

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

May 2015

Country: Hungary

FRANET Contractor: Milieu Limited

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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

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:

Under Act C of 2012 on the Criminal Code (hereinafter: Criminal Code)¹ sanctions, penalties and measures may be applied. Under Article 33 (1) the main alternative penalties are: community service work or fine(s), while alternative measures covered under Article 63 (1) are *a*) warning; *b*) conditional sentence; *c*) work performed in amends; *d*) probation with supervision (Criminal Code). “If the criminal offence committed carries a maximum sentence of three years imprisonment, this term may be substituted by custodial arrest, community service work, fine(s), prohibition of the right to exercise professional activity, driving ban, prohibition from residing in a particular area, ban from visiting sport events, or expulsion, or by any combination of these.” (Article 33 (4), Criminal Code) “If the criminal offence committed carries a penalty of custodial arrest, this penalty may be substituted or combined with, community service work, fine(s), prohibition of the right to exercise professional activity, driving ban, ban from visiting sporting events or expulsion, or by any combination of these” (Article 33 (5), Criminal Code). The following penalties may not be imposed concurrently: *a*) imprisonment with custodial arrest or community service work; *b*) expulsion with community service work or fine(s) (Article 33 (6), Criminal Code).

1. When the court pronounces the sentence following trial:

a) The court may sentence a person to community service work, which must be performed as prescribed, taking into consideration the individual’s health and education. (Article 47 (4), Criminal Code).

b) The court may give a warning to any person who committed an act that constitutes negligible danger, or no danger at all, to society at the time of rendering judgment, thereby making unnecessary even the minimum penalty or measure applicable (Article 64 (1), Criminal Code).

2. When the court postpones the pronouncement of a sentence after trial:

a) **Conditional sentence: for a criminal offence punishable by imprisonment of up to three years, the court may defer imposing a sentence if there are reasonable grounds to believe that probation will serve the purpose of rehabilitation. (Article 65 (1), Criminal Code).**

b) **For a criminal offence punishable by imprisonment up to three years, the court may defer imposing sentence for one year, and may order work to be performed in amends if there are reasonable grounds to believe that it will serve the purpose of rehabilitation. (Article 67 (1), Criminal Code)**

3. Probation with supervision (Article 69 (1), Criminal Code): may be applied if constant supervision of the perpetrator is deemed necessary *a*) for the duration of deferral of indictment; *b*) for the duration of parole; *c*) for the duration of probation; *d*) concurrently with ordering work to be performed in amends; or *e*) for the probation period of a suspended sentence.. Probation with supervision must be put in place in the following instances: *a*) where the person concerned is released on parole from life imprisonment; and *b*) for repeat offenders if released on parole, or sentenced to a term of imprisonment the execution of which is conditionally suspended.

¹ Act C of 2012 on the Criminal Code (2012. évi C törvény a Büntető Törvénykönyvről, Btk., available at: njt.hu/cgi_bin/njt_doc.cgi?docid=152383.283328.

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

Under Article 130 (2) of Act XIX of 1998 on Criminal Proceedings (hereinafter Act XIX of 1998)², the court may order home curfew, house arrest and injunction to stay away, as alternatives to pre-trial detention.

- a) Home curfew restricts the free movement and free choice of residence of the person concerned. He/she **may not leave the specified area or** district, nor may he/she change his/her place of residence, without permission (Article 137 (1), Act XIX of 1998).
- b) A person under house arrest may only leave his/her court-designated residence and the enclosed area attached to it, within the limits specified by the court. These limits determine the time, distance, and purpose for which the person may leave, and apply particularly to everyday basic necessities or medical treatment (Article 138 (1), Act XIX of 1998).
- c) Injunction to stay away (Article 138A (1), Act XIX of 1998) requires that the person concerned:
 - leave and stay away from a residence for a specified period of time, and/or
 - stay away from a specified person (from his/her work place, educational / healthcare institution etc) (Article 138A (1), Act XIX of 1998);
 - refrain from establishing any direct or indirect contact with a specified person.

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)?

1. Persons with disabilities: *a*) involuntary medical treatment in a mental institution: where a violent crime against the person, or a criminal offence endangering the public, has taken place, the court is required to subject the detainee to treatment in a mental institution if he/she cannot be prosecuted due to his/her mental condition, if there is reason to believe that he/she will commit a similar act, and if the crime committed would otherwise be punishable by imprisonment of one or more years (Article 78, Criminal Code). *b*) temporary involuntary medical treatment may be ordered for persons under pre-trial detention, if there are substantial grounds to believe that the conditions of involuntary medical treatment are met (Article 140 (2), Act XIX of 1998). Such temporary involuntary medical treatment takes place at in the Forensic Diagnostic and Mental Institution (Article 141 (2), 144 (1), Act XIX of 1998). Article 107 (1) – (3) of Act XIX of 1998 also permits the court to order mental health observation of a suspect or accused person, whose formal detention has not otherwise been ordered. This observation is determined by expert opinion, and lasts for a period of one month, in a psychiatric institution.

2. The pre-trial detention of minors may only be ordered if this is necessary due to the gravity of the criminal offence. The court decides whether such detention will take place in *a*) a detention home or *b*) a penal institution, taking into consideration the personality of the minor and the nature of the criminal offence. If the minor has not reached the age of fourteen years when he or she committed the offence, placement in a detention home is obligatory. The court may change the place of pre-trial detention at the motion of the prosecutor, the minor or the defense counsel. Minors must be separated from adults in pre-trial detention. Pre-trial detention is set at a maximum duration of two years for minors who have reached the age of 14 years at the time of committing the criminal offence. For minors who had not reached the age of 14 at the time of committing the offence, this maximum duration is one year. Exceptions can be made where the pre-trial detention was ordered or maintained after the announcement of the conclusive decision, or where a repeated procedure is in progress in the case due to repeal. (Article 454-455, Act 1998 of XIX.)

² Act XIX of 1998 on Criminal Proceedings (1998. évi XIX. törvény a büntetőjárásról), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=34361.291612.

3. Mothers and young children: Act CCXL of 2013 states that punishments and penal measures, coercive measures and offence custody³ must be postponed, without request, if the sentenced person is pregnant and has already passed the 12th week of her pregnancy. This postponement is for the duration of one year following the expected date of birth, or if she is attending a child under the age of one year. An exception can be made where such a postponement would endanger public safety and security, or where there is a likelihood that the sentenced person would abscond. (Article 39 (1), (3)-(4), Act CCXL of 2013). Once a sentenced woman reaches the 12th week of her pregnancy, if the expected date of birth precedes the date of her release, she must make a statement as to whether or not she requests the interruption of the implementation of the imprisonment. (Article 116 (4), Act CCXL of 2013). Rights protecting the health of pregnant women / women attending a baby or the development of the baby can not be restricted. If the delivery of the child happens during the implementation of the custodial sentence and there is no reason to exclude joint placement (e.g. if she chooses not to keep and care for the baby, or if her parental rights have been abrogated in relation to all of her children), then both mother and child are placed together in a separate mother and child department of the Prison Service Institution of Bács-Kiskun County (*Bács-Kiskun Megyei Bv. Intézet*) until the child reaches the age of one. (Article 128 (1)-(5), Act CCXL of 2013; Article 22 (4), Article 23, Regulation 8/2014. (XII. 12.) of the Ministry of Justice on the health care of sentenced persons and persons detained under other grounds in prison service institutions)⁴. The mother and child department was purpose-built in 2003, and has the capacity to host 20 mothers and their babies. In 2013 the Commissioner for Fundamental Rights (*Alapvető Jogok Biztosa*) examined the case of a mother placed in pre-trial detention three months after the birth of her child. It found problematic that the legal framework did not provide for the joint placement of women and their children in penal institutions in cases where the child was born before the mother's custody started. The ombudsman proposed that, in the case of women caring for a baby, the authorities should, in the first instance, choose alternative measures to detention. At the same time, it initiated modification of the relevant legislative acts to allow for joint placement of mother and baby when the mother is taken into custody after the birth of the child. According to the report, while the Hungarian Prison Service Headquarters (*Büntetés-végrehajtás Országos Parancsnoksága*) would support the joint placement of mothers and their children in the above mentioned cases as well, the present capacity of the only existing mother and child facility would not accommodate everyone to whom joint placement apply.⁵ According to information provided by the Hungarian Prison Service Headquarters so far no new separate mother and baby department was instituted.

³ Act CCXL of 2013 on the implementation of punishments and penal measures, coercive measures and offence custody (2013. évi CCXL. törvény a büntetések, az intézkedések, egyes kényszerintézkedések és a szabálysértési elzárás végrehajtásáról), available at: njt.hu/cgi-bin/njt_doc.cgi?docid=165860.284241.

⁴ Regulation 8/2014. (XII. 12.) of the Ministry of Justice on the health care of sentenced persons and persons detained under other grounds in prison service institutions (8/2014. (XII. 12.) IM rendelet a büntetés-végrehajtási intézetekben fogvatartott elítéltek és egyéb jogcímen fogvatartottak egészségügyi ellátásáról), available at: nnet.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1400008.IM. See also information provided by the Hungarian Prison Service Headquarters on the mother and child department of the Prison Service Institution of Bács-Kiskun County, available at: bv.gov.hu/kecskemet-any-a-gyermek-korlet.

⁵ Commissioner for Fundamental Rights (2013), *Report of the Commissioner for Fundamental Rights in case, AJB 329/2012 (Az alapvető jogok biztosának Jelentése az AJB-329/2012. számú ügyben)*, Budapest, Commissioner for Fundamental Rights, available at: <http://www.ajbh.hu/documents/10180/111959/201200329.pdf>

Section B: Transfer of suspects/sentenced persons

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>Under Article 128 (1) and (3) of Act CLXXX of 2012 on the judicial cooperation in criminal matters with Member States of the European Union⁶ (hereinafter: Act CLXXX of 2012), the necessary certificate has to be issued and forwarded by the criminal judge to the competent minister who renders the decision on transfer. The sentenced person – if the conditions of transfer are met or there are substantial grounds for believing that these conditions will be met – may make a statement before the criminal judge on the transfer of the implementation of his/her imprisonment or any other measure comprising deprivation of liberty. The statement of the sentenced person has to be recorded and signed by the criminal judge (128 (2) of Act CLXXX of 2012).</p>	<p>Under Article 145 of Act CLXXX of 2012 the courts hearing the case may make a decision on transfer of alternative sanctions.</p> <p>Act CLXXX of 2012, which contains special procedural rules for taking decisions on alternative sanctions, renders applicable the general procedural rules of Act XIX of 1998 for matters not regulated by Act CLXXX of 2012 (see Article 2 of Act CLXXX of 2012). These general procedural rules prescribe that before performing any procedural action, the court shall inform and advise the person involved in the action of his/her related rights and obligations, and the person concerned has the right to receive this information (Article 62; Article 43 (2) f).</p>	<p>Under Article 87 of Act CLXXX of 2012 the courts hearing the case may make a decision on issuing ESO.</p> <p>Act CLXXX of 2012, which contains special procedural rules for taking decisions on the European Supervision Order, renders applicable the general procedural rules of Act XIX of 1998 for matters not regulated by Act CLXXX of 2012 (see Article 2 of Act CLXXX of 2012). These general procedural rules prescribe that before performing any procedural action the court shall inform and advise the person involved in the action of his/her related rights and obligations and the person concerned has the right to receive this information (Act XIX of 1998, Article 62; Article 43 (2) f).</p>

⁶ Act CLXXX of 2012 on the judicial cooperation in criminal matters with Member States of the European Union (2012. évi CLXXX. törvény az Európai Unió tagállamaival folytatott büntügyi együttműködésről), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=156597.283329.

