

# **Rehabilitation and mutual recognition – practice concerning EU law on transfer of persons sentenced or awaiting trial**

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## Section A: General information on existing situation: probation measures, alternative sanctions and supervision measures as an alternative to pre-trial detention

Please add the information required to answer the questions. Provide supporting or explanatory information – highlighting laws, policies and measures which justify the answer.

### Q1. Please outline the specific probation measures or alternative sanctions that are available at the post-trial stage in the Member State on which you are reporting:

Article 43 in the Criminal Code<sup>1</sup> states that a prison sentence of not more than one year is necessarily replaced by a sentence that does not involve the deprivation of freedom. Should the sentenced person consent, such sentences allow the person to carry out the sentence under house arrest where movements are monitored long-distance (Article 44).<sup>2</sup> The sentence may also be worked off over the weekends and in semi-detention (Articles 45 and 46). Other sentences laid down in the Criminal Code are: doing community work and receiving a warning (Articles 58 and 60).

In prison sentences of not more than five years, the court may suspend the sentence and it may be worked off by carrying out other duties or by complying with rules of conduct that are liable to be monitored, or that decide upon the suspended sentence obeying the proof system (Article 50). The rules of conduct that have to be complied are namely: residing at a certain address; attending certain programmes or activities; complying with certain obligations. As an extra measure, the sentenced person might be subjected to the following conditions: prevented from exercising certain professions; being forbidden to go to certain places or be in certain environments; being forbidden to reside in certain localities or regions; being forbidden to go around with, house or receive certain persons; being forbidden to join or go to certain associations or attend certain meetings, and, being forbidden to have in his/her power objects able to facilitate the practice of crimes. Provided the sentenced person consents, the court may also decide that the person needs to undergo medical treatment or a curative treatment in an institution (Article 52). A suspended sentence may call for a social integration programme (Article 54) and the system based on proof. Proof means evidence showing that a social rehabilitation plan is followed which is monitored and receives support from the suitable services. The proof system is required if the sentenced person has not yet completed 21 years of age or when the suspended sentence is more than three years (Article 53)

<sup>1</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo).

<sup>2</sup> Portugal, Law 33/2010, Rules on the use of technical methods of long-distance supervision – Electronic surveillance (*Lei n.º 33/2010 que regula a utilização de meios técnicos de controlo à distância (vigilância electrónica)*), 2 September 2010, available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1269&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1269&tabela=leis).

**Q2. Please outline the specific supervision measures as alternatives to pre-trial detention that are available in the Member State:**

Articles 196 to 203 in the Code of Criminal Procedure,<sup>3</sup> states that the alternative to pre-trial detention are the following precautionary measures: statement proving identity and residence; warnings; having to go in person periodically to a police station or a legal institution; the suspension of professional activity or functions or activities; the suspension of one's rights; forbidding and imposing conduct; house arrest.

The application of precautionary measures depends upon the case having been previously brought against the suspect (*arguido*) and the hearing the suspect is given. With the exception of the statement proving identity and residence, such measures are applied during the enquiry upon a court order made by a judge and requested by the Public Prosecutor (Article 192). In the above-mentioned court order and under penalty of nullity are: enunciating the details in the case that reveal chargeable facts except if, in doing so, it places the investigation in danger, or prevents the truth from being discovered or is life threatening or a danger to physical and mental integrity or the freedom of the parties in the court case or the victims of the crime; the juridical proof of chargeable facts; and, the concrete facts that satisfy the presuppositions underpinning the application of the measures. No precautionary measures are applied if there is reason to believe that there are grounds for exemption of responsibility or that criminal proceedings may be withdrawn (Articles 192 and 194). Precautionary measures to be applied are both necessary and in keeping with the demands to apply them coming to light in each case and in view of the gravity of the crime and the punishments decided upon for such crimes. Pre-trial detention and compulsory house arrest may only be applied when other precautionary measures are shown to be ineffective or insufficient (Articles 193 (1) and (2)).

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<sup>3</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?chave=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?chave=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

**Q3. Are there any specific legislative or policy developments regarding alternatives to prison (at the pre- and post-trial stage) of particular suspects/sentenced persons (such as children, persons with disabilities, persons in need of special treatment or mothers with young children)?**

Article 44 in the Criminal Code<sup>4</sup> states that a prison sentence of up to two years may be complied with under house arrest when the personal or family circumstances of the sentenced person are taken into account and that do not advise any deprivation of freedom by a term of imprisonment. Persons covered by this Article are: pregnant women; persons under the age of 21 or over the age of 65; cases of serious illness or incapacity; when there is a minor child or a family member under the exclusive care of the sentenced person. Furthermore, the proof system is applied whenever the person had not yet reached 21 years of age at the time of the crime (Article 53). Article 118 in the Code of Criminal Process states that the precautionary measure to forbid or impose certain conduct is suspended if the suspect (*arguido*) falls ill and requires hospitalisation.

The Law on Educational Tutelage<sup>5</sup> establishes that if an act that qualifies as a crime is committed by a minor aged between 12 and 16 years of age, an educational precautionary measure is applied (Article 1). Measures that do not involve being sent to an institution are as follows: a warning; forbidden the right to ride a motorcycle or obtain permission to ride a motorcycle; making reparation to the injured party; paying monetary instalments to or doing work that benefits the community; compulsory compliance with rules of conduct; the compulsory attendance of training programmes; and, educational supervision (Article 4). Being subject to supervisory measures may be prolonged until the child/young person reaches 21 years of age (Article 5). The choice of the supervisory measure is taken in the best interest of the child and the court gives the right of preference to whatsoever interferes the least with the child's independence as regards his/her decision-making and conduct in life, obtains the child's greater degree of compliance as well as the compliance of his/her parents, legal guardian or person possessing legal custody (article 6).

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<sup>4</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo).

<sup>5</sup> Portugal, Law 166/99, amended and republished by Law 4/2015 of 15 January - Law on Educational Tutelage (*Lei n.º 166/99, alterada e republicada pela Lei n.º 4/2015, de 15 de Janeiro - Lei tutelar educativa*), 14 September 1999, available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2262&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2262&tabela=leis).

## Section B: Transfer of suspects/sentenced persons

Please give a response for each of the boxes. If the information is the same in two boxes, duplicate the text. If the question is not applicable, specify why.

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q1. AVAILABILITY OF INFORMATION</b>			
Q1.1. Is information publicly available in ‘issuing states’ concerning the following:? If yes, please specify.			
<ul style="list-style-type: none"> <li>What information is provided (e.g. conditions for early release for FD 909 or the need for a suspect/sentenced person’s consent to a measure for FD 947 and 829)?</li> </ul>	As a preliminary remark, it should be mentioned that FD 2008/909/JHA has not yet been transposed into Portuguese law. <sup>6</sup> For this reason, the matter under study should refer to Law 144/99 of 31	As a preliminary remark, it should be mentioned that FD 2008/947 has not yet been transposed into Portuguese law. For this reason, the matter under study refers to Law 144/99 of 31	As a preliminary remark, it should be mentioned that FD 2009/829 was transposed in Portuguese law, by Law 36/2015 of 4 May. <sup>22</sup> Nevertheless, the law only comes into force 90 days after it has been published. For this reason, and

<sup>6</sup> Portugal, Law 35/2015 of 4 May that amended Law 65/2003 of 23 August passing the European detention mandate in compliance with FD299/JHA, and including certain contents in FD 2008/909 and 2008/947, among other FDs (*Lei n.º 35/2015 que alterou a Lei 65/2003, de 23 de Agosto que aprova o regime jurídico do mandado de detenção europeu, em cumprimento da Decisão-Quadro 2009/299/JAI, do Conselho, de 26 de fevereiro de 2009, que reforça os direitos processuais das pessoas e promove a aplicação do princípio do reconhecimento mútuo no que se refere às decisões proferidas na ausência do arguido*), 4 May 2015, available at: <http://dre.tretas.org/dre/695358/>.

As regards a draft law to set up the system of executing sentences of a criminal nature among the EU member states, the Public Prosecutors Union (*Sindicato dos Magistrados do Ministério Público*), issued a Statement of Opinion in October 2014 about transposing FD 2008/909/JHA, 2008/947/JHA and FD 2009/299/JHA. Available at: [www.smmpt.pt/wp-content/Parecer-SMMP-Execucao-de-sentencas-em-materia-penal.pdf](http://www.smmpt.pt/wp-content/Parecer-SMMP-Execucao-de-sentencas-em-materia-penal.pdf).

<sup>22</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>August,<sup>7</sup> which states in Article 3 that the transfer of persons who have been sentenced to security measures depriving them of their freedom, are subject to the rules laid down in international treaties, conventions and agreements binding the Portuguese State, and should they prove to be insufficient or lacking, then they are subject to the above-mentioned law.</p>	<p>August,<sup>15</sup> that states in Article 3 that the international cooperation involved in tagging persons who have been sentenced or who are on probation is governed by the rules in international treaties, conventions and agreements binding the Portuguese State, and should they prove to be insufficient or lacking, then they are subject to the above-</p>	<p>although to a limited degree, the effective law continues to be Title II in the Code for Criminal Procedure,<sup>23</sup> as regards precautionary measures that are contained within the scope of FD 2009/829. It should be pointed out that Article 229 in the Code for Criminal Procedure<sup>24</sup> states that relations with foreign authorities in</p>
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<sup>7</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>15</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>23</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

<sup>24</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

	<p>The applicable international convention is the Council of Europe standards (Council of Europe, Convention on the Transfer of Sentenced Persons, 1983).<sup>8</sup></p> <p>Law 144/99 of 31 August<sup>9</sup> does not foresee providing the sentenced person with the sort of information coming in Annex II in the FD 2008/909. Indeed, Article 4 (5) in the Council of Europe Convention on the Transfer of Sentenced Persons is limited to stating that the sentenced person should be</p>	<p>mentioned law. The applicable international convention is European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (1964).<sup>16</sup></p> <p>This Convention, on the Supervision of Sentenced or Conditionally Released Offenders contains no reference to informing people. Pursuant to Law 144/99 of 31 August,<sup>17</sup> Article 143 states that</p>	<p>terms of administering criminal justice, are governed by international treaties and conventions, or in the event that they are found insufficient or lacking, then by the provision in a special law as well as by the provisions in the Code of Criminal Procedure where relevant.</p> <p>There are certain precautionary measures that the judge might impose upon the suspect (<i>arguido</i>)</p>
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<sup>8</sup> Portugal, Parliamentary Resolution 83/93 of 20 April, Ratifying the European Council Convention on the Transfer of Sentenced Persons, 21 March 1983 (*Resolução da Assembleia da República 83/93, de 20 de Abril (Aprova para ratificação a Convenção do Conselho da Europa relativa à Transferência de Pessoas Condenadas de 21 de Março de 1983)*). Available at: [www.gddc.pt/cooperacao/materia-penal/textos-mpenal/ce/rar-8-dr-92-1993.html](http://www.gddc.pt/cooperacao/materia-penal/textos-mpenal/ce/rar-8-dr-92-1993.html).

<sup>9</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>16</sup> Portugal, Parliamentary Resolution 50/94 of 12 August, Ratifying the European Council Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (*Resolução da Assembleia da República n.º 50/94, de 12 de Agosto, que aprova para ratificação a Convenção do Conselho da Europa para a Vigilância de Pessoas Condenadas ou Libertadas Condionalmente (1964)*). Available at: [www.gddc.pt/cooperacao/materia-penal/textos-mpenal/ce/rar-50-dr-86-1994](http://www.gddc.pt/cooperacao/materia-penal/textos-mpenal/ce/rar-50-dr-86-1994).

<sup>17</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August

	<p>informed in writing of all the investigations carried out by the Issuing State or the Executing State as well as of any decisions made by either one of the two States in terms of the request for transfer. Law 144/99 of 31 August<sup>10</sup> refers to the information that should be given the sentenced person in two provisions. The first provision speaks about the conditions of executing the criminal sentence abroad and includes within these conditions, measures which, in depriving the person of his/her freedom as a result of a crime</p>	<p>requests for cooperation in the supervision of sentenced persons of conditionally released persons in all cases where no references in the law have been made, the provisions on the execution of criminal sentences are applicable so long as due adaptations are made and where the only exceptions concern sentences involving consent. In this event, if a request is entailed only for supervision, the application of such provisions is not necessary. Therefore, the information that</p>	<p>and which require his/her prior consent, This is the case of house arrest pursuant to Article 201 in the Code of Criminal Procedure<sup>25</sup> where methods of monitoring the suspect's compliance may fall back on long-distance electronic supervision (tagging with an electronic bracelet). Another precautionary measure that also requires the suspect's consent may be found in Article 200 (1) f) in the Code of Criminal Procedure, and in Article 4 (1) i) in Law 36/2015 of</p>
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1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01,May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>10</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01,May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>25</sup> Portugal, Decree-Law 78/87 of 27 February 1987, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

