where the prison is situated.</p> <p>There is a Supervisory Court in every Appeal Court district and in every territorial district of a detached Appeal Court.</p> <p>Each Court is made up of all the Supervisory Judges posted in its district or in the territorial district of detached divisions of Appeal Court, and of experts in psychology, social work, pedagogy, psychiatry and clinical criminology.</p> <p>The provisions of the Court are adopted by a panel composed of 4 persons (two magistrates, one of whom acting as President, and two experts).</p> <p>One of the two ordinary Judges has to be the Supervisory Judge having</p>

	jurisdiction over the convicted person or over the internee concerned. When there is an equal number of votes, the President's vote shall prevail.
Authority responsible for supervising	The authorities and the services on the territory who have received the communication of the judgement.
Authority responsible in case of infringement	The measure can be revoked by the Supervisory Court

CONDITIONAL RELEASE	
Name of the judgement or the probation decision	Conditional release Liberazione condizionale
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	Art. 176 and 177 criminal code, Art. 682 code of criminal procedure Art. 190 and 236 of the Legislative Decree 271/81 (implementing provisions of the code of criminal procedure)
Definition of this judgement or the probation decision	The sentenced person is released in advance because, with his behaviour in prison he/she proved to mend his way and the purpose is therefore to accelerate his/her re-entry into society.
Legal Conditions of this judgement or the probation decision	The legal conditions are: <ul style="list-style-type: none"> - the sentenced person has served at least 30 months, of half of the sentence (4 years or $\frac{3}{4}$ of the sentence if he/she is a recidivist, at least 26 years if he/she has a life sentence) and the remaining part of the sentence is 5 years. - His/her behaviour in prison indicates a sure mending of his/her ways. - He/She complied with the civil obligations resulting from the offence. <p>Once the remaining part of the sentence or 5 years are expired, if he/she has not committed offences of the same type, the sentence is extinguished and the personal security measures ordered by the judge are revoked.</p>

Type of probation measures	The security measure of the supervised liberty is always imposed (art. 230 criminal code, n.2).
Combination of sanctions or measures	N/A
Authority responsible for taking such a decision	The Supervisory Court (composed by stipendiary members and by experts) of the place of residence of the sentenced person or, if he/she is in prison, of the place where the sentenced person applied for the conditional release (see above).
Authority responsible for supervising	<p>Bodies indicated by the judge and local Offices for the Execution of Sentences in the Community of the area of residence, responsible for the supervision of the prescriptions concerning supervised liberty as per art. 190 Legislative Decree 271/89.</p> <p>The conditional release is enforced under a regime of supervised liberty, therefore the person released is assigned to the local office of the law enforcement agency having jurisdiction over the territory where that person lives. The obligations and prohibitions are also communicated, with the purpose of a supervision, to the probation service (U.E.P.E), as per article 190 of the Legislative Decree 271/89.</p> <p>The U.E.P.E. (<i>Ufficio dell'Esecuzione Penale Esterna</i>, Office for the Execution of Sentences in the Community) is staffed mainly with social workers of Justice (Probation officers) and, since a few time, with psychologist. Each officer is assigned a number of cases to follow and performs his/her duties of supervision and/or support for a successful social rehabilitation of the offender.</p>
Authority responsible in case of infringement	The Supervisory Court revokes the conditional release if the sentenced person commits new offences of the same type or infringes the obligation of supervised liberty.

SUSPENSION OF THE EXECUTION OF THE PRISON SENTENCE	
Name of the judgement or the probation decision	<p>Suspension of the execution of the prison sentence (as per art. 90 of the Decree of the President of the Republic 309/90) in case of drug addicts</p> <p>Sospensione dell'esecuzione della pena detentiva nel caso di tossicodipendenti</p>
Classification of this judgement or the probation decision	Suspended sentence

