

# **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:

The Czech Criminal Code (Act No. 40/2009 Coll.)<sup>1</sup> allows for the following methods in the post-trial stage:

- Community service (§§ 62–65 of the Criminal Code), which can be imposed in the case of minor offences (§ 62/1) from 50 to 300 hours (§ 63/1);
- House arrest (§§ 60 and 61 of the Criminal Code), which applies only for minor offences and for a maximum duration of two years (§ 60/1);
- A conditional sentence (§ 81-87 of the Criminal Code), which can be given as **an alternative punishment to imprisonment and for up to three years** (§ 81/1); can be imposed with probation for one to five years (§ 85 Article 1).
- A pecuniary penalty (§ 67-72 of the Criminal Code), which: is imposed for minor offences (§ 67/2); is meted out in the form of daily **allowances (amounts to be paid by the sentenced person)** for min. 20 and max. 730 days (§ 68/1), the lowest amount of daily allowance being 100 CZK and the highest 50.000 CZK (§ 68 Article 2).
- Forfeiture of property (§ 66 of the Criminal Code), which is applied in the case of particularly serious criminal offence of financial nature.
- Forfeiture of a thing (§§ 70-72 of the Criminal Code)
- Banning a person from of a certain activity (§§ 73 and 74 of the Criminal Code), which prohibits the person from performing a certain activity or occupation (§ 73/3) for up to ten years (§ 73/1).
- **Prohibition of stay** (§ 75 of the Criminal Code), which prevents the convict from being at a certain place or district for up to ten years.
- Banning a person from attending sporting, cultural or other events (§§ 76 and 77 of the Criminal Code).
- Expulsion (§ 80 of the Criminal Code), which concerns only foreigners and can be applied for up to ten years, or for an indefinite time period.
- (Conditional) discharge (under supervision) - §§ 46 – 48 of the Criminal Code - can be applied in the case of minor offences, whose perpetrators have shown regret, and when the court may expect that the criminal procedure itself will lead to their rectification.
- Diversions[Diversion programmes] in criminal procedure – Conditional suspension of criminal proceedings (§ 307 of the Criminal Procedure Code) and Settlement (§ 309 of the Criminal Procedure Code) and Agreement on Guilt and Punishment (§ 175a of the Criminal Procedure Code). Conditional

<sup>1</sup> Czech Republic, Criminal Code (Act No. 40/2009 Coll.), (*zákon č. 40/2009 Sb. Zákon trestní zákoník*), 1 January 2009, available at: /www.zakonyprolidi.cz/cs/2009-40.

suspension of criminal proceedings and Settlement apply only in the case of minor offences. All diversions take into account the fact that the offender acknowledges guilt and the opinion of the victim.

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

Alternative measures in the pre-trial phase are specified in the Criminal Procedure Code.<sup>2</sup> According to § 73/1 the body responsible for making decisions on custody can leave the accused at liberty or release them if:

- a person or organisation takes responsibility for the defendant's behaviour and that is deemed as sufficient by the organ that is to rule on custody (Letter A);
- the defendant submits a written pledge to comply with the circumstances specified by the law (Letter B);
- the supervision of a probation officer is deemed as sufficient (Letter C).

Preliminary measures, newly introduced in the Criminal Procedure Code in 2013, are also alternatives to pre-trial detention, as they apply under similar circumstances to custody (when there are concerns that the accused will repeat the criminal activity or finish it). The court may impose:

- a ban on contact with certain persons (§ 88d),
- a ban on entering a household (§ 88e),
- a ban on visiting an unsuitable environment (§ 88f),
- a ban on being present in certain places (§ 88f),
- a ban on traveling abroad (§ 88h),
- a ban on carrying things that may serve to commit criminal offences (§ 88i),
- a ban on using or carrying alcoholic beverages or other drugs (§ 88j),
- a ban on **gambling** and betting (§ 88k),
- a ban on performing a certain activity (§ 88l).

If the accused does not fulfill the conditions for a **preliminary measure**, custody may also be imposed on him/her (§ 88o).

<sup>2</sup> Czech Republic, *Předpis č. 141/1961 Sb. Zákon o trestním řízení soudním (trestní řád)*, 29 November 1961.