	<p>having been committed, may only be applied if the sentenced person has been informed of the consequences of this execution and has given his/her informed consent (Article 104 (1) e). The second provision concerns the internal procedures followed when requesting the transfer, as laid down in Article 118 (5). It states that the person who is subject to being transferred should be informed in writing about the decision made about this transfer.</p> <p>In practice, and according to the written information provided by the Directorate-General for Integration and</p>	<p>needs to be given as regards the application of supervisory measures, alternative sanctions and the conditional release of the sentenced person in the event that he/she legally and normally resides in an EU member state that is different from the State in which he/she was sentenced, is limited to what is laid down in Article 118 (5) in Law 144/99 of 31 August.<sup>18</sup> This Article states that the sentenced person who wants to be transferred back home should be informed in writing about the decision made about this transfer.</p>	<p>4 May<sup>26</sup> that both refer to the suspect's treatment of an abusive habit in an appropriate institution if there is strong evidence that it led to a serious crime being committed and where the suspect is liable to receive a maximum prison sentence of more than 3 years. It should be noted that Article 194(1) and (4) in the Code of Criminal Procedure states that, with the exception of house arrest, the application of precautionary measures has to be preceded <b>first by a hearing with the suspect</b>. The same applies in terms of revoking or replacing the precautionary</p>
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<sup>18</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>26</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>the Prison Services (<i>Direcção Geral de Reinserção e Serviços Prisionais</i>),<sup>11</sup> when a third-country national convicted of a crime goes into prison, he/she is informed of the facility whereby he/she may be assisted in requesting a transfer to his/her own country of origin in order to complete the prison sentence passed down. This facility falls under the law or international treaties and conventions, namely the EU Convention on the Transfer of Sentenced Persons. The information is supplied by the Educational Technician (<i>Técnico de Educação</i>) who receives</p>	<p>Although the informed consent of the sentenced person is not needed in the applications for international cooperation when only a request for supervision is entailed, the Criminal Code<sup>19</sup> lays down certain alternative sanctions which call for the sentenced person's acceptance of them. This is the case, for example, of house arrest using long-distance electronic means of tagging (Article 44); semi-detention (article 46); community work (Article 58); or when the person is subject to</p>	<p>measures (Article 212 (4) in the Code of Criminal Procedure). These provisions are applicable within the scope of Law 36/2015 of 4 May<sup>27</sup> pursuant to its Article 7.</p> <p>It should be mentioned that Article 4(2) in Law 36/2015 of 4 May<sup>28</sup> states that electronic tagging may be used in order to monitor and check whether the precautionary measures laid down in this law are being complied with, in agreement with the rights and internal procedures of the execution State.</p>
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<sup>11</sup> Portugal, Decree Law 215/2012 of 28 September, setting up the Directorate-General for Integration and the Prison Services (*Decreto-lei 215/2012, de 28 de Setembro, cria a Direcção Geral de Reinserção e Serviços Prisionais*). Available at: [www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO\\_215-2012.pdf](http://www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO_215-2012.pdf).

<sup>19</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo).

<sup>27</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>28</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>the sentenced person and hands him/her a leaflet stating his/her rights and duties in a language that he/she understands.<sup>12</sup></p> <p>Article 61 in the Criminal Code,<sup>13</sup> lays down the presuppositions and conditions ruling over a conditional release which depend upon the informed consent of the sentenced person. As regards this matter, Article 176(1) in the Code for the Execution of Sentences and Measures to Deprive Freedom (<i>Código de Execução de Penas e Medidas Privativas da Liberdade</i>, CEPMPL)<sup>14</sup> states that in the event of conditional release or probation, the judge will question the prisoner about all the subjects deemed</p>	<p>medical treatment or a cure in a suitable institution (Article 52). On the other hand, in terms of to suspended sentences pursuant to Articles 50 to 57 in the Criminal Code,<sup>20</sup> the sentenced person has to be informed of a plan for him/her to undergo social rehabilitation and his/her prior approval should be obtained wherever possible (Article 54(2)). The same provision is applied to the sentenced person enjoying conditional release, pursuant to Article 64(1) in the Criminal Code.<sup>21</sup></p>	
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<sup>12</sup> Portugal, Directorate-General for Integration and the Prison Services, Official Note 5103/DSEMPPL of 01-06-2015; (*Direcção Geral de Reinserção e Serviços Prisionais, Ofício 5103/DSEMPPL de 01-06-2015*).

<sup>13</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo). This law as well as Article 61 of the in the Criminal Code will be translated French, English and Spanish according to information provided by the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*). Available at: [www.gddc.pt](http://www.gddc.pt).

<sup>14</sup> Portugal, Law 115/2009 of 12 October, Code for the Execution of Sentences and Measures to Deprive Freedom (*Código de Execução de Penas e Medidas Privativas da Liberdade, Lei 115/2009, de 12 de Outubro*) which was amended several times, the last of which by Law 21/2013 of 21 February (*Lei 21/2013, de 21 de Fevereiro*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_busca\\_assunto\\_diploma.php?buscajur=transfer%EAnca+estrangeiro&artigo\\_id=&pagina=1&ficha=1&nid=1147&tabela=leis](http://www.pgdlisboa.pt/leis/lei_busca_assunto_diploma.php?buscajur=transfer%EAnca+estrangeiro&artigo_id=&pagina=1&ficha=1&nid=1147&tabela=leis).

<sup>20</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo).

<sup>21</sup> Portugal, Decree-Law 48/95, Criminal Code, (*Decreto-Lei n.º 48/95, Código Penal*), 15 March 1995, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo).

	<p>pertinent for releasing him/her, including his/her consent to such a decision, after which the matter is handed over to the Public Prosecutor and the defence lawyer.</p>		
<ul style="list-style-type: none"> <li>How is the information made publically available (tools, or networks used)?</li> </ul>	<p>Given the fact that the Convention on the Transfer of Sentenced Persons is, together with Law 144/99,<sup>29</sup> the fundamental instruments that rule upon the transfer of sentenced persons, the information made available to the public may be found on the website of the Committee of Experts on the Operation of European Convention on Co-Operation in Criminal matters (PC-OC).<sup>30</sup> For example, in terms of the conditions overseeing condition-al</p>	<p>Information about the CE Convention on Sentenced Persons and Conditionally Released Persons and the respective report is found at: <a href="http://conventions.coe.int/Treaty/FR/Reports/html/051.htm">http://conventions.coe.int/Treaty/FR/Reports/html/051.htm</a> or on the PC-OC homepage, as well as on the website of the Documentation and Comparative Law Office <i>Gabinete de Documentação e Direito Comparado</i> – see <a href="http://www.gddc.pt">www.gddc.pt</a>.</p>	<p>Information about the applicable laws mentioned above is made available to the public namely on the webpages of the Directorate General of Justice Policies (<i>Direcção Geral da Política da Justiça</i>) available at: <a href="http://www.dgpj.mj.pt">www.dgpj.mj.pt</a>. The Laws on Justice, Book IV, Criminal Laws, Criminal Processes and Prison Laws are available on the Lisbon District Public Prosecution General (<i>Procuradoria Geral Distrital de</i></p>

<sup>29</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>30</sup> Council of Europe, Committee of Experts on the Operation of European Convention on Co-Operation in Criminal Matters (PC-OC) [www.coe.int/t/dghl/standardsetting/pc-oc/de?fault\\_EN.asp](http://www.coe.int/t/dghl/standardsetting/pc-oc/de?fault_EN.asp)

	<p>release in Portugal, it is stated that: Early release will take place mandatorily when 5/6 of a prison term of more than 6 years has been elapsed. Early release can take place when ½ or 2/3 of the prison term, provided that at least 6 months have been executed, have been elapsed by decision taken by a Judge, on a case by case basis and depending on the social rehabilitation of the person concerned and his or her behaviour while in prison. PC-OC, National procedures on judicial cooperation in criminal field – Transfer of sentenced persons <a href="http://www.coe.int/t/dghl/standardsetting/pc-oc/country_information3_EN.asp?">www.coe.int/t/dghl/standardsetting/pc-oc/country_information3_EN.asp?</a></p> <p>Pursuant to Law 144/99 of 31 August,<sup>31</sup> there is an English and a</p>	<p>Law 144/99 of 31 August<sup>32</sup> and other laws have been available to the public in French and English on the webpage of the Documentation and Comparative Law Office <i>Gabinete de Documentação e Direito Comparado</i> – see <a href="http://www.gddc.pt">www.gddc.pt</a>; on the webpage of the Directorate General of Justice Policies (<i>Direcção Geral da Política da Justiça</i>) available at: <a href="http://www.dgpj.mj.pt">www.dgpj.mj.pt</a>. The Laws on Justice, Book IV, Criminal Laws, Criminal Processes and Prison Laws are available on the Lisbon District Public Prosecution General (<i>Procuradoria Geral Distrital de Lisboa</i>) website: <a href="http://www.dgdlisboa.pt">www.dgdlisboa.pt</a></p>	<p><i>Lisboa</i>) website: <a href="http://www.dgdlisboa.pt">www.dgdlisboa.pt</a> and also on the website of the Directorate-General for Integration and the Prison Services (<i>Direcção Geral da Reinserção e Serviços Prisionais</i>), available at: <a href="http://www.dgrs.mj.pt/web/rs/index">www.dgrs.mj.pt/web/rs/index</a>. Apart from the laws, these website also include other pertinent information.</p>
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<sup>31</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>32</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º*

	<p>French version available on the website of the Documentation and Comparative Law Office (<i>Gabinete de Documentação e Direito Comparado</i>) – see <a href="http://www.gddc.pt">www.gddc.pt</a>.</p> <p>Other laws quoted above are made available to the public on the websites of the Directorate General of Justice Policies (<i>Direcção Geral da Política da Justiça</i>) available at: <a href="http://www.dgpj.mj.pt">www.dgpj.mj.pt</a>. Laws on Justice, Book IV, Criminal Laws, Criminal Processes and Prison Laws are available on the Lisbon District Public Prosecution General (<i>Procuradoria Geral Distrital de Lisboa</i>) website: <a href="http://www.dgdlisboa.pt">www.dgdlisboa.pt</a> and also on the website of the Directorate-General for Integration and the Prison Services (<i>Direcção Geral da Reinserção e Serviços Prisionais</i>), available at: <a href="http://www.dgrs.mj.pt/web/rs/index">www.dgrs.mj.pt/web/rs/index</a>. Apart</p>	<p>and also on the website of the Directorate-General for Integration and the Prison Services (<i>Direcção Geral da Reinserção e Serviços Prisionais</i>), available at: <a href="http://www.dgrs.mj.pt/web/rs/index">www.dgrs.mj.pt/web/rs/index</a>.</p> <p>Apart from the laws, these website also include other pertinent information.</p>	
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115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade), 31 August 1999, updated version available at: [www.pgdilisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdilisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*): [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdilisboa.pt/docpgd/files/cji%20pgd%20maio%202013.pdf](http://www.pgdilisboa.pt/docpgd/files/cji%20pgd%20maio%202013.pdf).

	from the laws, these website also include other pertinent information.		
<ul style="list-style-type: none"> <li>In which languages is the information provided?</li> </ul>	Information about the CE Convention on the Transfer of Sentenced Persons and about Law 144/99 of 31 August <sup>33</sup> is available in Portuguese, French and English. The information about other Portuguese laws that are applicable is generally available in Portuguese but there is other information in English on	Information about the CE Convention on Sentenced Persons and Conditionally Released Persons and about Law 144/99 of 31 August <sup>37</sup> is available in Portuguese, French and English. The information about other Portuguese laws that are applicable is generally available in	Information about the applicable laws is generally available in Portuguese but there is also other information in English on the websites mentioned above.

<sup>33</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>37</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	<p>the sites referred to above. It should be mentioned that in agreement with the information referred to above about the Directorate-General for Integration and the Prison Services (<i>Direção-Geral de Reinserção e Serviços Prisionais</i>, DGRSP), a leaflet informing foreign people who have been sentenced to imprisonment about their rights and duties in a language that they understand is given to such people going to prison. On the other hand, a form that was adopted by the Council of Europe in an Appendix to</p>	<p>Portuguese but there is other information in English on the above-mentioned sites.</p> <p>Pursuant to Article 21(1) in Law 144/99 of 31 August,<sup>38</sup> the request for cooperation should be sent together with a translation in the official language of the State to which it is addressed except in cases where conventions or agreements say otherwise. Nevertheless, this Law does not mention anything about the language in which this</p>	<p>Pursuant to Article 9 in Law 36/2015 of 4 May,<sup>40</sup> certificates are translated into the EU official languages which the State in question has agreed to accept. Nevertheless, the law fails to say anything about the language in which this information should be given to the suspect (<i>arguido</i>) who is subject to a precautionary measure. For this reason, Article 92 (2) in the Code of Criminal Procedure<sup>41</sup> is called in to clarify that when a person who does not know,</p>
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<sup>38</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>40</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>41</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

	<p>Recommendation R84 (11), is also made available in writing by the prison services.<sup>34</sup></p> <p>Pursuant to Article 21(1) in Law 144/99 of 31 August,<sup>35</sup> the request for cooperation should be sent together with a translation in the official language of the State to which it is addressed except in cases where conventions or agreements say otherwise. Nevertheless, this Law does not mention anything about the language in which this information should be given to the sentenced person to be transferred. For this reason, Article 92 (2) in the Code of Criminal</p>	<p>information should be given to the sentenced person to be transferred. For this reason, Article 92 (2) in the Code of Criminal Procedure<sup>39</sup> is called in to clarify that when a person who does not know, understand or speak Portuguese is appointed to intervene in the case, an independent interpreter will be provided at no cost to the person.</p>	<p>understand or speak Portuguese is appointed to intervene in the case, an independent interpreter will be provided at no cost to the person.</p>
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<sup>34</sup> Information provided by a representative of Documentation and Comparative Law Office (*Procuradoria-Geral da República, Gabinete de Documentação e Direito Comparado*).

