

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

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Author(s) name: Ivan Novosel

Reviewed by (on contractor's side): Ivana Radačić

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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 alternative sanctions prescribed by the Criminal Code¹ are: community work, conditional sentence, partial conditional sentence and release on parole. The community work may be imposed as a substitute for a fine amounting to 365 daily units or for a sentence of imprisonment for a term of up to one year.² The conditional sentence may be imposed where a person is sentenced for a term of imprisonment not exceeding one year or to a fine.³ The partial conditional sentence may be imposed for a part of the sentence where a person is *sentenced* to a minimum of one year, and the maximum of three years imprisonment.⁴ The release on parole may be granted to a prisoner after serving one half but not less than three months of an imprisonment sentence.⁵ The probation measures defined by the Probation Act are:⁶ protective supervision of alternative sanctions and supervision of release on parole.⁷ Further implementation of the Probation Act is regulated by the Ordinance on the Administration of Probation.⁸

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

The Criminal Procedure Act prescribes following precautionary measures:⁹ prohibition to leave a residence, prohibition to visit a certain place or a territory, obligation of the defendant to call periodically a certain person or authority, prohibition to approach a certain person and prohibition to establish or maintain contacts with a certain person, prohibition to engage in a certain business activity, temporary seizure of a passport or other document which serves to cross the state border, temporary seizure of a license to drive a motor vehicle, prohibition of harassment or stalking of the victim or another person and removal from the home.¹⁰ The court may order pre-trial detention at home for pregnant woman, person with psychological disability or a person older than 70 years.¹¹

¹ The Criminal Code (*Kazneni zakon*) Official Gazette 125/11, 144/12, 56/15 and 61/15

² Ibid. Art. 55 (1)

³ Ibid. Art. 56 (2)

⁴ Ibid. Art. 57 (1)

⁵ Ibid. Art. 9 (1)

⁶ The Probation Act (*Zakon o probaciji*) Official Gazette 143/12

⁷ Ibid. Art. 10 (1)

⁸ The Ordinance on the Administration of Probation (*Pravilnik o načinu obavljanja probacijskih poslova*) Official Gazette 143/12

⁹ The Criminal Procedure Act (*Zakon o kaznenom postupku*) Official Gazette 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13 and 152/14

¹⁰ Ibid. Art. 98 (2)

¹¹ Ibid. Art. 119 (1)

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)?

The Juvenile Courts Act prescribes following correctional measures at the post-trial stage:¹² court reprimand, special obligations, referral to a correctional centre, intensified care and supervision, intensified care and supervision with daily stay in a correctional institution, referral to a correctional institution, referral to a reformatory and referral to a special correctional institution.¹³ Those measures can be followed by the additional compulsory safety measures of psychiatric, addiction and psychosocial treatment.¹⁴ At the pre-trial stage temporary precautionary measures of placing a juvenile under the supervision of a centre for social welfare for providing help and protection, and temporary placement to an institution of social welfare are prescribed.¹⁵ Special arrangements are also foreseen for persons with mental disability: psychiatric treatment outside of an institution is prescribed at the pre-trial stage as a precautionary measure.¹⁶ Psychiatric treatment outside of institution may also be ordered at the post-trial stage for a person without mental capacity at the time of committing an offence.¹⁷

¹² The Juvenile Courts Act (*Zakon o sudovima za mladež*) Official Gazette 84/11, 143/12, 148/13 and 56/15

¹³ Ibid. Art. 7 (1)

¹⁴ Ibid. Art. 58 (2)

¹⁵ Ibid. Art. 65 (1)

¹⁶ The Criminal Procedure Act. Art. 551 (3)

¹⁷ The Protection of Persons with Psychosocial Disabilities Act (*Zakon o zaštiti osoba s duševnim smetnjama*) Official Gazette 76/14, Art. 51 (2).