**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)?**

In the case of minors sentenced to community service (based on § 63/3 of the Criminal Code), a conditional sentence (based on § 48 of the Criminal Code) or house arrest (based on § 60/6 of the Criminal Code) the court can allow for the use of alternative measures specified in the Act on Judicial Procedure in the Area of Juvenile Affairs.<sup>3</sup> Specifically, § 11 and § 12 allow for the suspension of a sentence and § 14 allow for the suspension of a conditional sentence. This law takes unconditional sentence of imprisonment as exceptional, in case that other legal measures would not be sufficient. In case of minors, there is a wide range of measures that can be imposed instead of prison – educational limitations (§ 19), educational measures (§ 21), protective education (§ 22).

With special regard to health conditions, the court can decide not to sentence an offender to community service (based on § 64 of the Criminal Code).

**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>	This information is not publicly available. It is provided to the person who finds him/herself in this situation.	This information is not publicly available. It is provided to the person who finds him/herself in this situation.	This information is not publicly available. It is provided to the person who finds him/herself in this situation.
<ul style="list-style-type: none"> <li>How is the information made publically available (tools, or networks used)?</li> </ul>	The Act on International Justice Cooperation in Criminal Matters (No. 104/2013), <sup>4</sup> hereinafter the	The Act on International Justice Cooperation in Criminal Matters (No. 104/2013), <sup>5</sup> hereinafter the	The Act on International Justice Cooperation in Criminal Matters (No. 104/2013), <sup>6</sup> hereinafter the

<sup>3</sup> Czech Republic, Act on Judicial Procedure in the Area of Juvenile Affairs (*Zákon o soudnictví ve věcech mládeže*), 25 June 2003.

<sup>4</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013.

<sup>5</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013.

<sup>6</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013.

	'Act' is publicly available on the Internet.	'Act' is publicly available on the Internet.	'Act' is publicly available on the Internet.
<ul style="list-style-type: none"> <li>In which languages is the information provided?</li> </ul>	Czech	Czech	Czech
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.	No.	No.	No.
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.	In their response to questions submitted by the FRA team, the Ministry of Justice stated that criminal prosecuting bodies, the Ministry of Justice and the national member in EuroJust can share information in particular cases, such as the case when there is a need for intervention by the national member in a particular case.	In their response to questions submitted by the FRA team, the Ministry of Justice stated that criminal prosecuting bodies, the Ministry of Justice and the national member in EuroJust can share information in particular cases, such as the case when there is a need for intervention by the national member in a particular case.	In their response to questions submitted by the FRA team, the Ministry of Justice stated that criminal prosecuting bodies, the Ministry of Justice and the national member in EuroJust can share information in particular cases, such as the case when there is a need for intervention by the national member in a particular case.
<b>TOPIC</b>	<b>FD 2008/909</b>	<b>FD 2008/947</b>	<b>FD 2009/829 (ESO)</b>
<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 is done in all relevant cases) in place to inform the suspect/sentenced person of the	A general rule for transfers is that the suspect/sentenced person is informed by the state prosecutor that he/she has the option to agree	In their response to questions submitted by the FRA team, the Ministry of Justice stated that this question is irrelevant <sup>8</sup> . The	In their response to questions submitted by the FRA team, the Ministry of Justice stated that this question is irrelevant. The person

<sup>8</sup> Representative of the Ministry of Justice.

<p>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>to be transferred to another Member State (§ 92/4 of the Act).<sup>7</sup></p>	<p>person is not being transferred. It is the execution of the judgment that is being transferred to the territory of another Member State, where the person at stake has his/her permanent residence and is living.</p>	<p>is not being transferred. It is the execution of the judgment that is being transferred to the territory of another Member State, where the person at stake has his/her permanent residence and is living.</p>
<p>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 person receives (e.g. information on appeal and release possibilities).</p>	<p>A decision to transfer the ruling imposing a custodial sentence can be taken with written consent obtained prior to the transfer. In cases when consent is not required and the person is on the territory of the Czech Republic, the court must obtain his/her opinion.<sup>9</sup></p> <p>The court interrogates the sentenced person on the issue of transfer and informs this person about the upcoming procedure and namely about the fact that, by consenting, the person withdraw the right to the application of the principle of speciality. The court draws up written notes on this interrogation, which include the position of the sentenced person to the transfer and the content of the</p>	<p>The decision to transfer the ruling imposing supervision or probation measures and alternative sanctions to the Member State of which the person is a resident can be taken without the person's consent. Upon the person's request, the decision can be transferred to another Member State, if this Member State agrees.<sup>10</sup></p>	<p>The decision to transfer the ruling imposing alternative measures to provisional detention can be taken only on the request of the accused person (if the person has his/her residence in the executing state).<sup>11</sup> Upon the request of the accused person, the decision can be forwarded also to another Member State.<sup>12</sup> This means that this decision can be only taken with the consent or upon the request of the suspect/sentenced person. According to the Ministry of Justice, no such case has occurred so far.<sup>13</sup></p>