<sup>35</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>39</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

	<p>Procedure<sup>36</sup> is called in to clarify that when a person who does not know, understand or speak Portuguese is appointed to intervene in the case, an independent interpreter is provided at no cost to the person.</p>		
<p>Q1.2. Apart from the competent authorities required by the FDs, is there any other national office or point of contact responsible for leading initial discussions about potential transfers (as issuing and executing state)? If yes, please provide brief details.</p>	<p>As was already mentioned above, FD 2008/909 has not yet been transposed to Portuguese law. For the applicable European Council Convention, the Central Authority is the Prosecutor General's Office (<i>Procuradoria Geral da República</i>, PGR), owing to the fact that there are no other appropriate</p>	<p>As was already mentioned above, 2008/947 has not yet been transposed to Portuguese law. Nevertheless, in terms of the supervision of sentenced persons or persons released conditionally, Law 144/99 of 31 August<sup>44</sup> pursuant to Article 21, which is applicable on the</p>	<p>Pursuant to Article 5 in Law 65/2003 of 4 May,<sup>46</sup> “the Directorate-General for Integration and the Prison Services (<i>Direcção Geral de Reinserção e Serviços Prisionais</i>) is the Central Authority that should assist the appropriate agency” (“<i>É designada como autoridade central</i>”</p>

<sup>36</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php? ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php? ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>44</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php? ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php? ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>46</sup> Portugal, Law 65/2003 of 23 August amended by Law 35/2015 of 4 May, Juridical System on the European Arrest Warrant (*Lei 65/2003, de 23 de Agosto, alterada pela Lei 35/2015, de 4 de Maio (Regime jurídico do mandado de detenção europeu)*). Available at: <http://dre.tretas.org/dre/695358/>.

	<p>bodies to deal with it. The same happens with Law 144/99 of 31 August<sup>42</sup> pursuant to Article 21 which is applicable on the grounds of Article 1 (1) e) in the same law. Article 21 states that as regards the transfer of persons sentenced to any punishment or measure involving deprivation of freedom, the Central Authority in the person of the Prosecutor General's Office (<i>Procuradoria Geral da República</i>, PGR) shall be appointed to receive and transmit all requests for cooperation as well as all other communications that concern it.</p>	<p>grounds of Article 1 (1) e) in the same law. Article 21 states that as regards the supervision of persons sentenced to any punishment, or measure but not involving the deprivation of freedom, the Central Authority in the person of the Prosecutor General's Office (<i>Procuradoria Geral da República</i>, PGR) shall be appointed to receive and transmit all requests for cooperation as well as all other communications that concern it.</p> <p>Pursuant to Article 141 in Law 144/99 of 31 August,<sup>45</sup> when the</p>	<p><i>para assistir a entidade competente, a Direcção Geral de Reinserção e Serviços Prisionais.”</i>). The appropriate service that receives requests for acknowledging and following-up the execution of precautionary measures set by other EU Member-States is generally speaking, the criminal investigation central branch.</p> <p>If the precautionary measure fails to be complied with, and there is a need for the appropriate authority of the issuing State to issue an arrest warrant or any other expedient court</p>
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<sup>42</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>45</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt).

	<p>It should be noted that the request for transfers is made by the sentenced person and is addressed to the Public Prosecutor’s office as well as to the Court Executing the sentences pursuant to the General Regulation on Prisons (<i>Regulamento Geral dos Estabelecimentos Prisionais</i>)<sup>43</sup> (Article 235).</p>	<p>request formulated by Portugal is accepted, the Central Authority informs the appropriate services in order for them to follow up the measures imposed in the sentence and to enter into contact directly with their foreign counterparts.</p>	<p>decision that has the same effect, then the authority with the power to do this is the Appeal Court in the residential area of the suspect (<i>arguido</i>) or if there is no court in his/her area, then it is the Court in the area where the missing person is found on the date the warrant is issued.<sup>47</sup> “The processing court has the power to issue a request to recognise and follow-up the execution of a precautionary measure passed by another EU-Member State” (“<i>É competente para emitir um pedido de reconhecimento e acompanhamento da execução de medida de coacção noutro Estado membro da União Europeia o tribunal do processo</i>”).</p>
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As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor’s Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf).

<sup>43</sup> Portugal, General Regulation on Prisons, Decree-Law 51/2011 of 11 April, Ruling on the Code for the Execution of Sentences and Measures to Deprive Freedom (*Regulamento Geral dos Estabelecimentos Prisionais, Decreto-lei 51/2011, de 11 de Abril (Regulamenta o Código de Execução de Penas e Medidas Privativas de Liberdade)*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=201&artigo\\_id=&nid=1317&pagina=3&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=201&artigo_id=&nid=1317&pagina=3&tabela=leis&nversao=&so_miolo=).

<sup>47</sup> Portugal, Law 65/2003 of 23 August amended by Law 35/2015 of 4 May, Juridical System on the European Arrest Warrant (*Lei 65/2003, de 23 de Agosto, alterada pela Lei 35/2015, de 4 de Maio (Regime jurídico do mandado de detenção europeu)*). Available at: <http://dre.tretas.org/dre/695358/>.

<p>Q1.3. Do the competent authorities collate information about their experience of transfers (such as personal data of the suspect/sentenced person, states involved, issues raised during the transfer process)? If yes, specify the information gathered.</p>	<p>Yes. Information is available about the numbers of transfers effected every year – see the website of the PC-OC European Council Committee,<sup>48</sup> although the issuing States where the person has been sentenced and where the sentence carried out is not identified. On the other hand, pursuant</p>	<p>Yes. Pursuant to Decree-Law 293/99 of 3 August,<sup>51</sup> the Prosecutor General's Office (<i>Procuradoria-Geral da República</i>, PGR) has a database on requests for the transfer of sentenced persons. The data are collected for automatic processing according to the following information: the applicant's name, parents' names, country of birth, sex, last residential address, civil status and profession, court case number, date of sentencing, types of crimes committed, sentence, name of prison in which the sentence is being worked off, country of the sentenced person or person executing the sentence, dates on which the sentence has been worked off or on which the sentence terminates</p>	<p>Owing to the fact that Law 36/2015 of 4 May<sup>53</sup> still has not come into force, no data are available regarding this law. It is not known whether information was collected prior to the law as regards persons subject to precautionary measures returning to the countries in which they usually and lawfully reside.</p>
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<sup>48</sup> According to information received by the Prosecutor General's Office, from the Documentation and Comparative Law Office, this experiment has been used by the PC-OC for modernising the Convention on the Transfer of Sentenced Persons and has been in action since 2013. The results of the exercise may be seen at: *The Future of the Convention on Transfer of Sentenced Persons*.

<sup>51</sup> Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

<sup>53</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

	<p>to Decree law 293/99 of 3 August,<sup>49</sup> the Prosecutor General's Office (<i>Procuradoria-Geral da República</i>, PGR) has a database on requests for the transfer of sentenced persons. The data are collected for automatic processing according to the following information: the applicant's name, parents' names, country of birth, sex, last residential address, civil status and profession, court case number, date of sentencing, types of crimes committed, sentence, name of prison in which the sentence is being worked off, country of the sentenced person or person executing the sentence, dates on which the sentence has been worked off or on which the sentence terminates (Article 3). The personal data contained in the database are collected and updated by resorting to applications made by the interested parties and excerpts taken from the decisions passing sentence in cases where Portugal is taken to be the</p>	<p>(Article 3). The personal data contained in the database are collected and updated by resorting to applications made by the interested parties and excerpts taken from the decisions passing sentence in cases where Portugal is taken to be the Issuing State, as well as the communiqués made by the State in the judgement provided that Portugal is the State in which the sentence is executed; this information must be limited to what is strictly necessary in order to exercise the legal powers on the transfer of sentenced persons; the data may not be used for any other purpose which is incompatible with it (Article 4(2) and (3)). In Article 2 of the same Law, the Prosecutor General's Office is responsible for handling the data base pursuant to Article 3 d) in Law 67/98 of 26</p>	
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*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at:

<https://dre.pt/application/conteudo/67123263>.

<sup>49</sup> Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*). Available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

	<p>Issuing State, as well as the communiqués made by the State in the judgement provided that Portugal is the State in which the sentence is executed; this information must be limited to what is strictly necessary in order to exercise the legal powers on the transfer of sentenced persons; the data may not be used for any other purpose which is incompatible with it (Article 4(2) and (3)). In Article 2 of the same Law, the Prosecutor General's Office is responsible for handling the data base pursuant to Article 3 d) in Law 67/98 of 26 October<sup>50</sup> (the Law on Personal Data Protection).</p>	<p>October<sup>52</sup> (the Law on Personal Data Protection).</p>	
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<sup>50</sup> Portugal, Law 67/98 of 26 October, Law of Personal Data Protection (*Lei 67/98, de 26 de Outubro (Lei de Protecção de dados Pessoais)*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=156&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=156&tabela=leis).

<sup>52</sup> Portugal, Law 67/98 of 26 October, Law of Personal Data Protection (*Lei 67/98, de 26 de Outubro (Lei de Protecção de dados Pessoais)*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=156&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=156&tabela=leis).

	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON</b>			
Q2.1 Is there a procedure in the issuing state (e.g. some form of mechanism that ensures it in relevant cases) in place to	Yes. In Article 116 in Law 144/99, of 31 August, <sup>54</sup> the prison services inform the sentenced persons who may benefit	Yes. However, the only provision coming in Law 144/99 of 31 August <sup>56</sup> connected with giving	Yes. In Article 12 of Law 36/2015 of 4 May, <sup>58</sup> it states that when the suspect ( <i>arguido</i> ) normally has

<sup>54</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>56</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>58</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

<p>inform de suspect/sentenced person of the option to transfer the judgment or decision to another Member State? If yes, please briefly provide information (e.g. is it an oral or written procedure) and specify who provides this information.</p>	<p>from the transfer measure and gives them the information they ask for. For its part, in Article 117 in the Code for the Execution of Sentences and Measures to Deprive Freedom (<i>Código de Execução de Penas e Medidas Privativas da Liberdade</i>, CEPMPL),<sup>55</sup> Article 117 states that apart from making available to the persons detained, the written legal information about the applicable law and international conventions, the prison should also provide foreign detainees information in a language that they understand in terms of whether it is possible to work off abroad the sentences passed on them by the Portuguese criminal system, and whether they may transfer abroad, where they will be subject to an</p>	<p>information to sentenced persons who are subject to measure that do not deprive them of their freedom and in terms carrying out their sentences in another EU Member State, is found in Article 118 (5). This article refers to the fact that the person interested in being transferred should be kept informed in writing, of the decisions made with respect to him/herself.</p> <p>It should be noted that pursuant to Article 3c) and i) in Law 215/2012 of 28 September,<sup>57</sup> one of the duties of the Directorate-General for Integration and the Prison Services (<i>Direcção Geral de Reinserção e Serviços Prisionais</i>), is to ensure that the judicial decisions to impose prison sentences and alternative</p>	<p>his/her lawful residence in another EU Member State, the country in which the trial is held may send to this Member State its decision to apply a precautionary measure and seek the supervision of the said Member State in the event that the suspect (<i>arguido</i>), after having been informed of the measure in question, consents to return to this same State. The suspect's declaration of consent should be recorded in writing pursuant to Article 141 (4), in the Code of Criminal Procedure.<sup>59</sup></p> <p>Furthermore, the Court may, upon the suspect's (<i>arguido</i>) request, send its decision to the appropriate authority in a third Member State in which the suspect does not have his/her lawful and usual place of</p>
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*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>55</sup> Portugal, Code for the Execution of Sentences and Measures to Deprive Freedom, Law 115/2009 of 12 October (*Código de Execução de Penas e Medidas Privativas da Liberdade, Lei 115/2009, de 12 de Outubro*) The law was the object of several amendments, the last of which was Law 21/2013 of 21 February. Up-dated version available at: [na=1&ficha=1&nid=1147&tabela=leis](http://na=1&ficha=1&nid=1147&tabela=leis).

<sup>57</sup> Portugal, Decree-Law 215/2012 of 28 September, Setting up the Directorate-General for Integration and the Prison Services (*Decreto-lei 215/2012, de 28 de Setembro, (Cria a Direcção Geral de Reinserção e Serviços Prisionais)*). Available at: [www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO\\_215-2012.pdf](http://www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO_215-2012.pdf).

<sup>59</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?chave=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?chave=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

	additional sentence of expulsion from Portugal.	measures to imprisonment are carried out. Furthermore, they have to uphold the information systems that back up the individualised planning executing punishment for crimes committed.	abode provided that the authority of this 3 <sup>rd</sup> State gives its consent.
Q2.2. Is there a procedure in place in the issuing state to obtain the informed consent of the suspect/sentenced person before forwarding the judgment or decision to the executing state? (e.g. a pre-prepared written explanation of the process available in a number of languages). If yes, please briefly specify what information the suspect/sentenced	Yes. Once informed of the possibility of requesting a transfer and asking for the applicable legislation, the sentenced person may make a written request to the Public Prosecutor ( <i>Ministério Público</i> ) at the Court Executing the Sentences, that will then press for a transfer pursuant to Article 141 (1) e) in the Code for the Execution of Sentences	N/A. Article 143 (2) in Law 144/99 of 31 August, <sup>66</sup> states that the provisions relating to the consent of the sentenced person does not apply to cases where a request for supervision alone is made.	No. Article 12 in Law 36/2015 of 4 May <sup>67</sup> only establishes that when the offending party has his/her lawful and customary residence in another EU Member State, the Court in which the case is being heard may send the suspect's State, a decision to apply a precautionary measure that would entail supervision in this

<sup>66</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>67</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<p>person receives (e.g. information on appeal and release possibilities</p>	<p>and Measures to Deprive Freedom (<i>Código de Execução de Penas e Medidas Privativas de Liberdade</i>).<sup>60</sup> The request is then submitted to the Court Executing the Sentences in the area in which the prison is located where the sentenced person is serving his/her sentence. The request, which duly undergoes a preliminary enquiry, is then sent by the Court Executing the Sentences to the Prosecutor General's Office (<i>Procuradoria-Geral da República</i>, PGR) in its role as the Central Authority (Articles 117, 118, and 21 in Law 144/99 of 31 August<sup>61</sup>).</p> <p>After it has been checked that all the necessary conditions have been</p>		<p>State, in the event that the person in question – after having been informed of the pertinent measures – consents to return to his/her country.</p> <p>The Law does not refer to any pre-prepared written explanation of the applicable process that aims at providing the suspect (<i>arguido</i>) with information on which to make an informed decision. Nevertheless, information may be supplied by means of his/her defence lawyer or the social rehabilitation services.</p>
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<sup>60</sup> Portugal, Code for the Execution of Sentences and Measures to Deprive Freedom, Law 115/2009 of 12 October (*Código de Execução de Penas e Medidas Privativas da Liberdade, Lei 115/2009, de 12 de Outubro*) The law was the object of several amendments, the last of which was Law 21/2013 of 21 February. Up-dated version available at: [na=1&ficha=1&nid=1147&tabela=leishttp://www.pgdlisboa.pt/leis/lei\\_busca\\_assunto\\_diploma.php?buscajur=transfer%EAncia+estrangeiro&artigo\\_id=&pagina=1&ficha=1&nid=1147&tabela=leis](http://www.pgdlisboa.pt/leis/lei_busca_assunto_diploma.php?buscajur=transfer%EAncia+estrangeiro&artigo_id=&pagina=1&ficha=1&nid=1147&tabela=leis).

