

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

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

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

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

Under Article 2 (5) of the Law on Probation of the Republic of Lithuania (*Lietuvos Respublikos probacijos įstatymas*), ‘probation’ is described as a conditional alternative to imprisonment (suspension of the sentence of imprisonment and conditional release from a correctional institution) which entails supervision of a probationer<sup>1</sup>.

Under Article 67 (2) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), an adult person whose penalty is suspended or who is conditionally released from a correctional institution may be subject to the following penal sanctions: 1) prohibition to exercise a special right; 2) withdrawal of public rights; 3) withdrawal of the right to take up certain employment or to engage in certain activities; 4) compensation for or elimination of property damage; 5) community work; 6) payment of a contribution to the fund of crime victims; 7) confiscation of property; 8) an obligation to live separately from the victim or approach the victim closer than at a set distance; 9) participation in the programmes addressing violent behaviour; 10) extended confiscation of property<sup>2</sup>.

Where a person is sentenced to imprisonment for a term not exceeding six years for the crimes committed through negligence, or for a term not exceeding four years for the commission of one or several premeditated crimes (except very serious crimes), a court may suspend the imposed sentence for a period ranging from one to three years. The sentence may be suspended where the court rules that there is a sufficient basis for believing that the purpose of the penalty will be achieved without the sentence actually being served (Article 75 (1) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*))<sup>3</sup>. When suspending a sentence, a court shall impose on the convicted person one or more concerted penal sanctions mentioned

<sup>1</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Law on Probation of the Republic of Lithuania (*Lietuvos Respublikos probacijos įstatymas*), No. XI-1860, 22 December 2011, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=415894&p\\_query=&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=415894&p_query=&p_tr2=2). All hyperlinks were accessed on 15 June 2015.

<sup>2</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>3</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

above and (or) the following mandatory injunctions: 1) to offer an apology to the victim; 2) to provide assistance to the victim during the latter's medical treatment; 3) to undergo treatment for addiction, where the convicted person agrees therefor; 4) educate and take care of their minor children, to look after their health, to maintain them; 5) to take up employment, resume working or studying; 6) to participate in the programmes addressing violent behaviour; 7) not to leave the place of residence at specified times, if leaving home is not related to the work or studies; 8) an obligation not to leave the territory of the city or district of residence without the permission of the supervising institution; 9) an obligation not to enter certain localities and to avoid contact with certain persons or groups of persons; 10) an obligation not to use psychoactive substances; 11) an obligation to avoid having, using, acquiring specific objects or carrying out specific activity<sup>4</sup> (Article 75 (2) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)). The list of the mandatory injunctions is not exhaustive as under Article 75 (3) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), a court, at the request of the convicted person, other participants in the criminal proceedings or *ex officio*, may impose other mandatory injunctions that, in the court's opinion, might positively affect the behaviour of the convicted person<sup>5</sup>.

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

Article 120 of the Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*) allows imposing the following supervision measures as alternatives to pre-trial detention: intensive surveillance, house arrest, order to live separately from the victim and (or) prohibition to approach the victim closer than at a set distance, bail, seizure of documents, order to register periodically with the police; as regards soldiers, surveillance by the military commander of the unit where the soldier is doing military service; as regards minors, a minor's placement to the supervision with parents, guardians, or other natural or legal persons who take care of children<sup>6</sup>.

In the case of recognition and execution of the decisions in criminal cases of EU national courts, Article 121 (6) and Article 365<sup>5</sup> of the Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*) refer to the special Law on mutual recognition and enforcement of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*)<sup>7</sup>, which was adopted on 13 November 2014 and came into force on 1 April 2015.

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<sup>4</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>5</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>6</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*), No. 37-1341, 14 March 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494246](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494246).

<sup>7</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

Article 2 (6) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*)<sup>8</sup> provides for the following supervision measures as alternatives to pre-trial detention: 1) an obligation to inform the authority implementing the supervision measures in the executing State of any change of residence; 2) an obligation not to enter certain localities, places or defined areas in the issuing or executing State; 3) an obligation to remain at a specified place and, where applicable, during specified times; 4) an obligation containing limitations on leaving the territory of the executing State; 5) an obligation to report at specified times to a specific authority; 6) an obligation to avoid contact with specific persons relating to the offence(s) allegedly committed; 7) an obligation not to engage in specified activities relating to the offence(s) allegedly committed; 8) an obligation not to drive a vehicle; 9) an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specified number of instalments or entirely at once<sup>9</sup>.

**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)?**

Pursuant to Article 80 of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)<sup>10</sup>, the specific provisions regarding the criminal liability of minors have the following purposes: 1) to ensure correspondence of liability to the age and social maturity of these persons; 2) to restrict the possibilities of imposition of a custodial sentence and broaden the possibilities of the imposition of reformatory sanctions against these persons; 3) to help a minor alter his/her manner of living and conduct by coordinating a penalty for the committed criminal act with the development and education of his/her personality and elimination of reasons for the unlawful conduct; 4) to prevent a minor from committing new criminal acts. Taking these peculiarities into account, the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)<sup>11</sup> sets forth specific sanctions that might be imposed upon a minor. Under Article 82 (1) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), a minor who has committed a misdemeanour or crime and has been conditionally released from a correctional institutional or whose penalty has been suspended may be subject to the following reformatory sanctions: 1) a warning; 2) compensation for or elimination of property damage; 3) unpaid reformatory

<sup>8</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

<sup>9</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

<sup>10</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>11</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

work; 4) placement for upbringing and supervision with parents or other natural or legal persons caring for children; 5) restriction on conduct; 6) placement in a special reformative facility<sup>12</sup>.

Where a person is sentenced to imprisonment for the crimes committed through negligence or for a term not exceeding five years for the commission of one or several premeditated crimes, a court may suspend the imposed sentence for a period ranging from one to three years. The sentence may be suspended where the court rules that there is a sufficient basis for believing that the purpose of the penalty will be achieved without the sentence actually being served (Article 92 (1) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)<sup>13</sup>).