<p>Legal basis of this judgement or the probation decision</p>	<p>Article 656 code of criminal procedure and art. 90 of the Decree of the President of the Republic 309/90.</p>
<p>Definition of this judgement or the probation decision</p>	<p>In order to avoid an harmful contact with prison for the persons who are undergoing a therapeutic programme or want to undergo a therapeutic programme, the Italian system provides for a particular decision of suspension of the execution of the sentence by the Public Prosecutor as per art. 656 of the code of criminal procedure, before the arrival at prison, to enable the person to ask the Supervisory Court an alternative measure.</p> <p>In fact, when the sentenced person is a drug-addict or has committed an offence because of his drug addiction, the Public Prosecutor before the execution of the sentence suspends it by informing the sentenced person or his/her counsel that within 30 days he/she can ask the Supervisory Court (which decides within 45 days) one of the measures alternative to detention peremptorily provided for in these cases, and that is:</p> <ul style="list-style-type: none"> - assignment to the Probation service (art. 47 Penitentiary Act) - assignment to the Probation service in particular cases for drug addicts (as per art. 47-c penitentiary act - but now as per art. 94 Decree of the President of the Republic 309/90). <p>The suspension is revoked by the Public Prosecutor if the sentenced person does not apply for alternative measures to the Supervisory Court or the latter rejects or declares the request inadmissible.</p> <p>Suspension of the execution of the sentence as per art. 90 Decree of the President of the Republic 309/90:</p> <ul style="list-style-type: none"> - it is granted by the Supervisory Court which can order the suspension of the execution of the sentence for 5 years in cases in which it is ascertained, through a certification by a competent body, that the sentenced person has successfully undergone a therapeutic and socio-rehabilitation programme at an accredited public or private structure. - it is not admissible if in the period between the beginning of the programme and the decision on the suspension of the execution of the sentence he/she has committed an offence which can be punished with imprisonment. <p>The execution of the sentence is suspended for 5 years if the sentenced person does not commit other offences.</p> <ul style="list-style-type: none"> - If at the end of this period he/she has not committed offences, the offence is extinguished and then the sentence is not executed.
<p>Legal Conditions of this judgement or the probation decision</p>	<p>The legal conditions are:</p> <ul style="list-style-type: none"> - a drug-addict or a sentenced person for offences committed in relation to drug addiction. - a sentence to imprisonment, or remaining part of the sentence, not exceeding 6 years or 4 years for serious offences as per art. 4-b of the Penitentiary Act. - if the drug-addict has been declared recidivist the measure can be granted for a remaining sentence up to 3 years and only once (art. 94-b Decree of the President of the Republic 309/90).
<p>Type of probation measures</p>	<p>The drug-addict offender has undergone with a positive result a therapeutic programme to detoxicate from the use of alcohol or drugs and a socio-rehabilitation programme at an accredited public or private structure.</p> <p>The civil obligations deriving from the offence remain.</p>

Combination of sanctions or measures	N/A
Authority responsible for taking such a decision	The Public Prosecutor at first instance and the Supervisory Court for the final decision. The Supervisory Court is composed by 4 stipendiary members, including the President and an expert in psychology or criminology.
Authority responsible for supervising	<ul style="list-style-type: none"> - The Public Prosecutor or the Supervisory Court check that the programme has begun and that it has given good results, in order to grant the suspension measure. - The bodies and socio-sanitary services on the territory who take care of this subject for the execution of the therapeutic programme.
Authority responsible in case of infringement	The Supervisory Court which has granted the measure can revoke it in case of infringement of the prescriptions.

ASSIGNMENT OF THE OFFENDER TO THE PROBATION SERVICE IN PARTICULAR CASES	
Name of the judgement or the probation decision	Assignment of the Offender to the Probation Service in particular cases Affidamento in prova al Servizio Sociale in casi particolari
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Article 656 of the code of criminal procedure and Article 94 of the Decree of the President of the Republic nr. 309 dated 9 October 1990
Definition of this judgement or the probation decision	<p>It is a measure alternative to detention which is destined exclusively to drug-addicted or alcohol-addicted sentenced persons or to persons who perpetrated a crime in relation to their condition of drug-addiction or alcohol-addiction, and who are willing to follow a rehabilitation programme.</p> <p>The offender can apply for it at any time, even before the execution of the imprisonment warrant.</p> <p>If the subject is already in prison, the Supervisory Judge can assign him/her on a temporary basis to the Probation Service, if he/she thinks that the continuation of detention can be detrimental and that there is no danger of escape.</p>