	<p>In practice, if the person concerned requested transfer or the Ministry of Justice initiated a transfer procedure the International Criminal Law and Human Rights Department (<i>Nemzetközi Büntetőjogi és Emberi Jogi Főosztály</i>) requests the criminal judge to obtain the statement (consent if necessary) of the person concerned. The criminal judge verifies – amongst others – that the person concerned requested the transfer of his or her free will. Note, however, that from the interviews with criminal judges it seems that in the practice the transfer procedure has been exclusively initiated by the person concerned.⁷</p> <p>The criminal judge is to provide information on the matters related, under the special procedural rules for taking decisions on transfer of prisoners contained in Act CLXXX of 2012.</p> <p>For matters not regulated by Act CLXXX of 2012 (see Article 2 of</p>	<p>Under Article 145 (1)-(2) of Act CLXXX of 2012:</p> <p>a) If the court applies alternative sanctions and the person concerned has returned, or wishes to return, to his/her state of residence or stay, the court sends the enforceable judgment and the relevant certificate to the competent authority of the state concerned.</p> <p>b) upon the request of the person concerned the court may also send the judgment to the competent authority of a different state, if it serves his/her rehabilitation, taking into consideration family ties, cultural and economic relations.</p> <p>The court must enter into the records the request of the person concerned, or their statement on the wish to return to the state of residence.</p>	<p>Under Article 87 (1) of Act CLXXX of 2012, where the court orders supervision instead of pre-trial detention, it fills out the certificate under Appendix 5 of Act CLXXX of 2012 if:</p> <p>a) the place of residence or stay of the person concerned is in a Member State and the court obtains the informed consent of the person concerned; or</p> <p>b) he/she requested the recognition and implementation of the supervision measure in a state other than his/her place of residence or stay.</p> <p>Note, however, that no such case has been reported in the responses of the interviewed courts.¹⁴</p>
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⁷ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

¹⁴ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>Act CLXXX of 2012), the general procedural rules of Act XIX of 1998 apply. These general procedural rules prescribe that before performing any procedural action, the court shall inform and advise the person involved in the action, of his/her related rights and obligations, and the person concerned has the right to receive this information (Article 62; Article 43 (2) f).</p> <p>Article 50 (6) of Act CCXL of 2013 also contains a similar “referral rule” prescribing the application of Act XIX of 1998 to the procedure of the criminal judge.</p> <p>In practice, the criminal judge delineates/outlines the content of the request of Ministry of Justice to the person concerned.⁸</p> <p>With regard to the provision of adequate information by the authorities, the Ministry of Justice, in its response to a public data request⁹ emphasised the following:</p>	<p>Note, however, that no such case has been reported in the responses of the interviewed courts.¹³</p>	
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⁸ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁹ Representative of the Ministry of Justice.

¹³ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>a) Under Article 12 of Act CCXL of 2013, upon admission to the penal institution, detained persons shall receive information about a number of their rights concerning the implementation of the custodial measure in writing (Article 12 (4), Act CCXL of 2013; see also Article 19 (2), Regulation 16/2014 (XII.19) of MJ¹⁰).</p> <p>b) Information on the possibility to request a transfer is given in practice by the General Information Leaflet of the Hungarian Prison Service Headquarters for non-Hungarian national detainees¹¹ (hereinafter: General Information Leaflet of the Hungarian Prison Service Headquarters). This document states that the person concerned “will be informed”, in a language he/she understands, if international convention allows for the transfer of the implementation of his/her imprisonment to “elsewhere” (p. 2). It also provides information on the possibility of requesting</p>		
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¹⁰ Regulation 16/2014 (XII.19) of the Ministry of Justice on the detailed rules of the implementation of imprisonment, confinement, pre-trial detention and confinement replacing disciplinary penalty (16/2014. (XII. 19.) IM rendelet a szabadságvesztés, az elzárás, az előzetes letartóztatás és a rendbírság helyébe lépő elzárás végrehajtásának részletes szabályairól), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=173213.291954.

¹¹ General Information Leaflet of the Hungarian Prison Service Headquarters for non-Hungarian national detainees 2014 (A Büntetés-végrehajtási Szervezet Általános tájékoztatója nem Magyar állampolgárságú fogvatartottak részére). Not available online.

	<p>transfer and on certain elements of the procedure to be followed (p. 2).</p> <p>An “official translation” of the General Information Leaflet of the Hungarian Prison Service Headquarters for non-Hungarian national detainees is available in Albanian, Arab, Chinese, Croatian, English, French, German, Lovari, Polish, Romanian, Russian, Serbian, Slovakian, Slovenian, Spanish, Turkish, Ukrainian and Vietnamese.¹²</p> <p>c) Under Article 129 (4) of Act CLXXX of 2012 the minister informs the prisoner about the transfer of the judgment and the certificate to another Member State. This notification is issued using the template (Appendix 9) and is provided in the person’s mother tongue, or in any other language he/she designated. Information on the process to adapt the judgment, and on the deduction of the time served, is also included in this notification.</p>		
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¹² Representative of the Ministry of Interior.

	<p>d) The person concerned may receive information from his/her defense counsel as well.</p> <p>e) Upon request the Ministry of Justice provides further information.</p>		
<ul style="list-style-type: none"> How is the information made publicly available (tools, or networks used)? 	<p>The Ministry of Justice, in its response to a request for public data, indicated two publicly available sources¹⁵:</p> <p>a) The relevant legislative acts in Hungarian are available on online databases such as the National Legislative Act Database (<i>Nemzeti Jogszabálytár</i>).</p> <p>b) for EU framework decisions: EUR-lex.</p>	<p>The Ministry of Justice, in its response to a request for public data, indicated two publicly available sources¹⁶:</p> <p>a) The relevant legislative acts in Hungarian are available on online databases such as the National Legislative Act Database (<i>Nemzeti Jogszabálytár</i>).</p> <p>b) for EU framework decisions: EUR-lex.</p>	<p>The Ministry of Justice, in its response to a request for public data, indicated two publicly available sources¹⁷:</p> <p>a) The relevant legislative acts in Hungarian are available on online databases such as the National Legislative Act Database (<i>Nemzeti Jogszabálytár</i>).</p> <p>b) for EU framework decisions: EUR-lex.</p>
<ul style="list-style-type: none"> In which languages is the information provided? 	<p>a) Publicly available information on Hungarian legislative acts, is in Hungarian; EU framework decisions are available in any of the official languages of the EU.</p>	<p>d) Publicly available information on Hungarian legislative acts, is in Hungarian; EU framework decisions are available in any of the official languages of the EU.</p> <p>b) In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic</p>	<p>a) Publicly available information on Hungarian legislative acts, is in Hungarian; EU framework decisions are available in any of the official languages of the EU.</p> <p>b) In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of</p>

¹⁵ Representative of the Ministry of Justice.

¹⁶ Representative of the Ministry of Justice.

¹⁷ Representative of the Ministry of Justice.

	<p>b) With regard to the procedure in front of the court, the general rules on interpretation contained in Act XIX of 1998 apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law. Where he/she does not understand Hungarian, any other language may be used, that he/she may know (Article 9 (1)-(2), Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties”, the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1), Act XIX of 1998). However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty”.</p> <p>c) Article 12 (1) – (3) of Act CCXL of 2013 ensures that no disadvantage may fall upon detained persons as a result of any Hungarian language deficiency on their part. During detention the detainee may use his/her mother</p>	<p>language on the basis of international agreement promulgated by law, or - if he/she she does not understand Hungarian - any other language that he/she may know (Article 9 (1)-(2) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties,” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998). However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty”.</p>	<p>international agreement promulgated by law, or - if he/she does not understand Hungarian - any other language that he/she she may know (Article 9 (1)-(2) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties,” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998). However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty”.</p>
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	<p>tongue or regional/ethnic language on the basis of international agreement promulgated by law or, if he/she does not know Hungarian, any other language may be used that he/she may know. In matters related to prison service, or to detention, a member of the prison service with who has adequate language competence, may act as an ad-hoc interpreter. The authorities shall ensure the translation of decisions rendered in such matters into the appropriate language if the person concerned specifically requests so at the time of the notification of the decision. The prison service authority has to provide information to the person in custody in his or her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, in any other language that he/she may know, on the rules of the implementation of detention, on the core content of his/her rights and obligations during detention, and on the regulations of the penal institution.</p> <p>If the letter of rights, namely information to be provided for detainees under Article 12 (4)-(5) of Act CCXL of 2013 on procedural</p>		
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	<p>rights in criminal proceedings, is not available in a language the person concerned understands, it is provided orally in the presence of two witnesses, which process is recorded. If the letter of rights becomes available in writing in a language the detained person understands, it must be given to him/her without delay (Article 12 (8) of Act CCXL of 2013). An “official translation” of the General Information Leaflet of the Hungarian Prison Service Headquarters for non-Hungarian national detainees is available in Albanian, Arab, Chinese, Croatian, English, French, German, Lovari, Polish, Romanian, Russian, Serbian, Slovakian, Slovenian, Spanish, Turkish, Ukrainian and Vietnamese.</p> <p>The notification on the forwarding of the judgment and the certificate for transfer must be provided in the mother tongue of the person concerned, or in any other language he/she designated (Article 129 (4) of Act CLXXX of 2012).</p>		
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<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>In the Ministry of Justice the International Criminal Law and Human Rights Department (<i>Nemzetközi Büntetőjogi és Emberi Jogi Főosztály</i>) is responsible for dealing with matters relating to international criminal cooperation.¹⁸</p>	<p>In the Ministry of Justice the International Criminal Law and Human Rights Department (<i>Nemzetközi Büntetőjogi és Emberi Jogi Főosztály</i>) is responsible for dealing with matters relating to international criminal cooperation.¹⁹</p>	<p>In the Ministry of Justice the International Criminal Law and Human Rights Department (<i>Nemzetközi Büntetőjogi és Emberi Jogi Főosztály</i>) is responsible for dealing with matters relating to international criminal cooperation.²⁰</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 Ministry of Justice does not collect /collate such data or statistics.²¹</p>	<p>The Ministry of Justice does not collect /collate such data or statistics.²²</p>	<p>The Ministry of Justice does not collect /collate such data or statistics.²³</p>

¹⁸ Representative of the Ministry of Justice.