Having considered all the circumstances of a case, a court may impose for every criminal act a more lenient penalty than provided for by a law also in the presence of mitigating circumstances, at least partial compensation for or elimination of property damage, if any has been incurred, and where the offender maintains the persons suffering from a grave illness or are disabled and no one else can look after them, or the offender maintains young children and there would be no one to look after them if the penalty provided for by a law was imposed (Article 62 (2) (1) and Article 62 (2) (2) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)<sup>14</sup>). The established fact that the act has been committed by a person of diminished legal capacity is considered as a mitigating circumstance (Article 59 (1) (11) of the Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*)<sup>15</sup>).

As to alternatives to prison at the per-trial stage, Article 121 (4) of the Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*)<sup>16</sup> obliges a prosecutor, pre-trial investigation judge or court to choose a provisional measure taking into account, *inter alia*, the suspected person's age, condition of health, marital status, and any other circumstances that might be relevant<sup>17</sup>.

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<sup>12</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>13</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>14</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>15</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Criminal Code of the Republic of Lithuania (*Lietuvos Respublikos baudžiamasis kodeksas*), No. VIII-1968, 26 September 2000, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494245](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494245).

<sup>16</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*), No. 37-1341, 14 March 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494246](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494246).

<sup>17</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of Criminal Procedure of the Republic of Lithuania (*Lietuvos Respublikos baudžiamojo proceso kodeksas*), No. 37-1341, 14 March 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494246](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494246).

## Section B: Transfer of suspects/sentenced persons

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

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q1. AVAILABILITY OF INFORMATION</b>			
Q1.1. Is information publicly available in ‘issuing states’ concerning the following:? If yes, please specify.			
<ul style="list-style-type: none"> <li>What information is provided (e.g. conditions for early release for FD 909 or the need for a suspect/sentenced person’s consent to a measure for FD 947 and 829)?</li> </ul>	<p>FD 2008/909 and the national legal acts implementing the measure (Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>)) and the Criminal Code of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamasis kodeksas</i>)) are published online to full extent on the national database of legal acts and the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>). However, neither the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>), nor the website of the Prison Department under the Ministry of Justice of the</p>	<p>FD 2008/947 and the national legal acts implementing the measure (Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>)) and the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>)) are published online to full extent on the national database of legal acts and the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>). However, neither the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>), nor the website of the</p>	<p>FD 2009/829 (ESO) and the national legal acts implementing the measure (Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>)) and the Criminal Code of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamasis kodeksas</i>)) are published online to full extent on the national database of legal acts and the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>). However, neither the website of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>), nor the website of the Prison Department under the</p>

	Republic of Lithuania ( <i>Kalėjimų departamentas prie Lietuvos Respublikos teisingumo ministerijos</i> ) provides systematic information on the main provisions of FD 909 <sup>18</sup> .	Prison Department under the Ministry of Justice of the Republic of Lithuania ( <i>Kalėjimų departamentas prie Lietuvos Respublikos teisingumo ministerijos</i> ) provides schematised information on the main provisions of the measure.	Ministry of Justice of the Republic of Lithuania ( <i>Kalėjimų departamentas prie Lietuvos Respublikos teisingumo ministerijos</i> ) provides schematised information on the main provisions of the measure <sup>19</sup> .
<ul style="list-style-type: none"> <li>How is the information made publically available (tools, or networks used)?</li> </ul>	The information is made available on the following websites: 1) on the official website of the Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) – <a href="http://www.tm.lt">www.tm.lt</a> <sup>20</sup> ; on the website of the Register of Legal Acts ( <i>Teisės aktų registras</i> ) – <a href="http://www.e-tar.lt">www.e-tar.lt</a> <sup>21</sup> .	The information is made available on the following websites: 1) on the official website of the Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) – <a href="http://www.tm.lt">www.tm.lt</a> <sup>22</sup> ; on the website of the Register of Legal	The information is made available on the following websites: 1) on the official website of the Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) – <a href="http://www.tm.lt">www.tm.lt</a> <sup>24</sup> ; on the website of the Register of Legal

<sup>18</sup> Confirmed by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>19</sup> Confirmed by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>20</sup> Tm.lt, the list of legal acts under the section 'International cooperation' (*Tarptautinis bendradarbiavimas*), 12 June 2015, available at: <http://www.tm.lt/tarptautbendradarb/teisinisbendradarbiavimaspart/6>.

<sup>21</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

<sup>22</sup> Tm.lt, the list of legal acts under the section 'International cooperation' (*Tarptautinis bendradarbiavimas*), 12 June 2015, available at: <http://www.tm.lt/tarptautbendradarb/teisinisbendradarbiavimaspart/6>.

<sup>24</sup> Tm.lt, the list of legal acts under the section 'International cooperation' (*Tarptautinis bendradarbiavimas*), 12 June 2015, available at: <http://www.tm.lt/tarptautbendradarb/teisinisbendradarbiavimaspart/6>.



		Acts ( <i>Teisės aktų registras</i> ) – <a href="http://www.e-tar.lt">www.e-tar.lt</a> <sup>23</sup> .	Acts ( <i>Teisės aktų registras</i> ) – <a href="http://www.e-tar.lt">www.e-tar.lt</a> <sup>25</sup> .
<ul style="list-style-type: none"> <li>In which languages is the information provided?</li> </ul>	Lithuanian	Lithuanian	Lithuanian
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.	Apart from the Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ), there is no other national office or point of contact responsible for leading initial discussions about potential transfers <sup>26</sup> .	Apart from the Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ), there is no other national office or point of contact responsible for leading initial discussions about potential transfers <sup>27</sup> .	Apart from regional probation services ( <i>apygardų probacijos tarnybos</i> ), there is no other national office or point of contact responsible for leading initial discussions about potential transfers <sup>28</sup> .
Q1.3. Do the competent authorities collate information about their experience of transfers (such as personal data of the suspect/sentenced person, states involved,	The Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) collates information about their experience of	The Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) collates information about their experience of	The Ministry of Justice of the Republic of Lithuania ( <i>Lietuvos Respublikos teisingumo ministerija</i> ) collates information about their experience of

<sup>23</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

<sup>25</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2014), Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (*Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“*), No. XII-1322, 13 November 2014, available at: <https://www.e-tar.lt/portal/lt/legalAct/10fb2930715211e484b9c12b550436a3>.

