

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

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Author(s) name: Martin Ryding Rosenkilde, Helle Schaumann

Reviewed by (on contractor's side): Christoffer Badse

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Contents

Section A: General information on existing situation: probation measures, alternative sanctions and supervision measures as an alternative to pre-trial detention	3
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	3
Q2. Please outline the specific supervision measures as alternatives to pre-trial detention that are available in the Member State	6
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)?	6
Section B: Transfer of suspects/sentenced persons	8
Q1. Availability of information	8
Q2. Informed consent of the suspect/sentenced person	14
Q3. Decision on transfer	25
Q4. Victims	35

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:

Specific probations measures and/or alternative sanctions

1. Suspended sentence with conditions

The court may decide to impose a suspended sentence if execution of a penalty is deemed unnecessary, in which case the court will set a trial period.¹

The court may decide that the suspended sentence is conditioned upon supervision by the Prison and Probation Service (*Kriminalforsorgen*).² In this case, the person released on probation must inform the Prison and Probation Service of his/her residence and employment.³ Furthermore, additional probation measures may be set out in accordance with section 57 of the Criminal Code, according to which the sentenced person must:

- 1) meet certain requirements regarding place of residence, work, use of leisure time and interaction with specific persons,
- 2) reside in a suited home (*egnet hjem*) or institution for a period of max. 1 year,
- 3) abstain from using alcohol, narcotics and similar forms of medical substances, undergo rehabilitation treatment due to abuse of alcohol, narcotics or similar, if necessary in a hospital or special institution,
- 4) undergo rehabilitation treatment due to abuse of alcohol, narcotics or similar, if necessary in a hospital or special institution,
- 5) undergo structured, controlled alcohol treatment of min. 1 year,
- 6) undergo psychiatric treatment, if necessary in a hospital,
- 7) abide by the supervisory authority's conditions regarding restrictions on the disposal over income and capital as well as performance of financial obligations,
- 8) pay damages for loss incurred due to the offence,

¹ Denmark, Consolidated Act No. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2014 af straffeloven med senere ændringer*), sections 38 and 56. Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=172754 (10 August 2015).

² Denmark, Consolidated Act No. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2014 af straffeloven med senere ændringer*), section 57.

³ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 96. Available in Danish at: www.retsinformation.dk/forms/r0710.aspx?id=141683 (10 August 2015).

9) following a decision by the municipality be subject to arrangements according to section 52 of the Act on Social Services,⁴ possibly of a particular kind, and meet the requirements set out by the municipality.

The list is not exhaustive and the Danish courts can set additional requirements not covered by the list in section 57.

If the use of an unsuspended prison sentence is found necessary by the court, but the offender's personal situation justifies the use of a suspended sentence, the court may decide that a part of the sentence – but maximum six months – shall be enforced immediately while the rest of the sentence shall be suspended. Fines may be imposed even though not prescribed for this kind of offence (combination-sentence).⁵

2. *Suspended sentence with condition of community service*

The court may also decide to impose a suspended sentence, whereby a person is sentenced to conduct community service between 30 and 300 hours of duration within a fixed time period set out by the court.⁶ This means that the sentenced person must conduct unpaid work or participate in a treatment or education programme. At least 2/3 of the fixed time period must spent on unpaid work.⁷ If the court finds it appropriate, it may furthermore set conditions in accordance with section 57 of the Criminal Code (described above).

3. *Diversions of prosecution*

Prosecution can be diverted in a number of cases, including cases where the crime is a minor offence and the maximum penalty is a fine or in cases involving young offenders.

4. *Release on parole:*

The principal rule of Danish law is that a person may be released on parole when 2/3 (though at least 2 months) of the prison sentence has been served.⁸ Under certain circumstances, a person may be released after serving 1/2 of the sentence.⁹

⁴ Denmark, Consolidated Act No. 150 of 16 February 2015 on Social Services, as amended (*Bekendtgørelse nr. 150 af 16. Februar 2015 af lov om social service med senere ændringer*), available in Danish at: www.retsinformation.dk/FORMS/r0710.aspx?id=167849 (10 August 2015).

⁵ Denmark, Consolidated Act No. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 58.

⁶ Denmark, Consolidated Act No. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 63.

⁷ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 101.

⁸ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 38(1).

⁹ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), sections 38(2) and 40 a.

Release on probation may be subject to a condition of supervision as well as special conditions taking into account the probationer's personal situation for the purpose of supporting the probationer's efforts to achieve a life free of crime and substance abuse.¹⁰ Further conditions may be set out in accordance with section 57 (described above).¹¹ Furthermore, persons released on probation in accordance with section 40 a after serving 1/2 of their sentence may be ordered to conduct unpaid community work.

A trial period of normally 2-3 years and maximum 5 years under special circumstances, is set out when a person receives a suspended sentence with conditions or is released on probation.¹² For suspended sentences with condition of community service, the max. period is 2 years.¹³ If the sentenced person commits a new crime during the trial period, a joint penalty is normally fixed. In case of a breach of the conditions for a suspended sentence or release on probation, the person may receive a warning or be convicted to serve the sentence. It may also be decided that the conditions should be changed and that the trial period should be prolonged.¹⁴ In case of a breach of the condition to conduct community service, the court may decide to impose an unconditional penalty for the defence or to uphold the conditional sentence.¹⁵

Electronic monitoring:

Offenders sentenced to up to six months' imprisonment may apply for permission to serve under the home curfew detention scheme. The offender is provided with an electronic tag and serves the sentence at home under more detailed conditions.¹⁶

See below under Q3 about particular suspects/sentences persons, e.g. persons who need special treatment and care, young persons under the age of 18 and parents placement outside a state or local prison.

¹⁰ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 39.

¹¹ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 63 (4).

¹² Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), sections 39 and 56.

¹³ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 63 (2).

¹⁴ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), sections 40(2) and 60.

¹⁵ Denmark, Consolidated Act no. 873 of 9 July 2015, the Criminal Code, as amended (*Lovbekendtgørelse nr. 873 af 9. juli 2015 af straffeloven med senere ændringer*), section 66.

¹⁶ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 78 (a).

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

It follows from section 765 of the Administration of Justice Act (*Retsplejeloven*) that if the court decides that the conditions for pre-trial detention of a suspect are met, but that the purpose can be fulfilled by less intrusive measures, the court may decide – with the consent of suspected person – that the suspect must:¹⁷

- 1) undergo supervision
- 2) meet certain requirements regarding place of residence, work, use of free time and interaction with particular persons
- 3) reside in a suited home or institution
- 4) undergo psychiatric or rehabilitation treatment due to abuse of alcohol, narcotics or similar, if necessary in a hospital or special institution
- 5) report to the police at specific times
- 6) deposit his/her passport or other ID with the police
- 7) provide a financial security for his/her appearance at the court session or – if sentenced – the execution of the sentence.

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 2015, the rules on suspended sentences with community services were changed in order to promote and broaden the use of community services instead of custodial sentences.¹⁸ Although it is not directly stated in the law, it is set out in the preparatory works that there should be a wider room for imposing suspended sentences on persons under 18 years of age, including a wider room for the use of suspended sentence several times. The future use of suspended sentences with community services will also include first time offenders, unless the crime is serious or related to organised or gang-related crime.¹⁹

¹⁷ Denmark, Consolidated Act No. 1308 of 9 December 2014 on Administration of justice, as amended (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje med senere ændringer*), available in Danish at www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015).

¹⁸ Denmark, Act no. 152 of 18 February 2015 amending the Criminal Code and The Sentence Enforcement Act (Community service etc.) (*Lov nr. 152 af 18. februar 2015 om ændring af straffeloven og lov om fuldbyrdelse af straf m.v. (Samfundstjeneste m.v.)*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=168118 (10 August 2015).