<sup>7</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013.

<sup>9</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/4.

<sup>10</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 337/1, 3.

<sup>11</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 252/1.

<sup>12</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 252/1.

<sup>13</sup> Representative of the Ministry of Justice.

	information provided. These notes must be signed by the sentenced person.		
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.	Consent cannot be revoked. <sup>14</sup>	Consent is not requested in this case (see Q. 2.2. above).	Consent cannot be revoked. <sup>15</sup>
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>	Yes. The court must obtain the opinion if the person is present on the territory of the Czech Republic. <sup>16</sup>		
<ul style="list-style-type: none"> <li>When consent is required, Article 6 (3) of FD 2008/909/JHA).</li> </ul>	Consent must be obtained in writing prior to the transfer. <sup>17</sup>		
Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on the transfer? If yes, please briefly specify until which stage of the procedure this right	The Act leaves no room for the person to change their opinion. This would depend on court practice.		

<sup>14</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/4.

<sup>15</sup> Czech Republic, Law on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 137/4.

<sup>16</sup> Czech Republic, Law on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/4.

<sup>17</sup> Czech Republic, Law on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/3.



exists and how this is implemented in practice.			
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 provided face-to-face or over the telephone)	Persons who have received a custodial sentence have to have legal counsel (compulsory defense, § 14 of the Act). <sup>18</sup>	The Act does not require that a person have legal counsel in these cases. Persons on whom alternative sanctions have been imposed must have legal counsel only if they are deprived of legal capacity, if they are young offenders, or if the court deems it necessary. <sup>19</sup>	The Act does not require that a person have legal counsel in these cases. Persons must have legal counsel only if they are deprived of legal capacity, if they are young offenders, or if the court deems it necessary. <sup>20</sup>
Q2.7. Is there a procedure in place to ascertain that the legal counsel speaks and understands the suspect/sentenced person's language in the issuing state? If yes, please specify.	No. It remains within the remit of the legal counsel whether he/she will use an interpreter or speak to the accused directly, if they are able to understand each other. This is not regulated by legislation.	No. It remains within the remit of the legal counsel whether he/she will use an interpreter or speak to the accused directly, if they are able to understand each other. This is not regulated by legislation.	No. It remains within the remit of the legal counsel whether he/she will use an interpreter or speak to the accused directly, if they are able to understand each other. This is not regulated by legislation.
Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?	See Q. 2.6.	See Q. 2.6.	See Q. 2.6.
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>	In criminal proceedings, the accused person has the right to	In criminal proceedings, the accused person has the right to	In criminal proceedings, the accused person has the right to

<sup>18</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 14/2/a.

<sup>19</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 14/2/c/d/e.

<sup>20</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 14/2/c/d/e.

	interpretation. <sup>21</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>22</sup>	interpretation. <sup>23</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>24</sup>	interpretation. <sup>25</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>26</sup>
<ul style="list-style-type: none"> <li>• While requesting the transfer?</li> </ul>	In criminal proceedings, the accused person has the right to interpretation. <sup>27</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>28</sup>	In criminal proceedings, the accused person has the right to interpretation. <sup>29</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>30</sup>	In criminal proceedings, the accused person has the right to interpretation. <sup>31</sup> The same applies to proceedings in the framework of international justice cooperation. <sup>32</sup>
Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.	For face-to-face consultations with legal counsel, it is up to the legal counsel and/or the suspect/sentenced person to arrange for interpretation. In cases where legal counsel is compulsory, <sup>33</sup> these costs will then	For face-to-face consultations with legal counsel, it is up to the legal counsel and/or the suspect/sentenced person to arrange for interpretation. In cases where legal counsel is compulsory, <sup>35</sup> these costs will	For face-to-face consultations with legal counsel, it is up to the legal counsel and/or the suspect/sentenced person to arrange for interpretation. In cases where legal counsel is compulsory. <sup>37</sup> these costs will then

<sup>21</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>22</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>23</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>24</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>25</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>26</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>27</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>28</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>29</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>30</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>31</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 28.