<sup>26</sup> Confirmed by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>27</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>28</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<p>issues raised during the transfer process)? If yes, specify the information gathered.</p>	<p>transfers<sup>29</sup>. The information gathered includes: personal data of the sentenced person, states involved, issues raised during the transfer process and other important data. There is no precise list of the information to be gathered<sup>30</sup>.</p>	<p>transfers<sup>31</sup>. The information gathered includes: personal data of the suspect, states involved, issues raised during the transfer process and other important data. There is no precise list of the information to be gathered<sup>32</sup>.</p>	<p>transfers<sup>33</sup>. The information gathered includes: personal data of the sentenced person, states involved, issues raised during the transfer process and other important data. There is no precise list of the information to be gathered<sup>34</sup>.</p>
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<sup>29</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>30</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>31</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>32</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>33</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>34</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON</b>			
<p>Q2.1. Is there a procedure in the issuing state (e.g. some form of mechanism that ensures it is done in all relevant cases) in place to inform the suspect/sentenced person of the 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>There are no procedural rules in place to inform the sentenced person specifically of the option to transfer the judgment to another Member State<sup>35</sup>. Usually sentenced persons get to know about this possibility from their lawyers<sup>36</sup>.</p>	<p>There are no procedural rules in place to inform the suspected person of the option to transfer the decision to another Member State<sup>37</sup>. Usually suspected persons get to know about this possibility from their lawyers<sup>38</sup>.</p>	<p>There are no procedural rules in place to inform the sentenced person of the option to transfer the judgment to another Member State<sup>39</sup>. Usually the sentenced person get the information from the probation service that is working with him/her individually<sup>40</sup>.</p>
<p>Q2.2. Is there a procedure in place in the issuing state to obtain the informed consent of the suspect/sentenced person before forwarding the judgment or decision to the executing state? (e.g. a pre-prepared written explanation of the process available in a number of languages). If yes, please briefly specify what information the suspect/sentenced person receives (e.g.</p>	<p>Pursuant to Article 20 (2) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the authority enforcing a sentence which initiates the procedure to</p>	<p>There are no procedural provisions in place explaining in detail how the person is informed about the measures concerned.</p> <p>Article 43 (2) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių</i></p>	<p>Article 34 (1) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>) lays down that the probation service which initiates the procedure to forward the</p>

<sup>35</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>36</sup> Information provided by criminal lawyers.

<sup>37</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>38</sup> Information provided by criminal lawyers.

<sup>39</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>40</sup> Information provided by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<p>information on appeal and release possibilities).</p>	<p>forward the judgment or decision to other EU Member State has to indicate in its submission whether the convicted person agrees with the submission. If the submission is initiated by the convicted person, the authority executing a sentence also has to enclose his/her request to forward a judgment to another Member State for the purpose of its recognition and enforcement of the sentence. There are no precise procedural rules in place, clarifying how the consent at this stage is obtained<sup>41</sup>.</p> <p>Under Article 22 (1) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), a court, upon receipt of the submission from the authority enforcing a sentence, holds a hearing. The law obliges the court to invite a prosecutor, a convicted person, if he/she is in the territory of the Republic of Lithuania, his/her defence counsel, and a</p>	<p><i>narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>) merely mentions that a decision on supervision measures may be forwarded to the competent authority of the EU Member State in which the person is lawfully and ordinarily residing, in cases where the person consents to return to that State.</p>	<p>decision to other EU Member State has to enclose a request to forward a decision to another EU Member State for the purpose of its recognition and enforcement of the sentence if the submission is made on the initiative of the convicted person. In the case of conditional release from a correctional institution, the probation service can make the submission to forward the decision to other EU Member State only at the request of the convicted person.</p> <p>Under Article 35 (2) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>) a court, upon receipt of the submission from the probation service, holds a hearing. The law obliges the court to invite a prosecutor, a convicted person, if he/she is in the territory of the Republic of Lithuania, his/her defence counsel, and a representative of the probation</p>
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<sup>41</sup> Confirmed by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

	<p>representative of the authority enforcing a sentence. However, according to Article 22 (1) of the law, the participation of these subjects is not mandatory unless the court decides otherwise.</p> <p>The court hears the subjects participating in the proceedings and explains to the convicted person the legal consequences of forwarding of the judgment or decision to other EU Member State for the purpose of its enforcement (Article 22 (2) of the law). A convicted person has the right to present his/her views orally or in writing. If a convicted person expresses his/her opinion orally, his/her opinion has to be recorded in the minutes (Article 22 (2) of the law).</p>		<p>service. However, according to Article 35 (2) of the law, the participation of these subjects is not mandatory unless the court decides otherwise. The court hears the subjects participating in the proceedings and explains to the convicted person the legal consequences of forwarding of the decision to other EU Member State for the purpose of its enforcement (Article 35 (3) of the law). A convicted person has the right to present his/her views orally or in writing. If a convicted person expresses his/her opinion orally, his/her opinion has to be recorded in the minutes (Article 35 (3) of the law).</p>
<p>Q2.3. Does the suspect/sentenced person have the right to revoke his/her consent to the transfer in the issuing state? If yes, please briefly specify until which stage of the procedure this right exists.</p>	<p>There are no neither substantive, nor procedural rules in place regulating the sentenced person's right to revoke his/her consent to the transfer in the issuing state.</p> <p>However, this right may be interfered with the general right to change testimony in the course of criminal proceedings before the court adopts a judgment. Based on this regulation, the representatives of courts suggest that the convict</p>	<p>There are no neither substantive, nor procedural rules in place regulating the suspect's right to revoke his/her consent to the transfer in the issuing state.</p>	<p>There are no neither substantive, nor procedural rules in place regulating the sentenced person's right to revoke his/her consent to the transfer in the issuing state.</p> <p>However, this right may be interfered with the general right to change testimony in the course of criminal proceedings before the court adopts a judgment. Based on this regulation, the representatives of courts suggest that the convict</p>

	<p>should have the right to revoke his/her consent to the transfer before the court deciding the case leaves the court room to take the decision<sup>42</sup>.</p>		<p>should have the right to revoke his/her consent to the transfer before the court deciding the case leaves the court room to take the decision<sup>43</sup>.</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>As has been already mentioned, under Article 22 (1) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), a court, upon receipt of the submission from the authority enforcing a sentence, holds a hearing. The law obliges the court to invite a prosecutor, a convicted person, if he/she is the territory of the Republic of Lithuania, his/her defence counsel, and a representative of the authority enforcing a sentence. However, according to Article 22 (1) of the law, the participation of these subjects is not mandatory unless the court decides otherwise. The court hears the subjects</p>		

<sup>42</sup> Information provided by a judge of the Criminal Division (*Baudžiamųjų bylų skyrius*).