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)
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>The FD 909 is transposed to the national legislation through the Judicial Cooperation in Criminal Matters with the EU Member States Act, which is published in the Official Gazette.¹⁸ There is no other publicly available information. The Administration of Prison System (<i>Uprava za zatvorski sustav</i>) has published the Manual for Prisoners (<i>Priručnik za zatvorenike</i>)¹⁹ that provides information regarding the transfer according to the provisions of the Convention on the Transfer of Sentenced Persons only.</p>	<p>The FD 947 is transposed to the national legislation through the Judicial Cooperation in Criminal Matters with the EU Member States Act, which is published in the Official Gazette. There is no other publicly available information, including with respect to the information regarding the need for person's consent. The Administration of Prison System (<i>Uprava za zatvorski sustav</i>) has published the Manual for Prisoners (<i>Priručnik za zatvorenike</i>) that provides information regarding the transfer according to the provisions of the Convention on the Transfer of Sentenced Persons only.</p>	<p>The FD 829 is transposed to the national legislation through the Judicial Cooperation in Criminal Matters with the EU Member States Act, which is published in the Official Gazette. There is no other publicly available information, including the information regarding the need for person's consent. The Administration of Prison System (<i>Uprava za zatvorski sustav</i>) has published the Manual for Prisoners (<i>Priručnik za zatvorenike</i>) that provides information regarding the transfer according to the provisions of the Convention on the Transfer of Sentenced Persons only.</p>

¹⁸ The Judicial Cooperation in Criminal Matters with the EU Member States (*Zakon o pravosudnoj suradnji s državama članicama Europske unije*) Official Gazette 91/10, 81/13, 1234/13 and 26/15

¹⁹ Ministry of Justice, Administration of Prison System (2014), *Manual for Prisoners*, available at: <https://gov.hr/UserDocsImages//Moja%20uprava/Priručnik%20za%20zatvorenike.pdf>.

<ul style="list-style-type: none"> How is the information made publically available (tools, or networks used)? 	<p>The Manual for Prisoners is available online and is given to each person deprived of liberty upon its arrival to a prison or other correctional facility. Copies of the Manual can be obtained at prison libraries.</p>	<p>The Manual for Prisoners is available online and is given to each person deprived of liberty upon its arrival to a prison or other correctional facility. Copies of the Manual can be obtained at prison libraries.</p>	<p>The Manual for Prisoners is available online and is given to each person deprived of liberty upon its arrival to a prison or other correctional facility. Copies of the Manual can be obtained at prison libraries.</p>
<ul style="list-style-type: none"> In which languages is the information provided? 	<p>The Manual for Prisoners is available in Croatian language, while the section of the Manual regarding the information for transfer of sentenced person is provided in English language as well.</p>	<p>The Manual for Prisoners is available in Croatian language, while the section of the Manual regarding the information for transfer of sentenced person is provided in English language as well.</p>	<p>The Manual for Prisoners is available in Croatian language, while the section of the Manual regarding the information for transfer of sentenced person is provided in English language as well.</p>
<p>Q1.2. Apart from the competent authorities required by the FDs, is there any other national office or point of contact responsible for leading initial discussions about potential transfers (as issuing and executing state)? If yes, please provide brief details.</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act designates county courts as a competent authority for the implementation of the FD 909.²⁰ The Ministry of Justice is designated as the central authority mandated to provide assistance and help to the competent authorities in issuing and executing state.²¹ The Consular Sections of the Croatian Embassies and the Consular Sections of EU</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act designates county courts as a competent authority for the implementation of the FD 947.²² The Ministry of Justice is designated as the central authority mandated to provide assistance and help to the competent authorities in issuing and executing state.²³ The Consular Sections of the Croatian Embassies and the Consular</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act designates county courts as a competent authority for the implementation of the FD 829.²⁴ The Ministry of Justice is designated as the central authority mandated to provide assistance and help to the competent authorities in issuing and executing state.²⁵ The Consular Sections of the Croatian Embassies and the Consular Sections of EU</p>

²⁰ The Judicial Cooperation in Criminal Matters with the EU Member States, Art. 5 (1) intended 5

²¹ Ibid. Art. 5 (5)

²² Ibid, Art. 5 (1) intended 5

²³ Ibid. Art. 5 (5)