¹⁹ Denmark, Proposal no. L50 of 5 November 2014 amending the Criminal Code and The Sentence Enforcement Act (*Lovforslag nr. L50 af 5 November 2014 om ændring af straffeloven og lov om fuldbyrdelse af straf m.v. (Samfundstjeneste m.v.)*). Available in Danish at: www.folketingstidende.dk/RIpdf/samling/20141/lovforslag/L50/20141_L50_som_fremsat.pdf (10 August 2015).

In 2013, the Prison and Probation Service released a report on the screening for mental illnesses. The report contains proposals for screening tools in order to facilitate a faster and easier identification of mentally ill inmates in local prisons.²⁰

It follows from the multi-annual agreement regarding the finances of the Department of Prisons and Probations (2013-2016) that the use of conditional sentences with community service and the use of electronic tagging and re-entry into society with electronic tagging should generally be promoted. The agreement includes initiatives for a better release stating that all inmates shall have an action plan, focusing on social re-integration, in less than eight days after their entry into prison. It also includes the initiative that every local prison shall have a psychiatric consultant.²¹

Furthermore, it can generally be informed that a sentenced person may be placed in a hospital, in family care or in a suitable home or institution if the person needs special treatment and care or if there are particular reasons related to age or health not to place the sentenced person in a state or local prison and essential considerations do not render placement outside a state or local prison inadvisable.²² Young persons under the age of 18 must be placed in an institution etc., unless essential law enforcement considerations make this appropriate.²³ Parents are allowed to have a child under the age of one year in the institution and under certain conditions until the age of three years.²⁴ If the sentenced person has one or more minors this may give reasons to place the family outside a prison.²⁵ Denmark has two institutions where inmates are offered to serve their sentence in family-friendly institutions: Pension Engelsborg²⁶ and The Family House.²⁷

²⁰ Danish Prison and Probation Service (2013), *Screeningsprojektet for psykisk sygdom*, Available in Danish at: www.kriminalforsorgen.dk/Files/Billeder/Fra%20afdelinger/Screeningsrapport%20til%20Intranettet%20Internettet%2016-12-2013.pdf (10 August 2015).

²¹ The Danish Government (2013), *Aftale om kriminalforsorgens økonomi i 2013-2016*, available in Danish at: www.justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2012/Aftaletekst-KRF.pdf (10 August 2015).

²² Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 78. See also Administrative Order no. 404 of 9 April 2015 on the Placement of Sentenced Persons etc. outside a State or Local Prison (Section 78-Administrative Order) (*Bekendtgørelse nr. 404 af 9. april 2015 om anbringelse dømte i institution m.v. uden for fængsel eller arresthus (§ 78-bekendtgørelsen)*) available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=167533 (10 August 2015) and Guideline no. 9204 of 13 April 2015 on the Placement of Sentenced Persons etc. outside a State or Local Prison (Section 78-Guidelines) (*Vejledning nr. 9204 af 13. april 2015 om anbringelse dømte i institution m.v. uden for fængsel eller arresthus (§ 78-vejledningen)*), available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=167656 (10 August 2015).

²³ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 78, Section 78-Administrative Order and Section 78-Guidelines.

²⁴ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 78, Section 78-Administrative Order and Section 78-Guidelines.

²⁵ Denmark, Consolidated Act No. 435 of 15 May 2012 on the Enforcement of Sentences, as amended (*Bekendtgørelse nr. 435 af 15. Maj 2012 af lov om fuldbyrdelse af straf m.v. med senere ændringer*), section 78, Section 78-Administrative Order and Section 78-Guidelines.

²⁶ Further information in Danish at: www.pensionengelsborg.dk (10 August 2015).

²⁷ Further information in Danish at: <http://nordjyske.dk/nyheder/udslusningspension-aabner-snart/a4c8b78c-c0d2-4015-815a-481048a02979/112/1513> (10 August 2015).

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 ²⁸	FD 2008/947 ²⁹	FD 2009/829 (ESO) ³⁰
Q1. AVAILABILITY OF INFORMATION			
Q1.1. Is information publicly available in ‘issuing states’ concerning the following: If yes, please specify.			
<ul style="list-style-type: none"> 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)? 	<p>Important general remark about the client approach in the Danish prisons:</p> <p>In the Danish Prisons there are special intake assessment programs and there are made sentence plans for a client. This is carried out through dialog with the client and individual approach to every single client. Staff of different competences e.g. prison officers,</p>	<p>Information about the possibility of being sent back to the Member State where the person is normally resident is publicly provided for a person sentenced and released on probation, or given an alternative sanction, if the person is sentenced/released in a Member State other than his or her own, emphasising that the underlying idea is that social rehabilitation of the person can be</p>	<p>Information is publicly available under the box named ‘Tools for courts and practitioners’. It says that supervision measures as an alternative to pre-trial detention (European Supervision Order) enables EU Member States to mutually recognise non-custodial pre-trial supervision measures (outside prison).</p> <p>The web page ‘My rights during the investigation of a crime and</p>

²⁸ Implemented in Danish law by Act no. 347 of 14 May 2008 amending the Act on the execution of certain decisions in criminal law matters in the European Union and the Act on the extradition of offenders (*Lov nr. 347 af 14. maj 2008 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*) Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=117109. (10 August 2015) Appointed competent authorities see: www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?Id=719 (10 August 2015).

²⁹ Implemented in Danish law by Act no. 271 of 4 April 2011 amending the Act on the execution of certain decisions in criminal law matters in the European Union and the Act on the extradition of offenders (*Lov nr. 271 af 4. april 2011 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union og lov om udlevering af lovovertrædere*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=136507 (10 August 2015). Appointed competent authorities see: www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?Id=711 (10 August 2015).

³⁰ Implemented in Danish law by Act no. 1375 of 28 december 2011 amending the Act on the execution of certain decisions in criminal law matters in the European Union (*Lov nr. 1375 af 28. december 2011 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=139900 (10 August 2015). Appointed competent authorities see: www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?Id=1541 (10 August 2015).

	<p>social workers, are involved. If a client is in the target group for transfer, this will be taken up at an early stage and the prisons will ex officio take up the question of early release in due time and the client will be, involved in preparing the decisions. I.e. The Danish prisons stress direct dialog and personal counselling of the clients very much.³¹</p> <p>1. Information about the possibility of a transfer to the prisoners own country is publicly provided. It is stated that in certain cases it may be possible to serve a sentence in one's own country and if it is relevant the prisoner can ask the prison staff.</p> <p>2. Information about a transfer of prisoners back to their country of normal residence is provided publicly. The underlying idea is that social rehabilitation of a person can be more easily achieved in his or her home country.</p> <p>3. Information about the possibility of a transfer is also publicly available stating: 'You can normally be sent to another</p>	<p>more easily achieved in his or her home country.</p>	<p>before the case goes to court' however does not mention the three Framework decisions.³²</p>
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³¹ Representative of the Danish Ministry of Justice.

³² https://e-justice.europa.eu/content_rights_of_defendants_in_criminal_proceedings_-169-DK-maximize-en.do?clang=en&idSubpage=2 (10 August 2015).