¹⁹ Representative of the Ministry of Justice.

²⁰ Representative of the Ministry of Justice.

²¹ Representative of the Ministry of Justice.

²² Representative of the Ministry of Justice.

²³ Representative of the Ministry of Justice.

TOPIC	3 FD 2008/909	4 FD 2008/947	5 FD 2009/829 (ESO)
Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON			
<p>Q2.1. Is there a procedure in place in the issuing state (e.g. some mechanism that ensures it is done in all relevant cases) 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 or written procedure) and specify who provides this information.</p>	<p>No specific procedure exists.</p> <p>Under Article 128 (1) of Act CLXXX of 2012, the certificate has to be issued by the criminal judge. Under general, applicable rules, before performing any procedural action the court shall inform and advise the person involved in the action about his/her related rights and obligations, and the person concerned has the right to receive this information (Act XIX of 1998, Article 62; Article 43 (2) f)). Defense counsels claim that the court in general fulfils this obligation in criminal procedures.²⁴</p> <p>However, in practice, the role of criminal judges is only to define the content of the ministerial request for obtaining and recording the statement of the person concerned, which provides information on the procedure.²⁵</p>	<p>No specific procedure exists.</p> <p>Under Article 145 of Act CLXXX of 2012, the courts hearing the case may make a decision on transfer of alternative sanctions. Under general, applicable rules, before performing any procedural action the court shall inform and advise the person involved in the action of his/her related rights and obligations, and the person concerned has the right to receive this information (Act XIX of 1998, Article 62; Article 43 (2) f)). Defense counsels claim that the court in general fulfils this obligation in criminal procedures.²⁷</p> <p>Under Article 145 (1) of Act CLXXX of 2012, the person concerned is required to make a statement on his/her wish to be returned to his/her state of</p>	<p>No specific procedure exists.</p> <p>Under Article 87 of Act CLXXX of 2012, the courts hearing the case may make a decision on transfer of alternative sanctions. Under general, applicable rules, before performing any procedural action the court shall inform and advise the person involved in the action of his/her related rights and obligations, and the person concerned has the right to receive this information (Act XIX of 1998, Article 62; Article 43 (2) f)). Defense counsels claim that the court in general fulfils this obligation in criminal procedures.²⁹</p> <p>Under Article 87 (1) of Act CLXXX of 2012, where the court orders supervision instead of pre-trial detention, the certificate is filled</p>

²⁴ Representatives of the defense counsel.

²⁵ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Budapest Environs Regional Court and the Szeged Regional Court.

²⁷ Representatives of the defense counsel.

²⁹ Representatives of the defense counsel.

	<p>Under Article 128 (2) of Act CLXXX of 2012, if the conditions of transfer are met or there are substantial grounds for believing that these conditions will be met, the sentenced person – may make a statement before the criminal judge regarding the transfer of the implementation of his/her imprisonment, or any other measure comprising deprivation of liberty. The General Information Leaflet of the Hungarian Prison Service Headquarters informs sentenced persons of their right to receive information on the possibility of transfer (see also Q.1. 1.)</p> <p>An “official translation” of the General Information Leaflet of the Hungarian Prison Service Headquarters for non-Hungarian national detainees is available in Albanian, Arab, Chinese,</p>	<p>residence (stay), or to request a transfer to a different state.</p> <p>Note, however, that no relevant case has been reported in the responses of the interviewed courts.²⁸</p>	<p>under Appendix 5 of Act CLXXX of 2012:</p> <ul style="list-style-type: none"> - after obtaining the informed consent of the person concerned (if the supervision measure is to be implemented in his/her place of residence or stay), or - upon his/her request if it is to be implemented in any other state. See also: Q.1.1. - Note, however, that no relevant case has been reported in the responses of the interviewed courts.³⁰
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²⁸ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

³⁰ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	Croatian, English, French, German, Lovari, Polish, Romanian, Russian, Serbian, Slovakian, Slovenian, Spanish, Turkish, Ukrainian and Vietnamese. ²⁶		
<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>Article 127 (2) of Act CLXXX of 2012 prescribes that the consent of the sentenced person is necessary for the forwarding of the judgment or certificate when he/she would be transferred to a Member State other than:</p> <ul style="list-style-type: none"> a) the Member State of nationality in which the sentenced person lives; b) the Member State to which the sentenced person will be deported once he/she is released from the enforcement of the sentence, on the basis of an expulsion or deportation order included in the judgment, or in a judicial or administrative decision, or any other measure consequential to the judgment; c) the Member State to which the sentenced person has fled, or otherwise returned, in view of the criminal proceedings pending against him/her in the issuing State, 	<p>Under Article 145 (1) of Act CLXXX of 2012 the person concerned is required to make a statement on his/her wish to be returned to his/her state of residence / stay, or to request a transfer to a different state. This implies that under the current rules, his/her consent is required. (see also Q.2.1. and Q.1. 1.).</p> <p>Point f) of the certificate issued by the court contains information on the reasons for forwarding the judgment/decision, thus on whether</p> <ul style="list-style-type: none"> a) the place of residence of the person concerned is in the implementing state and he or she returned or wish to return to this state b) the person concerned wishes to move to the implementing state <ul style="list-style-type: none"> - due to having obtained a labour contract 	<p>Under Article 87 (1) of Act CLXXX of 2012 the court must obtain the consent of the person concerned when it orders the supervision measure and fills out the model template for transfer. A transfer may also be ordered at the request of the person concerned (see also Q.2.1. and Q.1.1.).</p> <p>Point e) of the certificate issued by the court has to provide information on the reasons for forwarding the decision ordering supervision measures. It has to state explicitly whether:</p> <ul style="list-style-type: none"> a) after being informed of the supervision measures in question the person concerned is ready to return to his or her place of residence b) he or she requested the forwarding of the decision ordering supervision measure to a Member State other than his or her place of

²⁶ Representative of the Ministry of the Interior.

	<p>or following the conviction in that issuing State.</p> <p>No rules specify the obtainment of the consent itself, no specific procedure is applied. In practice, it is the task of the criminal judge to obtain the statement (consent) of the person concerned upon the request of the Ministry of Justice.³¹</p> <p>Under Article 128 (1)-(2) of Act CLXXX of 2012, the certificate has to be issued by the criminal judge, in front of whom the person concerned may make a statement regarding the transfer, which must then be forwarded to the competent minister. The statement (consent) has to be recorded by the Criminal judge. Point k) of the certificate issued by the Criminal judge also contains information on whether the person concerned consented to the transfer or not and on whether his or her statement is attached or not (Appendix 8, point k), Act LCXXX of 2012). (See also Q.2.1. and Q.1. 1.)</p>	<ul style="list-style-type: none"> - since he or she is a family member of a person whose habitual residence is in that state; - since he or she wishes to study in the state concerned. <p>(Appendix 10, point e), Act LCXXX of 2012)</p> <p>Note, however, that no relevant case has been reported in the responses of the interviewed courts.³²</p>	<p>residence (Appendix 5, point e), Act LCXXX of 2012).</p> <p>Note, however, that no relevant case has been reported in the responses of the interviewed courts.³³</p>
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³¹ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

³² Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

³³ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

<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 may be exercised.</p>	<p>The relevant legal provisions do not exclude the modification of the statement (consent) made during the transfer procedure or the revocation of the request for transfer, though - according to information given by the Ministry of Justice - this is only relevant if the consent of the person concerned is necessary for the transfer and the transfer had not been implemented yet. After the transfer the legal requirements of the implementing state govern the issue.³⁴</p>	<p>The relevant legal provisions do not exclude the modification of the statement made during the transfer procedure or the revocation of the request for transfer, though - according to information given by the Ministry of Justice - this is only relevant if the consent of the person concerned is necessary for the transfer and the transfer had not been implemented yet. After the transfer the legal requirements of the implementing state govern the issue.³⁵</p>	<p>The relevant legal provisions do not exclude the modification of the statement made during the transfer procedure or the revocation of the request for transfer, though - according to information given by the Ministry of Justice - this is only relevant if the consent of the person concerned is necessary for the transfer and the transfer had not been implemented yet. After the transfer the legal requirements of the implementing state govern the issue.³⁶</p>
<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>Under Article 128 (1) of Act CLXXX of 2012, the certificate must be issued by the criminal judge. Under Article 128 (2) of Act CLXXX of 2012, if the conditions of transfer are met or there are substantial grounds for believing that these conditions will be met, the sentenced person may make a statement (consent) before the criminal judge on the transfer of the implementation of his/her imprisonment, or any other measure comprising deprivation of liberty. The statement of the sentenced</p>		

³⁴ Representative of the Ministry of Justice.

³⁵ Representative of the Ministry of Justice.

³⁶ Representative of the Ministry of Justice.