²⁴ Ibid, Art. 5 (1), intended 6

²⁵ Ibid. Art. 5 (5)

	member states' Embassies in Croatia provide initial information regarding the transfer of the sentence/decision upon the request.	Sections of EU member states' Embassies in Croatia provide initial information regarding the transfer of the sentence/decision upon the request.	member states' Embassies in Croatia provide initial information regarding the transfer of the sentence/decision upon the request.
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.	The Ministry of Justice is mandated to collect data regarding the judicial cooperation in accordance with the provisions of the FD 909 ²⁶ , and upon the request made by the European Commission. The Ministry of Justice may request the competent authorities to deliver data on cases regarding the judicial cooperation. ²⁷	The Ministry of Justice is mandated to collect data regarding the judicial cooperation in accordance with the provisions of the FD 947 ²⁸ , and upon the request made by the European Commission. The Ministry of Justice may request the competent authorities to deliver data on cases regarding the judicial cooperation. ²⁹	The Ministry of Justice is mandated to collect data regarding the judicial cooperation in accordance with the provisions of the FD 829 ³⁰ , and upon the request made by the European Commission. The Ministry of Justice may request the competent authorities to deliver data on cases regarding the judicial cooperation. ³¹
TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON			
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 option to transfer the judgment or decision to another Member State? If yes, please briefly provide information (e.g. is it an oral	There is no formally established procedure in the issuing state to inform suspect/sentenced person regarding the possibility to transfer the judgement/decision. However, information can be obtained upon individual request from the Ministry of Justice, Administration	There is no formally established procedure in the issuing state to inform suspect/sentenced person regarding the possibility to transfer the judgement/decision. However, information can be obtained upon individual request from the Ministry of Justice,	There is no formally established procedure in the issuing state to inform suspect/sentenced person regarding the possibility to transfer the judgement/decision. However, information can be obtained upon individual request from the Ministry of Justice, Administration

²⁶ Ibid. Art. 5a (2)

²⁷ Ibid. Art. 5a (3)

²⁸ Ibid. Art. 5a (2)

²⁹ Ibid. Art. 5a (3)

³⁰ Ibid. Art. 5a (2)

³¹ Ibid. Art. 5a (3)

<p>or written procedure) and specify who provides this information.</p>	<p>of Prison System and prisons' wardens.</p>	<p>Administration of Prison System and prisons' wardens.</p>	<p>of Prison System and prisons' wardens.</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 Judicial Cooperation in Criminal Matters with the EU Member States Act proscribes consent of a sentenced person as a requirement for forwarding the judgement.³² However, there is no formal and systemic procedure in place to obtain the informed consent. Information is provided upon an individual request made by the suspected/sentenced person.</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act proscribes consent of a sentenced person as a requirement for forwarding the judgement.³³ However, there is no formal and systemic procedure in place to obtain the informed consent. Information is provided upon an individual request made by the suspected/sentenced person.</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act proscribes consent of a sentenced person as a requirement for forwarding the judgement.³⁴ However, there is no formal and systemic procedure in place to obtain the informed consent. Information is provided upon an individual request made by the suspected/sentenced person.</p>
<p>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.</p>	<p>No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not expressly prescribe the possibility of changing the opinion regarding the transfer of the sentence. However, the Act states that the court will take the expressed opinion of the sentenced person into consideration when deciding.³⁵</p>	<p>No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not expressly prescribe the possibility of changing the opinion regarding the transfer of the sentence. However, the Act states that the court will take the expressed opinion of the sentenced person into consideration when deciding.³⁶</p>	<p>No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not expressly prescribe the possibility of changing the opinion regarding the transfer of the sentence. However, the Act states that the court will take the expressed opinion of the sentenced person into consideration when deciding.³⁷</p>

³² Ibid. Art. 105 (3)

³³ Ibid. Art. 128 (1)

³⁴ Ibid. Art. 131L (1)

³⁵ Ibid. 105 (3)

³⁶ Ibid.

³⁷ Ibid.