	<p>Member State to serve your sentence. Usually, this will only happen if you ask to be sent back to your own country to serve your sentence. You must send your application for serving your sentence in your own country to the Danish Ministry of Justice.’</p> <p>However, the homepage is not updated since only The European Arrest order FD 2002/584 is mentioned</p>		
<ul style="list-style-type: none"> How is the information made publically available (tools, or networks used)? 	<ol style="list-style-type: none"> At The Danish Prison and Probation Service’s homepage.³³ At The European e-Justice Portal.³⁴ At The European e-Justice Portal.³⁵ 	Information is available on The European e-Justice Portal. ³⁶	Information is available on The European e-Justice Portal. ³⁷
<ul style="list-style-type: none"> In which languages is the information provided? 	<ol style="list-style-type: none"> Available in: Arabic, Czech, Dari, English, Estonian, Farsi, Finnish, French, German, Greenlandic, Latvian, Lithuanian, Mandarin, Pashto, Polish, Russian, Romanian, Serbian, Somali, Spanish, Turkish, Urdu. 	Available in: bg, cs, da, de, et, el, en, es, fr, hr, it, lv, lt, hu, mt, nl, pl, pt, ro, sk, sl, fi, sv.	Available in: bg, cs, da, de, et, el, en, es, fr, hr, it, lv, lt, hu, mt, nl, pl, pt, ro, sk, sl, fi, sv

³³ Available at: www.kriminalforsorgen.dk/Arrest-and-remand-custody-297.aspx (10 August 2015).

³⁴ Available at: https://e-justice.europa.eu/content_mutual_recognition_of_posttrial_measures-97-en.do?clang=en (10 August 2015).

³⁵ Available at: https://e-justice.europa.eu/content_rights_of_defendants_in_criminal_proceedings_-169-DK-maximize-en.do?clang=en&idSubpage=4 (10 August 2015).

³⁶ Available at: https://e-justice.europa.eu/content_mutual_recognition_of_posttrial_measures-97-en.do?clang=en (10 August 2015).

³⁷ Available at: https://e-justice.europa.eu/content_mutual_recognition_of_pretrial_measures-96-en.do?clang=en (10 August 2015).

	2. Available in: bg, cs, da, de, et, el, en, es, fr, hr, it, lv, lt, hu, mt, nl, pl, pt, ro, sk, sl, fi, sv.		
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>The Department of Prisons and Probation and its institutions such as remand prisons and prisons.</p> <p>The Prison and Probation Service will typically initiate the specific transfer case and inform The Ministry of Justice as the competent authority of the case with relevant details about the client, his sentence and his opinion on a possible transfer.³⁸</p> <p>It can generally be informed that the Danish Act on the execution of certain decisions in criminal law matters in the European Union³⁹</p>	<p>The Department of Prisons and Probation and its institutions such as remand prisons, prisons and local probation offices.</p> <p>The Prison and Probation Service will typically initiate the specific transfer case and inform The Ministry of Justice as the competent authority of the case with relevant details about the client, his sentence and his opinion on a possible transfer.⁴⁰</p> <p>It can generally be informed that the Danish Act on the execution of certain decisions in criminal law matters in the European Union sets out the following rules</p>	<p>It can generally be informed that the Danish Act on the execution of certain decisions in criminal law matters in the European Union sets out the following rules regarding the responsible authorities:</p> <p>Denmark as <u>issuing</u> state:</p> <p>According to section 60 (c) of the Act on the execution of certain decisions in criminal law matters in the European Union⁴⁴ the Minister of Justice or the person duly authorised by the Minister can request another Member State to execute a decision on measures as</p>

³⁸ Representative of the Danish Ministry of Justice.

³⁹ Denmark, Consolidated Act no. 213 of 22 February 2013 on the execution of certain decisions in criminal law matters in the European Union (*Bekendtgørelse af lov nr. 213 af 22. februar 2013 om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*). Available in Danish at:

www.retsinformation.dk/Forms/R0710.aspx?id=143246 (10 August 2015). Proposal No. L79 of 27 February 2008 amending the Act on on concerning the execution of certain decisions in criminal law matters (*Lovforslag nr. L79 af 27. Februar 2008 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union, lov om udlevering af lovovertrædere og lov om Det Centrale Dna-profil-register (Gennemførelse af rammeafgørelsen om en europæisk bevissikringskendelse og rammeafgørelsen om anvendelse af princippet om gensidig anerkendelse på domme i straffesager om idømmelse af frihedsstraf m.v.)*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=115043 (10 August 2015).

⁴⁰ Representative of the Danish Ministry of Justice.

⁴⁴ Consolidated Act no. 213 of 22 February 2013 on the execution of certain decisions in criminal law matters in the European Union (*Bekendtgørelse af lov nr. 213 af 22. februar 2013 om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*), section 60 (c). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=143246 (10 August 2015).

	<p>sets out the following rules regarding the responsible authorities:</p> <p>Denmark as <u>issuing</u> state:</p> <p>According to section 60 (a) of the Act, the Minister of Justice or the person duly authorised by the Minister can request another Member State to execute a custodial sentence or other forms of deprivation of liberty, if the enforcement of the sentence by the executing State will serve the purpose of facilitating the social rehabilitation for the sentenced person after the execution.</p> <p>Denmark as <u>executing</u> state:</p> <p>In Denmark, the Minister of Justice, or the person authorised by the Minister, will decide on requests for the execution of decisions on enforcement of a prison sentence or other measure</p>	<p>regarding the responsible authorities:</p> <p>Denmark as <u>issuing</u> state:</p> <p>According to section 60 (b) of the Act on the execution of certain decisions in criminal law matters in the European Union the Minister of Justice or the person duly authorised by the Minister can request another Member State to supervise a judgment or decision in cases where the sentenced has returned to the Member State or wants to return to the Member State⁴¹ or the sentenced person wants to return to another Member State than the one in which he or she is lawfully and ordinarily residing and that State has given it's consent.⁴²</p> <p>Denmark as <u>executing</u> state:</p> <p>The Minister of Justice or his or her authorised representative</p>	<p>an alternative to provisional detention.</p> <p>Before making such a decision, the police and the prosecution service should be heard in order to determine whether there is a risk that the transfer of the person in question will harm the investigation or the possibilities of prosecuting the person in Denmark.⁴⁵</p> <p>Denmark as <u>executing</u> state:</p> <p>The Minister of Justice acts on requests for <i>recognition</i> of decisions on measures as an alternative to provisional detention, and that decisions on <i>execution</i> of such measures - including any adjustment of the measures - are taken by the courts. See in this respect in particular to Section 29v(3) and Sections 54(1) and (3) of the Act.</p>
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⁴¹ Consolidated Act on the execution of certain decisions in criminal law matters in the European Union, section 60 (b) (1), cf Proposal No. L103 of 15 December 2010 amending the Act on on concerning the execution of certain decisions in criminal law matters (*Lovforslag nr. L103 af 15. december 2010 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union og lov om udlevering af lovovertrædere (Gennemførelse af rammeafgørelsen om gensidig anerkendelse af og tilsyn med afgørelser om pligter og påbud i forbindelse med udsættelse af straffastsættelse eller straffuldbyrdelse m.v. og rammeafgørelsen om afgørelser afsagt uden at den pågældende har været til stede under retssagen)*). Available in Danish at www.retsinformation.dk/Forms/R0710.aspx?id=134736 (10 August 2015).

⁴² Consolidated Act on the execution of certain decisions in criminal law matters in the European Union, section 60 (b) (2).

⁴⁵ Cf. Point 4.5 of Proposal No. L1375 of 26 October 2011 amending the Act on on concerning the execution of certain decisions in criminal law matters (*Lovforslag nr. L1375 af 26. Oktober 2011 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union (Gennemførelse af rammeafgørelsen om gensidig anerkendelse af afgørelser om foranstaltninger som alternativ til varetægtsfængsling)*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=138803 (10 August 2015).