	<p>person is recorded and signed by the criminal judge. The records must contain the reasons raised by the sentenced person in connection with the implementation of the punishment in the Member State concerned. This record of the statement of the sentenced person must be forwarded to the competent minister, together with the certificate and the judgment .</p>		
<ul style="list-style-type: none"> • When consent is not required? 	<p>Under Article 128 (1) of Act CLXXX of 2012, the certificate has to be issued by the criminal judge. Under Article 128 (2) of Act CLXXX of 2012, if the conditions of transfer are met or there are substantial grounds for believing that these conditions will be met, the sentenced person may make a statement before the criminal judge on the transfer of the implementation of his/her imprisonment, or any other measure comprising deprivation of liberty. The statement of the sentenced person must be recorded and signed by the criminal judge. The records have to contain the reasons raised by the sentenced person in connection with the implementation of the punishment in the Member State concerned. This record of the statement of the sentenced person must be</p>		

	forwarded to the competent minister, together with the certificate and the judgment.		
<ul style="list-style-type: none"> When consent is required? (Article 6 (3) of FD 2008/909/JHA). 	<p>Again, under Article 128 (1) of Act CLXXX of 2012, the certificate has to be issued by the criminal judge. Under Article 128 (2) of Act CLXXX of 2012, if the conditions of transfer are met or there are substantial grounds for believing that these conditions will be met, the sentenced person may make a statement before the criminal judge on the transfer of the implementation of his/her imprisonment or any other measure comprising deprivation of liberty. The statement of the sentenced person is recorded and signed by the criminal judge. The records must contain the reasons raised by the sentenced person in connection with the implementation of the punishment in the Member State concerned. This record of the statement of the sentenced person must be forwarded to the competent minister, together with the certificate and the judgment. It is understood that by making a statement the person concerned gives his/her consent.</p>		
Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on	This is unspecified in the relevant legal acts, however, the person		

<p>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>concerned making another statement is not excluded, though - according to information given by the Ministry of Justice - this is only relevant if the consent of the person concerned is necessary for the transfer and the transfer had not been implemented yet. After the transfer the legal requirements of the implementing state govern the issue.³⁷ Requests for modification (revocation) are to be submitted to the Ministry of Justice.</p> <p>2013).</p>		
<p>Q2.6. Is the suspect/sentenced person assisted by a legal counsel in the issuing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone)</p>	<p>The suspect or accused person in criminal proceedings has the right to a defense, and the right to choose a defense counsel or to request the appointment of a counsel, which the authorities are required to ensure. If the person concerned does not speak Hungarian, the participation of a defense counsel in the procedure is obligatory. If the participation of a defense counsel in the procedure is obligatory and the suspect does not choose a defense counsel within three days, the prosecutor or the investigating authority will appoint one. If the person concerned is in detention, the appointment of a</p>	<p>The suspect or accused person in criminal proceedings has the right to a defence, and the right to choose a defense counsel or to request the appointment of a counsel, which the authorities are required to ensure. If the person concerned does not speak Hungarian, the participation of a defense counsel in the procedure is obligatory. If the participation of a defense counsel in the procedure is obligatory and the suspect does not choose a defense counsel within three days, the prosecutor or the investigating authority will appoint one. If the</p>	<p>The suspect or accused person in criminal proceedings has the right to a defence, and the right to choose a defense counsel or to request the appointment of a counsel, which the authorities are required to ensure. If the person concerned does not speak Hungarian, the participation of a defense counsel in the procedure is obligatory. If the participation of a defense counsel in the procedure is obligatory and the suspect does not choose a defense counsel within three days, the prosecutor or the investigating authority will appoint one. If the person concerned is in detention, the appointment of a defense counsel</p>

³⁷ Representative of the Ministry of Justice.

	<p>defense counsel is obligatory before the first questioning. (Article 5, Article 46 (d), Article 48 (1)-(2), Act XIX of 1998).</p> <p>If the person concerned is in custody he or she has to be interrogated within 24 hours from the moment brought before the investigating authority (Article 179 (1), Act XIX of 1998). At the same time the investigating authority has to inform the defence counsel in due time of the time and the place of the interrogation (Article 179 (4), Act XIX of 1998). In practice, this may result in that for example the proper notification of the chosen or assigned defence counsel does not happen in due time, thus, the defence counsel may not be present at the first questioning of the suspect to monitor the process of the interrogation.³⁸</p> <p>Act CCXL of 2013 ensures the right to defence in matters related to implementation of punishments. The sentenced person, or his/her legal representative, or relative of full age, and, if he/she is of foreign nationality, his/her consular representative, may authorise a</p>	<p>person concerned is in detention, the appointment of a defense counsel is obligatory before the first questioning. The person concerned may communicate with his/her defense counsel freely, either face-to-face or by telephone. (Article 5, Article 46 (d), Article 48 (1)-(2), Act XIX of 1998).</p>	<p>is obligatory before the first questioning. The person concerned may communicate with his/her defense counsel freely, either face-to-face or by telephone. (Article 5, Article 46 (d), Article 48 (1)-(2), Act XIX of 1998).</p>
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³⁸ Representatives of the defense counsel.

	<p>defense counsel. Upon request, or on his/her own initiative, the criminal judge assigns a defense counsel if he/she deems it necessary (Article 11 (1), (4), Act CCXL of 2013). Under Article 11 (6)-(7) of Act CCXL of 2013, the prison service authority may not control the content of the correspondence or the telephone communication between the detainee and his/her defense counsel, although it is permitted to verify the identity of the source of the phone call or the letter. The detainee has the right of access to a lawyer. The person concerned may communicate with his/her defense counsel freely, either face-to-face or by telephone, and without supervision.</p>		
<p>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>	<p>No specific rules apply. The person concerned may not submit an appeal against the assignment of a defense counsel, although he or she may request the assignment of another defense counsel. This must be accompanied by a statement of his/her his/her reasons for the request. The court or prosecutor which is conducting the proceedings, also makes a decision on such requests (Article 48 (5), Act XIX of 1998).</p>		

<p>Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?</p>	<p>In criminal procedures, Article 74 (3) of Act XIX of 1998 contains rules on the availability of free legal aid. The investigating authority is required to inform the suspect about the possibility of requesting personal cost exemption (whereby free legal aid is provided by the state, with all expenses paid)) where he or she has insufficient means to pay the costs of the criminal proceedings due to his/her disadvantaged position (Article 179 (3a), Act XIX of 1998). Joint Regulation 9/2003 of the Ministry of Justice, Ministry of the Interior and the Ministry of Finance on the application of exemption of bearing the costs in criminal proceedings³⁹ (9/2003. (V. 6.) <i>IM–BM–PM együttes rendelet a személyes költségmentesség alkalmazásáról a büntetőeljáráásban</i>, Article 1-2) contains the detailed rules on the conditions for being granted personal cost exemption. Under Article 11 (4) of Act CCXL of 2013, on the assignment of a defense counsel the criminal judge may also authorise personal cost</p>	<p>In criminal procedures, Article 74 (3) of Act XIX of 1998 contains rules on the availability and right to free legal aid. The investigating authority is required to inform the suspect that he/she may request personal cost exemption, where he/she is unable to pay the costs of the criminal proceedings due to his/her disadvantaged position. Such an exemption provides for free legal aid, and the covering of all legal costs by the state Article 179 (3a), Act XIX of 1998). Joint Regulation 9/2003 of the Ministry of Justice, Ministry of the Interior and the Ministry of Finance on the application of exemption of bearing the costs in criminal proceedings contains the detailed rules on the conditions for having all expenses paid (Article 1-2).</p>	<p>In criminal procedures, Article 74 (3) of Act XIX of 1998 contains rules on the availability and right to free legal aid. The investigating authority is required to inform the suspect that he/she may request personal cost exemption, where he/she is unable to pay the costs of the criminal proceedings due to his/her disadvantaged position. Such an exemption provides for free legal aid, and the covering of all legal costs by the state (Article 179 (3a), Act XIX of 1998). Joint Regulation 9/2003 of the Ministry of Justice, Ministry of the Interior and the Ministry of Finance on the application of exemption of bearing the costs in criminal proceedings contains the detailed rules on the conditions for having all expenses paid (Article 1-2).</p>
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³⁹ Regulation 9/2003 of the Ministry of Justice, Ministry of the Interior and the Ministry of Finance on the application of exemption of bearing the costs in criminal proceedings (9/2003. (V. 6.) *IM–BM–PM együttes rendelet a személyes költségmentesség alkalmazásáról a büntetőeljáráásban*), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=73823.261173.

	<p>exemption according to Article 74 (3) of Act XIX of 1998.</p>		
<p>Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:</p>	<p>No specific rules apply. Article 12 (1) – (3) of Act CCXL of 2013 ensures that no disadvantage should arise for a detained person as a result of his/her lack of Hungarian. During detention the detainee may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not know Hungarian, any other language that he/she may know. In matters related to prison service, or to detention, a member of the prison service with adequate language competence, may act as an ad-hoc interpreter. According to information provided by defense counsels⁴⁰, in practice:</p> <ul style="list-style-type: none"> - there are no adequate rules to ascertain the language competence of members of the prison service, Thus, they are not centrally registered by the state and the practice of courts may vary. - members of the prison service are rarely, if ever, assigned as interpreters since they have no adequate language competence. In 	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. The investigating authority is required to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998). However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty” and no official guidelines exist either. According to information</p>	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. The investigating authority has to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998). However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty” and no official guidelines exist either. According to information provided by judges “disproportionate difficulty” may mean that no mother tongue</p>

⁴⁰ Representatives of the defense counsel.

	<p>practice, it is other prisoners/detainees who act as ad-hoc interpreters.</p> <p>-</p> <p>According to information given by criminal judges internal lists may or may not exist within the institution of e.g. those members of the prison service / court who have a language exams of advanced level⁴¹</p> <p>In its response to interview requests only the Szeged Regional Court maintained that an officer of the prison service acts on a regular basis as ad hoc interpreter in Szeged Strict and Medium Regime Prison.⁴²</p> <p>The authorities shall ensure the translation of decisions rendered in such matters into the appropriate language, if the person concerned specifically requests so at the time of the notification of the decision. The detained person shall be informed of this right. The prison service authority must provide information to the person in custody in his/her mother tongue or</p>	<p>provided by judges “disproportionate difficulty” may mean that no mother tongue interpreter may be found in Hungary⁴³ (even after requiring the assistance of relevant embassies).⁴⁴</p>	<p>interpreter may be found in Hungary⁴⁵ even after requiring the assistance of relevant embassies.⁴⁶.</p>
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⁴¹ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁴² Representative of the Szeged Regional Court.

⁴³ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁴⁴ Criminal judges of the Budapest-Capital Regional Court.

⁴⁵ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁴⁶ Criminal judges of the Budapest-Capital Regional Court.