<p>Legal Conditions of this judgement or the probation decision</p>	<p>The legal conditions are:</p> <ul style="list-style-type: none"> - a sentence to imprisonment not exceeding 6 years, also as a remaining part of a longer sentence, or not exceeding 4 years in case of more serious crimes, provided for by article 4-b of the Italian Penitentiary Act (P.A.) , or 3 years in case of recidivists; - a certified condition of drug-addiction or alcohol-addiction; - the certification, issued by a public health authority, that a rehabilitation programme is already ongoing for the subject, or that there is an agreement with him/her as for the programme to be attended; - the judge thinks that the rehabilitation treatment can prevent the perpetration of further crimes; - it can be granted not more than twice, and just once to recidivists.
<p>Type of probation measures</p>	<p>The Supervisory Court, on the basis of a discretionary assessment and of the case requirements, can order the obligations and prohibitions according to the offender's individual needs, in order to facilitate his/her social reinstatement and to avoid that he/she perpetrates further crimes.</p> <p>In particular, the measures indicated by article 47, paragraph 5 of the Penitentiary Act for the persons assigned to the Probation Service concern:</p> <ul style="list-style-type: none"> - their relations with the social workers of the National Probation Service - their obligation of residence; - their freedom of movement; - the prohibition of frequenting certain places; - their work. <p>The sentenced person must comply with the obligations and prohibitions within the times and the modalities indicated by the judge in the minutes drafted upon the Assignment.</p>
<p>Combination of sanctions or measures</p>	<p>No</p>
<p>Authority responsible for taking such a decision</p>	<p>The Supervisory Court</p> <p>The Supervisory Judge as for possible modifications of obligations and prohibitions (see above).</p>
<p>Authority responsible for supervising</p>	<p>The public healthcare service supervises the execution of the rehabilitation programme.</p> <p>If the person responsible for the rehabilitating structure where that programme is performed omits to report a crime perpetrated by the assigned offender, the judicial Authority shall inform the authorities competent for the revocation of the structure accreditation.</p> <p>The Probation Service of the area where the offender lives are responsible for periodically reporting to the Supervisory Judge about the therapeutic programme and the compliance with the obligations and prohibitions.</p>
<p>Authority responsible in case of infringement</p>	<p>The Supervisory Court for the revocation of the measure.</p> <p>The Supervisory Judge for the possible modification of the obligations and prohibitions.</p> <p>The Supervisory Court can revoke the measure if the assigned offender's behaviour is contrary to the law, to the obligations and prohibitions or is</p>

incompatible with the continuation of the measure, or if he/she commits a crime; article 47, paragraph 11 of the Penitentiary Act applies in this case.

ASSIGNMENT OF THE OFFENDER TO THE PROBATION SERVICE

Name of the judgement or the probation decision	Assignment of the Offender to the Probation Service Affidamento in prova al Servizio Sociale
Classification of this judgement or the probation decision	Alternative sanction - measure alternative to detention
Legal basis of this judgement or the probation decision	Article 47 of the Italian Penitentiary Act
Definition of this judgement or the probation decision	<p>It is a measure alternative to detention granted by the Supervisory Court after a final judgement is issued by a criminal Court.</p> <p>When the Supervisory court judges that that measure is useful for the social reinstatement of the offender and for relapse prevention, it assigns the offender to the Probation Service in the community, for a period equal to the length of the custodial sentence to be served:</p> <ul style="list-style-type: none">- such decision is made on the basis of the positive outcome of the scientific observation of the offender, carried out by the prison team for at least one month;- it can be granted even without any scientific observation, when the judges deems that the subject's behaviour shows his/her good intentions and that, also through the compliance with some obligations and prohibitions, it is possible to avoid recidivism.- if the offender applying for the measure is already in prison, the Supervisory Judge can suspend the execution and release him/her, forwarding the relevant proceedings to the Supervisory Court, which shall make a decision within 45 days. <p>The positive outcome of the measure extinguishes the sentence and every effect of it.</p>
Legal Conditions of this judgement or the probation decision	<p>The legal conditions are:</p> <ul style="list-style-type: none">- a sentence not exceeding 3 years, also as a remaining part of a longer sentence;- its duration equal to the length of the sentence to serve;- like all the other alternative measures, it cannot be granted to offenders sentenced for the serious crimes provided for by art 4-b of the Penitentiary Act (except for the occurring of some specific conditions, and namely: the offender's cooperation with Justice authorities, or the ascertainment that he/she does not have any link with the organized crime)