	<p>involving deprivation of liberty; see Section 54(1) of the Act.</p> <p>Decisions on the enforcement of a prison sentence or other measure involving deprivation of liberty are given in the form of a judgment; see Section 54(2) of the Act. Section 54a(1) of the Act states that cases involving the enforcement of a prison sentence or other measure involving deprivation of liberty, on which decisions are to be given in the form of a judgment in accordance with Section 54(2), are to be brought by the Prosecution Service before the District Court in the place where the person affected by the decision lives.</p>	<p>decides on requests to recognise the assumption of responsibility for supervising decisions on obligations or instructions in connection with cases in which the imposition or execution of a sentence has been deferred, as an alternative sanction or by way of conditional release, cf. Section 54(1) of the Act.</p> <p>It may also be pointed out that, pursuant to the proposal for an Act implementing the FD⁴³, decisions to adapt <i>inter alia</i> obligations and instructions as laid down in a judgment or decision of the issuing State are taken by the Department of Prisons and Probation.</p> <p>The relevant obligations and instructions would have to be supervised by the authority normally responsible for supervising obligations and instructions of the type in question. In most cases, therefore, the duty of supervision lies with the Department of Prisons and Probation or – in cases where the relevant</p>	<p>Cases regarding the execution of measures as an alternative to provisional detention are referred by the public prosecutor to the court in the place of residence of the person concerned by the decision, cf. Section 54(d)(1), point 1 of the Act.</p>
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⁴³ Denmark, Proposal no. 103 of 15 December 2010 for an amendment of the Act on the execution of certain decisions in criminal law matters in the European Union and the Act on Extradition, para. 2.3.4 (*Forslag til Lov om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union og lov om udlevering af lovovertrædere*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=134736 (10 August 2015).

		<p>obligations and instructions constitute social measures – with the competent municipality.</p> <p>In such cases, any decision adapting a social measure laid down pursuant to a judgment or decision issued by another Member State is taken by the Department of Prisons and Probation after consulting the supervising municipality.</p>	
<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>The Danish Ministry of Justice collects information on a continuous basis about the individual member states (information about declarations, legal opinion etc. and general problems and solutions to problems that occur during concrete transferecases under FD 2008/909).⁴⁶</p>	<p>There has only been registered one successful transfer under FD 2008/947 from another member state to DK and non from DK to another memberstate.⁴⁷</p>	<p>The Danish Ministry of Justice has no record of a request for transfer under FD 2009/829.⁴⁸</p>
TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON			
<p>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</p>	<p>If substantial steps are taken to consider, if a sentenced person might be in the target group for transfer, The Danish Prison and</p>	<p>All institutions of The Danish Prison and Probation Service have received specific instructions explaining the</p>	

⁴⁶ Representative of the Danish Ministry of Justice.

⁴⁷ Representative of the Danish Ministry of Justice.

⁴⁸ Representative of the Danish 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>Probation Service will always in the initial steps of the case ask the person about his/her opinion on the possible transfer. A document will always be presented to the person by the local prison or probation authority to sign whether he/she agrees or objects to the possible transfer. The person will be informed that his/her opinion is requested, because the person is in the target group of transfer. In the document the person can state the reasons for agreeing to transfer or not. This document will be forwarded to The Ministry of Justice.⁴⁹</p>	<p>possibilities of transfer. According to the instructions the institutions are obliged to identify relevant cases for transfer and to involve and inform the client hereof.⁵⁰</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>The Prison and Probation Service has no pre-prepared written explanation of the process of transfer, but a sentenced person in the target group for transfer will be orally informed by the staff, when substantial steps are taken to consider transfer.</p> <p>Further, it should be noted that when initiating a transfer proceeding the Danish Ministry of Justice sends annex II of the</p>	<p>There have been very few cases, where 947-transfer from Denmark could even be considered. None has yet been transferred from Denmark according to 947. The client's opinion would always be asked. Several clients have asked and got information about e.g. transfer of a conditional sentence from Denmark to other EU-</p>	<p>Since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures regarding obtaining the suspects consent.⁵³</p>

⁴⁹ Representative of the Danish Ministry of Justice.

⁵⁰ Representative of the Danish Ministry of Justice.

⁵³ Representative of the Danish Ministry of Justice.

	framework decision to the sentenced person in a language that the person understands. ⁵¹	country but as just mentioned this has not yet led to transfer. ⁵²	
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.	If the consent is needed in accordance with FD 2008/909 the sentenced person has the right to revoke his/her consent until the actual transfer. ⁵⁴	If the consent is needed in accordance with FD 2008/947 the sentenced person has the right to revoke his/her consent until the actual transfer. ⁵⁵	The suspect has the right to revoke his/her consent until the actual transfer. ⁵⁶
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).			

⁵¹ Representative of the Danish Ministry of Justice.

⁵² Representative of the Danish Ministry of Justice.

⁵⁴ Representative of the Danish Ministry of Justice.

⁵⁵ Representative of the Danish Ministry of Justice.

⁵⁶ Representative of the Danish Ministry of Justice.

<ul style="list-style-type: none"> When consent is not required)? 	<p>The Prison Service always asks the client about his opinion on transfer as mentioned above.⁵⁷</p>		
<ul style="list-style-type: none"> When consent is required, Article 6 (3) of FD 2008/909/JHA). 	<p>For persons in the target group for transfer The Danish Prison and Probation Service will always in the initial steps of the case ask the person about his/her opinion on the possible transfer. A document will always be presented to the person by the local prison or probation authority to sign whether he/she agrees or objects to the possible transfer. The person will be informed that his/her opinion is requested, because the person is in the target group of transfer. In the document the person can state the reasons for agreeing to transfer or not. This document will be forwarded to The Ministry of Justice.⁵⁸</p>		
<p>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 exists and how this is implemented in practice.</p>	<p>If the consent is needed in accordance with FD 2008/909 the sentenced person has the right to revoke his/her consent until the actual transfer.⁵⁹</p>		

⁵⁷ Representative of the Danish Ministry of Justice.

⁵⁸ Representative of the Danish Ministry of Justice.

⁵⁹ Representative of the Danish Ministry of Justice.

<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 provided face-to-face or over the telephone)</p>	<p>A legal counsellor e.g. a defence lawyer is not appointed to assist the client in a 909-transfer case. He/she can at his own expense seek private legal assistance if he/she wishes. The client will be entitled to face-to-face meetings with his/her legal council.</p> <p>The Prison and Probation Service will be at disposal for counselling within reasonable limits.⁶⁰</p> <p>It can generally be informed that pursuant to section 729 a of The Administration of Justice Act, a suspect is entitled to choose to be assisted by a legal counsel.</p> <p>Pursuant to sections 730-731 of The Administration of Justice Act, a person against whom criminal charges are raised is assigned a defence counsel, except in minor cases e.g. cases where the only penalty claimed is a fine</p> <p>In Denmark, the age of criminal responsibility is 15 years. According to section 821 e of the Administration of Justice Act, persons below this age may,</p>	<p>A legal counsellor e.g. a defence lawyer is not appointed to assist the client in a 947-transfer case. He/she can at his own expense seek private legal assistance if he/she wishes. The client will be entitled to face-to-face meetings with his/her legal council.</p> <p>The Prison and Probation Service will be at disposal for counselling within reasonable limits.⁶¹</p>	<p>The suspect will be assisted by a defence attorney during the criminal proceedings. A defence lawyer will not be appointed only to assist the suspect in a 2009/829 transfer case. The suspect can at his/her own expense seek private legal assistance if the suspect so wishes. The suspect will be entitled to face-to-face meetings with the legal council.⁶²</p>
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⁶⁰ Representative of the Danish Ministry of Justice.