	<p>regional/ethnic language (on the basis of international agreement promulgated by law), or, if he/she does not understand Hungarian in any other language that he/she may know, about the rules of the implementation of detention, on the core content of his/her rights and obligations during detention, and on the regulations of the penal institution.</p>		
<ul style="list-style-type: none"> • While consenting to the transfer? 	<p>No specific rules apply. Article 12 (1) – (3) of Act CCXL of 2013 ensures that no disadvantage may arise for a detained person as a result of his/her lack of Hungarian. During detention the detainee may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. In matters related to prison service or to detention, a member of the prison service with adequate language competence, may act as an ad-hoc interpreter.</p> <p>According to information provided by defense counsels and criminal judges, in practice:</p> <ul style="list-style-type: none"> - there are no adequate rules to ascertain the language 	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she she may know. The investigating authority is required to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998) However,</p>	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. The investigating authority has to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998) However, there is no indication in the relevant legal text as to what</p>

	<p>competence of members of the prison service. Thus, they are not centrally registered by the state.</p> <ul style="list-style-type: none"> - members of the prison service are rarely, if ever, assigned as interpreters since they have no adequate language competence. In practice, it is other prisoners who act as ad-hoc interpreters.⁴⁷ <p>According to information given by criminal judges internal lists may exist within the institution of e.g. those members of the prison service who have a language exams of advanced level.⁴⁸</p> <p>In its response to interview requests only the Szeged Regional Court maintained that an officer of the prison service acts on a regular basis as ad hoc interpreter in Szeged Strict and Medium Regime Prison.⁴⁹</p>	<p>there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty” and no official guidelines exist either. According to information provided by judges “disproportionate difficulty” may mean that no mother tongue interpreter may be found in Hungary⁵⁰ even after requiring the assistance of relevant embassies.⁵¹</p>	<p>would constitute “disproportionate difficulty” and no official guidelines exist either. According to information provided by judges “disproportionate difficulty” may mean that no mother tongue interpreter may be found in Hungary⁵² even after requiring the assistance of relevant embassies.⁵³</p>
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⁴⁷ Representatives of the defense counsel.

⁴⁸ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁴⁹ Representative of the Szeged Regional Court.

⁵⁰ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁵¹ Criminal judges of the Budapest-Capital Regional Court.

⁵² Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁵³ Criminal judges of the Budapest-Capital Regional Court.

	<p>The authorities shall ensure the translation of decisions rendered in such matters into the appropriate language if the person concerned specifically requests so at the time of the notification of the decision. The detained person must be informed of this right. The prison service authority is required to provide information to the person in custody in his/her mother tongue or regional/ethnic language (on the basis of international agreement promulgated by law), or, if he/she does not understand Hungarian, in any other language that he/she may know, about the rules of the implementation of detention, on the core content of his/her rights and obligations during detention, and on the regulations of the penal institution.</p>		
<ul style="list-style-type: none"> • While requesting the transfer? 	<p>No specific rules apply. Article 12 (1) – (3) of Act CCXL of 2013 ensures that no disadvantage may arise for detained persons as a result of his/her lack of Hungarian. During detention the detainee may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not know Hungarian, any other language that he/she may know. In matters related to prison</p>	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. The investigating authority has to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of</p>	<p>No specific rules apply. In criminal proceedings the suspect may use his/her mother tongue or regional/ethnic language on the basis of international agreement promulgated by law, or, if he/she does not understand Hungarian, any other language that he/she may know. The investigating authority has to clarify the nationality of the suspect before questioning (Article 9 (1) Act XIX of 1998). The assignment of an interpreter is</p>

	<p>service or to detention, a member of the prison service with adequate language competence, may act as an ad-hoc interpreter.</p> <p>According to information provided by defense counsels and criminal judges, in practice:</p> <ul style="list-style-type: none"> - there are no adequate rules to ascertain the language competence of members of the prison service. Thus, they are not centrally registered by the state - members of the prison service are rarely, if ever, assigned as interpreters since they have no adequate language competence. In practice, it is other prisoners who act as ad-hoc interpreters.⁵⁴ <p>According to information given by criminal judges internal lists may exist within the institution of e.g. those members of the prison service who have a language exams of advanced level.⁵⁵</p>	<p>an interpreter is obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998)</p> <p>However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty” and no official guidelines exist either. According to information provided by judges “disproportionate difficulty” may mean that no mother tongue interpreter may be found in Hungary even after requiring the assistance of relevant embassies.⁵⁷</p>	<p>obligatory if the suspect or accused person wishes to use his/her mother tongue. However, if the assignment of an interpreter would cause “disproportionate difficulties” the authority may appoint an interpreter in a language designated as known by the person concerned (Article 114 (1) of Act XIX of 1998)</p> <p>However, there is no indication in the relevant legal text as to what would constitute “disproportionate difficulty” and no official guidelines exist either. According to information provided by judges “disproportionate difficulty” may mean that no mother tongue interpreter may be found in Hungary even after requiring the assistance of relevant embassies.⁵⁸.</p>
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⁵⁴ Representatives of the defense counsel.

⁵⁵ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁵⁷ Criminal judges of the Budapest-Capital Regional Court.

⁵⁸ Criminal judges of the Budapest-Capital Regional Court.

	<p>In its response to interview requests only the Szeged Regional Court maintained that an officer of the prison service acts on a regular basis as ad hoc interpreter in Szeged Strict and Medium Regime Prison.⁵⁶</p> <p>The authorities shall ensure the translation of decisions rendered in such matters into the appropriate language if the person concerned specifically requests so at the time of the notification of the decision. The detained person shall be warned of this right. The prison service authority has to provide information to the person in custody in his/her mother tongue or regional/ethnic language (on the basis of international agreement promulgated by law), or if he/she does not know Hungarian, in any other language that he/she may know about the rules of the implementation of detention, on the core content of his/her rights and obligations during detention and on the regulations of the penal institution .</p>		
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⁵⁶ Representatives of the Szeged Regional Court.

<p>Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.</p>	<p>As to the method of interpretation no specific rules apply, according to information provided by judges and attorneys, interpretation is provided during a face-to-face consultation.⁵⁹</p> <p>According to Article 9 (3) of Act XIX of 1998 the investigation authority, court or prosecutor which takes or issues a decision that has to to be served is responsible for its translation as well. The translation of any other documents is not obligatory and often happens orally. Lengthy documents are often summarized orally.⁶⁰</p> <p>Under Article 12 (2) of Act CCXL of 2013 The prison service authority has to ensure the translation of decisions rendered in relation to the implementation of detention if the person concerned specifically</p>	<p>As to the method of interpretation no specific rules apply, according to information provided by judges and attorneys, interpretation is provided during a face-to-face consultation.⁶¹</p> <p>According to Article 9 (3) of Act XIX of 1998 the investigation authority, court or prosecutor which takes or issues a decision that has to to be served is responsible for its translation as well. The translation of any other documents is not obligatory and often happens orally. Lengthy documents are often summarized orally.⁶²</p> <p>See Q.2.9</p>	<p>As to the method of interpretation no specific rules apply, according to information provided by judges and attorneys, interpretation is provided during a face-to-face consultation.⁶³</p> <p>According to Article 9 (3) of Act XIX of 1998 the investigation authority, court or prosecutor which takes or issues a decision that has to to be served is responsible for its translation as well. The translation of any other documents is not obligatory and often happens orally. Lengthy documents are often summarized orally.⁶⁴</p> <p>. See Q.2.9.</p>
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⁵⁹ Representatives of the defence counsel and criminal judges of the Budapest-Capital Regional Court and of the Budapest Environs Regional Court.

⁶⁰ Representatives of the defense counsel.

⁶¹ Representatives of the defence counsel and criminal judges of the Budapest-Capital Regional Court Budapest Environs Regional Court.

⁶² Representatives of the defense counsel.

⁶³ Representatives of the defence counsel and criminal judges of the Budapest-Capital Regional Court and of the Budapest Environs Regional Court.

⁶⁴ Representatives of the defense counsel.

	requests so at the time of the notification of the decision. See also Q.2.9.		
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.	According to information provided by criminal judges this is not explicitly checked on a case-by-case basis ⁶⁵ , though responses to interview request maintain that judges ask whether the person concerned understood the information provided and record his or her statement on this specifically ⁶⁶ See Q.2.9.	The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on the judicial practice, allegedly due to lack of collected data. ⁶⁷ No relevant case has been reported in the responses of the interviewed courts. ⁶⁸ Q.2.9.	The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on the judicial practice, allegedly due to lack of collected data. ⁶⁹ No relevant case has been reported in the responses of the interviewed courts. ⁷⁰ See Q.2.9.
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?	Under Article 129 (4) of Act CLXXX of 2012, the minister informs the prisoner of the possibility to adapt the judgment by the executing state. This is done using the model template of Appendix 9. There is no specific obligation to provide information	There is no specific obligation to provide information regarding the measures that may be taken by the executing state in this regard. See Q.2.9. The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests	There is no specific obligation to provide information regarding the measures that may be taken by the executing state in this regard. See Q.2.9. The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for

⁶⁵ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁶⁶ Representatives of the Budapest Environs Regional Court and Szeged Regional Court.

⁶⁷ Representatives of the National Office for the Judiciary.

⁶⁸ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁶⁹ Representatives of the National Office for the Judiciary.

⁷⁰ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>regarding the measures that may be taken by the executing state.</p> <p>See Q.2.9.</p>	<p>for public data, allegedly due to lack of collected data.⁷¹</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁷²</p>	<p>public data, allegedly due to lack of collected data.⁷³</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁷⁴</p>
<p>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)</p>	<p>The person concerned has no right to appeal the forwarding of the judgment or decision. Under Article 50 (1) f of Act CCXL of 2013, appeals may be lodged against decisions taken by the criminal judge, however, decisions on forwarding are not taken by the criminal judge, but rather by the competent minister (Article 129 (6), Act CLXXX of 2012).</p>	<p>At the request (statement) of the person concerned, the court issues, and directly forwards, the relevant certificate to the competent authority of the executing state (Article 145 (1) of Act CLXXX of 2012). There is no general provision made for lodging complaints against the non-conclusive decisions of the court (Article 260 (2), Act XIX of 1998).</p>	<p>At the request of, or with the informed consent of, the person concerned, the court issues, and directly forwards, the ESO to the competent authority of the executing state. There is no general provision made for lodging complaints against the non-conclusive decisions of the court (Article 260 (2), Act XIX of 1998).</p>
<p>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)</p>	<p>According to the Ministry of Justice, in response to a request for public data, the person concerned has no right to appeal the decision on transfer.⁷⁵ While decisions taken by the criminal judge may be appealed under Article 50 (1) f of Act CCXL of 2013, decisions on forwarding are taken by the</p>	<p>At the request (statement) of the person concerned, the court issues, and directly forwards, the relevant certificate to the competent authority of the executing state (Article 145 (1) of Act CLXXX of 2012). No general provision is made for lodging complaints against the non-</p>	<p>At the request of, of with the informed consent of, the person concerned, the court issues and directly forwards the ESO to the competent authority of the executing state (Article 87 (1) of Act CLXXX of 2012). No general provision is made for lodging complaints against the non-</p>

⁷¹ Representatives of the National Office for the Judiciary.