<sup>61</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	<p>complied with, the request is sent to the executing State for its decision, the sentenced person being kept informed (Articles 118 (5) and 117 of Law 144/99<sup>62</sup>). If the executing State agrees, the case is sent by the Prosecutor General's Office to the Ministry of Justice<sup>63</sup> for its decision (Article 118 (3) in Law 144/99<sup>64</sup>). If the Ministry of Justice accepts the request, the Public</p>		
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<sup>62</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>63</sup> Portugal, Ministry of Justice Order 211/2013 in the Government Gazette, 2nd series, 7 January 2013 – Delegating on the Prosecutor General's Office, among others, the power to assess the request made by a sentenced person for a transfer abroad, as well as ask for all the necessary information (*Despacho da Ministra da Justiça n.º 211/2013, Diário da República 2.ª série de 7 de Janeiro de 2013, Delega na Procuradora Geral da República, entre outras, a competência para apreciar o pedido de transferência para o estrangeiro de pessoa condenada, bem como para solicitar as informações necessárias*). Available at: [file:///C:/Users/JLeitao/Downloads/0052400524%20\(1\).pdf](file:///C:/Users/JLeitao/Downloads/0052400524%20(1).pdf).

<sup>64</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	<p>Prosecutor submits it to the Appeal Court in the area of the prison in which the sentenced person is detained for its appreciation and for the court's consent and approval. The Minister's positive decision is not binding on the court. The Public Prosecutor at the Appeal Court arranges for the judge to hear the petitioner (i.e. the sentenced person). In this hearing, the judge has to ascertain whether the consent was given of the person's own free will and in full awareness of the ensuing consequences. The possibility is ensured of checking upon the sentenced person's fully informed consent by going through a consular agent or any other appointed official agreed upon by the petitioner's State (Article 120 in Law 144/99<sup>65</sup>).</p>		
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<sup>65</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	It is not known whether any other information is given in the leaflet referred to in the first number of Q1.1 and what language is used.		
Q2.3. Does the suspect/sentenced person have the right to revoke his/her consent to the transfer in the issuing state? If yes, please briefly specify until which stage of the procedure this right exists. ).	Yes. Within the framework of the European Council Convention, and owing to the fact that the transfer is based on the person's consent, the sentenced person has the right to revoke his/her consent. Be that as it may, the fact that the consent may be withdrawn at a very advanced stage in the procedure, implies costs and wasted time all for nothing. <sup>68</sup> Law	N/A. Taking into account that Article 143 (2) in Law 144/99 of 31 August <sup>71</sup> states that the provisions pursuant to the sentenced person's consent are not applied when only a request for supervision is involved, the question does not even come up for consideration.	Law 36/2015 of 4 May, <sup>72</sup> does not mention anything about the suspect ( <i>arguido</i> ) withdrawing his/her consent as regards returning to the EU Member State in which he/she has her lawful and customary residence (Article 12(1)). Nonetheless, withdrawing this consent may happen when the competent State authority involved

<sup>68</sup> Joana Gomes Ferreira, Portugal, The future of the Convention on the Transfer of Sentenced Persons: options for improvement (second additional Protocol, recommendation practical guidelines) Council of Europe PC-OC (2013) 15 BIL. Available at: [www.coe.int/tcj](http://www.coe.int/tcj).

<sup>71</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>72</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

	144/99 of 31 August <sup>69</sup> does not govern this particular matter. In practice, there are very few situations in which consent is withdrawn, and when it is, it is normally linked to the sentenced person having obtained his/her conditional release. <sup>70</sup>		is dispatching the process, has no knowledge of the precautionary measures that were taken and that were sent (Article 14 (1)).
Q2.4. Is there any procedure in place in the issuing state to obtain the opinion of the sentenced person concerning the following: If yes, please briefly specify e.g. is it an oral or a written procedure, are there any checks on actual understanding of the option).			
<ul style="list-style-type: none"> <li>When consent is not required)?</li> </ul>	N/A. On the one hand, FD 2008/909/JHA has still not been		

*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>69</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf).

<sup>70</sup> Information supplied by a representative of the Prosecutor General's Office.

	<p>transposed into Portuguese law and the provision laid down in Article 6 (2) of the FD is not applicable. On the other hand, Law 144/99 of 31 August<sup>73</sup> does not raise the matter although in Article 104 (3) and (4) it states that consent is not necessary when the sentenced person is already found in the foreign State and extradition has not been possible or has been denied on the basis of facts coming to light in the sentence; or when the circumstances surrounding the case so advise, by means of an agreement with the foreign State, when there is room to apply the additional sentence expelling the person from the country.<sup>74</sup></p>		
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<sup>73</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>74</sup> As regards not having the need for consent, see the Judgment passed down by the Appeal Court of Évora, 11-08/2014, Case No. 132/14.8YREVR. Available at: [www.dgsi.pt/jtre.nsf/134973db04f39bf2802579bf005f080b/7d7c346a17b0a59780257de10056ff39?OpenDocument](http://www.dgsi.pt/jtre.nsf/134973db04f39bf2802579bf005f080b/7d7c346a17b0a59780257de10056ff39?OpenDocument).

	Note that Portugal has not ratified the Additional Protocol attached to the European Council Convention on the Transfer of Sentenced Persons.		
<ul style="list-style-type: none"> <li>When consent is required, Article 6 (3) of FD 2008/909/JHA).</li> </ul>	N/A. FD 2008/909/JHA has still not been transposed into Portuguese law and the question is not raised in Law 144/99 of 31 August. <sup>75</sup> Nevertheless, consent is always demanded within the framework of the Convention on the Transfer of Sentenced Persons.		
Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on the transfer? If yes, please	Yes. Notwithstanding the non-existence of this particular provision both in the Convention on the Transfer of		

<sup>75</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<p>briefly specify until which stage of the procedure this right exists and how this is implemented in practice.</p>	<p>Sentenced Persons and in Law 144/99 of 31 August,<sup>76</sup> it should be presumed that as from the moment the sentenced person may be transferred, it is possible for him/her to request a withdrawal of consent. This should be done in written and sent to the Public Prosecutor's office as well as to the Court Executing the Sentences to which the sentenced person originally gave his/her consent.</p>		
<p>Q2.6. Is the suspect/sentenced person assisted by a legal counsel in the issuing state? If yes, please provide details (e.g. is this legal advice</p>	<p>Yes. Notwithstanding the fact that FD 2008/909 has yet to be transposed to Portuguese law, more than anything else, Article 20 (2) in the Portuguese Constitution<sup>77</sup> is applied to this matter.</p>	<p>Yes. Notwithstanding the fact that FD 2 FD 2008/947 has yet to be transposed to Portuguese law, more than anything else, Article 20 (2) in</p>	<p>Yes. Law 36/2015 of 4 May<sup>83</sup> does not mention anything about this matter so that, apart from applying Article 20 (2) in the Portuguese</p>

<sup>76</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>77</sup> Portugal, Portuguese Constitution, VII Constitutional Revision, Law 1/2005 2005 (*Constituição da República Portuguesa, Lei Constitucional n.º 1/2005*), 12 August 2005, available in its English version at: [http://app.parlamento.pt/site\\_antigo/ingles/cons\\_leg/Constitution\\_VII\\_revisao\\_definitive.pdf](http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf).

<sup>83</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

<p>provided face-to-face or over the telephone)</p>	<p>This Article stipulates that pursuant to the law, a person has the right to information and legal counselling made available by the Court and to be accompanied by a lawyer when coming before any authority. Following this provision, the Code of Criminal Procedure states in Article 61(1) e) that this also includes the right to or the appointment of a defence lawyer as per procedural rights and duties. Where the transfer of sentenced persons is concerned, Law 144/99 of 31 August<sup>78</sup> (Article 120(2)) states that the person</p>	<p>the Portuguese Constitution<sup>81</sup> is applied to this matter. This Article stipulates that pursuant to the law, a person has the right to information and legal counselling made available by the Court and to be accompanied by a lawyer when coming before any authority. Following this provision, the Code of Criminal Procedure<sup>82</sup> states in Article 61(1) e) that this also includes the right to or the appointment of a defence lawyer as per procedural rights and duties.</p>	<p>Constitution,<sup>84</sup> it is also covered by the general law, which in this case means the Code of Criminal Procedure that states in Article 61(1) e) the right to or the appointment of a defence lawyer as per procedural rights and duties.</p>
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*Estados* membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009) . Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>78</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=) . Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>81</sup> Portugal, Portuguese Constitution, VII Constitutional Revision, Law 1/2005 2005 (*Constituição da República Portuguesa, Lei Constitucional n.º 1/2005*), 12 August 2005, available in its English version at: [http://app.parlamento.pt/site\\_antigo/ingles/cons\\_leg/Constitution\\_VII\\_revisao\\_definitive.pdf](http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf).

<sup>82</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu](http://www.pgdlisboa.pt/leis/lei_mostra_articu) [http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

<sup>84</sup> Portugal, Portuguese Constitution, VII Constitutional Revision, Law 1/2005 2005 (*Constituição da República Portuguesa, Lei Constitucional n.º 1/2005*), 12 August 2005, available in its English version at: [http://app.parlamento.pt/site\\_antigo/ingles/cons\\_leg/Constitution\\_VII\\_revisao\\_definitive.pdf](http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf).

	<p>concerned should be heard by the judge and that the provisions of the Code of Criminal Procedure<sup>79</sup> relating to the hearing of arrested persons should apply when questioning the detained person, in the presence of an official of the Court of Justice.</p> <p>In terms of Article 141(2) in the Code of Criminal Procedure,<sup>80</sup> this hearing is exclusively conducted by the judge who is assisted by the Public Prosecutor and the defence lawyer, in the presence of an Official of the Court of Justice.</p>		
<p>.Q2.7. Is there a procedure in place to ascertain the legal counsel speaks and understands the suspect/sentenced</p>	<p>Yes. Code of Criminal Procedure<sup>85</sup> in Article 92(2), states that when a person is involved in a court case who does not understand or speak Portuguese, an</p>	<p>Yes. Code of Criminal Procedure<sup>86</sup> in Article 92(2), states that when a person is involved in a court case who does not understand or speak</p>	<p>Yes. Law 36/2015 of 4 May<sup>87</sup> does not mention anything about this matter whereupon the Code of Criminal Procedure is applied. In its</p>

<sup>79</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>80</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>85</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>86</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>87</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<p>person's language in the issuing state? If yes, please specify.</p>	<p>independent interpreter is arranged at no cost to the person being tried, even though the presiding judge or any of the participants in the case know the language in question. In Article 92(3), it states that that the offender may chose at no cost to him/herself, a different interpreter from the one appointed by the court authority, in order to translate the talks with his/her defence lawyer.</p>	<p>Portuguese, an independent interpreter is arranged at no cost to the person being tried, even though the presiding judge or any of the participants in the case know the language in question. In Article 92(3), it states that that the offender may chose at no cost to him/herself, a different interpreter from the one appointed by the court authority, in order to translate the talks with his/her defence lawyer.</p>	<p>Article 92(2), it states that when a person is involved in a court case who does not understand or speak Portuguese, an independent interpreter is arranged at no cost to the person being tried, even though the presiding judge or any of the participants in the case know the language in question. In Article 92(3), it states that that the suspect may chose at no cost to him/herself, a different interpreter from the one appointed by the court authority, in order to translate the talks with his/her defence lawyer.</p>
<p>Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?</p>	<p>Yes. Article 1(1), in Law 34/2004 of 29 July,<sup>88</sup> states that the system providing access to the law and to the courts</p>	<p>Yes. Article 1(1), in Law 34/2004 of 29 July,<sup>89</sup> states that the system providing access to the law and to</p>	<p>Yes. Law 36/2015 of 4 May<sup>90</sup> does not mention anything about this matter whereupon Law 34/2004 of</p>

<sup>88</sup> Portugal, Law 34/2004 of 29 July, Amending the system granting access to the law and the courts, and transposing into Portuguese law, Directive 2003/8/CE (*Lei 34/2004, de 29 de Julho, (Altera o regime de acesso ao direito e aos tribunais e transpõe para a ordem jurídica nacional a Directiva n.º 2003/8/CE)*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=80&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=80&tabela=leis).

<sup>89</sup> Portugal, Law 34/2004 of 29 July, Amending the system granting access to the law and the courts, and transposing into Portuguese law, Directive 2003/8/CE (*Lei 34/2004, de 29 de Julho, (Altera o regime de acesso ao direito e aos tribunais e transpõe para a ordem jurídica nacional a Directiva n.º 2003/8/CE)*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=80&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=80&tabela=leis).