<p>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).</p>	<p>Yes.</p>		
<ul style="list-style-type: none"> • When consent is not required)? 	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes the possibility for a sentenced person to express its opinion regarding the transfer of the sentence in oral or written way. If the opinion is given in oral way, the court will include it to the trial/proceedings records.³⁸</p>		
<ul style="list-style-type: none"> • When consent is required, Article 6 (3) of FD 2008/909/JHA). 	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes the possibility for a sentenced person to express its opinion regarding the transfer of the sentence in oral or written way. If the opinion is given in oral way, the court will include it to the trial/proceedings records.³⁹</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</p>	<p>The Judicial Cooperation in Criminal Matters with the EU Member States Act does not expressly prescribe the possibility</p>		

³⁸ Ibid.

³⁹ Ibid.

exists and how this is implemented in practice.	of changing the opinion regarding the transfer of the sentence. However, the Act states that the court will take the expressed opinion of the sentenced person into consideration when deciding. ⁴⁰		
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)	The Ministry of Justice and its Section for Judicial Cooperation in Criminal Matters with the EU Member States provides information regarding the possibility of a transfer of sentence/decision. The information is provided by the telephone, face-to-face and email.	The Ministry of Justice and its Section for Judicial Cooperation in Criminal Matters with the EU Member States provides information regarding the legal options for the transfer of sentence/decision. The information is provided by the telephone, face-to-face and email.	The Ministry of Justice and its Section for Judicial Cooperation in Criminal Matters with the EU Member States provides information regarding the legal options for the transfer of sentence/decision. The information is provided by the telephone, face-to-face and email.
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.	No.	No.
Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?	The Judicial Cooperation in Criminal Matters with the EU Member States Act does not proscribes right to legal aid. However, according to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the	The Judicial Cooperation in Criminal Matters with the EU Member States Act does not proscribes right to legal aid. However, according to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the	The Judicial Cooperation in Criminal Matters with the EU Member States Act does not proscribes right to legal aid. However, according to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the

⁴⁰ Ibid.

	court will appoint one at the expense of the State budget. ⁴¹	court will appoint one at the expense of the State budget. ⁴²	court will appoint one at the expense of the State budget. ⁴³
Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:	Yes.	Yes.	Yes.
<ul style="list-style-type: none"> • While consenting to the transfer? 	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁴	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁵	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁶
<ul style="list-style-type: none"> • While requesting the transfer? 	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁷	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁸	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. ⁴⁹
Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all consultations, conversations and correspondences with its legal counsel. ⁵⁰	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all consultations, conversations and	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all consultations,

⁴¹ The Criminal Procedure Act. Art. 5 (1-2)

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid. Art. 8 (3)

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid. Art 8 (8)

		correspondences with its legal counsel. ⁵¹	conversations and correspondences with its legal counsel. ⁵²
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. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. At the beginning of the proceedings the court will notify a person about his or her rights regarding interpretation ⁵³ and the right to complain, and to get a substitute interpreter ⁵⁴ if not satisfied with the quality of translations.	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. At the beginning of the proceedings the court will notify a person about his or her rights regarding interpretation ⁵⁵ and a right to complain, and to get a substitute interpreter ⁵⁶ if not satisfied with the quality of translations.	Yes. The Criminal Procedure Act prescribes that a person has a right to be assisted by a language interpreter at all stages of the proceedings. At the beginning of the proceedings the court will notify a person about his or her rights regarding interpretation ⁵⁷ and a right to complain, and to get a substitute interpreter ⁵⁸ if not satisfied with the quality of translations.
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?	Yes. The Criminal Procedure Act stipulates that all persons with legal interest shall be publicly informed regarding the content of a sentence/judgement. The verified copy of a judgement/decision must be delivered personally to the sentenced person. ⁵⁹	Yes. The Criminal Procedure Act stipulates that all persons with legal interest shall be publicly informed regarding the content of a sentence/judgement. The verified copy of a judgement/decision must be	Yes. The Criminal Procedure Act stipulates that all persons with legal interest shall be publicly informed regarding the content of a sentence/judgement. The verified copy of a judgement/decision must be delivered personally to the sentenced person. ⁶¹

