

CEP Expert Workshop on Enhancing the Implementation of Framework Decisions 2008/JHA/947 & 2009/JHA/829

1 October 2024, The Hague, The Netherlands

Background

The first day of October brought together 26 participants representing the EU MS countries that had implemented the Framework Decisions 829 & 947. This annual event aims to promote for broader application in practice, support for training of probation staff as well as for greater promotion and increased knowledge on the two mutual instruments among crucial partners within criminal justice such as prosecutors, lawyers and judges.

Participants working with Probation organisations, Ministries of Justice, Prosecutor's Offices as well as ERA and partner organisations working within the criminal justice (PRI and NHS) attended and actively contributed to the discussion on how to improve communication among all stakeholders involved in the process of transfers, how to positively influence and thus increase a number of successfully completed transfers, obstacles and challenges faced during the process, as well as identify areas for improvements, challenges and achievements by sharing knowledge, practical experience and good practice.

The presentations covered a broad spectrum of expertise and experience from the point of view of probation practitioners working directly with the clients, prosecutors and lawyers as well as policy advisors. Furthermore, a discussion went on the capacity building in probation project and its relevance to Framework Decisions with a continuous discussion and brainstorming on how to make the process of transfer more effective for all stakeholders involved. The beginning of 2025 will mark a launch of the two new projects funded via the EC action grant related to Framework Decisions 947 and 829 where CEP is associated partner. One of the projects was born on the margins of this annual events.

The European Commission provided participants with the overview on the ongoing policy developments which are relevant for the practice of Framework Decisions (shared with participants only).

Presentations

- 1. The application of Framework Decisions 829 and 947 in the Flemish Probation Services: Current State and Issues** by Lisa Luyten



Key outcomes (actions identified)

- ✓ Increase knowledge of the Framework Decision and its application;
- ✓ Create support, uniformity and cooperation among the Houses of Justice, probation commissions, prosecutor offices and lawyers;
- ✓ Clarify the role of the houses of justice in the application of the FD, update working instructions and provide judicial assistants with tools on how to deal with foreign judgments.

2. The Spanish Prison and Probation Service Perspective on Mutual Recognition. Framework Decisions 829 & 947 experience by Máximo Martínez Bernal

Key outcomes

- ✓ Language barriers;
- ✓ Difficult communications between authorities;
- ✓ Attachment/links and realistic social rehabilitation possibilities;
- ✓ Executing state sentence adaptation;
- ✓ Time limits non-realistic;
- ✓ Wish for a centralized authority.

3. Italian Implementation of Framework Decision 829/2009 by Michele Fini

Key outcomes

- ✓ Main criticalities identified: fragmentation of national legislations, criticism of involved authorities, failure to respond to reported violations;
- ✓ Best practices: preliminary consultations (elimination of unnecessary costs, no need to initiate lengthy procedures) and consultations during the procedure (resolution of interpretative or applicative issues, increased effectiveness of formal communications).

4. Practical experiences with Framework Decisions 829 & 947 by the Dutch Central Authority by M.C. (Marina) Beun and Valerie van Rossum

Key outcomes (practical experience implementing FDs, challenges)

- ✓ Lack of knowledge;
- ✓ Lack of trust;
- ✓ No or late reaction;
- ✓ Difficulties to adapt the Dutch Community Service;
- ✓ Wrong interpretation article 11 paragraph 1 under j;
- ✓ Transfer of probation measure and CS not possible;
- ✓ No information about the execution of the sanction;

- ✓ Obligation to pay damage to victim;
- ✓ Suspects are released before recognition;
- ✓ Suspects are released but with the obligation to stay in the country;
- ✓ No information of ending of the ESO;
- ✓ Translation problems.

5. **Framework Decision 947 in Arad Probation Service - a Romanian West border Probation Service: Good Practices and Challenges** by Raluca Patricia Ionete

Key outcomes

Good practices:

- ✓ Legislation;
- ✓ The inner human resource with experience and expertise;
- ✓ Guidelines from the National Directorate of Probation;
- ✓ Good relationships with local judicial authorities;
- ✓ Good relationships with extra judicial bodies (Border Police, The National and Territorial Immigration Service) ;
- ✓ Quick answers from the local judicial authorities;
- ✓ Guidelines from judicial authorities if needed;
- ✓ Translation services regarding common languages and some rare languages;
- ✓ All means of communication from local authorities to Probation Services.

Challenges:

- ✓ Inconsistencies/gaps between legislation that rules activities of different community institutes;
- ✓ The legal authorities don't have enough data and update information about foreign offenders;
- ✓ The Romanian and the foreign legal authorities from the executing/issuing states don't have enough instruments to collaborate well with each other;
- ✓ Situations of unfound person, denial or rejection from other states;
- ✓ Lack of coordination between member states when they are dealing with a person's prohibition to leave or to enter into a country;
- ✓ Different supervision measures between states;
- ✓ Double criminality – non bis in idem.

6. **Building Probation Capacity** by Leo Tigges

Key outcomes (relevance of the project to FDs)

- ✓ Steady growth in the implementation and use of FD's in slipstream of further development of probation?;
- ✓ Strengthen Domain 1 (Separate Recommendation Council of Europe?);
- ✓ Successful development is dependent on commitment of leaders in the penal and probation field;
- ✓ Strengthen the availability of data on FD's;
- ✓ A central national coordination point for preparing of and deciding about the application in individual cases is helpful, even conditional;
- ✓ Central point in Europe that facilitates decision making in individual cases between issuing and executing country?;
- ✓ A new integral implementation plan on a European level, based on experience gained with the use of FD's and acquired knowledge and advice in recent years?.

7. **The Academy of European Law: introduction of a new project** by Ramin Farinpour

8. **EMPRO: introduction of a new project** by Daniel Danglades

Actions 2025

- Data collection from across Europe - CEP
- Online meeting of the group in between / possibly Webinar on FDs in 2024
- F2f meeting in September 2024 - 1,5 day long event

Links: <https://www.cep-probation.org/recap-expert-workshop-on-framework-decisions-829-947/>