	<ul style="list-style-type: none"> - it is granted upon request of the offender; - it can be granted also to a foreigner who does not have a permit to stay (sentence of the Constitutional Court of 7th March 2007, nr. 78); - it can be granted just once to a recidivist, in terms of article 58-d, paragraph 7-b of the Penitentiary Act; - it is forbidden to grant it to an offender who escaped during the enjoyment of a prison benefit (article 58-d of the penitentiary Act). <p>It is revoked when the offender's behaviour is contrary to the law, or is incompatible with the continuation of the measure (article 47, paragraph 11 of the Penitentiary Act)</p>
Type of probation measures	<p>Many of the measures provided for by article 4, paragraph 1 of the Framework Decision, such as those ones under letters A, B, C, D, F, G, J, are applicable.</p> <p>Indeed, the Supervisory Court, on the basis of its discretionary assessment and of the case requirements, can order what the subject needs in order to facilitate his/her social reinstatement and to avoid that he/she perpetrates further crimes.</p> <p>In particular, the measures indicated by article 47, paragraph 5 of the Penitentiary Act for the persons assigned to the Probation Service concern:</p> <ul style="list-style-type: none"> - their relations with the social workers of the National Probation Service; - their residence; - their freedom of movement; - the prohibition of frequenting certain places, certain persons or of carrying out certain activities which could lead to offending; - their work; - the prohibition of living in one or more municipal districts; - the obligation to live in one specific municipal district; - to do his/her best in favour of the victim of his/her crime; - to regularly fulfil his/her family obligations. <p>The sentenced person must comply with the obligations and prohibitions within the times and the modalities indicated by the judge in the minutes drafted upon the Assignment.</p>
Combination of sanctions or measures	No
Authority responsible for taking such a decision	<p>The Supervisory Court</p> <p>The Supervisory Judge as for possible modifications of obligations and prohibitions (see above).</p>
Authority responsible for supervising	<p>All the provisions concerning the measures alternative to detention are communicated without delay to the Provincial Authority for Public Security (in terms of article 58 of the Penitentiary Act).</p> <p>The local Probation Service having jurisdiction over the area where the offender lives shall carry out the control.</p>
Authority responsible in case of infringement	<p>The Supervisory Court for the revocation of the measure.</p> <p>The Supervisory Judge for the possible modification of the obligations and prohibitions.</p>

The Supervisory Court can revoke the measure if the assigned offender's behaviour is contrary to the law, to the obligations and prohibitions or is incompatible with the continuation of the measure, or if he/she commits a crime (article 47, paragraph 11 of the Penitentiary Act).

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

First of all, it is necessary to state that in the Italian system the general principle of legality is in force, for punishments and security measures.

There are also police measures and preventive measures, ordered by the Public Security authority for public order reasons, the citizen can impugn these measures before an administrative court for breach of law, misuse of power and other reasons.

All the measures implying a deprivation or a limitation of liberty have to be provided for by the law, they have to be applied in consequence of the commission of a fact (penal law of the fact) and by order of a judge.

As for the decision on the conditional suspension of the penal execution, on the conditional release and on the measures alternative to detention, the Italian system provides for some obligations and prohibitions to be imposed on the sentenced persons, while others are decided by the judge case by case on the basis of his/her discretionary assessment. The judge's assessment tends to identify the most adequate measure for the prevention of recidivism and for a successful social reinstatement of the offender.

The intentional infringement of the obligations imposed by the judicial authority brings to an autonomous case of crime (article 338 of the criminal code) which can be punished with a sentence to imprisonment up to 3 years.

The non compliance with the orders lawfully given by the Authority for reasons of justice, public security, public order or hygiene can imply either a sentence to imprisonment up to three months or a fine (article 650 of the criminal code).