<sup>43</sup> Information provided by a judge of the Criminal Division (*Baudžiamųjų bylų skyrius*).

	<p>participating in the proceedings and explains to the convicted person the legal consequences of forwarding of the judgment or decision to other EU Member State for the purpose of its enforcement (Article 22 (2) of the law). The convicted person has the right to present his/her views orally or in writing. If a convicted person expresses his/her opinion orally, his/her opinion has to be recorded in the minutes (Article 22 (2) of the law). This procedure allows checking the convicted person's actual understanding of the option.</p>		
<ul style="list-style-type: none"> <li>• When consent is not required)?</li> </ul>	<p>The judicial proceedings are conducted following the rules of Article 22 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), and a convicted person is invited to the proceedings even where his/her consent for forwarding of the judgment or decision to other EU Member State is not required.</p>		

<ul style="list-style-type: none"> <li>When consent is required, Article 6 (3) of FD 2008/909/JHA).</li> </ul>	<p>The deciding court follows the rules set forth in Article 22 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p>		
<p>Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on the transfer? If yes, please briefly specify until which stage of the procedure this right exists and how this is implemented in practice.</p>	<p>There are no neither substantive, nor procedural rules in place regulating the sentenced person’s right to change his/her consent to the transfer in the issuing state.</p> <p>However, this right may be interfered with the general right to change testimony in the course of criminal proceedings before the court adopts a judgment. Based on this regulation, the representatives of courts suggest that the convict should have the right to revoke his/her consent to the transfer before the court deciding the case leaves the court room to take the decision<sup>44</sup>.</p>		
<p>Q2.6. Is the suspect/sentenced person assisted by a legal counsel in the issuing</p>	<p>Article 11 of the Code of Enforcement of Punishments of the</p>	<p>Under Article 44 (8) of the Code of Criminal Procedure of the</p>	<p>Article 11 of the Code of the Enforcement of Punishments of the</p>

<sup>44</sup> Information provided by a judge of the Criminal Division (*Baudžiamųjų bylų skyrius*).



<p>state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone)</p>	<p>Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>)<sup>45</sup> guarantees the right to legal aid to every sentenced person. The sentenced person may be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided for by the law regulating the provision of state-guaranteed legal aid<sup>46</sup>. The participation of the counsel in the instance is not mandatory.</p> <p>As to the extent of the right to legal aid, legal assistance may be provided face-to-face, over the telephone, by contacting the lawyer by mail. Meetings with an attorney are not limited in number; however, internal rules of correctional institutions must be respected (Article 101 (1) and (3) of the Code of the Enforcement of Punishments of the Republic of</p>	<p>Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), every suspected or accused person may defend himself/herself in person or through legal assistance of his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, get it free in accordance with the procedure provided for by the law regulating provision of the legal aid guaranteed by the state.</p> <p>Where the participation of the counsel is mandatory according to Article 51 of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), and a person cannot exercise the right to choose a lawyer due to a lack of financial resources, a pre-trial investigation officer, a prosecutor or a court must notify the legal aid services or the coordinator</p>	<p>Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>)<sup>47</sup> guarantees the right to legal aid to every suspected person. A suspected person may be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided for by the law regulating the provision of state-guaranteed legal aid<sup>48</sup>. The participation of the counsel in the instance is not mandatory.</p>
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<sup>45</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of the Enforcement of Punishments of the Republic of Lithuania (*Lietuvos Respublikos bausmių vykdymo kodeksas*), No. IX-994, 27 June 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494006](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494006).

<sup>46</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

<sup>47</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of the Enforcement of Punishments of the Republic of Lithuania (*Lietuvos Respublikos bausmių vykdymo kodeksas*), No. IX-994, 27 June 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494006](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494006).

<sup>48</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

	<p>Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>). Each meeting with a lawyer takes place at the time set by the administration of a correctional institution and may not exceed eight hours (Article 101 (2) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>).</p> <p>The number of phone calls, which may not last more than 15 minutes, may be limited taking into account the group to which a convicted person belongs (ordinary or disciplinary) and his/her possibilities to cover the expenses (Article 102 (1) and (2) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>). For example, sentenced persons belonging to the ordinary category have the right to make one phone call per week (Article 73 (4) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>).</p> <p>Communication with a legal counsel by mail is not limited (Article 99 of the Code of the</p>	<p>indicated by the Services that the person requires a defence lawyer.</p> <p>The proceedings concerning forwarding of a decision to other EU Member State for the execution itself does not require mandatory participation of a legal counsel; however, a suspected or accused person may fall under the categories of the persons indicated in Article 51 of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>). For example, when a suspected or accused person is a juvenile; when a suspected or accused person is blind, deaf, or has other physical or mental disabilities and is not capable of properly exercising the right of defence; criminal cases of persons who do not know the Lithuanian language; in criminal cases where a sentence of life imprisonment can be imposed.</p>	
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	Enforcement of Punishments of the Republic of Lithuania ( <i>Lietuvos Respublikos bausmių vykdymo kodeksas</i> ).		
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>The right to free assistance of an interpreter for a convict who cannot understand or speak the language of his/her lawyer, an investigator or a court, is a constitutional right, established in Article 117 (3) of the Constitution of the Republic of Lithuania (<i>Lietuvos Respublikos Konstitucija</i>) and affirmed in Article 8 (2) and (3), Article 44 (7) and other articles of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>).</p> <p>There are no specific provisions to ascertain that the legal counsel speaks and understands the sentenced person's language during consultation.</p>	<p>The right to free assistance of an interpreter or translator for a suspect who cannot understand or speak the language of his/her lawyer, an investigator or a court, is a constitutional right, established in Article 117 (3) of the Constitution of the Republic of Lithuania (<i>Lietuvos Respublikos Konstitucija</i>) and affirmed in Article 8 (2) and (3), Article 44 (7) and other articles of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>).</p> <p>A pre-trial investigation officer, prosecutor and court cannot act as an interpreter, but are responsible for determining the need for an interpreter and/or translation. Interpretation and/or translation during the pre-trial investigation and court proceedings is free to the suspect/accused and is always paid by the state. The minutes of the court proceedings and interrogations are the written evidence as to how these rights are implemented.</p>	<p>The right to free assistance of an interpreter for a convict who cannot understand or speak the language of his/her lawyer, an investigator or a court, is a constitutional right, established in Article 117 (3) of the Constitution of the Republic of Lithuania (<i>Lietuvos Respublikos Konstitucija</i>) and affirmed in Article 8 (2) and (3), Article 44 (7) and other articles of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>).</p> <p>There are no specific provisions to ascertain that the legal counsel speaks and understands the sentenced person's language during consultation.</p>