<sup>90</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

	<p>ensures that no one is hindered or prevented from knowing, exercising or defending his/her rights owing to his/her social or cultural condition or, shortage of financial means. Access to the law includes receiving legal information and legal protection (Article 2(2) in the same law). Legal aid is given when court questions or causes arise and where the user is the interested party and has suffered a direct infringement of his/her rights or threats of infringement (Article 6(2)). Portuguese citizens and the citizens of EU Member States have the right to legal protection, as well as stateless and third country nationals who have a valid residential permit in an EU Member State and who have shown that they have insufficient economic means (Article 7(1)).</p>	<p>the courts ensures that no one is hindered or prevented from knowing, exercising or defending his/her rights owing to his/her social or cultural condition or, shortage of financial means. Access to the law includes receiving legal information and legal protection (Article 2(2) in the same law). Legal aid is given when court questions or causes arise and where the user is the interested party and has suffered a direct infringement of his/her rights or threats of infringement (Article 6(2)). Portuguese citizens and the citizens of EU Member States have the right to legal protection, as well as stateless and third country national's persons who have a valid residential permit in an EU Member State and who have shown that they have insufficient economic means (Article 7(1)).</p>	<p>29 July<sup>91</sup> applies. Pursuant to Article 1 (1) in this law, the system provides access to the law and to the courts and ensures that no one is hindered or prevented from knowing, exercising or defending his/her rights owing to his/her social or cultural condition or, shortage of financial means. Access to the law includes receiving legal information and legal protection (Article 2(2) in the same law). Legal aid is given when court questions or causes arise and where the user is the interested party and has suffered a direct infringement of his/her rights or threats of infringement (Article 6(2)). Portuguese citizens and the citizens of EU Member States have the right to legal protection, as well as stateless and third country nationals persons who have a valid residential permit in an EU Member State and who have shown that they have insufficient economic means (Article 7(1))</p>
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*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009* . Available at:

<https://dre.pt/application/conteudo/67123263>.

<sup>91</sup> Portugal, Law 34/2004 of 29 July, Amending the system granting access to the law and the courts, and transposing into Portuguese law, Directive 2003/8/CE (*Lei 34/2004, de 29 de Julho, Altera o regime de acesso ao direito e aos tribunais e transpõe para a ordem jurídica nacional a Directiva n.º 2003/8/CE*). Up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=80&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=80&tabela=leis).

Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:			
<ul style="list-style-type: none"> <li>• While consenting to the transfer?</li> </ul>	Yes. In the absence of a specific clause in Law 144/99 of 31 August, <sup>92</sup> Article 92(2) in the Code of Criminal Procedure <sup>93</sup> is applicable. This Article establishes that when a person is involved in a court case and does not understand or speak Portuguese, an independent interpreter is arranged at	N/A. FD 2008/947 has still not been transposed to Portuguese law. In terms of the procedures for supervising sentenced persons or persons given their conditional release who usually reside in the State whose cooperation has been requested, Law 144/99 of 31	Yes. Law 36/2015 of 4 May <sup>96</sup> does not mention anything about this matter whereupon consenting to the transfer of the suspect ( <i>arguido</i> ) as laid down in Article 12(1) in this Law, relies upon Article 92 (2) in the Code of Criminal Procedure, <sup>97</sup> and as mentioned in Q 2.7, in terms of

<sup>92</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013).

Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>93</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>96</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>97</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

	no cost to the person being tried. It should be mentioned that this provision covers all acts falling within the case, whether they involve written or spoken acts. Therefore, they also include the consent for the transfer (Article 92 (1))	August <sup>94</sup> states that when nothing more than supervision is requested, this consent is not demanded (see Articles 126 (1) and 143 (2)). The question does not arise, therefore. Nonetheless, a doubt persists as to whether the request for supervision is for the purpose of monitoring and alternative sanctions which demand the sentenced person's consent, as referred to in Q1.1. In this event, Article 92(1) and (2) in the Code of Criminal Procedure <sup>95</sup> are applicable.	the independent interpreter covering all the acts in the case whether they involve written or spoken acts. Therefore, they also include the consent for the transfer (Article 92 (1)).
<ul style="list-style-type: none"> <li>• While requesting the transfer?</li> </ul>	Yes. Article 92(1) and (2) in the Code of Criminal Procedure, <sup>98</sup> referred to in	Yes. The situation involved is covered by Article 92(1) and (2) in	Yes. Law 36/2015 of 4 May <sup>100</sup> does not mention anything about this

<sup>94</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>95</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

<sup>98</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=).

<sup>100</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed

	Q 2.9 above, is applicable owing to the general nature of the Article.	the Code of Criminal Procedure <sup>99</sup> which covers all acts falling within the case, whether they mean written or spoken acts. Furthermore, when a person involved in a court case does not understand or speak Portuguese, an independent interpreter is arranged at no cost to the person being tried.	matter whereupon consenting to the transfer of the suspect ( <i>arguido</i> ) as laid down in Article 12(1) in this Law, relies upon Article 92 (2) in the Code of Criminal Procedure <sup>101</sup> mentioned above.
Q2.10. Are these interpretation or translation services provided during a	Yes. Pursuant to Article 92(3) in the Code of Criminal Procedure, <sup>102</sup> it is possible to choose, at no cost to the	Yes. Pursuant to Article 92(3) in the Code of Criminal Procedure, <sup>103</sup> it is possible to choose, at no cost to the	Yes. Law 36/2015 of 4 May <sup>104</sup> does not mention anything about this matter whereupon Article 92(3) in

measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>99</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>101</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>102</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>103</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articu http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articu_http://dre.tretas.org/dre/516211/lado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>104</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<p>face-to-face consultation? Please provide brief information.</p>	<p>person being tried, a different interpreter from the one appointed by the court authority in order to translate talks with the defence lawyer.</p>	<p>person being tried, a different interpreter from the one appointed by the court authority in order to translate talks with the defence lawyer.</p>	<p>the Code of Criminal Procedure,<sup>105</sup> states that it is possible to choose, at no cost to the person being tried, a different interpreter from the one appointed by the court authority in order to translate talks with the defence lawyer.</p>
<p>Q2.11. Is the suspect/sentenced person's full understanding of the transfer checked on a case by case basis in the issuing state? Please provide brief information.</p>	<p>Yes. In agreement with the Council of Europe Convention on the Transfer of Sentenced Persons (Article 4 (5)), such persons should be informed in writing about any action taken by the issuing State or by the executing State, as well as any decision taken by either State on a request for transfer. In the same way, Article 118 (1) and (5) in Law 144/99 of</p>	<p>Yes. Article 143 in Law 144/99 of 31 August<sup>107</sup> states that requests for international co-operation with a view to the supervision of conditionally sentenced or conditionally released offenders normally resident in the territory of the State to which such co-operation is requested, are admissible provided</p>	<p>Yes. During the stage preceding the transfer, Law 36/2015 of 4 May only refers to the fact that the court where the case is being heard, may send its decision to apply a precautionary measure to the State in which the suspect (<i>arguido</i>) normally resides, whereby it requests this State's supervision in the event that after</p>

<sup>105</sup> Portugal, Decree-Law 78/87, Code of Criminal Procedure (*Decreto-Lei n.º 78/87, Código do Processo Penal*), 27 February 1987, up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=199&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=199&pagina=2&tabela=leis&nversao=&so_miolo=)

<sup>107</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, Maio 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	<p>31 August,<sup>106</sup> establish that the person concerned should be informed in writing of all the decisions taken subsequent to the request.</p>	<p>that the adaptations necessary are made relative to the provisions on executing criminal sentences in these particular cases. Among the provisions is Article 118 (1) and (5) in Law 144/99 of 31 August,<sup>108</sup> that establishes that the person concerned should be informed in writing of all the decisions taken subsequent to the request.</p>	<p>being informed of the measures in question, the suspect chooses to return to this State (Article 12 (1)). During the supervision period the same Law in Article 7, accepts the fact that it may be possible to have a hearing with the suspect. This may be done by using teleconferencing or video-conferencing, particularly when the issuing State's law stipulates that the suspect has to be heard by the court authorities before any decision may be reached about: upholding or revoking the</p>
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<sup>106</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>108</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

			precautionary measures; changing the precautionary measures; issuing an arrest warrant or any other court decision with the same effects that have to be complied with.
Q2.12. If the executing state adapts, before the transfer, the sentence or measure imposed by the issuing state (as authorised by Article 8.3 of FD 909, Article 9 of FD 947 and Article 13 of FD 829), does the suspect/sentenced person receive any updated information?	N/A. FD 2008/909 has not yet been transposed to Portuguese law so that there is no provision that has the contents of Article 8 (3).	N/A. FD 2008/947 has not yet been transposed to Portuguese law so that there is no provision that has the contents of Article 9.	Yes. Although Law 36/2015 of 4 May <sup>109</sup> raises the possibility of the executing State adapting precautionary measures (Article 19), it does not specifically refer to the fact that the suspect ( <i>arguido</i> ) to be transferred should be informed of this situation. Nonetheless, in the case Article 12(1) in the same Law should be applied once the suspect has consented to return to the executing State, he/she should be informed of the measures in question because such information

<sup>109</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at: <https://dre.pt/application/conteudo/67123263>.

			has to do with the measures that will be applied to him/her in concrete.
Q2.13. Is there a right to appeal the forwarding of the judgment/decision in the issuing state? If yes, please briefly provide information (e.g. how the suspect is made aware of his/her right	No. Pursuant to Article 24 (2) in Law 144/99 of 31 August, <sup>110</sup> the court decision that declares that international cooperation is inadmissible, does not allow for an appeal to be lodged.	No. Pursuant to Article 24 (2) in Law 144/99 of 31 August, <sup>111</sup> the court decision that declares that international cooperation is	Yes. Law 36/2015 of 4 May <sup>112</sup> refers to the fact that if an appeal against the decision to exert a precautionary measure is lodged in the issuing State, the deadline for

<sup>110</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>111</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>112</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

to appeal and what support is made available to him/her)		inadmissible, does not allow for an appeal to be lodged.	acknowledging the appeal is extended for a further 20 working days (Article 18 (2)).
Q2.14. Does the suspect/sentenced person have a right to a regular review of the decision on the transfer in the issuing state? If yes, please briefly provide information (e.g. how often he/she can exercise this right)	No. FD 2008/909 has not yet been transposed to Portuguese law and in the current legal framework, the right in cause here has not been specifically taken into account.	No. FD 2008/947 has not yet been transposed to Portuguese law and in the current legal framework, the right in cause here has not been specifically taken into account.	Yes. As a follow up to Article 18 in the FD, Article 15 in Law 36/2015 of 4 May <sup>113</sup> states that the court handling the case is empowered to make all the subsequent decisions related to decisions applying precautionary measures, namely: upholding or revoking the application of precautionary measures; changing them; issuing an arrest warrant or any other court decision of the same nature that needs to be carried out.

<sup>113</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

<p>Q2.15. Is the suspect/sentenced person assisted by legal counsel in the executing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone?)</p>	<p>N/A. FD 2008/909 has not yet been transposed to Portuguese law and Law 144/99 of 31 August<sup>114</sup> does not say anything about the executing State making available a defence lawyer to the sentenced person. However, if the executing State is Portugal, this right is</p>	<p>N/A. FD 2008/947 has not yet been transposed to Portuguese law and Law 144/99 of 31 August<sup>115</sup> does not say anything about the executing State making available a defence lawyer to the sentenced person covered by the sphere of this FD. However, if the executing State</p>	<p>N/A. Law 36/2015 of 4 May<sup>116</sup> does not speak about this matter. However, if the executing State is Portugal, this right is enshrined in the laws referred to in the above paragraphs.</p>
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<sup>114</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>115</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>116</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	enshrined in the laws referred to in the above paragraphs.	is Portugal, this right is enshrined in the laws referred to in the above paragraphs.	
Q2.16. Have there been instances where the Member State has refused a transfer based on a pre-determined ground of refusal, as permitted to a	N/A, FD 2008/909 has not yet been transposed to Portuguese law. Nevertheless, Articles 1 (1) d) and 6 to 10 in Law 144/99 of 31 August <sup>117</sup> lay	N/A. FD 2008/947 has not yet been transposed to Portuguese law. Nevertheless, Articles 1 (1) d) and 6 to 10 in Law 144/99 of 31 August <sup>118</sup>	N/A. Law 36/2015 of 4 May, <sup>119</sup> which resulted from the transposition of FD 2009/829 is not yet in force. It should be pointed out

<sup>117</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>118</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>119</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

<p>varying extent under each FD? If so, please briefly provide details.</p>	<p>down the reasons for refusing to cooperate internationally in legal matters related to transferring persons sentenced to terms of imprisonment. In practice, however, and according to information relayed verbally by the Documentation and Comparative Law Office (<i>Gabinete Documentação e Direito Comparado</i>, GDDC) it is very rare for transfer cases to be refused.</p>	<p>lay down the reasons for refusing to cooperate inter-nationally in legal matters related to transferring persons sentenced to terms of imprisonment. In practice, however, and according to information relayed verbally by the Documentation and Comparative Law Office (<i>Gabinete Documentação e Direito Comparado</i>, GDDC) it is very rare for transfer cases to be refused.</p>	<p>that although Article 20 in this Law provides the reasons why the appropriate national authority may refuse to acknowledge a decision to apply a precautionary measure, there are no known cases where this has happened.</p> <p>Pursuant to Article 20 in Law 36/2015,<sup>120</sup> the responsible national authority may refuse to recognise the decision as applied to a restrictive measure: a) if the certificate as shown in Annex 1, that is also sent together with the decision does not match the decision and if it has not been corrected within a 30 to 60-day deadline set by the national authority; b) if the suspect (arguido) has not agreed to return to the EU Member State in which he/she lawfully and normally resides, or in</p>
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*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at:

<https://dre.pt/application/conteudo/67123263>.