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid. Art. 8 (3)

⁵⁴ Ibid. Art. 8 (8)

⁵⁵ Ibid. Art. 8 (3)

⁵⁶ Ibid. Art. 8 (8)

⁵⁷ Ibid. Art. 8 (3)

⁵⁸ Ibid. Art. 8 (8)

⁵⁹ Ibid. Art. 167

⁶¹ Ibid.

		delivered personally to the sentenced person. ⁶⁰	
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)	Yes. The verified copy of a judgement/decision must be delivered personally to a sentenced person with instructions about the appeal procedure and requirements. ⁶² The Criminal Procedure Act prescribes the right of a person to a legal consular. ⁶³	Yes. The verified copy of a judgement/decision must be delivered personally to a sentenced person with instructions about the appeal procedure and requirements. ⁶⁴ The Criminal Procedure Act prescribes the right of a person to a legal consular. ⁶⁵	Yes. The verified copy of a judgement/decision must be delivered personally to a sentenced person with instructions about the appeal procedure and requirements. ⁶⁶ The Criminal Procedure Act prescribes the right of a person to a legal consular. ⁶⁷
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)	Yes. The Criminal Procedure Act stipulates that a court will grant a suspect/sentenced person an access to the case file upon his or her request. ⁶⁸	Yes. The Criminal Procedure Act stipulates that a court will grant a suspect/sentenced person an access to the case file upon his or her request. ⁶⁹	Yes. The Criminal Procedure Act stipulates that a court will grant a suspect/sentenced person an access to the case file upon his or her request. ⁷⁰
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?)	According to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the court will appoint one at the expense of the State	According to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the court will appoint one at the expense of the	According to the Criminal Procedure Act if the person does not have financial means to pay for a lawyer, the court will appoint one at the expense of the State

⁶⁰ Ibid.

⁶² Ibid. Art. 167 (3)

⁶³ Ibid. Art. 5 (1-2)

⁶⁴ Ibid. Art. 167 (3)

⁶⁵ Ibid. Art. 5 (1-2)

⁶⁶ Ibid. Art. 167 (3)

⁶⁷ Ibid. Art. 5 (1-2)

⁶⁸ Ibid. Art. 183 (1 and 7)

⁶⁹ Ibid. Art. 183 (1 and 7)

⁷⁰ Ibid. Art. 183 (1 and 7)

	budget. ⁷¹ The legal counsel is provided for consultations, correspondence etc.	State budget. ⁷² The legal counsel is provided for consultations, correspondence etc.	budget. ⁷³ The legal counsel is provided for consultations, correspondence etc.
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.	Data not available.	Data not available.	Data not available.
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)	The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes that consent for the transfer of juveniles and persons with mental disability shall be obtain from their legal guardian. ⁷⁴ The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles. ⁷⁵	There are no specific provisions within the Judicial Cooperation in Criminal Matters with the EU Member States Act regarding the informed consent. The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles. ⁷⁶	There are no specific provisions within the Judicial Cooperation in Criminal Matters with the EU Member States Act regarding the informed consent. The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles. ⁷⁷

⁷¹ Ibid. Art. 5 (1-2)

⁷² Ibid.

⁷³ Ibid.

⁷⁴ The Judicial Cooperation in Criminal Matters with the EU Member States, Art. 105 (3)

⁷⁵ The Juvenile Courts Act. Art. 43 (1)

⁷⁶ Ibid.

⁷⁷ Ibid.