⁷² Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁷³ Representatives of the National Office for the Judiciary.

⁷⁴ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁷⁵ Representatives of the Ministry of Justice.

	competent minister, rather than the criminal judge (Article 129 (6), Act CLXXX of 2012).	conclusive decisions of the court (Article 260 (2), Act XIX of 1998).	conclusive decisions of the court (Article 260 (2), Act XIX of 1998).
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?)	Persons transferred to Hungary may be assisted by defense counsels under the general rules. See also Q.2.6-8.	Persons transferred to Hungary may be assisted by defense counsels under the general rules. See also Q.2.6-8.	Persons transferred to Hungary may be assisted by defense counsels under the general rules. See also Q.2.6-8.
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.	The Ministry of Justice states that, “the refusal of transfers occurred in cases when it was based on a refusal ground provided by the framework decisions, or, in the case of transfer of implementation of punishments, there was no connection between the sentenced person and the executing state.” ⁷⁶	The Ministry of Justice states that, “the refusal of transfers occurred in cases when it was based on a refusal ground provided by the framework decisions, or, in the case of transfer of implementation of punishments, there was no connection between the sentenced person and the executing state.” ⁷⁷ According to the information provided by the Budapest-Capital Regional Court (<i>Fővárosi Törvényszék</i>) one case was reported when the forwarding of the judgment containing alternative sanction was not possible due to the fact that the Member State concerned has not implemented FD 2008/947 yet. ⁷⁸	The Ministry of Justice states that, “the refusal of transfers occurred in cases when it was based on a refusal ground provided by the framework decisions”. ⁷⁹

⁷⁶ Representatives of the Ministry of Justice.

⁷⁷ Representatives of the Ministry of Justice.

⁷⁸ Criminal judges of the Budapest-Capital Regional Court.

⁷⁹ Representatives of the Ministry of Justice.

<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>There is no specific information on any development regarding the informed consent to the transfer of particular suspects/sentenced persons.</p>	<p>There is no specific information on any development regarding the informed consent to the transfer of particular suspects/sentenced persons.</p>	<p>There is no specific information on any development regarding the informed consent to the transfer of particular suspects/sentenced persons.</p>
<p>TOPIC</p>	<p>FD 2008/909</p>	<p>FD 2008/947</p>	<p>FD 2009/829 (ESO)</p>
<p>Q3. DECISION ON TRANSFER</p>			
<p>Q3.1. Are the following factors considered while deciding on forwarding a judgment or decision in the issuing state?</p>			
<ul style="list-style-type: none"> The likely impact on the social rehabilitation of the suspect/sentenced person? 	<p>When the consent of the sentenced person is necessary for the forwarding of the judgement and the certificate, the court must also ascertain that the transfer of the implementation of the decision serves the rehabilitation of the sentenced person (Article 127 (2), Act CLXXX of 2012.)</p> <p>Note, however, that according to the judges consulted most procedures are initiated by the person concerned. In practice, criminal judges during the hearing of the person concerned ask and record the personal and other circumstances which support the transfer, including e.g. the likely impact on social rehabilitation, family/cultural ties or any other</p>	<p>If the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court takes into consideration whether or not this would serve his/her rehabilitation, in view of his/her family, cultural or economic relations (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial</p>	<p>An examination of the likely impact of the transfer on the social rehabilitation of the person concerned is not a prerequisite for the initiation of the procedure (Article 87-92, Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice,</p>

	<p>issues the he or she wishes to raise. Criminal judges specifically referred to asking “routinely” about family and social ties during the hearing. Otherwise, criminal judges emphasised that the persons concerned “raise relevant issues themselves” during the hearing.⁸⁰</p> <p>There are no guidelines as to what factors have to be considered by the competent minister. The Ministry of Justice stated that decisions are made taking into account all individual circumstances of the case.⁸¹</p> <p>To date no cases were reported by the contacted defense counsels which would indicate the contrary, though further inquiries are necessary (under way). It was, however remarked, that what truly “decides” these cases, is the willingness of the executing state to accept transfer.⁸²</p>	<p>practice, allegedly due to lack of collected data.⁸³</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁸⁴</p>	<p>allegedly due to lack of collected data.⁸⁵</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁸⁶</p>
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⁸⁰ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁸¹ Representative of the Ministry of Justice.

⁸² Representatives of the defense counsel.

⁸³ Representative of the National Office for the Judiciary.

⁸⁴ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁸⁵ Representative of the National Office for the Judiciary.

⁸⁶ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

<ul style="list-style-type: none"> • Fundamental rights implications (such as the right to family life, right to education)? 	<p>When the consent of the sentenced person is necessary for the forwarding of the judgement and the certificate, the court must also ascertain that the transfer of the implementation of the decision serves the rehabilitation of the sentenced person, including any implications for his/her fundamental rights (Article 127 (2), Act CLXXX of 2012).</p> <p>Note, however, that according to the criminal judges consulted most procedures are initiated by the person concerned. In practice, criminal judges during the hearing of the person concerned ask and record the personal and other circumstances which support the transfer, including e.g. the likely impact on social rehabilitation, family/cultural ties or any other issues the he or she wishes to raise. Criminal judges specifically referred to asking “routinely” about</p>	<p>If the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court takes into consideration whether this would serve his/her rehabilitation, including any implications for his/her fundamental rights, in view of his/her family, cultural or economic relations (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.⁹⁰</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁹¹</p>	<p>An examination of the fundamental rights implications of the person concerned is not a prerequisite for the initiation of the procedure (Article 87-92, Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.⁹²</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁹³</p>
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⁹⁰ Representative of the National Office for the Judiciary.

⁹¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

⁹² Representative of the National Office for the Judiciary.

⁹³ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>family and social ties during the hearing. Otherwise, criminal judges emphasised that the persons concerned “raise relevant issues themselves” during the hearing.⁸⁷</p> <p>There are no guidelines as to what factors have to be considered by the competent minister. The Ministry of Justice maintains that decisions are made taking into account all individual circumstances of the case.⁸⁸</p> <p>To date no cases were reported by contacted defense counsels which would indicate the contrary, though further inquiries are necessary (under way). It was, however remarked, that what truly “decides” these cases, is the willingness of the executing state to accept transfer.⁸⁹</p>		
<ul style="list-style-type: none"> • Others? Please specify. 	---	---	---
<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</p>	<p>When the consent of the sentenced person is necessary for the forwarding of the judgement, the court must also ascertain that the transfer of the implementation of</p>	<p>If the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or</p>	<p>An examination of any specific criteria related to the social rehabilitation of the persons concerned is not a prerequisite of</p>

⁸⁷ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁸⁸ Representative of the Ministry of Justice.

⁸⁹ Representatives of the defense counsel.

<p>issuing state? Please provide any document containing those criteria/guidelines and specify whether the following factors are considered:</p>	<p>the decision serves the rehabilitation of the sentenced person (Article 127 (2), Act CLXXX of 2012.) The below factors are not specified.</p> <p>Although no official guidelines exist, the Ministry of Justice states that the minister takes into consideration family and social ties, criminal history and criminal ties, humanitarian concerns, and detention conditions before making any such decisions.⁹⁴</p> <p>Criminal judges have noted that these procedures are in practice initiated by the persons concerned, who “raise” relevant issues themselves in their statement made before the criminal judge. The statement has to be forwarded to the competent minister who takes it into account.⁹⁵</p>	<p>stay, the court takes into consideration whether this would serve his/her rehabilitation, in view of his/her family, cultural or economic relations (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) maintained that no such guidelines exist.⁹⁶</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.⁹⁷</p> <p>No relevant case has been reported in the responses of the interviewed courts.⁹⁸</p>	<p>the rendering of the transfer (Article 87-92, Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) maintained that no such guidelines exist.⁹⁹</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁰⁰</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁰¹</p>
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⁹⁴ Representatives of the Ministry of Justice.

⁹⁵ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

⁹⁶ Representatives of the National Office for the Judiciary.

⁹⁷ Representatives of the National Office for the Judiciary.

⁹⁸ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and the Szeged Regional Court.

⁹⁹ Representatives of the National Office for the Judiciary.

¹⁰⁰ Representatives of the National Office for the Judiciary.

¹⁰¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

<ul style="list-style-type: none"> Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)? 	<p>Although no official guidelines were indicated, the Ministry of Justice states that the minister considers family and social ties before taking a decision.¹⁰²</p> <p>To date no cases were reported by contacted defense counsels which would indicate the contrary, though further inquiries are necessary (under way).¹⁰³</p> <p>Criminal judges specifically referred to asking “routinely” about family and social ties during the hearing.¹⁰⁴</p>	<p>If the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court takes into consideration whether this would serve his/her rehabilitation, in view of his/her family, cultural or economic relations (Article 145 (1) of Act CLXXX of 2012).</p> <p>Note, however, that no relevant case has been reported in the responses of the interviewed courts.¹⁰⁵</p>	<p>An examination of any specific criteria related to the social rehabilitation of the persons concerned is not a prerequisite of the rendering of the transfer (Article 87-92, Act CLXXX of 2012).</p> <p>Note, however, that no relevant case has been reported in the responses of the interviewed courts.¹⁰⁶</p>
<ul style="list-style-type: none"> Criminal history and criminal ties? 	<p>Although no official guidelines were indicated, the Ministry of Justice states that the minister considers criminal history and criminal ties before making a decision if the case necessitates it.¹⁰⁷</p>	<p>Relevant legal provisions do not prescribe the examination of criminal history and criminal ties (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial</p>	<p>An examination of any specific criteria related to the social rehabilitation of the persons concerned is not a prerequisite of the rendering of the transfer (Article 87-92, Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice,</p>

¹⁰² Representatives of the Ministry of Justice.

¹⁰³ Representatives of the defense counsel.

¹⁰⁴ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

¹⁰⁵ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁰⁶ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and the Szeged Regional Court.

¹⁰⁷ Representative of the Ministry of Justice.

		<p>practice, allegedly due to lack of collected data.¹⁰⁸</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁰⁹</p>	<p>allegedly due to lack of collected data.¹¹⁰</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹¹¹</p>
<ul style="list-style-type: none"> Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)? 	<p>Although no official guidelines were indicated, the Ministry of Justice states that the minister considers humanitarian concerns before making a decision if the case necessitates it.¹¹²</p> <p>Criminal judges specifically referred to this as question which may be raised by the person concerned.¹¹³</p>	<p>Relevant legal provisions do not prescribe the examination of humanitarian concerns (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹¹⁴</p>	<p>An examination of any specific criteria related to the social rehabilitation of the persons concerned is not a prerequisite of the rendering of the transfer (Article 87-92, Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹¹⁶</p>

¹⁰⁸ Representatives of the National Office for the Judiciary.