<p>Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?</p>	<p>The convict can be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided by the law regulating provision of state-guaranteed legal aid<sup>49</sup>. In order to determine whether a particular person is entitled to receive legal aid, the eligibility criteria concerning property and income levels must be met and verified by the State-guaranteed legal aid services, which take the decision to provide legal aid. Article 12 of the Law on State-guaranteed Legal Aid (<i>Valstybės garantuojamos teisinės pagalbos įstatymas</i>) also provides for the list of persons eligible for secondary legal aid regardless of the property and income (e.g. the persons who have been established a severe disability or for whom incapacity for work has been recognised or who have reached the pensionable age and for whom the level of considerable special needs</p>	<p>The suspect can be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided by the law regulating provision of state-guaranteed legal aid<sup>50</sup>. In order to determine whether a particular person is entitled to receive legal aid, the eligibility criteria concerning property and income levels must be met and verified by the State-guaranteed legal aid services, which take the decision to provide legal aid. Article 12 of the Law on State-guaranteed Legal Aid (<i>Valstybės garantuojamos teisinės pagalbos įstatymas</i>) also provides for the list of persons eligible for secondary legal aid regardless of the property and income (e.g. the persons who have been established a severe disability or for whom incapacity for work has been recognised or who have reached the pensionable age and</p>	<p>The convict can be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided by the law regulating provision of state-guaranteed legal aid<sup>51</sup>. In order to determine whether a particular person is entitled to receive legal aid, the eligibility criteria concerning property and income levels must be met and verified by the State-guaranteed legal aid services, which take the decision to provide legal aid. Article 12 of the Law on State-guaranteed Legal Aid (<i>Valstybės garantuojamos teisinės pagalbos įstatymas</i>) also provides for the list of persons eligible for secondary legal aid regardless of the property and income (e.g. the persons who have been established a severe disability or for whom incapacity for work has been recognised or who have reached the pensionable age and for whom the level of considerable special needs</p>
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<sup>49</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

<sup>50</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

<sup>51</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), the Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

	has been established).	for whom the level of considerable special needs has been established).	has been established).
Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:			
<ul style="list-style-type: none"> <li>While consenting to the transfer?</li> </ul>	<p>Under Article 8 (2) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), the convict has the right to speak in a court in his/her native language or in another language that he/she understands. If he/she does not know the language, he/she is assisted by an interpreter or translator.</p>	<p>Under Article 8 (2) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), the suspect has the right to make statements, to give testimony and explanations, to submit requests or complaints, to speak in a court in his/her native language or in another language that he/she understands. In all these cases, as well as getting to know the material of the case proceedings, all the participants in the criminal proceedings shall have the right to use the services of an interpreter in the procedure laid down in the code. The minutes of the proceedings are the written evidence as to how these rights are implemented.</p>	<p>Under Article 8 (2) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), the convict has the right to speak in a court in his/her native language or in another language that he/she understands. If he/she does not know the language, he/she is assisted by an interpreter.</p>
<ul style="list-style-type: none"> <li>While requesting the transfer?</li> </ul>	<p>A convicted person, as well as the other parties to the case, is to be presented with the documents of the case translated into his/her native language or any other language</p>	<p>Under Article 8 (2) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), the suspected person</p>	<p>A convicted person, as well as the other parties to the case, is to be presented with the documents of the case translated into his/her native language or any other language</p>

	<p>he/she knows (Article 8 (3) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>). Following this principle, a convicted person can submit requests in his/her native language or the language he/she understands.</p>	<p>has the right to make statements, to give testimony and explanations, to submit requests or complaints, to speak in a court in his/her native language or in another language that he/she understands. In all these cases, as well as getting to know the material of the case proceedings, all the participants in the criminal proceedings shall have the right to use the services of an interpreter.</p> <p>A suspect and an accused person, as well as the other parties to the case, is to be presented with the documents of the case translated into his/her native language or any other language he/she knows (Article 8 (3) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>). Following this principle, a suspect and an accused person can submit requests in his/her native language or the language he/she understands.</p>	<p>he/she knows (Article 8 (3) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>). Following this principle, a convicted person can submit requests in his/her native language or the language he/she understands.</p>
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<p>Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.</p>	<p>No.</p>	<p>No.</p>	<p>Yes, however, this is done by the officials working in probation services<sup>52</sup>.</p>
<p>Q2.11. Is the suspect/sentenced person's full understanding of the transfer checked on a case by case basis in the issuing state? Please provide brief information.</p>	<p>The full understanding of the transfer is checked during the judicial proceedings which are conducted following the rules of Article 22 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p>	<p>When the decision is taken by a prosecutor, the full understanding of the transfer is checked during interrogation. When the decision to transfer is taken by a court, the full understanding of the transfer is checked in the court proceedings.</p>	<p>The full understanding of the transfer is checked during the judicial proceedings which are conducted following the rules of Article 35 (2) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p>
<p>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?</p>	<p>Under Article 7 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the court has the obligation to promptly, but not later than within one working day,</p>	<p>Under Article 40 (6) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the prosecutor has the obligation to promptly, but</p>	<p>Under Article 16 (1) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the court has the obligation to promptly, but not later than within five working</p>