<sup>32</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 3.

<sup>33</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 36.

<sup>35</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 36.

<sup>37</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 36.

	be reimbursed by the state to the legal counsel. <sup>34</sup>	then be reimbursed by the state to the legal counsel. <sup>36</sup>	be reimbursed by the state to the legal counsel. <sup>38</sup>
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.	Yes.	In their response to questions submitted by the FRA team, the Ministry of Justice stated that this question is irrelevant. <sup>39</sup> The person is not being transferred. It is the execution of the judgment that is being transferred to the territory of another Member State where the person at stake has his/her permanent residence and is living.	In their response to questions submitted by the FRA team, the Ministry of Justice stated that this question is irrelevant. <sup>40</sup> The person is not being transferred. It is the execution of the judgment that is being transferred to the territory of another Member State, where the person at stake has his/her permanent residence and is living.
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?	If the executing state is the Czech Republic, then yes. Execution of a decision takes the form of a judgment and there is a right to appeal. <sup>41</sup> The adaptation of the judgment cannot lead to a deterioration of the position of the sentenced person.	If the executing state is the Czech Republic, then yes. Execution of a decision takes the form of a judgment and there is a right to appeal. <sup>42</sup> The adaptation of the judgment cannot lead to a deterioration of the position of the sentenced person.	If the executing state is the Czech Republic, then yes. Execution of a decision takes the form of a judgment and there is a right to appeal. <sup>43</sup> The adaptation of the judgment cannot lead to a deterioration of the position of the suspect person
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	There is no right to appeal.	There is no right to appeal.	There is no right to appeal.

<sup>34</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 151.

<sup>36</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 151.

<sup>38</sup> Czech Republic, Criminal Procedure Code (trestní řád), 29 November 1961, § 151.

<sup>39</sup> Representative of the Ministry of Justice.

<sup>40</sup> Representative of the Ministry of Justice.

<sup>41</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 304/2.

<sup>42</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 328.

<sup>43</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 328.

aware of his/her right to appeal and what support is made available to him/her)			
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.	No.	No.
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?)	Czech legislation does not cover this topic. This is within the remit of the legislation of the executing state.	Czech legislation does not cover this topic. This is within the remit of legislation of the executing state.	Czech legislation does not cover this topic. This is within the remit of legislation of the executing state.
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 varying extent under each FD? If so, please briefly provide details.	Yes. <sup>44</sup>	Yes. The Ministry of Justice also reported cases when the person was not found on the territory of the Czech Republic and it was not possible to deliver the judgement or start execution of it. <sup>45</sup>	The Ministry of Justice stated that they do not have any information about this institute. <sup>46</sup>
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	There are no specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases should be assessed on a case-by-case basis. <sup>47</sup>	There are no specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases should be	There are no specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases

<sup>44</sup> Representative of the Ministry of Justice.

<sup>45</sup> Representative of the Ministry of Justice.

<sup>46</sup> Representative of the Ministry of Justice.

<sup>47</sup> Representative of the Ministry of Justice.

state? (e.g. the use of healthcare professionals)		assessed on a case-by-case basis. <sup>48</sup>	should be assessed on a case-by-case basis. <sup>49</sup>
<b>TOPIC</b>	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. <sup>50</sup>	If the court discovers that the purpose of the punishment could be hindered in the executing state, this is a reason for withdrawing the decision to transfer. <sup>51</sup> The legal doctrine <sup>52</sup> finds the social rehabilitation of the sentenced person among the purposes of the punishment.	Not defined in law. However, we cannot rule out that this may be part of the courts' considerations.
<ul style="list-style-type: none"> <li>Fundamental rights implications (such as the right to family life, right to education)?</li> </ul>	Not defined in law. However, we cannot rule out that this may be part of the courts' considerations.	Not defined in law. However, we cannot rule out that this may be part of the courts' considerations.	Not defined in law. However, we cannot rule out that this may be part of the courts' considerations.
<ul style="list-style-type: none"> <li>Others? Please specify.</li> </ul>	-	-	-
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	The Ministry of Justice stated that the court will always take into account the fact of whether the transfer of the decision is	The Ministry of Justice stated that the court will always take into account the fact of whether the transfer of the decision is	The Ministry of Justice stated that the court will always take into account the fact of whether the transfer of the decision is