<sup>120</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at:

<https://dre.pt/application/conteudo/67123263>.

			<p>the event that a request was made to send the decision to a third EU Member State, the appropriate authority of this same State has not given its consent as regards sending it the decision; c) if carrying out the decision goes against the principle of ne bis in idem; d) if, in the event of failing to deal with offences laid down in the FD 2009/829, Article 14(1) (whose contents are repeated in Law 36/2015, Article 3(1)), the decision has been based on facts that fail to constitute an offence in terms of Portuguese law (FD 2009/829, Article 14(3) whose contents are repeated in Law 36/2015, Article 3(2)); e) if the criminal lawsuit has been time-barred in conformity with Portuguese law and Portugal exercises jurisdiction over the facts underpinning the decision to apply a restrictive measure; f) if there is any immunity that, pursuant to Portuguese law, prevents a decision to apply a restrictive measure from being carried out; g) if a decision has been made involving a person who, in terms of Portuguese Law, is not liable, owing to his/her age, to receive such a sentence based on the</p>
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			facts upholding such a decision; h) if, in the event of non-compliance with the restrictive measures, there has been a refusal to hand over the person in question in conformity with Law 65/2003 of 23 August which rules upon the European arrest warrant.
Q.2.17. Are there any specific legislative or policy developments regarding the informed consent to the transfer of particular suspects/sentenced persons (such as children or persons with disabilities) in the issuing state? (e.g. the use of healthcare professionals)	<p>There are no developments in this matter. Nonetheless, the Convention on the Transfer of Sentenced Persons is applicable when obtaining the consent of children and disabled persons. In Convention Article 3d) it says that the transfer may take place when one of the States, owing to the age or the physical or mental state of the sentenced person, considers doing so and when the legal guardian gives his/her consent.</p> <p>It should be noted that where children are concerned, the Law on Educational</p>	<p>There are no developments in the area. It should be mentioned that the Law on Educational Tutelage (<i>Lei Tutelar Educativa</i>) does not include anything in terms of the transfer of institutionalized children. Moreover, the 2013-2015 National Rehabilitation and Reintegration Plan – Juvenile Justice - (<i>Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015</i>), which comes in Annex II of the Council of Ministers Resolution 46/2013 of 23 July<sup>123</sup> does not refer to this question.</p>	<p>Regarding the persons in question, Law 36/2015 of 4 May<sup>124</sup> limits itself to include in its reasons, the lack of recognition by the appropriate national authority with regard to the decision to apply a precautionary measure to a person, who in terms of the Portuguese law, is exempt from answering to the facts on which this decision is based, on the grounds of age (Article 20 (1 g)).</p> <p>As to the child’s informed consent about the non-institutional</p>

<sup>123</sup> Portugal, Council of Ministers Resolution 46/2013 of 23 July, National Rehabilitation and Rehabilitation Plan Juvenile Justice - 2013-2015, (*Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015, Resolução de Conselho de Ministros 46/2013 de 23 de Julho*). Available at: [www.igfse.pt/upload/docs/2013/RCM46\\_2013.pdf](http://www.igfse.pt/upload/docs/2013/RCM46_2013.pdf).

<sup>124</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico*

	<p>Tutelage (<i>Lei Tutelar Educativa</i>)<sup>121</sup> does not include anything in terms of the transfer of institutionalised children. Moreover, the 2013-2015 National Rehabilitation and Reintegration Plan – Juvenile Justice - (<i>Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015</i>), which comes in Annex II of the Council of Ministers Resolution 46/2013 of 23 July<sup>122</sup> does not refer to this question.</p>		<p>educational tutelary measures applied, the Law on Educational Tutelage<sup>125</sup> says nothing about any transfer. The same happens with the 2013-2015 National Rehabilitation and Reintegration Plan – Juvenile Justice - (<i>Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015</i>), which comes in Annex II of the Council of Ministers Resolution 46/2013 of 23 July.<sup>126</sup> No reference is made to this question.</p>
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da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>121</sup> Portugal, Law on Educational Tutelage, Law 472015 of 15 January, amends and republishes Law 166/99 of 14 September (*Lei Tutelar Educativa, Lei 4/2015 de 15 de Janeiro (Procede à alteração e republicação da Lei 166/99, de 14 de Setembro)*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=542&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=542&tabela=leis).

<sup>122</sup> Portugal, Council of Ministers Resolution 46/2013 of 23 July, National Rehabilitation and Rehabilitation Plan Juvenile Justice - 2013-2015, (*Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015, Resolução de Conselho de Ministros 46/2013 de 23 de Julho*). Available at: [www.igfse.pt/upload/docs/2013/RCM46\\_2013.pdf](http://www.igfse.pt/upload/docs/2013/RCM46_2013.pdf).

<sup>125</sup> Portugal, Law on Educational Tutelage, Law 472015 of 15 January, amends and republishes Law 166/99 of 14 September (*Lei Tutelar Educativa, Lei 4/2015 de 15 de Janeiro (Procede à alteração e republicação da Lei 166/99, de 14 de Setembro)*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=542&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=542&tabela=leis).

<sup>126</sup> Portugal, Council of Ministers Resolution 46/2013 of 23 July, National Rehabilitation and Rehabilitation Plan Juvenile Justice - 2013-2015, (*Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015, Resolução de Conselho de Ministros 46/2013 de 23 de Julho*). Available at: [www.igfse.pt/upload/docs/2013/RCM46\\_2013.pdf](http://www.igfse.pt/upload/docs/2013/RCM46_2013.pdf).

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q3. DECISION ON TRANSFER</b>			
Q3.1. Are the following factors considered while deciding on forwarding a judgment or decision in the issuing state?			
<ul style="list-style-type: none"> <li>The likely impact on the social rehabilitation of the suspect/sentenced person?</li> </ul>	Yes. The impact of the decision on the sentenced person's social integration is mentioned in the numerous provisions coming under	Yes. Article 126 in Law 144/99 of 31 August <sup>129</sup> states that a request for the supervision of conditionally sentenced or conditionally released persons normally resident in the territory of the State to which such co-operation is requested, has the aim of facilitating the social rehabilitation of the offender by adopting adequate measures.	Yes. The principle of rehabilitation is one of the main guidelines underpinning the Portuguese criminal system. <sup>130</sup> It should be added that in following up FD 2009/829, the aim of Law 36/2015

<sup>129</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, Maio 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>130</sup> Portugal, Criminal Code, Introduction pursuant to Decree Law 400/82 of 23 September (*Código Penal, Decreto lei 400/82, de 23 de Setembro*). Available at: [http://www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=1&artigo\\_id=&nid=109&pagina=1&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=1&artigo_id=&nid=109&pagina=1&tabela=leis&nversao=&so_miolo=).

	<p>Law 144/99 of 31 August.<sup>127</sup> One of the conditions is delegating the execution of a criminal sentence handed down in a Portuguese court to a foreign State (Article 104 (1) d)). The same aim underpins the Convention on the Transfer of Sentenced Persons (cf: The Preamble and Explanatory Report).</p> <p>The provision previous referred is Law 144/99 of 31 August (as amended by Laws 104/2001, of 25 August, Law 48/2003, of 22 August, Law 48/2007 of 29 August and Law 115/2009 of 12 October),</p>		<p>of 4 May<sup>131</sup> allows a person who is subject to precautionary measures in an EU Member State to await trial in another State where he/she has his/her customary and lawful residence. Therefore, this is a step favouring his/her social integration.</p>
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<sup>127</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>131</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	articles 4 (3) b), 15 (1), 80 (1) f), 90 (1) d) and (2) (c), 96 (1) g), 104 (1) d), 126 1 (a). <sup>128</sup>		
<ul style="list-style-type: none"> <li>Fundamental rights implications (such as the right to family life, right to education)?</li> </ul>	<p>Yes. The fundamental rights of sentenced persons have been taken into account mainly with regard to assessing the transfer request, where the Ministry of Justice may ask information about the petitioner from the Public Prosecutor General, the prison services and the National Institute for Rehabilitation (<i>Instituto Nacional de Reabilitação</i>, INR).</p> <p>On the other hand and in special cases where mainly the health of the sentenced person is concerned, or for other reasons based on the family or professional duties, and</p>	<p>Yes. The fundamental rights of the sentenced person or the conditionally released person, have been taken into account, mainly with regard to assessing the transfer request, where the Ministry of Justice may ask information about the petitioner from the Public Prosecutor General, the prison services and the National Institute for Rehabilitation (<i>Instituto Nacional de Reabilitação</i>, INR).</p> <p>On the other hand and in special cases where mainly the health of the sentenced person is concerned,</p>	<p>Yes. The fact that Article 12(1) in Law 36/2015 of 4 May<sup>134</sup> states that sending the Court's decision to apply precautionary measures to the EU Member State in which the suspect (<i>arguido</i>) has his/her customary and lawful place of abode, depends upon the latter's acceptance of the decision. It also allows the sentenced person to assess all the implications attached to his/her fundamental rights, such as the right to family life and education. The assessment is then forwarded to the judge presiding over the case.</p>

<sup>128</sup> Portugal, law 144/99, of 31 August as amended by Laws 104/2001, of 25 August, Law 48/2003, of 22 August, Law 48/2007 of 29 August and Law 115/2009 of 12 October, (*Lei n° 144/99 de 31 de Agosto que altera a Lei 104/2011 de 25 de Agosto, Lei 48/2007 de 29 de Agosto e Lei 115/2009 de 12 de Outubro*), August 1999, available at: [www.gddc.pt/legislacao-lingua-estrangeira/english/lei144-99rev.html](http://www.gddc.pt/legislacao-lingua-estrangeira/english/lei144-99rev.html).

<sup>134</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	depending upon the agreement with the foreign State, the sentence conditions may be waived if the sentence is less than one year (Law 144/99 of 31 August, <sup>132</sup> Articles 118 (4) and 104, (1) f).	or for other reasons based on the family or professional duties, and depending upon the agreement with the foreign State, the sentence conditions may be waived if the sentence is less than one year (Law 144/99 of 31 August, <sup>133</sup> Articles 118 (4) and 104, (1) f).	
<ul style="list-style-type: none"> <li>Others? Please specify.</li> </ul>	Yes. The health care of the person who has been sentenced to a term of imprisonment is likewise taken into account and is included in the	Yes. The health care of the person who has been sentenced to a term of imprisonment is likewise taken into account and is included in the	Yes. Other consideration may arise as a result of the meetings and communiqués between the competent authorities, as laid down

<sup>132</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>133</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	documents sent to the executing State in order to obtain its agreement. If need be, the medical or welfare report about the person in question is included in terms of the treatment he/she underwent in Portugal and the follow-up treatment recommended (Law 144/99 of 31 August, <sup>135</sup> Article 117 (2) d)).	documents sent to the executing State in order to obtain its agreement. If need be, the medical or welfare report about the person in question is included in terms of the treatment he/she underwent in Portugal and the follow-up treatment recommended (Law 144/99 of 31 August, <sup>136</sup> Article	in Article 6 of Law 36/1025 of 4 May, <sup>137</sup> namely about the risk that the suspect (arguido) may pose for the victims and the general public.
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<sup>135</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>136</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>137</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

		117 (2) d)) applicable under Article 143(1)).	
Q3.2: While deciding on the transfer, are there any specific criteria/guidelines on the factors considered to be relevant for the purposes of (social) rehabilitation in the issuing state? Please provide any document containing those criteria/guidelines and specify whether the following factors are considered:			
<ul style="list-style-type: none"> <li>Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)?</li> </ul>	Yes. Although there is no information pursuant to the court-decision's use of specific criteria or guidelines about factors deemed relevant for the sentenced person's social rehabilitation (such as family and social ties, accommodation, employment or other economic ties, linguistic and cultural links), it is	Yes. Although there is no information pursuant to the court decision's use of specific criteria or guidelines about factors deemed relevant for the sentenced person's social rehabilitation (such as family and social ties, accommodation, employment or other economic ties, linguistic and	Law 36/2015 of 4 May <sup>140</sup> does not mention any of these matters but the Code for Criminal Procedure refers to the fact that executing precautionary measures should not endanger exercising fundamental rights provided they are not incompatible with the demands of the precautionary measures

*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>140</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*) Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>presumed that the Ministry of Justice's request pertaining to the petitioner that is sent to the Public Prosecutor office, as well as to the Social Services and, more importantly, to the Social Rehabilitation Institute, focuses on these precise aims among others (Articles 118 (4) and 104 (1)f) in Law 144/99 of 31 August<sup>138</sup>).</p>	<p>cultural links), it is presumed that the Ministry of Justice's request pertaining to the petitioner that is sent to the Public Prosecutor office, as well as to the Social Services and, more importantly, to the Social Rehabilitation Institute, focuses on these precise aims among others (Articles 118 (4) and 104 (1)f) in Law 144/99 of 31 August<sup>139</sup>).</p>	<p>required by the case (Article 193 (4)). Indeed, in the range of constitutionally-recognised fundamental rights, the rights based on the family, work and education are included.</p>
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<sup>138</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>139</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<ul style="list-style-type: none"> <li>• Criminal history and criminal ties?</li> </ul>	<p>Yes in a restricted way. For example, Article 104 (2) in Law 144/99 of 31 August,<sup>141</sup> states that the delegating conditions of the execution State receiving a Portuguese criminal sentence first need to be ascertained. Delegating</p>	<p>Yes in a restricted way. For example, Article 104 (2) in Law 144/99 of 31 August,<sup>142</sup> states that the delegating conditions of the execution State receiving a Portuguese criminal sentence first need to be ascertained. Delegating</p>	<p>Yes. Article 6 (2) and (3) in Law 36/2015 of 4 May<sup>143</sup> states that the information sent by the appropriate authority of the issuing State has to bear in mind the possible risk that the person in question may pose for the victims and the general public.</p>
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<sup>141</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>142</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>143</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	the sentence only goes ahead if the sentenced person is serving a term of imprisonment depriving him/her of his/her freedom in this State for a crime that is different from the crime he/she was sentenced for in Portugal.	the sentence only goes ahead if the sentenced person is serving a term of imprisonment depriving him/her of his/her freedom in this State for a crime that is different from the crime he/she was sentenced for in Portugal.	Furthermore, the Law states that in the consultations held between the appropriate authorities in the issuing and the executing States, useful information should be exchanged, including data on criminal records in conformity with Portuguese laws on these matters. <sup>144</sup>
<ul style="list-style-type: none"> <li>Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)?</li> </ul>	Yes. Evidence of these humanitarian concerns is connected with the state of health of the sentenced person to be transferred. Law 144/99 of 31 August <sup>145</sup> deals	Yes. Evidence of these humanitarian concerns is connected with the state of health of the sentenced person to be transferred. Law 144/99 of 31	Law 36/2015 of 4 May <sup>147</sup> does not refer to this subject. Nonetheless, it is natural that the court holding the trial would take into consideration these humanitarian concerns when

<sup>144</sup> Portugal, Law 37/2015 of 5 May, the Law on Criminal Identification, laying down the general principles governing the organisation and functioning of criminal identification and transposing to Portuguese law the Framework Decision 2009/315/JHA, on the organisation and content of the exchange of information extracted from the criminal record between Member States (*Lei 37/2015, de 5 de Maio, Lei de identificação criminal*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2321&tabela=leis&nversao=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2321&tabela=leis&nversao=).