The sentence is followed, as a compulsory consequence, by the application of additional punishments (articles 28 and ff. of the criminal code). Those punishments shall not be to imprisonment and do not have a prescription nature; they are impositions by rights, affecting the subject's judicial capacity, his/her position within the society (*deminutio capitis*) by preventing him/her, for instance, from directly disposing of his/her properties, from accessing certain public professions or jobs, from exercising his/her parental authority, or from having managing positions in enterprises, depending upon the legal asset which has been infringed by the offending behaviour of the subject.

The additional punishments:

- are determined in their minimum and maximum (or for the duration of the punishment);
- are temporary (for sentences longer than 3 years);
- are everlasting (for sentences longer than 5 years, life sentences or for habitual or professional offenders);
- never apply to children under the age of 14.

The additional punishments are compulsorily provided for by articles 28 and following of the criminal code:

- disqualification from holding public office;
- disqualification from a profession or an art;
- legal disqualification;
- prohibition of having business with the Public Administration;

- end of the work relationship;
- loss or suspension of the parental authority;
- publication of the penal sentence of conviction.

N.B.: some of those additional punishments are indicated in the following forms as a condition imposed by the law, which restricts the subjects also during the conditional release or when they serve an alternative measure in the community.

Probation measures / alternative sanctions	Explanation
Obligation for the sentenced person to inform a specific authority of any change of residence or working place	<p>Article 677 of the code of criminal procedure lays down the territorial competence of the Supervisory Judiciary, depending upon the place where the prisoner is held at the moment of his/her request or, if he/she is not imprisoned, on the basis of his/her residence.</p> <p>The paragraph 2-b provides that the sentenced person who is not imprisoned is obliged to declare his/her residence, to choose his/her domicile and to communicate its variations in the application for a measure alternative to detention or for another provision which falls within the competence of the Supervisory Judge having jurisdiction over the place where the sentence was issued.</p> <p>It applies also to the persons assigned to the Probation Service.</p>
Obligation not to enter certain localities, places or defined areas in the issuing or executing State	<p>Article 215 of the criminal code indicates the types of personal security measures, provided for sentenced persons, both in prison and in the community.</p> <p>They are applied to a finally sentenced person when he/she is judged as "socially dangerous", and they are compulsorily provided for by the criminal code since, as for the punishments, they fall under the principle of legality.</p> <p>In particular, we highlight the following measures which are not intended for imprisoned persons, concerning the prohibition of entering some places indicated by the judge in order to avoid recidivism and the behaviours which led to the perpetration of the crime.</p> <p>1) Prohibition of stay in one or more municipal district or province (article 233 of the criminal code):</p> <ul style="list-style-type: none"> - it can be applied to the person convicted for certain crimes: against the State, against public order, for political reasons or for reasons connected with the social and moral conditions of a specific place. <p>Minimum duration: 1 year.</p> <p>2) Prohibition of frequenting taverns or public shops of alcoholic drinks (article 234 of the criminal code)</p> <p>This measure has compulsorily to be added to the sentence in the following cases:</p> <ul style="list-style-type: none"> - persons judged as dangerous to society since they usually abuse of alcohol; - in case of convictions for crimes perpetrated in a drunken state. <p>Minimum duration: 1 year.</p> <p>In case of infringement, both those measures are substituted by the supervised liberty or by a security of good behaviour.</p>
Obligation	Prohibition of expatriation (article 281 of the code of criminal