<sup>52</sup> Information provided by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

	send the copy of the decision to the prosecutor, the convict and his/her legal counsel.	not later than within one working day, directly inform the relevant person and the other competent EU Member State authority about the adaptation of the measures imposed.	days, directly inform the other competent EU Member State authority about the adaptation, before the transfer, of the sentence or measure imposed. There is no obligation to inform the sentenced person.
Q2.13. Is there a right to appeal the forwarding of the judgment/decision in the issuing state? If yes, please briefly provide information (e.g. how the suspect is made aware of his/her right to appeal and what support is made available to him/her)	Under Article 22 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), the convict or his/her legal counsel, as well as a prosecutor may appeal the forwarding of the judgment following the rules set forth in Article 364 of the Code of Criminal Procedure of the Republic of Lithuania ( <i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i> ), which governs the examination of appeals related to enforcement of penalties.	Under Article 44 (6) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), a suspect or his/her or his/her legal counsel may appeal the forwarding of the decision following the rules set forth in Article 63 of the Code of Criminal Procedure of the Republic of Lithuania ( <i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i> ), which governs the examination of appeals related to prosecutor's actions and decisions.	Under Article 35 (6) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), the convict or his/her legal counsel, the probation service, as well as a prosecutor may appeal the forwarding of the judgment following the rules set forth in Article 364 of the Code of Criminal Procedure of the Republic of Lithuania ( <i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i> ), which governs the examination of appeals related to enforcement of penalties.
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	The sentenced person does not have a right to a regular review of the decision on the transfer. The decision can be reviewed only	The suspect/accused person does not have a right to a regular review of the decision on the transfer. The decision can be	The sentenced person does not have a right to a regular review of the decision on the transfer. The decision can be reviewed only



(e.g. how often he/she can exercise this right)	following the rules of appeal indicated above.	reviewed only following the rules of appeal indicated above.	following the rules of appeal indicated above.
Q2.15. Is the suspect/sentenced person assisted by legal counsel in the executing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone?)	<p>Article 11 of the Code of Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>)<sup>53</sup> guarantees the right to legal aid to every sentenced person. The sentenced person may be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided for by the law regulating the provision of state-guaranteed legal aid<sup>54</sup>. The participation of the counsel in the instance is not mandatory.</p> <p>As to the extent of the right to legal aid, legal assistance may be provided face-to-face, over the telephone, by contacting the lawyer by mail. Meetings with an attorney are not limited in number;</p>	<p>Under Article 44 (8) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), every suspected or accused person may defend himself/herself in person or through legal assistance of his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, get it free in accordance with the procedure provided for by the law regulating provision of the legal aid guaranteed by the state.</p> <p>Where the participation of the counsel is mandatory according to Article 51 of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>), and a person cannot exercise the right to</p>	<p>Article 11 of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>)<sup>55</sup> guarantees the right to legal aid to every suspected person. A suspected person may be advised by his/her chosen lawyer or, if he/she does not have sufficient means to pay for legal assistance, by the legal aid lawyer in accordance with the procedure provided for by the law regulating the provision of state-guaranteed legal aid<sup>56</sup>. The participation of the counsel in the instance is not mandatory.</p>

<sup>53</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of the Enforcement of Punishments of the Republic of Lithuania (*Lietuvos Respublikos bausmių vykdymo kodeksas*), No. IX-994, 27 June 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494006](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494006).

<sup>54</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

<sup>55</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2002), Code of the Enforcement of Punishments of the Republic of Lithuania (*Lietuvos Respublikos bausmių vykdymo kodeksas*), No. IX-994, 27 June 2002, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=494006](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494006).

<sup>56</sup> Lithuania, Seimas of the Republic of Lithuania (*Lietuvos Respublikos Seimas*) (2005), Law on State-guaranteed Legal Aid (*Valstybės garantuojamos teisinės pagalbos įstatymas*), No. X-78, 20 January 2005, available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=350869](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=350869).

	<p>however, internal rules of correctional institutions must be respected (Article 101 (1) and (3) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>). Each meeting with a lawyer takes place at the time set by the administration of a correctional institution and may not exceed eight hours (Article 101 (2) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>).</p> <p>The number of phone calls, which may not last more than 15 minutes, may be limited taking into account the group to which a convicted person belongs (ordinary or disciplinary) and his/her possibilities to cover the expenses (Article 102 (1) and (2) of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>). For example, sentenced persons belonging to the ordinary category have the right to make one phone call per week (Article 73 (4) of the Code of the Enforcement of Punishments of the Republic of</p>	<p>choose a lawyer due to a lack of financial resources, a pre-trial investigation officer, a prosecutor or a court must notify the legal aid services or the coordinator indicated by the Services that the person requires a defence lawyer.</p> <p>The proceedings concerning forwarding of a decision to other EU Member State for the execution itself does not require mandatory participation of a legal counsel; however, a suspected or accused person may fall under the categories of the persons indicated in Article 51 of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>). For example, when a suspected or accused person is a juvenile; when a suspected or accused person is blind, deaf, or has other physical or mental disabilities and is not capable of properly exercising the right of defence; criminal cases of persons who do not know the Lithuanian language; in criminal cases where a sentence of life imprisonment can be imposed.</p>	
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	<p>Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>).</p> <p>Communication with a legal counsel by mail is not limited (Article 99 of the Code of the Enforcement of Punishments of the Republic of Lithuania (<i>Lietuvos Respublikos bausmių vykdymo kodeksas</i>)).</p>		
<p>Q2.16. Have there been instances where the Member State has refused a transfer based on a pre-determined ground of refusal, as permitted to a varying extent under each FD? If so, please briefly provide details.</p>	<p>No<sup>57</sup>.</p>	<p>No<sup>58</sup>.</p>	<p>No<sup>59</sup>.</p>
<p>Q.2.17. Are there any specific legislative or policy developments regarding the informed consent to the transfer of particular suspects/sentenced persons (such as children or persons with disabilities) in the issuing state? (e.g. the use of healthcare professionals)</p>	<p>There are no specific legislative or policy developments regarding the informed consent to the transfer of particular sentenced persons (such as children or persons with disabilities).</p>	<p>There are no specific legislative or policy developments regarding the informed consent to the transfer of particular suspects persons (such as children or persons with disabilities).</p>	<p>There are no specific legislative or policy developments regarding the informed consent to the transfer of particular sentenced persons (such as children or persons with disabilities).</p>