<sup>48</sup> Representative of the Ministry of Justice.

<sup>49</sup> Representative of the Ministry of Justice.

<sup>50</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/2.

<sup>51</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 338/1.

<sup>52</sup> Kratochvíl, V. et al. 2012. Material Criminal Law. General Part. (*Trestní právo hmotné. Obecná část*). 2<sup>nd</sup> edition. Prague, C. H. Beck, p. 554.

issuing state? Please provide any document containing those criteria/guidelines and specify whether the following factors are considered:	convenient with regard to the successful integration of the person in charge into society. The court may contact a relevant institution in the receiving state, in order to find out the necessary information. <sup>53</sup> This situation is also covered under the Instruction of the Minister of Justice of 30 April 2014, ref. No.: 42/2013-MOT-J/60	convenient with regard to the successful integration of the person in charge into society. The court may contact a relevant institution in the receiving state, in order to find out the necessary information. <sup>54</sup> This situation is also covered under the Instruction of the Minister of Justice of 30 April 2014, ref. No.: 42/2013-MOT-J/60	convenient with regard to the successful integration of the person in charge into society. The court may contact a relevant institution in the receiving state, in order to find out the necessary information. <sup>55</sup> This situation is also covered under the Instruction of the Minister of Justice of 30 April 2014, ref. No.: 42/2013-MOT-J/60
<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>			
<ul style="list-style-type: none"> <li>Criminal history and criminal ties?</li> </ul>			
<ul style="list-style-type: none"> <li>Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)?</li> </ul>			
<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>			
<ul style="list-style-type: none"> <li>Others?</li> </ul>			

<sup>53</sup> Representative of the Ministry of Justice.

<sup>54</sup> Representative of the Ministry of Justice.

<sup>55</sup> Representative of the Ministry of Justice.

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>	Applicable to all points below: The court may consult all the subjects mentioned below. These consultations are not compulsory. The Regional Court in Brno stated in response to the FRA team's request that these consultations in fact do not usually occur. <sup>56</sup>	The Probation and Mediation service is always consulted. <sup>57</sup>	The Probation and Mediation service is always consulted <sup>58</sup> .
<ul style="list-style-type: none"> <li>• The competent authorities in the executing state?</li> </ul>	-	-	-
<ul style="list-style-type: none"> <li>• The suspect/sentenced person?</li> </ul>	-	-	-
<ul style="list-style-type: none"> <li>• The family of the suspect/sentenced persons, especially with regard to child offenders?</li> </ul>	-	-	-
<ul style="list-style-type: none"> <li>• Any other person/entity?</li> </ul>	-	-	-
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 specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases should be assessed on a case-by-case basis. <sup>59</sup>	There are no specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases should be assessed on a case-by-case basis. <sup>60</sup>	There are no specific legislative or policy developments. The Ministry of Justice stated that in the case of persons with disabilities, cases should be assessed on a case-by-case basis. <sup>61</sup>

<sup>56</sup> Representative of the Justice Regional Court in Brno.

<sup>57</sup> Representative of the Ministry of Justice.

<sup>58</sup> Representative of the Ministry of Justice.

<sup>59</sup> Representative of the Ministry of Justice.

<sup>60</sup> Representative of the Ministry of Justice.

<sup>61</sup> Representative of the Ministry of Justice.