<sup>145</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>147</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

	with this subject in Articles 104 (1) f) and 117 (2) d), as mentioned in the 2 <sup>nd</sup> and 3 <sup>rd</sup> bullets in Q3. 1.	August <sup>146</sup> deals with this subject in Articles 104 (1) f) and 117 (2) d), as mentioned in the 2 <sup>nd</sup> and 3 <sup>rd</sup> bullets in Q3. 1.	sending the decision based on precautionary measures to the State in which the person in question normally resides, for the effect of supervision (Article 12).
<ul style="list-style-type: none"> <li>• Detention conditions (e.g. issues of overcrowding or availability of courses, such as the <i>Modulos</i> in Spain which has separate units to promote a progressive accountability of inmates)</li> </ul>	No information was obtained as regards detention conditions and whether they are known to the court and influence the court's decisions.	N/A. The person covered are not detained so that most of the examples referred to are not applicable here.	N/A. The persons covered are not in pre-trial detention.
<ul style="list-style-type: none"> <li>• Others?</li> </ul>	It is not known if other factors are taken into account.	It is not known if other factors are taken into account.	It is not known if other factors are taken into account.

*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009*). Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>146</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

Q.3.3. Are the following persons/entities consulted in the evaluation of the likelihood of social rehabilitation by the issuing state:			
<ul style="list-style-type: none"> <li>• Probation agencies or similar entities in the issuing state?</li> </ul>	<p>Yes. Upon the receipt of the request for transfer sent by the Prosecutor General's Office, the Ministry of Justice may ask for information from the Prosecutor General's Office as well as from the prison services, and the National Institute for Rehabilitation (<i>Instituto de Reinserção Social</i>) - the current Directorate-General for Integration and the Prison Services (<i>Direção-Geral de Reinserção e Serviços Prisionais</i>, DGRSP) which is the appointed body overseeing social rehabilitation (Law 144/99 of 31</p>	<p>Yes. Upon the receipt of the request for transfer sent by the Prosecutor General's Office, the Ministry of Justice may ask for information from the Prosecutor General's Office as well as from the prison services, and the National Institute for Rehabilitation (<i>Instituto de Reinserção Social</i>) - the current Directorate-General for Integration and the Prison Services (<i>Direção-Geral de Reinserção e Serviços Prisionais</i>, DGRSP) which is the appointed body overseeing social rehabilitation</p>	<p>Yes, owing to the fact that pursuant to Article 5 (49 in Law 36/2015 of 4 May,<sup>152</sup> the Directorate-General for Integration and the Prison Services (<i>Direção-Geral de Reinserção e Serviços Prisionais</i>, DGRSP) is Central Authority that provides aid to the appropriate national authority. The Directorate-General for Integration and the Prison Services is also empowered to deal with matters connected with social rehabilitation (Decree-Law 215/2012 of 28 September<sup>153</sup>).</p>

<sup>152</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>153</sup> Portugal, Decree Law 215/2012 of 28 September, setting up the Directorate-General for Integration and the Prison Services (*Decreto-lei 215/2012, de 28 de Setembro, cria a Direção Geral de Reinserção e Serviços Prisionais*). Available at: [www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO\\_215-2012.pdf](http://www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO_215-2012.pdf).

	August, <sup>148</sup> Articles 118 (3) and (4) and 143 (2), and Decree-Law 215/2012 of 28 September <sup>149</sup> ).	(Law 144/99 of 31 August, <sup>150</sup> Articles 118 (1) and (3) and 143 (4), and Decree-Law 215/2012 of 28 September <sup>151</sup> ).	
<ul style="list-style-type: none"> <li>The competent authorities in the executing state?</li> </ul>	Yes, owing to the fact that a transfer favours the social rehabilitation of sentenced people, as stated in the Convention on the transfer of	Yes, owing to the fact that cooperation based on the supervision of sentenced persons or conditionally released persons	Yes, owing to the fact that all useful information is exchanged in the consultations held between the appropriate authorities of the

<sup>148</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>149</sup> Portugal, Decree Law 215/2012 of 28 September, setting up the Directorate-General for Integration and the Prison Services (*Decreto-lei 215/2012, de 28 de Setembro, cria a Direcção Geral de Reinserção e Serviços Prisionais*). Available at: [www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO\\_215-2012.pdf](http://www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO_215-2012.pdf).

<sup>150</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>151</sup> Portugal, Decree Law 215/2012 of 28 September, setting up the Directorate-General for Integration and the Prison Services (*Decreto-lei 215/2012, de 28 de Setembro, cria a Direcção Geral de Reinserção e Serviços Prisionais*). Available at: [www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO\\_215-2012.pdf](http://www.dgsp.mj.pt/backoffice/Documentos/DocumentosSite/Legislacao/LO_215-2012.pdf).

	<p>sentenced persons, and in Law 144/99 of 31 August,<sup>154</sup> namely in Article 104(1)d), this aim cannot fail to be present in the consultations held between the appropriate authorities of the issuing and executing States.</p>	<p>favours the social rehabilitation of such persons, as stated in Law 144/99 of 31 August,<sup>155</sup> namely in Article 126 (1) and (2) a), this aim cannot fail to be present in the consultations held between the appropriate authorities of the issuing and executing States.</p>	<p>issuing and executing States. The Directorate-General for Integration and the Prison Services (<i>Direção-Geral de Reinserção e Serviços Prisionais</i>, DGRSP) is the competent agency that assists the appropriate national authority (as per Articles 6 (1) and 5 (4) in Law 36/2015 of 4 May<sup>156</sup>).</p>
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<sup>154</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>155</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>156</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre*

<ul style="list-style-type: none"> <li>• The suspect/sentenced person?</li> </ul>	<p>Yes. The question of social rehabilitation is most assuredly weighed up by the sentenced person when he/she formulates his/her request for transfer and as well during the hearing with the judge that is held in order to determine if consent was given of the person's own free will and with full awareness of the ensuing legal</p>	<p>Yes. However, Article 143 (2) in Law 144/99 of 31 August<sup>158</sup> states that the provisions based on consent are not applied when there is only a request for supervision. The person to be transferred is heard by the judge pursuant to Article 118, applicable under the terms of Article 143 (1) in the same law. The question of social</p>	<p>Yes. Depending upon the decision in terms of the precautionary measures sent to the other EU Member State which will supervise their execution, and the suspect's informed consent, a hearing is provided in which the person in question weighs up the effects of social rehabilitation (Article 12 in Law 36/2015 of 4 May<sup>159</sup>). Nevertheless, given the</p>

*Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009* . Available at: <https://dre.pt/application/conteudo/67123263>.

<sup>158</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt).

As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cij%20pgdl%20maio%202013.pdf).

<sup>159</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at: <https://dre.pt/application/conteudo/67123263>.

	consequences (Article 120 (2) in Law 144/99 of 31 August. <sup>157</sup>	rehabilitation is certainly raised owing to the aims presiding over this mechanism.	presumption of innocence until proven guilty, the question should be asked in different terms when dealing with already sentenced persons.
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<sup>157</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<ul style="list-style-type: none"> <li>The family of the suspect/sentenced persons, especially with regard to child offenders?</li> </ul>	<p>No. Law 144/99 of 31 August<sup>160</sup> does not mention anything with respect to this matter. As has already been referred to, the Law on Educational Tutelage (<i>Lei Tutelar Educativa</i>) does not contain anything relevant about the transfer</p>	<p>No. Neither Law 144/99 of 31 August<sup>161</sup> nor the Law on Educational Tutelage (<i>Lei Tutelar Educativa</i>) mentions anything about the responsibility of supervising education measures</p>	<p>No. Neither Law 36/2015 of 4 May<sup>162</sup> or the Law on Educational Tutelage (<i>Lei Tutelar Educativa</i>) mention anything about this matter.</p>
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<sup>160</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>161</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>162</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	of children who are subject to education measures in an institution.	that are not carried out in an institution.	
<ul style="list-style-type: none"> <li>Any other person/entity?</li> </ul>	It was not possible to obtain any information about any other persons / organisations that could be heard.	It was not possible to obtain any information about any other persons / organisations that could be heard.	It was not possible to obtain any information about any other persons / organisations that could be heard.
Q3.4. Are there any specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular suspects/ sentenced persons (such as children or persons with disabilities) by the issuing state?	There are no legislative developments regarding this subject. It should be mentioned that the National Rehabilitation and Reintegration Plan ( <i>Plano Nacional para a Reabilitação e a Reinserção</i> , PNRR) and the 2013-2015 National Rehabilitation and Reintegration Plan – Juvenile Justice ( <i>Plano Nacional para a Reabilitação e Reinserção - Justiça Juvenil, 2013-2015</i> ), passed by the Council of	There are no legislative developments regarding this subject. It should be mentioned that the National Rehabilitation and Reintegration Plan ( <i>Plano Nacional para a Reabilitação e a Reinserção</i> , PNRR) and the 2013-2015 National Rehabilitation and Reintegration Plan – Juvenile Justice ( <i>Plano Nacional para a Reabilitação e Reinserção - Justiça Juvenil, 2013-2015</i> ),	Apart from the publication of Law 36/2015 of 4 May, <sup>165</sup> which is still not in force, no other legislative developments are known. It should be pointed out that this law does not specifically refer to the matter in question and neither is there any reference to it in the National Rehabilitation and Reintegration Plan ( <i>Plano Nacional para a Reabilitação e a Reinserção</i> , PNRR) and the 2013-2015 National

<sup>165</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at: <https://dre.pt/application/conteudo/67123263>.

	Ministers Resolution 46/2013 of 23 July, <sup>163</sup> are coordinated by the Directorate-General for Integration and the Prison Services ( <i>Direcção Geral de Reinserção e Serviços Prisionais</i> ). Although the main aim is to rehabilitate and integrate adults and young people into society, no measures based on evaluating the social rehabilitation of the people covered by the FD 2008/909 are included in the decision to proceed with their transfer.	passed by the Council of Ministers resolution 46/2013 of 23 July, <sup>164</sup> are coordinated by the Directorate-General for Integration and the Prison Services ( <i>Direcção Geral de Reinserção e Serviços Prisionais</i> ). Although the main aim is to rehabilitate and integrate adults and young people into society, no measures based on evaluating the social rehabilitation of the people covered by the FD 2008/947 are included in the decision to proceed with their transfer.	Rehabilitation and Reintegration Plan – Juvenile Justice <i>Plano Nacional para a Reabilitação e Reinserção - Justiça Juvenil, 2013-2015</i> ).
Q3.5. Is additional information, other than that required in the certificate (for which the standard form is given in Annex I of the three FDs), provided to the competent authorities	N/A. Owing to the fact that the FD 2008/909 has yet to be transposed into Portuguese law, there is no similar formulation to Annex I. The	N/A. Owing to the fact that the FD 2008/947 has yet to be transposed into Portuguese law, there is no similar formulation to Annex I.	Yes. Article 6 in Law 36/2015 of 4 May <sup>168</sup> states that apart from the type of information in Annex I, information that is considered useful

<sup>163</sup> Portugal, Council of Ministers Resolution 46/2013 of 23 July, National Rehabilitation and Rehabilitation Plan Juvenile Justice - 2013-2015, (*Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015, Resolução de Conselho de Ministros 46/2013 de 23 de Julho*). Available at: [www.igfse.pt/upload/docs/2013/RCM46\\_2013.pdf](http://www.igfse.pt/upload/docs/2013/RCM46_2013.pdf).

<sup>164</sup> Portugal, Council of Ministers Resolution 46/2013 of 23 July, National Rehabilitation and Rehabilitation Plan Juvenile Justice - 2013-2015, (*Plano Nacional de Reabilitação e Reinserção – Justiça Juvenil – 2013-2015, Resolução de Conselho de Ministros 46/2013 de 23 de Julho*). Available at: [www.igfse.pt/upload/docs/2013/RCM46\\_2013.pdf](http://www.igfse.pt/upload/docs/2013/RCM46_2013.pdf).