⁶¹ Representative of the Danish Ministry of Justice.

⁶² Representative of the Danish Ministry of Justice.

	however, under certain circumstances have a lawyer appointed.		
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.	<p>A legal counsellor e.g. a defence lawyer is not appointed to assist the client in a 909-transfer case. He/she can at his own expense seek private legal assistance if he/she wishes.⁶³</p> <p>It can generally be informed that pursuant to section 149 of the Administration of Justice Act, questioning in court of a person who does not speak or understand Danish, should be carried out with the assistance of an authorised interpreter.⁶⁴</p>	<p>A legal counsellor e.g. a defence lawyer is not appointed to assist the client in a 909-transfer case. He/she can at his own expense seek private legal assistance if he/she wishes.⁶⁵</p>	<p>In a criminal case it is determined before police questioning is initiated if the suspected or accused understands Danish or another language spoken by the questioning police officer. If an interpreter is necessary, the interpreter will also be provided for in connection to any communication between said person and his or her legal representation in direct connection with any questioning or hearing during the criminal proceedings.⁶⁶</p>
Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?	<p>It's a general obligation for Danish Government Services to facilitate a client in matters, which are administrated by the specific service. All institutions of The Prison and Probation Service are informed about the possibilities of transfer. The staff, among them the social workers, will be at service of</p>	<p>It's a general obligation for Danish Government Services to facilitate a client in matters, which are administrated by the specific service. All institutions of The Prison and Probation Service are informed about the possibilities of transfer. The staff, among them the social workers, will be at</p>	

⁶³ Representative of the Danish Ministry of Justice.

⁶⁴ It should be noted that Denmark is not a party to Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings.

⁶⁵ Representative of the Danish Ministry of Justice.

⁶⁶ Representative of the Danish Ministry of Justice.

	<p>the clients for face-to-face information and advice of the possibilities of transfer and assist the client within reasonable limits. The client will though not be supplied with legal aid, such as a legal counsel.⁶⁷</p> <p>Pursuant to section 323 of the Administration of Justice Act, it is possible to obtain free public oral advice concerning any type of legal questions by means of a lawyer or legal aid institutions receiving state subsidies.⁶⁸</p>	<p>service of the clients for face-to-face information and advice of the possibilities of transfer and assist the client within reasonable limits. The client will though not be supplied with legal aid, such as a legal counsel.⁶⁹</p>	
<p>Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:</p>			
<ul style="list-style-type: none"> • While consenting to the transfer? 	<p>The Prison and Probation Service will in question of transfer as in other important questions ultimately provide a relevant interpreter, if the client in the specific case otherwise would not understand the given information, including information about what he/she is consenting too.</p>	<p>The Prison and Probation Service will in question of transfer as in other important questions ultimately provide a relevant interpreter, if the client in the specific case otherwise would not understand the given information, including information about what he/she is consenting too.</p>	<p>According to general principles of administrative law, the administrative authorities have a general obligation to ensure that they are understood by the person in question.</p> <p>However since there is no record of transfer cases under FD 2009/829, there has also not been</p>

⁶⁷ Representative of the Danish Ministry of Justice.

⁶⁸ It should be noted that Denmark is not a party to Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes seeks to promote the application of legal aid in cross-border disputes.

⁶⁹ Representative of the Danish Ministry of Justice.

	However if the client seeks private legal assistance interpretation will be at the clients own expense. ⁷⁰	However if the client seeks private legal assistance interpretation will be at the clients own expense. ⁷¹	established a practice regarding the procedures regarding obtaining the suspects consent. ⁷²
<ul style="list-style-type: none"> • While requesting the transfer? 	<p>The Prison and Probation Service will in question of transfer as in other important questions ultimately provide a relevant interpreter, if the client in the specific case otherwise would not understand the given information, including information about what he/she is consenting too.</p> <p>However if the client seeks private legal assistance interpretation will be at the clients own expense.⁷³</p>	<p>The Prison and Probation Service will in question of transfer as in other important questions ultimately provide a relevant interpreter, if the client in the specific case otherwise would not understand the given information, including information about what he/she is consenting too.</p> <p>However if the client seeks private legal assistance interpretation will be at the clients own expense.⁷⁴</p>	<p>According to general principles of administrative law, the administrative authorities have a general obligation to ensure that they are understood by the person in question.</p> <p>However since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures regarding obtaining the suspects consent.⁷⁵</p>
Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.	When The Prison and Probations Service provides an interpreter which can be face-to-face or by phone interpreting. ⁷⁶	When The Prison and Probations Service provides an interpreter which can be face-to-face or by phone interpreting. ⁷⁷	Since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures

⁷⁰ Representative of the Danish Ministry of Justice.

⁷¹ Representative of the Danish Ministry of Justice.

⁷² Representative of the Danish Ministry of Justice.

⁷³ Representative of the Danish Ministry of Justice.

⁷⁴ Representative of the Danish Ministry of Justice.

⁷⁵ Representative of the Danish Ministry of Justice.

⁷⁶ Representative of the Danish Ministry of Justice.

⁷⁷ Representative of the Danish Ministry of Justice.

			regarding obtaining the suspects consent. ⁷⁸
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>When The Prison and Probations Service provides an interpreter which can be face-to-face or by phone interpreting.⁷⁹</p> <p>When initiating a transfer proceeding the Danish Ministry of Justice sends annex II of the framework decision to the sentenced person in a language that the person understands. There are no written procedures in place to verify that the sentenced person fully understands the letter, but as The Danish prisons stress direct dialog and personal counselling of the clients very much and has dialogue and individual approach to every single client, also questions in these matters can be forwarded to the personal.⁸⁰</p>	<p>When The Prison and Probations Service provides an interpreter which can be face-to-face or by phone interpreting.⁸¹</p> <p>No one has yet been transferred from Denmark according to 947 and there are no written procedures in place to verify that the sentenced person fully understands the letter, but as The Danish prisons stress direct dialog and personal counselling of the clients very much and has dialogue and individual approach to every single client, also questions in these matters can be forwarded to the personal.⁸²</p>	<p>Since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures regarding obtaining the suspects consent.⁸³</p>
Q2.12. If the executing state adapts, before the transfer, the sentence or measure	The Danish Ministry of Justice will inform the sentenced person of the	The Danish Ministry of Justice will inform the sentenced person	The Danish Ministry of Justice will inform the sentenced person of the

⁷⁸ Representative of the Danish Ministry of Justice.

⁷⁹ Representative of the Danish Ministry of Justice.

⁸⁰ Representative of the Danish Ministry of Justice.

⁸¹ Representative of the Danish Ministry of Justice.

⁸² Representative of the Danish Ministry of Justice.

⁸³ Representative of the Danish Ministry of Justice.

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?	decision rendered by the executing state. ⁸⁴	of the decision rendered by the executing state. ⁸⁵	decision rendered by the executing state. ⁸⁶
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 to appeal and what support is made available to him/her)	There is no right to appeal within the administrative system. The sentenced person can however bring the decision (to initiate a transfer case) before a court of law. ⁸⁷	There is no right to appeal within the administrative system. The sentenced person can however bring the decision (to initiate a transfer case) before a court of law. ⁸⁸	Transfer proceedings are only initiated if the suspect consents. ⁸⁹
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)	The sentenced person can request a review of the decision to initiate a transfer case. The Ministry of Justice will in these cases review if there is new information which could incur that the request for transfer should be withdrawn. ⁹⁰	The sentenced person can request a review of the decision to initiate a transfer case. The Ministry of Justice will in these cases review if there is new information which could incur that the request for transfer should be withdrawn. ⁹¹	Transfer proceedings are only initiated if the suspect consents. ⁹²
Q2.15. Is the suspect/sentenced person assisted by legal counsel in the executing state? If yes, please provide details (e.g. is	If the Danish Ministry of Justice finds that the conditions for taking over the execution of the sentence is fulfilled, the Ministry will ask	A legal counsellor e.g. a defence lawyer is not appointed to assist the client in a 947-transfer case. The client can at his/her own	If the Danish Ministry of Justice finds that the conditions for taking over a measure under FD 2009/829 is fulfilled, the Ministry will ask

⁸⁴ Representative of the Danish Ministry of Justice.