<sup>57</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>58</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

<sup>59</sup> Information provided by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q3. DECISION ON TRANSFER</b>			
Q3.1. Are the following factors considered while deciding on forwarding a judgment or decision in the issuing state?			
<ul style="list-style-type: none"> <li>The likely impact on the social rehabilitation of the suspect/sentenced person?</li> </ul>	<p>Under Article 3 and Article 18 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the social rehabilitation of the sentenced person is a precondition of the decision to transfer.</p>	<p>The likely impact on the social rehabilitation of the suspect person does not appear among the factors to be taken into account under Article 43 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p>	<p>Under Article 18 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), the social rehabilitation of the sentenced person is a precondition of the decision to transfer a convict.</p>
<ul style="list-style-type: none"> <li>Fundamental rights implications (such as the right to family life, right to education)?</li> </ul>	<p>Under Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), social rehabilitation is described as a set of social, psychological, legal, pedagogical measures designed to ensure successful reintegration of the sentenced person into society, thus</p>	<p>Fundamental rights implications do not appear among the factors to be taken into account under Article 43 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p>	<p>Under Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), social rehabilitation is described as a set of social, psychological, legal, pedagogical measures designed to ensure successful reintegration of the sentenced person into society, thus</p>

	fundamental rights implications are covered by this definition.		fundamental rights implications are covered by this definition.
<ul style="list-style-type: none"> <li>Others? Please specify.</li> </ul>			
<p>Q3.2: While deciding on the transfer, are there any specific criteria/guidelines on the factors considered to be relevant for the purposes of (social) rehabilitation in the issuing state? Please provide any document containing those criteria/guidelines and specify whether the following factors are considered:</p>	<p>Under Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), social rehabilitation is described as a set of social, psychological, legal, pedagogical measures designed to ensure successful reintegration of the sentenced person into society. There are no specific criteria on the factors considered to be relevant for the purposes of (social) rehabilitation.</p>	<p>There is no reference to the social rehabilitation of the suspect in the provisions concerning the transfer of the measures to another EU Member State under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>). However, Article 43 (4) of the law obliges the prosecutor or the court deciding on the transfer of the decision to another EU Member State to evaluate if the goal of provisional measures will be reached if it is executed in another state. As a provisional measure is adopted taking into account the suspect's age, condition of health, marital status, and any other circumstances that might be relevant (Article 121 (4) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>)),</p>	<p>Under Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), social rehabilitation is described as a set of social, psychological, legal, pedagogical measures designed to ensure successful reintegration of the sentenced person into society.</p> <p>There are no specific criteria on the factors considered to be relevant for the purposes of (social) rehabilitation.</p>

		all the relevant factors should also be taken into account while deciding on the transfer.	
<ul style="list-style-type: none"> <li>Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)?</li> </ul>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), family and social ties might be considered.</p>	<p>As a provisional measure in general is adopted taking into account the suspect’s age, condition of health, marital status, and any other circumstances that might be relevant (Article 121 (4) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>)), all the relevant factors, including family and social ties, should also be taken into account while deciding on the transfer.</p>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), family and social ties might be considered.</p>
<ul style="list-style-type: none"> <li>Criminal history and criminal ties?</li> </ul>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), criminal history and criminal ties might be considered.</p>	<p>As a provisional measure in general is adopted taking into account the suspect’s age, condition of health, marital status, and any other circumstances that might be relevant (Article 121 (4) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>)), all the relevant factors, including criminal history and criminal ties, should also be taken into account while deciding on the transfer.</p>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), criminal history and criminal ties might be considered.</p>

<ul style="list-style-type: none"> <li>Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)?</li> </ul>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), humanitarian concerns might be considered.</p>	<p>As a provisional measure in general is adopted taking into account the suspect’s age, condition of health, marital status, and any other circumstances that might be relevant (Article 121 (4) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>)), all the relevant factors, including humanitarian concerns, should also be taken into account while deciding on the transfer.</p>	<p>According to the wide definition of social rehabilitation provided in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), humanitarian concerns might be considered.</p>
<ul style="list-style-type: none"> <li>Detention conditions (e.g. issues of overcrowding or availability of courses, such as the <i>Modulos</i> in Spain which has separate units to promote a progressive accountability of inmates)</li> </ul>	<p>According to the wide definition of social rehabilitation provided for in Article 2 (5) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), detention conditions might be considered.</p>	<p>No.</p>	<p>No.</p>
<ul style="list-style-type: none"> <li>Others?</li> </ul>			

Q.3.3. Are the following persons/entities consulted in the evaluation of the likelihood of social rehabilitation by the issuing state <sup>60</sup> :			
<ul style="list-style-type: none"> <li>• Probation agencies or similar entities in the issuing state?</li> </ul>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</p>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</p>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</p>
<ul style="list-style-type: none"> <li>• The competent authorities in the executing state?</li> </ul>	<p>Yes, they are consulted.</p>	<p>Under Article 44 (1) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>), before deciding on the transfer the prosecutor or the court usually gets in touch with the competent authorities in the executing state to make sure that</p>	<p>Yes, they are consulted.</p>

<sup>60</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*) and by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*).