<p>containing limitations on leaving the territory of the executing State</p>	<p>procedure)</p> <p>It is a coercive measure by which the judge prohibits the accused person to exit the Country without permission.</p> <p>Like all the coercive measures provided for by the code of criminal procedure, it can only apply to the persons charged with crimes punishable with a prison sentence longer than three years or with a life sentence.</p>
<p>Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity</p>	<p>Among the obligations and prohibitions established for the person assigned to the Probation Service, there could be the obligation to fulfill his/her family duties, or the prohibition of performing activities which could lead her/him to offending.</p> <p>Among the additional punishments, we can highlight the following:</p> <p>1) disqualification from holding public office The sentenced person lose his/her right to performing tasks, works or services for the Public Administration. It applies to persons sentenced for crimes perpetrated with abuse of power or violation of public duties. It can be either temporary or everlasting.</p> <p>2) Disqualification from performing jobs or arts The sentenced person lose his/her right to perform jobs or arts implying an authorisation or a permit, that is implying a direct control by the public administration. It is applied when the person is sentenced for a crime perpetrated with the abuse of his/her profession, business activity, etc. They are not "instructions", they are true additional sanctions deriving compulsorily from the conviction and affecting the judicial capacity of the sentenced person.</p>
<p>Obligation to report at specified times to a specific authority</p>	<p>Supervised liberty (article 228 of the criminal code) It is a security measure applied in the community implying the supervision of an offender through the obligation for him/her to report before an authority at the times established by the judge. It is applied, at the judge's discretion, in peremptory cases and at the end of some security measures enforced in penal establishments such as penal farms and penal labour colonies.</p> <p>It is always applied in some cases: - for the sentences longer than 10 years and for life sentences, once the offender is released; - for the sentenced person who is granted conditional release; - for the habitual offender who relapses. It cannot last less than one year.</p> <p>The control is entrusted to the Public Security authority and has to facilitate, through a working activity, the offender's social reinsertion. The probation service carries out interventions of support and assistance (article 55 Penitentiary Act).</p> <p>The Supervisory Judge sets the obligations and prohibitions useful for avoiding the possibilities of offending, which the sentenced person has to comply with; if he/she breaches the obligations, the judge can transform the supervised liberty into a security detention measure or into a bail.</p>
<p>Obligation to avoid contact</p>	<p>1) "prohibition of frequenting persons with criminal record or under special surveillance", provided for by article 5 of the Law nr.</p>

<p>with specific persons</p>	<p>1423 dated 27 December 1956 (on the measures of prevention for the subjects dangerous to society and public moral); however, also the Supervisory Court can establish (in terms of article 47, paragraph 5 and ff. of the Penitentiary Act) for the offender assigned to the Probation Service the prohibition to perform certain activities and to have contacts or relations with certain persons who can lead him/her to further offending. The Supervisory Judge can amend those obligations and prohibitions.</p> <p>2) Loss of the parental authority: it is an additional punishment which compulsorily follows the conviction for certain crimes, such as sexual assault, sexual intercourse and minor corruption, rape carried out in group; For those crimes, further additional punishments are applied (provided for by article 609-I of the criminal code): - disqualification from any task of tutelage or guardianship; - loss of the right to alimony and to succession to the victim. Some coercive measures are provided for by the code of criminal procedure for accused persons, when the crimes they are charged with are punished with a prison sentence exceeding three years or with a life sentence. Among those measures, there are some measures which were introduced by the law 154/2001 against the domestic violence and namely:</p> <p>3) removal from the family house (article 282-b of the code of criminal procedure)</p> <p>4) Prohibition of approach to the places frequented by the victim (article 282-c of the code of criminal procedure): it is decided by the judge in order to avoid any contact with the victim, his/her family members or cohabitants</p>
<p>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</p>	<p>No</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 compensation for damages is an obligation provided for by article 185 of the criminal code and derives from a general principle of responsibility set by the civil code (article 2043), stating that any crime implying a property damage and/or a non-economic damage, obligates the perpetrator or the civilly liable person to restitution and compensations.</p>
<p>Obligation to carry out</p>	<p>If the offender is not opposed to that, the judge can order to carry out a work for the community for free.</p>