⁸⁵ Representative of the Danish Ministry of Justice.

⁸⁶ Representative of the Danish Ministry of Justice.

⁸⁷ Representative of the Danish Ministry of Justice.

⁸⁸ Representative of the Danish Ministry of Justice.

⁸⁹ Representative of the Danish Ministry of Justice.

⁹⁰ Representative of the Danish Ministry of Justice.

⁹¹ Representative of the Danish Ministry of Justice.

⁹² Representative of the Danish Ministry of Justice.

<p>this legal advice provided face-to-face or over the telephone?)</p>	<p>the prosecution to refer the case to the courts so that the courts may decide whether the sentence may be enforced in Denmark, and if so, whether the sentence should be adapted in accordance with the framework decision. The courts must always appoint a defense attorney for the sentenced person unless the person has already chosen one.⁹³</p>	<p>expense seek private legal assistance if he/she wishes.⁹⁴</p>	<p>the prosecution to refer the case to the courts so that the courts may decide whether the measure may be enforced in Denmark, and if so, whether it should be adapted in accordance with the framework decision. The courts must always appoint a defense attorney for the suspect unless the person has already chosen one.⁹⁵</p>
<p>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.</p>	<p>No.⁹⁶</p>	<p>No.⁹⁷</p>	<p>No.⁹⁸</p>
<p>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>	<p>No.⁹⁹</p>	<p>No.¹⁰⁰</p>	<p>No.¹⁰¹</p>

⁹³ Representative of the Danish Ministry of Justice.

⁹⁴ Representative of the Danish Ministry of Justice.

⁹⁵ Representative of the Danish Ministry of Justice.

⁹⁶ Representative of the Danish Ministry of Justice.

⁹⁷ Representative of the Danish Ministry of Justice.

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¹⁰⁰ Representative of the Danish Ministry of Justice.

¹⁰¹ Representative of the Danish Ministry of Justice.

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q3. DECISION ON TRANSFER			
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"> The likely impact on the social rehabilitation of the suspect/sentenced person? 	<p>Yes.¹⁰²</p> <p>It can generally be informed that according to section 60 (a) of the Act on the execution of certain decisions in criminal law matters in the European Union, the Minister of Justice or the person duly authorised by that Minister of Justice can request another Member State to take over the execution of a custodial sentence or other measures involving the deprivation of liberty, if the enforcement of the sentence in the executing State will serve the purpose of facilitating the social rehabilitation of the sentenced person after the execution.</p> <p>It follows from the preparatory works to the act implementing the framework decision that transfers to other Member States should take place in accordance with the framework</p>	<p>Yes. The ministry of Justice can only initiate transfer proceeding if the sentenced person has returned to another member state, or wants to return to another member state or has legal or habitual residence in a member state, has requested a transfer and the member state has given its consent hereto.¹⁰³</p> <p>It can generally be informed that according to the preparatory works to the act implementing the framework decision, the transfer of persons to other Member States should take place in accordance with the framework decision.¹⁰⁴</p> <p>It is directly stated in section 29 m of the Act on on the execution of certain decisions in criminal law matters in the European Union that Denmark, as executing state, may choose to acknowledge a sentence awarded in</p>	<p>Since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures regarding obtaining the suspects consent.¹⁰⁵</p>

¹⁰² Representative of the Danish Ministry of Justice.

¹⁰³ Representative of the Danish Ministry of Justice.

¹⁰⁴ Denmark, Proposal no. L103 of 15 December 2010 for an amendment of the Act on the execution of certain decisions in criminal law matters in the European Union and the Act on Extradition, para. 2.3.6 (*Forslag til lov nr. L103 om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union og lov om udlevering af lovovertrædere*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=134736 (10 August 2015).

¹⁰⁵ Representative of the Danish Ministry of Justice.

	<p>decision. With reference to recital 9 of the framework decision, the competent authorities should thus take into account such elements as the person's attachment to the executing State, whether he or she considers it the place of family, linguistic, cultural, social or economic and other links to the executing state.</p>	<p>another Member State, even though the person does not have permanent or habitual residence at the time of the request from another Member State, if it is deemed appropriate with reference to the resocialisation of the person.</p>	
<ul style="list-style-type: none"> • Fundamental rights implications (such as the right to family life, right to education)? 	<p>Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR).¹⁰⁶</p>	<p>Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR).¹⁰⁷</p>	<p>Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR).¹⁰⁸</p>
<ul style="list-style-type: none"> • Others? Please specify. 		<p>It can generally be informed that according to section 60 (b) of the Act on the execution of certain decisions in criminal law matters in the European Union, the Minister or the person duly authorised by the Minister of Justice can request another Member State to supervise a judgment or decision in cases where the sentenced has returned to the Member State or wants to return to the Member State or the sentenced person wants to return to another Member State than the one in which he or she is lawfully and ordinarily residing and that State has given its consent.</p>	<p>It can generally be informed that according to section 60 (c) of the Act on the execution of certain decisions in criminal law matters in the European Union, the Minister of Justice or the person duly authorised by that Minister can request another Member State to execute a decision on measures as an alternative to provisional detention when the person in question has lawful and habitual residence in that Member State. The person must be informed about these measures and must voluntarily have consented to the transfer. A transfer may also take place if the person so requests and the executing state has given its content.</p>

¹⁰⁶ Representative of the Danish Ministry of Justice.

¹⁰⁷ Representative of the Danish Ministry of Justice.

¹⁰⁸ Representative of the Danish Ministry of Justice.

			<p>It follows from the preparatory works to the act implementing the framework decision that when making the decision on the the transfer of a person to another Member State it is important the the measure set out through the framework decision has as its aim to promote the use of measures which do not involve deprivation of liberty for persons with lawful or habitual residence in another Member State; to ensure that the person in due time can stand trial in Denmark and to promote the protection of victims and the public.¹⁰⁹</p> <p>It is directly stated in section 29 v of the Act on the execution of certain decisions in criminal law matters in the European Union that Denmark, as executing state, may acknowledge and execute a decision, even though the person does not have permanent or habitual residence at the time of the request from another Member State, if it is deemed appropriate with regard to the person's possibilities of maintaining a normal life.</p>
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¹⁰⁹ Denmark, Proposal No. L5 of 26 October 2011 for an amendment of the Act on the execution of certain decisions in criminal law matters in the European Union (*Forslag nr. L5 af 26. Oktober 2011 til lov om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*) para. 4.5. Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=138803 (10 August 2015).

<p>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:</p>	<p>There are no written guidelines. However, the factors mentioned below will be considered by the Minister of Justice, when deciding to request another member state for a transfer.¹¹⁰</p>	<p>There are no written guidelines.¹¹¹</p>	<p>There are no written guidelines.¹¹²</p>
<ul style="list-style-type: none"> • Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)? 			
<ul style="list-style-type: none"> • Criminal history and criminal ties? 			
<ul style="list-style-type: none"> • Humanitarian concerns (i.e. terminal illness of suspect/sentenced 			

¹¹⁰ Representative of the Danish Ministry of Justice.

¹¹¹ Representative of the Danish Ministry of Justice.