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? 	Yes. The Judicial Cooperation in Criminal Matters with the EU Member States Act stipulates that a judgement will be transferred if the execution of a sentence in executing state will contribute to the social rehabilitation of a sentenced person. ⁷⁸	Yes. The Judicial Cooperation in Criminal Matters with the EU Member States Act stipulates that a judgement will be transferred if the execution of a sentence in executing state will contribute to the social rehabilitation of a sentenced person. ⁷⁹	No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that an evaluation of the impact of a decision on a social rehabilitation should be done prior the transfer of a decision on protection measures.
<ul style="list-style-type: none"> Fundamental rights implications (such as the right to family life, right to education)? 	The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that the implications of a decision on the fundamental rights should be assessed. However, the court will take under the consideration prison conditions in the executing state prior forwarding a sentence.	No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that the implications of a decision on the fundamental rights should be assessed.	No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that the consideration of implications of a decision on the fundamental rights should be assessed.
<ul style="list-style-type: none"> Others? Please specify. 	No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that the consideration of other factors on	Yes. The court evaluates other factors that could likely have an impact on the process of reintegration to society, as well as factors contributing to easier	No. The Judicial Cooperation in Criminal Matters with the EU Member States Act does not directly stipulate that the consideration of the other factors

⁷⁸ The Judicial Cooperation in Criminal Matters with the EU Member States Act. Art. 103 (2)

⁷⁹ Ibid. Art. 128 (2)

	the social rehabilitation should be done.	and efficient implementation of the probation or alternative measures. ⁸⁰	on the social rehabilitation should be done.
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:	No. There are no any specific criteria/guidelines on factors relevant for social rehabilitation besides the general provision in Art. 103 (2) of the Judicial Cooperation in Criminal Matters with the EU Member States Act.	No. There are no any specific criteria/guidelines on factors relevant for social rehabilitation besides the general provision in Art. 128 (2) of the Judicial Cooperation in Criminal Matters with the EU Member States Act.	No. There are no any specific criteria/guidelines on the factors relevant for social rehabilitation.
<ul style="list-style-type: none"> Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)? 	N/a	N/a	N/a
<ul style="list-style-type: none"> Criminal history and criminal ties? 	N/a	N/a	N/a
<ul style="list-style-type: none"> Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)? 	N/a	N/a	N/a
<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) 	N/a	N/a	N/a
<ul style="list-style-type: none"> Others? 	N/a	N/a	N/a
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.	Yes	Yes.

⁸⁰ Ibid.

<ul style="list-style-type: none"> The competent authorities in the executing state? 	Yes.	Yes.	Yes.
<ul style="list-style-type: none"> The suspect/sentenced person? 	Yes.	Yes.	Yes.
<ul style="list-style-type: none"> The family of the suspect/sentenced persons, especially with regard to child offenders? 	Yes, in cases involving child offenders.	Yes, in cases involving child offenders.	Yes, in cases involving child offenders.
<ul style="list-style-type: none"> Any other person/entity? 	On a case-by-case basis.	On a case-by-case basis.	On a case-by-case basis.
<p>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?</p>	<p>Yes. The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles.⁸¹ The Criminal Procedure Act prescribes the possibility of psychiatric examination of a suspected/sentenced person.⁸²</p>	<p>Yes. The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles.⁸³ The Criminal Procedure Act prescribes the possibility of psychiatric examination of a suspected/sentenced person.⁸⁴</p>	<p>Yes. The Juvenile Courts Act stipulates that social pedagogues, social workers and psychologists should assist the court in criminal proceedings involving juveniles.⁸⁵ The Criminal Procedure Act prescribes the possibility of psychiatric examination of a suspected/sentenced person.⁸⁶</p>
<p>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.</p>	No.	No.	No.

⁸¹ The Juvenile Courts Act. Art. 43 (1)

⁸² The Criminal Procedure Act. Art. 325

⁸³ The Juvenile Courts Act. Art. 43 (1)

⁸⁴ The Criminal Procedure Act. Art. 325

⁸⁵ The Juvenile Courts Act. Art. 43 (1)

⁸⁶ The Criminal Procedure Act. Art. 325

Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	No.	No.	No.
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. The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes that the court will forward the judgement to an executing state if it determines that the transfer will contribute to a rehabilitation of sentenced person. ⁸⁷ The court may withdraw the certificate if (after the transfer of a decision that was not led by the process of obtaining a prior opinion from the executing state) a negative opinion on the impact of social rehabilitation is obtained additionally from the executing state. ⁸⁸		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:	Yes.	Yes.	Yes.
<ul style="list-style-type: none"> National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state? 	The Criminal Procedure Act proscribes the scope of data collection ⁸⁹ , storage of collected	The Probation Act guaranties the protection of collected personal data of persons involved to	The Criminal Procedure Act proscribes the scope of data collection ⁹⁴ , storage of collected