		the state will be able to execute the decision.	
<ul style="list-style-type: none"> <li>The suspect/sentenced person?</li> </ul>	Yes, they are consulted.	As the consent of the suspect/accused/sentenced person is required under Article 43 (2) of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), the suspect/accused/sentenced person will be consulted.	Yes, they are consulted.
<ul style="list-style-type: none"> <li>The family of the suspect/sentenced persons, especially with regard to child offenders?</li> </ul>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p> <p>However, under Article 53 (1) of the Criminal Procedure Code of the Republic of Lithuania (<i>Lietuvos Respublikos Baudžiamojo proceso kodeksas</i>) the legal representatives of juveniles can participate in</p>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p> <p>However, under Article 53 (1) of the Criminal Procedure Code of the Republic of Lithuania (<i>Lietuvos Respublikos Baudžiamojo proceso kodeksas</i>) the legal representatives of juveniles can participate in</p>	<p>There are no specific provisions governing this issue under the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States (<i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i>).</p> <p>However, under Article 53 (1) of the Criminal Procedure Code of the Republic of Lithuania (<i>Lietuvos Respublikos Baudžiamojo proceso kodeksas</i>) the legal representatives of juveniles can participate in</p>

	criminal proceedings of a juvenile and defend his/her interests.	criminal proceedings of a juvenile and defend his/her interests.	criminal proceedings of a juvenile and defend his/her interests.
<ul style="list-style-type: none"> <li>Any other person/entity?</li> </ul>	No other persons/entities were indicated during the conversation with the respective institutions.	No other persons/entities were indicated during the conversation with the respective institutions.	No other persons/entities were indicated during the conversation with the respective institutions.
Q3.4. Are there any specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular suspects/ sentenced persons (such as children or persons with disabilities) by the issuing state?	No, there are no specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular sentenced persons.	No, there are no specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular suspects.	No, there are no specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular sentenced persons.
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.	No additional information, other than that required in the certificate, is provided to the competent authorities of the executing state while forwarding the judgment.	No additional information, other than that required in the certificate, is provided to the competent authorities of the executing state while forwarding the decision.	No additional information, other than that required in the certificate, is provided to the competent authorities of the executing state while forwarding the judgement.
Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	There have not been any so far.	There have not been any so far.	There have not been any so far.
Q3.7. Are there specific measures, as required by Article 4 (6) FD 909, which constitute the basis on which the competent authorities in the executing State have to take their decisions whether or not to consent to the forwarding of the judgement and the certificate (where required)?	The legal basis is Article 3 and Article 18 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose</i>		

	<i>bylose tarpusavio pripažinimo ir vykdymo“).</i>		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:			
<ul style="list-style-type: none"> <li>National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state?</li> </ul>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>
<ul style="list-style-type: none"> <li>Authorities in the issuing and executing state?</li> </ul>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>	There no clear provisions regarding data protection in the information exchange between national authorities in the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“).</i>

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
<b>Q4. VICTIMS</b>			
Q4.1. Do the victims have the right to receive the following information regarding the transfer from the issuing state:			
<ul style="list-style-type: none"> <li>The decision to transfer</li> </ul>	There is no legal assurance that victims will receive the information regarding the decision to transfer.	There is no legal assurance that victims will receive the information regarding the decision to transfer.	There is no legal assurance that victims will receive the information regarding the decision to transfer.
<ul style="list-style-type: none"> <li>The status of the transfer</li> </ul>	There is no legal assurance that victims will receive the information regarding the status of transfer.	There is no legal assurance that victims will receive the information regarding the status of transfer.	There is no legal assurance that victims will receive the information regarding the status of transfer.
<ul style="list-style-type: none"> <li>Other? Please specify.</li> </ul>	Non.	Non.	Non.
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify <sup>61</sup> :			
<ul style="list-style-type: none"> <li>Is the information provided upon request of the victim?</li> </ul>	There is no procedure in place to provide this information upon request of the victim.	There is no procedure in place to provide this information upon request of the victim.	There is no procedure in place to provide this information upon request of the victim.
<ul style="list-style-type: none"> <li>Who responsible for providing this information?</li> </ul>	There is no procedure in place to provide this information upon request of the victim	There is no procedure in place to provide this information upon request of the victim.	There is no procedure in place to provide this information upon request of the victim.

<sup>61</sup> Information provided by a representative of the International Law Department (*Tarptautinės teisės departamentas*) of the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*) and by a representative of the Prison Department (*Kalėjimų departamentas*) under the Ministry of Justice of the Republic of Lithuania (*Lietuvos Respublikos teisingumo ministerija*) and criminal lawyers.

<ul style="list-style-type: none"> <li>Is it a verbal or written communication?</li> </ul>	There is no procedure in place to provide this information upon request of the victim.	There is no procedure in place to provide this information upon request of the victim.	There is no procedure in place to provide this information upon request of the victim.
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)	According to the rules set forth in Article 22 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), governing the decision-taking, victims are not asked to participate in the proceedings, thus they do not have the right to be heard concerning the transfer.	The laws do not provide the victims with the right to be heard concerning the transfer of the measures.	According to the rules set forth in Article 22 of the Law on mutual recognition and execution of judicial decisions in criminal matters of EU Member States ( <i>Lietuvos Respublikos įstatymas „Dėl Europos Sąjungos valstybių narių sprendimų baudžiamosiose bylose tarpusavio pripažinimo ir vykdymo“</i> ), governing the decision-taking, victims are not asked to participate in the proceedings, thus they do not have the right to be heard concerning the transfer.
Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.	No, the victims do not have any other rights concerning the transfer.	No, the victims do not have any other rights concerning the transfer.	No, the victims do not have any other rights concerning the transfer.
Q4.5. Do the victims have access to translators/interpreter in order to be kept fully informed of the transfer (in the state you are describing, as issuing or executing state)?	No, the victims are not informed about the transfer.	No, the victims are not informed about the transfer.	No, the victims are not informed about the transfer.
Q4.6. Do the victims have the right to be informed of the suspect/sentenced person's release (in the state you are describing, as issuing or executing state)?	Under Article 180 (8) of the Code of Enforcement of Punishments of the Republic of Lithuania ( <i>Lietuvos Respublikos bausmių vykdymo kodeksas</i> ), the victims have the Information provided by a	Under Article 128 (1) of the Code of Criminal Procedure of the Republic of Lithuania ( <i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i> ), the victims have the general right	Not applicable.

	<p>representative of the International Law Department (<i>Tarptautinės teisės departamentas</i>) of the Ministry of Justice of the Republic of Lithuania (<i>Lietuvos Respublikos teisingumo ministerija</i>) general right to be informed of the convict's release from a correctional institution if they express their wish to be informed.</p>	<p>to be informed only of the suspect's release from detention if the victims express their wish to be informed under Article 128 (4) of the Code of Criminal Procedure of the Republic of Lithuania (<i>Lietuvos Respublikos baudžiamojo proceso kodeksas</i>).</p>	
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