¹¹² Representative of the Danish Ministry of Justice.

person or family members)?			
<ul style="list-style-type: none"> • 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) 	Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR). ¹¹³	Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR). ¹¹⁴	Yes. The Danish Ministry of Justice will not initiate transfer proceeding if a transfer would be contrary to fundamental rights e.g. the European Convention on Human Rights (ECHR). ¹¹⁵
<ul style="list-style-type: none"> • Others? 			
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"> • Probation agencies or similar entities in the issuing state? 	Yes. ¹¹⁶	Yes. ¹¹⁷	Since there is no record of transfer cases under FD 2009/829, there has also not been established a practice regarding the procedures regarding obtaining the suspects consent. ¹¹⁸

¹¹³ Representative of the Danish Ministry of Justice.

¹¹⁴ Representative of the Danish Ministry of Justice.

¹¹⁵ Representative of the Danish Ministry of Justice.

¹¹⁶ Representative of the Danish Ministry of Justice.

¹¹⁷ Representative of the Danish Ministry of Justice.

¹¹⁸ Representative of the Danish Ministry of Justice.

<ul style="list-style-type: none"> The competent authorities in the executing state? 	<p>No.¹¹⁹</p> <p>As noted above, the transfer of persons to other Member States should take place in accordance with the framework decision, including the rules on consultations between authorities.</p>	<p>As noted above, the transfer of persons to other Member States should take place in accordance with the framework decision, including the rules on consultations between authorities.</p>	<p>It can generally be informed that it follows from the preparatory works to the act implementing the framework decision, that transfers to other Member States should take place in accordance with the framework decision.¹²⁰ Thus, the rules on consultations between authorities apply.</p>
<ul style="list-style-type: none"> The suspect/sentenced person? 	<p>Yes.¹²¹</p> <p>As noted above, the transfer of persons to other Member States should take place in accordance with the framework decision.</p> <p>Thus, with reference to article 6 (3) of the framework decision, the sentenced person must be given an opportunity to state his or her opinion orally or in writing in all cases where he/she is still in the issuing State. Where the issuing State considers it necessary in view of his/her age or physical or mental condition, that opportunity shall be given to his/her legal representative.</p>	<p>Yes.¹²²</p>	<p>Yes.¹²³</p>

¹¹⁹ Representative of the Danish Ministry of Justice.

¹²⁰ Denmark, Proposal No. L5 of 26 October 2011 for an amendment of the Act on the execution of certain decisions in criminal law matters in the European Union (*Forslag nr. L5 af 26. Oktober 2011 til lov om ændring af lov om fuldbyrdelse af visse strafferetlige afgørelser i Den Europæiske Union*) para. 4.5. Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=138803 (10 August 2015).

¹²¹ Representative of the Danish Ministry of Justice.

¹²² Representative of the Danish Ministry of Justice.

¹²³ Representative of the Danish Ministry of Justice.

<ul style="list-style-type: none"> The family of the suspect/sentenced persons, especially with regard to child offenders? 	The Danish Ministry of Justice has no record of such a case under FD 2008/909. ¹²⁴	The Danish Ministry of Justice has no record of such a case under FD 2008/947. ¹²⁵	The Danish Ministry of Justice has no record of such a case under FD 2009/829. ¹²⁶
<ul style="list-style-type: none"> Any other person/entity? 			
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?	No. ¹²⁷	No. ¹²⁸	No. ¹²⁹
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	The Danish Ministry of Justice will as a general rule only forward the certificate and the judgment to the executing state. However if there is found to be other relevant information in a specific case, this information	The Danish Ministry of Justice will as a general rule only forward the certificate and the judgment to the executing state. However if there is found to be other relevant information in a specific case,	The Danish Ministry of Justice will as a general rule only forward the certificate and the detention order to the executing state. However if there is found to be other relevant information in a specific case, this

¹²⁴ Representative of the Danish Ministry of Justice.

¹²⁵ Representative of the Danish Ministry of Justice.

¹²⁶ Representative of the Danish Ministry of Justice.

¹²⁷ Representative of the Danish Ministry of Justice.

¹²⁸ Representative of the Danish Ministry of Justice.

¹²⁹ Representative of the Danish Ministry of Justice.

competent authorities of the executing state while forwarding the judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	could be forwarded if it is deemed necessary. ¹³⁰	this information could be forwarded if it is deemed necessary. ¹³¹	information could be forwarded if it is deemed necessary. ¹³²
Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	Not relevant. ¹³³	Not relevant. ¹³⁴	Not relevant. ¹³⁵
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)?	No. ¹³⁶		

¹³⁰ Representative of the Danish Ministry of Justice.

¹³¹ Representative of the Danish Ministry of Justice.

¹³² Representative of the Danish Ministry of Justice.

¹³³ Representative of the Danish Ministry of Justice.

¹³⁴ Representative of the Danish Ministry of Justice.

¹³⁵ Representative of the Danish Ministry of Justice.

¹³⁶ Representative of the Danish Ministry of Justice.

<p>Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:</p>			
<ul style="list-style-type: none"> National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state? 	<p>Yes.¹³⁷</p> <p>The Act on Public Administration sections 28-32 regulate public authorities processing of sensitive data.¹³⁸</p> <p>The Act on Processing of Personal Data sections 5-14 in general regulate processing data, including disclosure of data from public authorities to a third part. The act implements Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.¹³⁹</p>	<p>Yes.¹⁴³</p>	<p>Yes.¹⁴⁴</p>

¹³⁷ Representative of the Danish Ministry of Justice.

¹³⁸ Denmark, Consolidated Act no. 433 of 22 April 2014 on Public Administration, as amended (*Bekendtgørelse af lov nr. 433 af 22. april 2014, forvaltningsloven, med senere ændringer*), available in Danish at www.retsinformation.dk/Forms/R0710.aspx?id=161411 (10 August 2015).

¹³⁹ Denmark, Act no. 429 of 31 May 2000 on Processing of Personal Data, (*Lov nr. 429 af 31. maj 2000 om behandling af personoplysninger*), available in Danish at www.retsinformation.dk/forms/r0710.aspx?id=828 (10 August 2015).

¹⁴³ Representative of the Danish Ministry of Justice.

¹⁴⁴ Representative of the Danish Ministry of Justice.

	<p>FD 2008/977¹⁴⁰ is implemented in Danish legislation in an administrative order.¹⁴¹</p> <p>Denmark has in 2010 amended the Administration of Justice Act section 115 in order to broaden the exchange of data between the Prison and Probation Service, the Social Authorities and the police in cases where sentenced persons are released from institutions under the Prison and Probation Service and persons under the age of 18 years are released from other institutions. Data in these situations can be exchanged - without the person's consent - if the exchange is necessary for the cooperation between the three authorities.¹⁴²</p>		
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¹⁴⁰ Directive 95/46/EC of The European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

¹⁴¹ Administrative Order no. 1287 of 25 November 2010 on protection of personal data processed in the framework of police and judicial cooperation in criminal matters within the European Union and the Schengen cooperation. (*Bekendtgørelse nr. 1287 af 25. november 2010 om beskyttelse af personoplysninger i forbindelse med politisamarbejde og retligt samarbejde i kriminalsager inden for Den Europæiske Union og Schengen-samarbejdet*) available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=134410 (10 August 2015).

¹⁴² Denmark, Consolidated Act no. 1308 of 9 December 2014 on the Administration of the Justice, (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015). Proposal no. 3 of 6 October 2010 amending the Act on the Administration of the Justice (*Lovforslag nr. L3 af 6. oktober 2010 om ændring af straffeloven og retsplejeloven (Skærpede straffe for hæleri og tæt samarbejde om udveksling af oplysninger mellem kriminalforsorgen, de sociale myndigheder og politiet i forbindelse med dømtes løsladelse (KSP-samarbejdet))*). Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=133529 (10 August 2015).