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 of the executing state while forwarding the judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	Yes. Additional information is provided by the court on request from the relevant authority of the executing state. <sup>62</sup>	Yes. Additional information is provided by the court on request from the relevant authority of the executing state. <sup>63</sup>	Yes. Additional information is provided by the court on request from the relevant authority of the executing state. <sup>64</sup>
Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	Yes.	The certificate is always translated. Other documents can be sent if the court has them translated (which is the case in most instances). <sup>65</sup>	The certificate is always translated. Other documents can be sent if the court has them translated (which is the case in most instances). <sup>66</sup>
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)?	Yes. When considering whether to forward the judgement to the executing state, the court must consider the measures of social rehabilitation in the executing state. <sup>67</sup>		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:	Data protection is covered under the Data Protection Act. <sup>68</sup>		
<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>			

<sup>62</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 317/2.

<sup>63</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 337/3.

<sup>64</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 252/4.

<sup>65</sup> Representative of the Ministry of Justice.

<sup>66</sup> Representative of the Ministry of Justice.

<sup>67</sup> Czech Republic, Act on International Justice Cooperation in Criminal Matters (*zákon o mezinárodní justiční spolupráci ve věcech trestních*), 20 March 2013, § 315/7.

<sup>68</sup> Czech Republic, Data Protection Act (*zákon o ochraně osobních údajů*), 4 April 2000.



• Authorities in the issuing and executing state?			
<b>TOPIC</b>	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	Yes. <sup>69</sup>	Yes. <sup>70</sup>	Yes. <sup>71</sup>
• The status of the transfer	No.	No.	No.
• Other? Please specify.	-	-	-
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?	Yes. <sup>72</sup>	Yes. <sup>73</sup>	Yes. <sup>74</sup>
• Who responsible for providing this information?	Prisons and health-care facilities and safety detention facilities (ústav pro výkon zabezpečovací detence). <sup>75</sup>	Prisons and health-care facilities and safety detention facilities (ústav pro výkon zabezpečovací detence). <sup>76</sup>	Prisons and health-care facilities and safety detention facilities (ústav pro výkon zabezpečovací detence). <sup>77</sup>

<sup>69</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3/h.

<sup>70</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3/h.

<sup>71</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3/h.

<sup>72</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>73</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>74</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>75</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>76</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>77</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<ul style="list-style-type: none"> <li>Is it a verbal or written communication?</li> </ul>	<p>The form in which this information is to be provided is not defined. A general principle of the Act on Victims of Crime is that information must be clear and understandable.<sup>78</sup> Victims must be informed without undue delay, within a time limit of max. 24 hours.<sup>79</sup> The form in which this information is provided also depends on the type of contact the victim has provided to the police/state prosecutor/court.<sup>80</sup></p>	<p>The form in which this information is to be provided is not defined. A general principle of the Act on Victims of Crime is that information must be clear and understandable.<sup>81</sup> Victims must be informed without undue delay, within a time limit of max. 24 hours.<sup>82</sup> The form in which this information is provided also depends on the type of contact the victim has provided to the police/state prosecutor/court.<sup>83</sup></p>	<p>The form in which this information is to be provided is not defined. A general principle of the Act on Victims of Crime is that information must be clear and understandable.<sup>84</sup> Victims must be informed without undue delay, within a time limit of max. 24 hours.<sup>85</sup> The form in which this information is provided also depends on the type of contact the victim has provided to the police/state prosecutor/court.<sup>86</sup></p>
<p>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)</p>	<p>No.</p>	<p>No.</p>	<p>No.</p>
<p>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.</p>	<p>-</p>	<p>-</p>	<p>-</p>

<sup>78</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 3/4.

<sup>79</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/4.

<sup>80</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/5.

<sup>81</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 3/4.

<sup>82</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/4.

<sup>83</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/5.

<sup>84</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 3/4.

<sup>85</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/4.

<sup>86</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/5.

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)?	Information about the transfer must be provided in a language the victim understands, if possible. <sup>87</sup>	Information about the transfer must be provided in a language the victim understands, if possible. <sup>88</sup>	Information about the transfer must be provided in a language the victim understands, if possible. <sup>89</sup>
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. <sup>90</sup>	Yes. <sup>91</sup>	Yes. <sup>92</sup>

<sup>87</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 12/b.

<sup>88</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 12/b.

<sup>89</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 12/b.

<sup>90</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>91</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.

<sup>92</sup> Czech Republic, Act on Victims of Crime (*zákon o obětech trestných činů*), 25 February 2013, § 11/3.