¹⁰⁹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹¹⁰ Representatives of the National Office for the Judiciary.

¹¹¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹¹² Representative of the Ministry of Justice.

¹¹³ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

¹¹⁴ Representatives of the National Office for the Judiciary.

¹¹⁶ Representatives of the National Office for the Judiciary.

		No relevant case has been reported in the responses of the interviewed courts. ¹¹⁵	No relevant case has been reported in the responses of the interviewed courts. ¹¹⁷
<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) 	<p>Although no official guidelines were indicated, the Ministry of Justice states that detention conditions are considered before a decision is made if the case necessitates.¹¹⁸</p> <p>To date no cases were reported by contacted defense counsels which would indicate the contrary, though further inquiries are necessary (under way).¹¹⁹</p>	<p>Relevant legal provisions do not prescribe the examination of detention conditions (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹²⁰</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹²¹</p>	<p>An examination of any specific criteria related to the social rehabilitation of the persons concerned is not a prerequisite of the rendering of the transfer (Article 87-92, Act CLXXX of 2012). The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹²²</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹²³</p>
<ul style="list-style-type: none"> Others? 	---	---	---

¹¹⁵ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹¹⁷ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹¹⁸ Representative of the Ministry of Justice.

¹¹⁹ Representatives of the defense counsel.

¹²⁰ Representatives of the National Office for the Judiciary.

¹²¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹²² Representatives of the National Office for the Judiciary.

¹²³ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

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? 	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 127-130). However, where the sentenced person’s consent is necessary for the forwarding of the judgment and the certificate, the minister must, consult the competent authority of the Member State concerned to obtain its consent for forwarding the judgement and the certificate.(Article 127 (3), Act CLXXX of 2012).</p> <p>The Ministry of Justice states that, “the judicial authorities of the Member States consult to the degree necessitated by the circumstances of the given case”.¹²⁴</p> <p>To date no cases were reported by contacted defense counsels which would indicate the contrary, .¹²⁵</p>	<p>Article 147 (1) prescribes that the court will consult with the competent authority of the Member State concerned “if the successful implementation of the decision requires so.”</p> <p>Although no consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012, it should be noted that if the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court has to examine whether, in view of his/her family, cultural or economic relations, this would serve his/her rehabilitation (Article 145 (1) of Act CLXXX of 2012).</p> <p>.</p> <p>The Ministry of Justice states that, “the judicial authorities of the Member States consult to the</p>	<p>No such consultation or evaluation of the likelihood of social rehabilitation is required by the relevant provisions of Act CLXXX of 2012 (see Article 87-92).</p> <p>The Ministry of Justice states that, “the judicial authorities of the Member States consult to the degree necessitated by the circumstances of the given case”.¹²⁹</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹³⁰</p>
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¹²⁴ Representative of the Ministry of Justice.

¹²⁵ Representative of the defense counsel.

¹²⁹ Representative of the Ministry of Justice.

¹³⁰ Representative of the National Office for the Judiciary.

		<p>degree necessitated by the circumstances of the given case”.¹²⁶</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹²⁷</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹²⁸</p>	<p>No relevant case has been reported in the responses of the interviewed courts.¹³¹</p>
<ul style="list-style-type: none"> • The competent authorities in the executing state? 	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 127-130).</p> <p>The minister is required to consult the competent authority of the Member State concerned to obtain its consent for forwarding the judgement and the certificate, if the</p>	<p>Article 147 (1) prescribes that the court will consult with the competent authority of the Member State concerned, “if the successful implementation of the decision requires so.” Although no consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 145-</p>	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the relevant provisions of Act CLXXX of 2012 (see Article 87-92).</p> <p>The Ministry of Justice states that, “the judicial authorities of the Member States consult to the</p>

¹²⁶ Representative of the Ministry of Justice.

¹²⁷ Representative of the National Office for the Judiciary.

¹²⁸ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹³¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>sentenced person's consent is necessary for the transfer (Article 127 (3), Act CLXXX of 2012).</p> <p>10 The Ministry of Justice states that, "the judicial authorities of the Member States consult to the degree necessitated by the circumstances of the given case" ".¹³²</p> <p>To date no cases were reported by contacted defense counsels which would indicate the contrary, though further inquiries are necessary (under way).¹³³</p>	<p>147), it should be noted that, if the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court must examine whether, in view of his/her her family, cultural or economic relations, this would serve his/her rehabilitation (Article 145 (1) of Act CLXXX of 2012).</p> <p>The Ministry of Justice states that, "the judicial authorities of the Member States consult to the degree necessitated by the circumstances of the given case".¹³⁴</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial</p>	<p>degree necessitated by the circumstances of the given case".¹³⁷</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹³⁸</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹³⁹</p>
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¹³² Representative of the Ministry of Justice.

¹³³ Representative of the defense counsel.

¹³⁴ Representative of the Ministry of Justice.

¹³⁷ Representative of the Ministry of Justice.

¹³⁸ Representatives of the National Office for the Judiciary.

¹³⁹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

		<p>practice, allegedly due to lack of collected data.¹³⁵</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹³⁶</p>	
<ul style="list-style-type: none"> • The suspect/sentenced person? 	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of (see Article 127-130). However, under Article 128 (2) of Act CLXXX of 2012 the sentenced person makes a statement before the criminal judge on the transfer, the records of which must contain the reasons raised by the sentenced person in connection with the implementation of the punishment in the Member State concerned..</p> <p>Criminal judges specifically referred to asking “routinely” about family and social ties during the hearing.¹⁴⁰</p>	<p>Although no consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 145-147), it should be noted that, if the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court is required to examine whether, in view of his/her family, cultural or economic relations, this would serve his/her rehabilitation (Article 145 (1) of Act CLXXX of 2012).</p> <p>Under Article 145 (1) of Act CLXXX of 2012, the person concerned must make a statement on his/her wish to be</p>	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the relevant provisions of Act CLXXX of 2012 (see Article 87-92).</p> <p>Under Article 87 (1) of Act CLXXX of 2012, the court may issue an ESO after obtaining the informed consent of the person concerned or upon his/her request, but there is no guarantee that the statement of the person concerned would cover these issues.</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice,</p>

¹³⁵ Representatives of the National Office for the Judiciary.

¹³⁶ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁴⁰ Criminal judges of the Budapest-Capital Regional Court and Budapest Environs Regional Court.

		<p>returned to his/her state of residence (stay), or has to request the transfer to a different state. There is, however, no guarantee that such a statement would cover these issues.</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁴¹</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁴²</p>	<p>allegedly due to lack of collected data.¹⁴³</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁴⁴</p>
<ul style="list-style-type: none"> The family of the suspect/sentenced persons, especially with regard to child offenders? 	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 127-130).</p>	<p>Although no consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 145-147), it should be noted that, if the sentenced person requests the forwarding of the judgment and</p>	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the relevant provisions of Act CLXXX of 2012 (see Article 87-92).</p> <p>The Ministry of Justice states that, if it is necessary for processing the</p>

¹⁴¹ Representatives of the National Office for the Judiciary.

¹⁴² Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁴³ Representatives of the National Office for the Judiciary.

¹⁴⁴ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

	<p>The Ministry of Justice states that, if it is necessary for processing the case, “the competent authority of the Member States may contact the family” of the person concerned.¹⁴⁵</p> <p>As to practice, no data are available, further inquiries are necessary (under way).</p>	<p>the certificate to a state other than his/her state of residence or stay, the court has to examine whether, in view of his/her family, cultural or economic relations, this would serve his/her rehabilitation (Article 145 (1) of Act CLXXX of 2012).</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁴⁶</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁴⁷</p> <p>The Ministry of Justice states that, if it is necessary for processing the case, “the competent authority of the Member States may contact the family” of the person concerned.¹⁴⁸</p>	<p>case, “the competent authority of the Member States may contact the family” of the person concerned.¹⁴⁹</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁵⁰</p>
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¹⁴⁵ Representative of the Ministry of Justice.

¹⁴⁶ Representatives of the National Office for the Judiciary.

¹⁴⁷ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁴⁸ Representative of the Ministry of Justice.

¹⁴⁹ Representative of the Ministry of Justice.

¹⁵⁰ Representatives of the National Office for the Judiciary.

<ul style="list-style-type: none"> Any other person/entity? 	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 127-130).</p> <p>The Ministry of Justice states that, if it is necessary for processing the case, “the competent authority of the Member States may contact ... the organisation that has necessary information.”¹⁵¹</p> <p>As to practice, no data are available.</p>	<p>Although no such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the provisions of Act CLXXX of 2012 (see Article 145-147), it should be noted that, if the sentenced person requests the forwarding of the judgment and the certificate to a state other than his/her state of residence or stay, the court has to examine whether, in view of his/her family, cultural or economic relations, this would serve his/her rehabilitation (Article 145 (1) of Act CLXXX of 2012).</p> <p>The Ministry of Justice states that, if it is necessary for processing the case, “the competent authority of the Member States may contact ... the organisation that has necessary information.”¹⁵²</p> <p>The National Office for the Judiciary (<i>Országos Bírósági</i></p>	<p>No such consultation or evaluation of the likelihood of social rehabilitation is explicitly required by the relevant provisions of Act CLXXX of 2012 (see Article 87-92).</p> <p>The Ministry of Justice states that, if it is necessary for processing the case, “the competent authority of the Member States may contact ... the organisation that has necessary information.”¹⁵⁵</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁵⁶</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁵⁷</p>
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¹⁵¹ Representative of the Ministry of Justice.

¹⁵² Representative of the Ministry of Justice.

¹⁵⁵ Representative of the Ministry of Justice.

¹⁵⁶ Representatives of the National Office for the Judiciary.

¹⁵⁷ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

		<p><i>Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁵³</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁵⁴</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?	There are no such legislative or policy developments.	There are no such legislative or policy developments.	There are no such legislative or policy developments.
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>Under Article 129 and 128 of Act CLXXX of 2012, the judgment is also forwarded to the competent minister, together with the certificate.</p> <p>In response to a request for public data, the Ministry of Justice states that the provision of further information is also possible, should the need arise.¹⁵⁸</p> <p>If the consent of the person concerned is required, the minister consults the competent authorities</p>	The relevant legal texts prescribe the forwarding of the judgment concerned, together with the certificate. Under Article 147 (1) of Act CLXXX of 2012, however, the court and the competent authority of the Member State will consult if it is necessary for the successful implementation of the decision.	The relevant legal texts prescribe the forwarding of the decision concerned and the certificate (Article 87 (2)) of Act CLXXX of 2012.