<p>community service</p>	<p>It is provided for in case of a conditional suspension of the sentence.</p>
<p>Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons</p>	<p>It is provided for the offenders who are assigned to the Probation Service.</p> <p>The person assigned to the probation service has to cooperate with the social worker who is supervising him/her, thus demonstrating his/her willingness of rehabilitation.</p> <p>The Probation Service is structured into Local Offices named UEPE, <i>Uffici per l'esecuzione penale esterna</i>, Offices for the Execution of Sentences in the Community. Those offices cooperate with other public and private Bodies and Agencies of the local community, follow the offender in order to support him/her and to verify that he/she comply with the obligations and prohibitions set by the Supervisory Court in the minutes, forwarded also to the Police.</p> <p>The UEPE carries out the supervision also contacting the offender's family and social environment, with the purpose of helping him/her to overcome the problems of his/her social reinstatement.</p> <p>Moreover, the Probation service periodically reports to the Supervisory Judge about the course of the measure and the offender's compliance with obligations and prohibitions.</p>
<p>Obligation to undergo therapeutic treatment or treatment for addiction</p>	<p>It must be underlined that in the Italian system the measure provided for the drug-addicted and alcohol-addicted offenders is not exactly defined as an obligation, since a therapeutic treatment cannot be imposed, due both to the respect of an individual's liberty and to the efficiency of the treatment itself.</p> <p>Indeed, the therapeutic treatment programme has to be freely agreed between the addicted person and the healthcare structure which will take care of him/her.</p> <p>However, if that agreement does not exist, and therefore a detoxifying, therapeutic, rehabilitating programme does not exist, the alternative measure of the Assignment of the offender to the Probation Service in particular cases (see item E.1) cannot be granted, and the offender has to serve his/her sentence in prison.</p> <p>However, the Italian penitentiary system and the healthcare service ensure the drug-addicted prisoners with an assignment to adequate prisons, where they can follow a therapeutic and rehabilitation programme (article 95 of the Decree of the President of the Republic nr. 309 dated 9 October 1990), and where their health can be adequately safeguarded</p>

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.

<p>Other probation measures/alternative sanctions existing in your domestic law</p>	<p>Explanation</p>

Semiliberty	(article 48 of the Penitentiary Act) The sentenced person can spend a part of the day out of the prison in order to work or to carry out any activity useful for his social reinstatement. It can be granted after having served a certain period of the prison sentence, depending upon the seriousness of the crime perpetrated. Admission to the regime of "Semi-liberty" shall be decided in relation to the progress made in the course of treatment, when the conditions for gradual social reintegration of the prisoner exist
Home detention	(article 47-c of the Penitentiary Act) some categories of persons can serve their sentence at their own home or in a public health care centre or attendance centre or housing centre.
Alternative measures for persons suffering from full-blown aids or serious immunodeficiency	(article 47-d of the Penitentiary Act). This measure allows to serve one's sentence through the assignment to a hospital for infectious diseases or in care units mainly providing assistance to people with AIDS, in accordance with the regional plans. It can be granted also to offenders charged with very serious crimes.
Particular home detention	(article 47-e of the Penitentiary Act) Similar to Home Detention, but specially intended for mothers of children under the age on ten, with the special purpose of taking care of those children.
Early release	(article 54 of the Penitentiary Act) It consists in a reduction of the sentence of 45 days in respect of every six months actually served. It is granted to those prisoners who have a good behaviour during the execution of their sentence in prison and who show effective participation in the re-educational process.
Home leaves for internees	(six months) and to persons under SEMILIBERTY (up to 45 days per year) (articles 52 and 53 of the Penitentiary Act)
Semidetention	Substitutive measure for short sentences
Monitored liberty	Substitutive measure for short sentences

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

The Italian Penitentiary Act does not provide for specific treatments for particular categories of crimes; however, in compliance with the principle of the individualisation of the punishment and of the individual programme of rehabilitation treatment, the action of the prison workers and of the probation officers should aim at increasing the offender's sense of responsibility and at encouraging the full development of his/her personality.

It is therefore possible, as a general rule, to activate treatment projects adequate to the needs of every single sentenced person, in order to contribute to the overcoming of those difficulties and lacks which could have led to the offending behaviour, thus preventing recidivism.

The recent law on sexual crimes, domestic mistreatments and violence, stalking (Law dated 23/4/2009, nr. 389) introduced new coercive measures for the accused person, such as:

- obligation of removal from family house;
- prohibition to approach the places frequented by the victim.

Currently, specific programmes for the authors of those crimes do not exist.

3) Electronic monitoring

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

YES, it is provided for by article 275-b of the code of criminal procedure.

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)?

NO

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

NO

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

It is considered as a technical modality of enforcing the measure.

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

Currently, there is no system of Electronic monitoring in use in Italy, although the law provides for the possibility of using it.

Is Electronic Monitoring dependant on particular conditions?

YES, it is only applicable to the accused person under the pre-trial measure of house arrest, also as a substitution of the pre-trial detention, and only with the consent of the subject

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).

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,
- social inquiry and report by the prison workers
- medical certification about health conditions, drug or alcohol addiction, AIDS and other serious diseases incompatible with imprisonment