<sup>168</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

of the executing state while forwarding the judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	information that may be transmitted is contained in Article 117 in Law 144/99 of 31 August <sup>166</sup> about “Information and Supporting Documents”.	The information that may be transmitted is contained in Article 142 (2) and (3) in Law 144/99 of 31 August <sup>167</sup> about the “Contents of the Request”.	may be exchanged in the form of the person in question’s criminal record or about the possible risk he/she may present to the victims and the public in general.
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<sup>166</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor’s Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, Maio 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>167</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nverso=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nverso=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor’s Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, Maio 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<p>Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?</p>	<p>N/A. Law 144/99 of 31 August<sup>169</sup> does not include social reports compiled prior to the sentence when it sends documents to the issuing State. Nevertheless, pursuant to Articles 20 (1) and (4) in this Law, the request for cooperation and the</p>	<p>N/A. Law 144/99 of 31 August<sup>170</sup> does not include social reports compiled prior to the sentence when it sends documents to the issuing State. Nevertheless, pursuant to Articles 20 (1) and (4) in this Law, the request for</p>	<p>N/A. Law 36/2015 of 4 May<sup>171</sup> only refers to certificates that have to be translated into the executing State's official languages or into any of the official languages of the European Union which are declared accepted by the State in question (Article 9).</p>
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<sup>169</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>170</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>171</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at: <https://dre.pt/application/conteudo/67123263>.

	documents that accompanies such a request should be translated into the official language of the State addressed except when there is a convention or agreement to the contrary or when such a requirement is waived.	cooperation and the documents that accompanies such a request should be translated into the official language of the State addressed except when there is a convention or agreement to the contrary or when such a requirement is waived.	There is no mention of the language used in other documents that would be eventually sent under the terms of Article 6.
Q3.7. Are there specific measures, as required by Article 4 (6) FD 909, which constitute the basis on which the competent authorities in the executing State have to take their decisions whether or not to consent to the forwarding of the judgement and the certificate (where required)?	N/A. Owing to the fact that the FD 2008/909 has yet to be transposed into Portuguese law, Article 4 (6) FD 909 does not have any equivalent in Portuguese law. Nevertheless, the principle underpinning the decisions made and falling under Law 144/99 of 31 August <sup>172</sup> pursuant to the transfer of sentenced persons, is connected		

<sup>172</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

	with their social rehabilitation as stated in Article 15(1).		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:			
<ul style="list-style-type: none"> <li>National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state?</li> </ul>	Yes. Decree-law 293/99 of 3 August <sup>173</sup> contains clear, precise rules on the protection of personal data collected by the Prosecutor-General's Office ( <i>Procuradoria Geral da República</i> , PGR) and needed in order to exercise its legal	Yes. Decree-law 293/99 of 3 August <sup>174</sup> contains clear, precise rules on the protection of personal data collected by the Prosecutor-General's Office ( <i>Procuradoria Geral da República</i> , PGR) and needed in order to exercise its	Yes. Law 36/ 2015 of 4 May <sup>176</sup> does not include any legal provision that specially deals with this question. Nonetheless, the Law on Personal Data Protection– Law 67/98 of 26 October, <sup>177</sup> has a general application and rules on other information that

<sup>173</sup>Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*). Available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

<sup>174</sup> Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*). Available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

<sup>176</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)* . Available at:

<https://dre.pt/application/conteudo/67123263>.

<sup>177</sup> Portugal, Law 67/98 of 26 October, Law of Personal Data Protection (*Lei 67/98, de 26 de Outubro (Lei de Protecção de dados Pessoais)*) VUp-dated version available at:

[www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=156&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=156&tabela=leis).

	duties in the sphere of cases dealing with the transfer of sentenced persons, governed by Law 144/99 of 31 August and the Convention on the Transfer of Sentenced Persons (Article 1(2)).	legal duties in the sphere of cases dealing with the transfer of sentenced persons, governed by Law 144/99 of 31 August <sup>175</sup> and the Convention on the Transfer of Sentenced Persons (Article 1(2)).	is obtained, namely the data appearing in a criminal record is also liable to protection (Law on Criminal Identification - <i>Lei de identificação criminal</i> - Law 37/2015 of 5 May <sup>178</sup> ).
<ul style="list-style-type: none"> <li>• Authorities in the issuing and executing state?</li> </ul>	Yes. Pursuant to Article 6 (1) in Decree-Law 293/99 of 3 August, <sup>179</sup>	Yes. Pursuant to Article 6 (1) in Decree-Law 293/99 of 3	Yes. Although Law 36/2015 of 4 May <sup>181</sup> does not include any

<sup>175</sup> Portugal, Law 144/99 amended by Laws 104/2001 of 25 August, 48/2003 of 22 August and 115/2009 of 12 October, Execution of Foreign Criminal Sentences and the transference of persons sentenced to imprisonment and security measures involving the deprivation of freedom (*Lei n.º 144/99, alterada pelas Leis n.º 104/2001, de 25 de Agosto, n.º 48/2003, de 22 de Agosto e n.º 115/2009 de 12 de Outubro sobre a execução de sentenças penais estrangeiras e transferência de pessoas condenadas a penas e medidas de segurança privativas da liberdade*), 31 August 1999, updated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?ficha=101&artigo\\_id=&nid=295&pagina=2&tabela=leis&nversao=&so\\_miolo=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?ficha=101&artigo_id=&nid=295&pagina=2&tabela=leis&nversao=&so_miolo=). Versions of Law 144/99 in Portuguese, French and English available at the website of the Documentation and Comparative Law Office (*Gabinete de Documentação e Direito Comparado*), at: [www.gddc.pt](http://www.gddc.pt). As regards the application of this Law, see the publication, Procuradoria-Geral Distrital, Tribunal da Relação de Lisboa: *Cooperação Judiciária Internacional em Matéria Penal, Orientações e Notas de Procedimento do Ministério Público no Tribunal da Relação*, Ref: CJIMP/TRL v. 01, Maio de 2013 (District Office of the Public Prosecutor General, the Lisbon Court of Appeal: *International Judiciary Cooperation in Criminal Matters: Procedural Guidelines and Notes by the Public Prosecutor's Office and the Appeal Court*, Ref: CJIMP/TRL v. 01, May 2013). Available at: [www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf](http://www.pgdlisboa.pt/docpgd/files/cji%20pgdl%20maio%202013.pdf).

<sup>178</sup> Portugal, Law 37/2015 of 5 May, Law on Criminal Identification (*Lei 37/2015, de 5 de Maio, Lei de identificação criminal*) (The law establishes the general principles governing the organisation and functioning of criminal identification and transposing to Portuguese law the Framework Decision 2009/315/JHA, on the organisation and content of the exchange of information extracted from the criminal record between Member States). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2321&tabela=leis&nversao=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2321&tabela=leis&nversao=).

<sup>179</sup> Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*)). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

<sup>181</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>the personal data collected for data processing may be sent to entities whose duty it is to expedite procedures coming within the sphere of criminal court cooperation and the execution of sentences. Such authorities include the police and agencies that supervise the prison system. Data is shared strictly on a need-to-know basis demanded by functions falling within the legal transfer framework.</p>	<p>August,<sup>180</sup> the personal data collected for data processing may be sent to entities whose duty it is to expedite procedures coming within the sphere of criminal court cooperation and the execution of sentences. Such authorities include the police and agencies that supervise the prison system. Data is shared strictly on a need-to-know basis demanded by functions falling within the legal transfer framework.</p>	<p>provision about protecting the data exchanged between the appropriate authorities in the issuing and executing States, the Law on Data Protection, Law 67/98 of 26 October<sup>182</sup> has a general application. On the other hand, certain information that is obtained, namely the data appearing in a criminal record, is also liable to protection (Law on Criminal Identification - <i>Lei de identificação criminal</i> - Law 37/2015 of 5 May,<sup>183</sup> as referred to above.</p>
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<sup>180</sup> Portugal, Decree-Law 293/99 of 3 August (Ruling on the Data base of the Prosecutor General's Office on the Transfer of Sentenced Persons (*Decreto-lei 293/99, de 3 de Agosto, Regulamenta a base de dados da Procuradoria Geral da República sobre pedidos de transferência de pessoas condenadas*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1639&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1639&tabela=leis).

<sup>182</sup> Portugal, Law 67/98 of 26 October, Law of Personal Data Protection (*Lei 67/98, de 26 de Outubro (Lei de Protecção de dados Pessoais)*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=156&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=156&tabela=leis).

<sup>183</sup> Portugal, Law 37/2015 of 5 May, the Law on Criminal Identification, laying down the general principles governing the organisation and functioning of criminal identification and transposing to Portuguese law the Framework Decision 2009/315/JHA, on the organisation and content of the exchange of information extracted from the criminal record between Member States (*Lei 37/2015, de 5 de Maio, Lei de identificação criminal*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=2321&tabela=leis&nversao=](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2321&tabela=leis&nversao=).

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q4. VICTIMS</b>			
Q4.1. Do the victims have the right to receive the following information regarding the transfer from the issuing state:			
• The decision to transfer	No	No	No
• The status of the transfer	No	No	No
• Other? Please specify.	No	No	No
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:			
• Is the information provided upon request of the victim?	No	No	No
• Who responsible for providing this information?	N/A	N/A	N/A
• Is it a verbal or written communication?	N/A	N/A	N/A
Q4.3. Do the victims have the right to be heard concerning the transfer (in the state you are describing, as issuing or executing state)? (e.g. through submitting an oral or written response)	No.	No	No. Law 36/2015 does not mention this right.

Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.	No	No	No.
Q4.5. Do the victims have access to translators/interpreter in order to be kept fully informed of the transfer (in the state you are describing, as issuing or executing state)?	N/A	N/A	N/A
Q4.6. Do the victims have the right to be informed of the suspect/sentenced person's release (in the state you are describing, as issuing or executing state)?	Yes. Pursuant to Articles 23 (3) and 97 (3) in Law 115/2009 of 12 October <sup>184</sup> - the Code for the Execution of Sentences and Measures to Deprive Freedom ( <i>Lei 115/2009, de 12 de Outubro - Código de Execução das Penas e Medidas Privativas de Liberdade</i> ), the appropriate	Yes. For example, Article 7 (5) in Law 33/2010 of 2 September <sup>185</sup> that governs the use of technological methods of long distance supervision or tagging (electronic surveillance) states that the decision to undertake electronic supervision may cause the social	Yes. Some of the precautionary measures falling under Law 36/2015 of 4 May <sup>186</sup> (Article 4) and the Code of Criminal Procedure, are directed at protecting victims of crimes where the suspect ( <i>arguido</i> ) has been incriminated for committing them. However, no information is given to the victims, namely informing them of the decisions to impose precautionary measures. Article 194 (6) in the Code of Criminal Procedure refers to the fact

<sup>184</sup> Portugal, Law 115/2009 of 12 October, Code for the Execution of Sentences and Measures to Deprive Freedom (*Código de Execução de Penas e Medidas Privativas da Liberdade, Lei 115/2009, de 12 de Outubro*) which was amended several times, the last of which by Law 21/2013 of 21 February (*Lei 21/2013, de 21 de Fevereiro*). Up-dated version available at: [www.pgdlisboa.pt/leis/lei\\_busca\\_assunto\\_diploma.php?buscajur=transfer%EAnCIA+estrangeiro&artigo\\_id=&pagina=1&ficha=1&nid=1147&tabela=leis](http://www.pgdlisboa.pt/leis/lei_busca_assunto_diploma.php?buscajur=transfer%EAnCIA+estrangeiro&artigo_id=&pagina=1&ficha=1&nid=1147&tabela=leis).

<sup>185</sup> Portugal, Law 33/2010 of 2 September, Ruling on the use of technical methods of long-distance supervision (electronic surveillance) (*Lei 33/2010, de 2 de Setembro (Regula a utilização de meios técnicos de controlo à distância (vigilância electrónica)*). Available at: [www.pgdlisboa.pt/leis/lei\\_mostra\\_articulado.php?nid=1269&tabela=leis](http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1269&tabela=leis).

<sup>186</sup> Portugal, Law 36/2015 of 4 May, whose Article 8(2) was amended by Declaration 23/2015 of 9 June, establishing the legal system of issuing, of recognising and monitoring of the execution of decisions on precautionary measures as an alternative to pre-trial detention as well as handing over a singular person between Member-States in the event of noncompliance with the imposed measures transposing EU FD 2009/829 of 23 October (*Lei 36/2015, de 4 de Maio, objecto de rectificação no artigo 8 (2) pela Declaração 23/2015, de 9 de Junho (Estabelece o regime jurídico da emissão, do reconhecimento e da fiscalização da execução de decisões sobre medidas de coacção em alternativa à prisão preventiva, bem como da entrega de uma pessoa singular entre Estados membros no caso de incumprimento das medidas impostas, transpondo a Decisão Quadro 2009/829/JAI do Conselho de 23 de Outubro de 2009)*). Available at: <https://dre.pt/application/conteudo/67123263>.

	<p>court informs the sentenced person as well as the police authority in the person's residential area when it weighs up action to release the prisoner, or when he/she escapes or has taken non authorised leave of absence which might be dangerous.</p>	<p>rehabilitation services to be immediately informed if an abnormal situation liable to endanger the victim is suspected.</p>	<p>that when validating any order to apply a precautionary measure, with the exception of the measure based on proving identity and residential address, the chargeable elements in the ascribed facts should be enunciated except when this entails placing at risk, the life or the physical or mental safety or the freedom of the victims of the crime. Protecting the victims may also, in certain cases during the hearing, limit the ability to consult court cases (Article 89).</p>
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