<ul style="list-style-type: none"> Authorities in the issuing and executing state? 	Yes. ¹⁴⁵	Yes. ¹⁴⁶	Yes. ¹⁴⁷
TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q4. VICTIMS			
Q4.1. Do the victims have the right to receive the following information regarding the transfer from the issuing state:			
<ul style="list-style-type: none"> The decision to transfer 	No. ¹⁴⁸	No. ¹⁴⁹	No. ¹⁵⁰
<ul style="list-style-type: none"> The status of the transfer 	No. ¹⁵¹	No. ¹⁵²	No. ¹⁵³
<ul style="list-style-type: none"> Other? Please specify. 			
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:	No. ¹⁵⁴	No. ¹⁵⁵	No. ¹⁵⁶
<ul style="list-style-type: none"> Is the information provided upon request of the victim? 			
<ul style="list-style-type: none"> Who responsible for providing this information? 			

¹⁴⁵ Representative of the Danish Ministry of Justice.

¹⁴⁶ Representative of the Danish Ministry of Justice.

¹⁴⁷ Representative of the Danish Ministry of Justice.

¹⁴⁸ Representative of the Danish Ministry of Justice.

¹⁴⁹ Representative of the Danish Ministry of Justice.

¹⁵⁰ Representative of the Danish Ministry of Justice.

¹⁵¹ Representative of the Danish Ministry of Justice.

¹⁵² Representative of the Danish Ministry of Justice.

¹⁵³ Representative of the Danish Ministry of Justice.

¹⁵⁴ Representative of the Danish Ministry of Justice.

¹⁵⁵ Representative of the Danish Ministry of Justice.

¹⁵⁶ Representative of the Danish Ministry of Justice.

<ul style="list-style-type: none"> Is it a verbal or written communication? 			
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. ¹⁵⁷	No. ¹⁵⁸	No. ¹⁵⁹
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. ¹⁶⁰	No. ¹⁶¹	No. ¹⁶²
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)?	No. ¹⁶³	No. ¹⁶⁴	No. ¹⁶⁵
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)?	Under certain conditions The Prison and Probation Service will inform a victim about a sentenced persons release. The main goal of this information is to avoid that the victim would meet the offender	Under certain conditions The Prison and Probation Service will inform a victim about a sentenced persons release. The main goal of this information is to avoid that the victim would	

¹⁵⁷ Representative of the Danish Ministry of Justice.

¹⁵⁸ Representative of the Danish Ministry of Justice.

¹⁵⁹ Representative of the Danish Ministry of Justice.

¹⁶⁰ Representative of the Danish Ministry of Justice.

¹⁶¹ Representative of the Danish Ministry of Justice.

¹⁶² Representative of the Danish Ministry of Justice.

¹⁶³ Representative of the Danish Ministry of Justice.

¹⁶⁴ Representative of the Danish Ministry of Justice.

¹⁶⁵ Representative of the Danish Ministry of Justice.

	<p>during temporary leave from prison or after release nationally within Denmark.¹⁶⁶</p> <p>Victims of serious criminal offenses (violence, threats, bodily harm or sexual offenses) can request to be notified when the perpetrator is granted the first unaccompanied leave from prison, when the perpetrator is released or if the perpetrator escapes from prison. Notification can also be granted concerning perpetrators placed in psychiatric care or other institutions within the criminal justice system. It is a requirement that the perpetrator has received an unconditional sentence. Furthermore, it is a requirement that the perpetrator has been remanded in custody prior to conviction and that the perpetrator has not been released in the period between conviction and the serving of the sentence. The victim can also request notification if the perpetrator, with the knowledge of the prison service, appears on television, in</p>	<p>meet the offender during temporary leave from prison or after release nationally within Denmark.¹⁶⁹</p> <p>Victims of serious criminal offenses (violence, threats, bodily harm or sexual offenses) can request to be notified when the perpetrator is granted the first unaccompanied leave from prison, when the perpetrator is released or if the perpetrator escapes from prison. Notification can also be granted concerning perpetrators placed in psychiatric care or other institutions within the criminal justice system. It is a requirement that the perpetrator has received an unconditional sentence. Furthermore, it is a requirement that the perpetrator has been remanded in custody prior to conviction and that the perpetrator has not been released in the period between conviction and the serving of the sentence. The victim can also request notification if the perpetrator, with the knowledge of the prison</p>	
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¹⁶⁶ Representative of the Danish Ministry of Justice. Se also section 741 g of Consolidated Act No. 1308 of 9 December 2014 on Administration of justice, as amended (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje med senere ændringer*), available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015).

¹⁶⁹ Representative of the Danish Ministry of Justice. Se also section 741 g of Consolidated Act No. 1308 of 9 December 2014 on Administration of justice, as amended (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje med senere ændringer*), available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015).

	<p>radio or newspapers in Denmark playing a significant role, for instance in a portrait interview. If the victim is deceased, close relatives can request similar notifications.</p> <p>Notifications can be denied if there are strong reasons in the interest of the perpetrator not to grant notifications.¹⁶⁷ This could for instance be the risk of revenge from the victim in gang related offences. The respect for the private life of the perpetrator could also exceed the victim's need for safety if there is a concrete risk of third person harassment of the perpetrator.¹⁶⁸</p>	<p>service, appears on television, in radio or newspapers in Denmark playing a significant role, for instance in a portrait interview. If the victim is deceased, close relatives can request similar notifications.</p> <p>Notifications can be denied if there are strong reasons in the interest of the perpetrator not to grant notifications.¹⁷⁰ This could for instance be the risk of revenge from the victim in gang related offences. The respect for the private life of the perpetrator could also exceed the victim's need for safety if there is a concrete risk of third person harassment of the perpetrator.¹⁷¹</p>	
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¹⁶⁷ Consolidated Act No. 1308 of 9 December 2014 on Administration of justice, as amended (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje med senere ændringer*), section 741 g. Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015).

¹⁶⁸ Preparatory works to Bill L 134, parliamentary year 2010-2011 (1st session), amending the Administration of Justice Act and Act on state compensation to victims of crimes (Notification of leave and release etc. and extended time limits for police reporting for state compensation to victims of crimes) (*Forslag til lov nr. L 134, folketingsåret 2010-11 (1. samling) om ændring af retsplejeloven og lov om erstatning fra staten til ofre for forbrydelser. (Underretning ved udgang og løsladelse m.v. og udvidelse af fristen for politianmeldelse ved erstatning fra staten til ofre for forbrydelser)*).

¹⁷⁰ Consolidated Act No. 1308 of 9 December 2014 on Administration of justice, as amended (*Bekendtgørelse nr. 1308 af 9. December 2014 af lov om rettens pleje med senere ændringer*), section 741 g. Available in Danish at: www.retsinformation.dk/Forms/R0710.aspx?id=164280 (10 August 2015).

¹⁷¹ Preparatory works to Bill L 134, parliamentary year 2010-2011 (1st session), amending the Administration of Justice Act and Act on state compensation to victims of crimes (Notification of leave and release etc. and extended time limits for police reporting for state compensation to victims of crimes) (*Forslag til lov nr. L 134, folketingsåret 2010-11 (1. samling) om ændring af retsplejeloven og lov om erstatning fra staten til ofre for forbrydelser. (Underretning ved udgang og løsladelse m.v. og udvidelse af fristen for politianmeldelse ved erstatning fra staten til ofre for forbrydelser)*).