¹⁵³ Representatives of the National Office for the Judiciary.

¹⁵⁴ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁵⁸ Representative of the Ministry of Justice.

	of the executing state (Article 127 (3), Act CLXXX of 2012).		
Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	<p>There is no obligation to forward pre-sentence reports, or to translate them, in the relevant legal texts.</p> <p>The Ministry of Justice, in response to a request for public data, states that the provision of information other than the certificate or the judgment is possible, but in practice it is not translated.¹⁵⁹</p>	<p>There is no obligation to forward pre-sentence reports, or to translate them, in the relevant legal texts.</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁶⁰</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁶¹</p>	<p>There is no obligation to forward pre-sentence reports, or to translate them, in the relevant legal texts.</p> <p>The National Office for the Judiciary (<i>Országos Bírósági Hivatal</i>) did not provide information to repeated requests for public data on judicial practice, allegedly due to lack of collected data.¹⁶²</p> <p>No relevant case has been reported in the responses of the interviewed courts.¹⁶³</p>
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 on whether or not to consent	Under Article 111 (3) of Act CLXXX of 2012: “The implementation of the punishment, or measure inflicted upon, against a sentenced person who is not Hungarian national but whose place of residence is in Hungary		

¹⁵⁹ Representative of the Ministry of Justice.

¹⁶⁰ Representatives of the National Office for the Judiciary.

¹⁶¹ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

¹⁶² Representatives of the National Office for the Judiciary.

¹⁶³ Criminal judges of the Budapest-Capital Regional Court, Budapest Environs Regional Court, Nyíregyháza Regional Court, Budapest Environs Regional Court and Szeged Regional Court.

<p>to the forwarding of the judgement and the certificate (where required)?</p>	<p>may be taken over if he/she consented to it in cases where: <i>a)</i> the sentenced person has already been legally residing in Hungary for at least five years at the time of the relevant decision gaining legal force/ and who would not lose his/her right to permanent residence after the implementation of the decision; or <i>b)</i> the sentenced person has immigrated/settled status, or is a refugee recognised by Hungary; or <i>c)</i> he/she is closely attached to Hungary due to his or her family, cultural or economic ties.</p>		
<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>Rules on data protection in criminal proceedings are contained in Act XIX of 1998. Article 60 prescribes that, during the performance of procedural actions, the authorities must ensure that personal data are not made public “unnecessarily”, while Article 69 C makes possible the handling and forwarding of data during the electronic communication between the authorities (see also Article 63 (1) and Article 71). Act CXII of 2011 on the right to informational self-determination and freedom of</p>	<p>Rules on data protection in criminal proceedings are contained in Act XIX of 1998. Article 60 prescribes that, during the performance of procedural actions, the authorities must ensure that personal data are not made public “unnecessarily”, while Article 69 C makes possible the handling and forwarding of data during the electronic communication between the authorities (see also Article 63 (1) and Article 71). Act CXII of 2011 on the right to informational self-</p>	<p>Rules on data protection in criminal proceedings are contained in Act XIX of 1998. Article 60 prescribes that, during the performance of procedural actions, the authorities must ensure that personal data are not made public “unnecessarily”, while Article 69 C makes possible the handling and forwarding of data during the electronic communication between the authorities (see also Article 63 (1) and Article 71). Act CXII of 2011 on the right to informational self-determination and freedom of</p>

	information ¹⁶⁴ also contains general rules on data protection.	determination and freedom of information ¹⁶⁵ also contains general rules on data protection.	information ¹⁶⁶ also contains general rules on data protection.
<ul style="list-style-type: none"> • Authorities in the issuing and executing state? 	General data protection rules contained in Act XIX of 1998, or Act CXII of 2011, on the right to informational self-determination and freedom of information apply to the conduct of the Hungarian authorities. Article 8 (4) of Act CXII of 2011 maintain that data transfer to authorities of EU Member States shall be regarded as if the transfer would have occurred in Hungary.	General data protection rules contained in Act XIX of 1998, or Act CXII of 2011, on the right to informational self-determination and freedom of information apply to the conduct of the Hungarian authorities. Article 8 (4) of Act CXII of 2011 maintain that data transfer to authorities of EU Member States shall be regarded as if the transfer would have occurred in Hungary.	General data protection rules contained in Act XIX of 1998, or Act CXII of 2011, on the right to informational self-determination and freedom of information apply to the conduct of the Hungarian authorities. Article 8 (4) of Act CXII of 2011 maintain that data transfer to authorities of EU Member States shall be regarded as if the transfer would have occurred in Hungary.

¹⁶⁴ Act CXII of 2011 on the right to informational self-determination and freedom of information (2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=139257.287254.

¹⁶⁵ Act CXII of 2011 on the right to informational self-determination and freedom of information (2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=139257.287254.

¹⁶⁶ Act CXII of 2011 on the right to informational self-determination and freedom of information (2011. évi CXII. törvény az információs önrendelkezési jogról és az információszabadságról), available at: njt.hu/cgi_bin/njt_doc.cgi?docid=139257.287254.

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 	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁶⁷</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁶⁸</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁶⁹</p>
<ul style="list-style-type: none"> The status of the transfer 	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁷⁰</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁷¹</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁷²</p>
<ul style="list-style-type: none"> Other? Please specify. 	<p>The relevant legal provisions make no reference to the provision of</p>	<p>The relevant legal provisions make no reference to the</p>	<p>The relevant legal provisions make no reference to the provision of</p>

¹⁶⁷ Representative of the Ministry of Justice.

¹⁶⁸ Representative of the Ministry of Justice.

¹⁶⁹ Representative of the Ministry of Justice.

¹⁷⁰ Representative of the Ministry of Justice.

¹⁷¹ Representative of the Ministry of Justice.

¹⁷² Representative of the Ministry of Justice.

	information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷³	provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁴	information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁵
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁶	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁷	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁸
<ul style="list-style-type: none"> Is the information provided at the request of the victim? 	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁷⁹	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁸⁰	The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer. ¹⁸¹

¹⁷³ Representative of the Ministry of Justice.

¹⁷⁴ Representative of the Ministry of Justice.

¹⁷⁵ Representative of the Ministry of Justice.

¹⁷⁶ Representative of the Ministry of Justice.

¹⁷⁷ Representative of the Ministry of Justice.

¹⁷⁸ Representative of the Ministry of Justice.

¹⁷⁹ Representative of the Ministry of Justice.

¹⁸⁰ Representative of the Ministry of Justice.

¹⁸¹ Representative of the Ministry of Justice.

<ul style="list-style-type: none"> Who is responsible for providing this information? 	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸²</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸³</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸⁴</p>
<ul style="list-style-type: none"> Is it a verbal or written communication? 	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸⁵</p>	<p>The relevant legal provisions make no reference to the provision of information to the victims. The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸⁶</p>	<p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure, so they do not receive any information on the transfer.¹⁸⁷</p>
<p>Q4.3. Do the victims have the right to be heard concerning the transfer (in the state you are describing, as issuing or executing state)? (e.g. through submitting an oral or written response)</p>	<p>The relevant legal provisions do not refer to the right of the victim to be heard (Article 127-130, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states</p>	<p>The relevant legal provisions do not refer to the right of the victim to be heard (Article 145-147, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not</p>	<p>The relevant legal provisions do not refer to the right of the victim to be heard (Article 87-92, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states</p>

¹⁸² Representative of the Ministry of Justice.

¹⁸³ Representative of the Ministry of Justice.

¹⁸⁴ Representative of the Ministry of Justice.

¹⁸⁵ Representative of the Ministry of Justice.

¹⁸⁶ Representative of the Ministry of Justice.

¹⁸⁷ Representative of the Ministry of Justice.

		that victims do not participate in the transfer procedure. ¹⁸⁸	participate in the transfer procedure. ¹⁸⁹	that victims do not participate in the transfer procedure. ¹⁹⁰
11	Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.	<p>The relevant legal provisions do not refer to any rights of the victim in the transfer procedure (Article 127-130, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹¹</p>	<p>The relevant legal provisions do not refer to any rights of the victim in the transfer procedure (Article 145-147, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹²</p>	<p>The relevant legal provisions do not refer to any rights of the victim in the transfer procedure (Article 87-92, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹³</p>
12	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)?	<p>The relevant legal provisions do not provide for access of the victims to translators or interpreter (Article 127-130, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹⁴</p>	<p>The relevant legal provisions do not provide for access of the victims to translators or interpreter (Article 145-147, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹⁵</p>	<p>The relevant legal provisions do not provide for access of the victims to translators or interpreter (Article 87-92, Act CLXXX of 2012).</p> <p>The Ministry of Justice, in response to a request for public data, states that victims do not participate in the transfer procedure.¹⁹⁶</p>

¹⁸⁸ Representative of the Ministry of Justice.

¹⁸⁹ Representative of the Ministry of Justice.

¹⁹⁰ Representative of the Ministry of Justice.

¹⁹¹ Representative of the Ministry of Justice.

¹⁹² Representative of the Ministry of Justice.

¹⁹³ Representative of the Ministry of Justice.

¹⁹⁴ Representative of the Ministry of Justice.

¹⁹⁵ Representative of the Ministry of Justice.

¹⁹⁶ Representative of the Ministry of Justice.

<p>13 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>Under Article 51 (4) of Act XIX of 1998, the victims of voluntary criminal offences against life, physical integrity or health, which are punishable by at least five years of imprisonment, or the victims of sexual offences, have the right to be informed – upon request – of: the release or escape of a person under pre-trial detention; the conditional or final release of a sentenced person; the interruption of the implementation of the imprisonment; the escape of the sentenced person; or the escape, final or temporary release of a minor from a detention home.</p>	<p>Under Article 51 (4) of Act XIX of 1998, the victims of voluntary criminal offences against life, physical integrity or health, which are punishable by at least five years of imprisonment, or the victims of sexual offences, have the right to be informed – upon request – of: the release or escape of a person under pre-trial detention; the conditional or final release of a sentenced person; the interruption of the implementation of the imprisonment; the escape of the sentenced person; or the escape, final or temporary release of a minor from a detention home.</p>	<p>Under Article 51 (4) of Act XIX of 1998, the victims of voluntary criminal offences against life, physical integrity or health, which are punishable by at least five years of imprisonment, or the victims of sexual offences, have the right to be informed – upon request – of: the release or escape of a person under pre-trial detention; the conditional or final release of a sentenced person; the interruption of the implementation of the imprisonment; the escape of the sentenced person; or the escape, final or temporary release of a minor from a detention home.</p>
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