⁸⁷ The Judicial Cooperation in Criminal Matters with the EU Member States. Art. 213 (2)

⁸⁸ Ibid. Art. 103 (3)

⁸⁹ The Criminal Procedure Act. Art. 186

⁹⁴ Ibid. Art. 186

	data ⁹⁰ and access to collected data ⁹¹ .	probation. ⁹² The provisions ⁹³ of the Criminal Procedure Act govern the implementation of this guarantee.	data ⁹⁵ and access to collected data ⁹⁶ .
<ul style="list-style-type: none"> • Authorities in the issuing and executing state? 	Yes. The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes that the national legislation on data protection shall apply in exchange of collected data between the involved states. ⁹⁷ The Criminal Procedure act prescribes that all transfers shall be recorded for the purpose of later examination of legality of data exchange, internal control and the insurance of the data integrity and safety. ⁹⁸	Yes. The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes that the national legislation on data protection shall apply in exchange of collected data between the involved states. ⁹⁹ The Criminal Procedure act prescribes that all transfers shall be recorded for the purpose of later examination of legality of data exchange, internal control and the insurance of the data integrity and safety. ¹⁰⁰	Yes. The Judicial Cooperation in Criminal Matters with the EU Member States Act prescribes that the national legislation on data protection shall apply in exchange of collected data between the involved states. ¹⁰¹ The Criminal Procedure act prescribes that all transfers shall be recorded for the purpose of later examination of legality of data exchange, internal control and the insurance of the data integrity and safety. ¹⁰²

⁹⁰ Ibid. Art. 186 (7)

⁹¹ Ibid. Art. 188

⁹² The Probation Act. Art. 8 (1)

⁹³ The Criminal Procedure Act. Art. 186 and 188

⁹⁵ Ibid. Art. 186 (7)

⁹⁶ Ibid. Art. 188

⁹⁷ The Judicial Cooperation in Criminal Matters with the EU Member States. Art. 4a (1)

⁹⁸ The Criminal Procedure Act. Art. 188a (3)

⁹⁹ The Judicial Cooperation in Criminal Matters with the EU Member States. Art. 4a (1)

¹⁰⁰ The Criminal Procedure Act. Art. 188a (3)

¹⁰¹ The Judicial Cooperation in Criminal Matters with the EU Member States. Art. 4a (1)

¹⁰² The Criminal Procedure Act. Art. 188a (3)

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:			
• The decision to transfer	No.	No.	No.
• The status of the transfer	No.	No.	No.
• Other? Please specify.	No.	No.	No.
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:	No.	No.	No.
• Is the information provided upon request of the victim?	N/a	N/a	N/a
• Who responsible for providing this information?	N/a	N/a	N/a
• Is it a verbal or written communication?	N/a	N/a	N/a
Q4.3. Do the victims have the right to be heard concerning the transfer (in the state you are describing, as issuing or executing state)? (e.g. through submitting an oral or written response)	No.	No.	No.
Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.	No.	No.	No.
Q4.5. Do the victims have access to translators/interpreter in order to be kept fully informed of the transfer (in the state you are describing, as issuing or executing state)?	No.	No.	No.

<p>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)?</p>	<p>Yes. The Ordinance on the Administration of Probation prescribes that a Probation Office shall make a report on preparing a victim and his or her family for a temporary release of prisoner.¹⁰³</p>	<p>The Criminal Procedure Act prescribes that a victim shall be informed about the termination of a pre-trial detention.¹⁰⁴</p>	<p>The Criminal Procedure Act prescribes that a victim shall be informed about the termination of a pre-trial detention.¹⁰⁵</p>
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¹⁰³ The Ordinance on the Administration of Probation. Art. 7 (1)

¹⁰⁴ The Criminal Procedure Act. Art 125 (9)

¹⁰⁵ Ibid.