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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	13955/16
Subject:	Implementation of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions - Information provided to the General Secretariat

DRAFT Delegations will find attached updated information about the state of play concerning the implementation of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 16.12.2008, p. 102). This information is based on notifications by Member States to the General Secretariat, to which reference is made in the last column.

In accordance with its Article 25, the Framework Decision should have been implemented by 6 December 2011.

According to the information received by the General Secretariat, so far 21 Member States (BE, BG, CZ, DE, DK, ES, EE, HR, IT, CY, LT, LV, HU, NL, AT, PL, RO, SI, SK, SE, FI) have implemented the Framework Decision in their national legal order.¹ The UK does not anymore take part in this instrument.

The information in the table is a summary of the notified information: delegations are invited to consult the documents referred to in the last column in order to obtain more detailed information.

The information provided in the table is up-to-date as at [29 January] 2020. Any comments or suggestions for improvement should be sent to steven.cras@consilium.europa.eu

Please note that all information relating to the implementation of the Framework Decision can also be found on the website of the European Judicial Network (EJN):

https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat.aspx?l=EN&CategoryId=37

¹ From the EJN website, it appears that the Member States that have not yet provided notifications/declarations, have already implemented the Framework Decision:

- EL by law 4307/14;
- FR by Law n° 2015-993 of 17 August 2015;
- IE by the Criminal Justice (Mutual Recognition of Probation Judgments and Decisions) Act 2019;
- LU by Law of 12 April 2015;
- MT by Act XXIII of 2012 - Probation Act – Cap 446;
- PT by Law 158/2015 of 17 September 2015.

Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions

Member State	State/date of implementation of Framework Decision	Notification re Article 3(1) (Competent Authorities)	Notification re Article 4(2) (Additional types of probation measures and alternative sanctions)	Notification re Article 5(4) (Conditions of forwarding a judgment / probation decision)	(poss.) Declaration re Article 10(4) (Double criminality)	(poss.) Notification re Article 14(3) (refusal to assume responsibility for subsequent decisions)	(poss.) Notification re Article 21 (Acceptance of certificate being drawn up in other languages)	(poss.) Notification re Article 23 (Other agreements and arrangements)	Notification re Article 25 (Implementation)
BELGIUM	Implemented. Entry into force of legislation: 23 June 2013	- BE as issuing State: Public prosecutor's office - BE as executing State: Public prosecutor's office MoJ is competent for giving prior agreement for forwarding a judgement ex. Art. 5(2).					Dutch French German English		12718/13

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BULGARIA	Implemented. Entry into force of legislation: 28 April 2012	- BG as issuing State: first-instance courts - BG as executing State: provincial courts or Sofia City Court.					Bulgarian		11438/12
CZECH REPUBLIC	Implemented. Entry into force of legislation: 1 January 2014	- CZ as issuing State: District courts, regional courts, Prague		CZ competent executing authorities may agree to acknowledge the decision of another	CZ will not apply Article 10(1) of the FD	In the cases referred to in Article 14(3)(a), CZ will not, in the event of a breach of imposed	- Czech (or accompanied by a translation into Czech). - With respect to the Slovak		7044/14

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		and Brno Municipal Courts. 1) CZ as executing State: 2) the locally competent district courts. 3) regional courts decide as regards legal remedies (addresses provided)		Member State in accordance with Article 5(2) of the Framework Decision, if the person to whom the decision is addressed requests that the recognition and execution of that decision be acknowledged and if that person is resident on the territory of the Czech Republic or if it may reasonably be supposed that the person intends to reside there and if the acknowledgement		obligations and restrictions, adopt any subsequent decision and it will be for another EU state to adopt binding measures in accordance with its domestic law.	Republic, the Czech Republic will accept certificates produced in Slovak.		

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				of that decision for recognition and execution in the Czech Republic may be considered as appropriate and effective for purposes of ensuring the successful integration of that person in society.					

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DENMARK	Implemented. Entry into force of legislation: 5 December 2011	Minister of Justice or his/her representative is competent regarding recognition. Department of Prisons and Probation is competent for adaptation / supervision	Decisions on intensive monitoring at the sentenced person's place of residence	Certificates must be issued by the Minister of Justice or his/her representative		DK authorities will not take a decision on execution of a custodial sentence in cases referred to in Art. 29 n (2) and (3) of national act	Danish		7601/12

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DEUTSCHLAND/ GERMANY	Implemented. Entry into force of legislation: 25 July 2015	DE as issuing State: 1) Public prosecutor's offices in the regional courts 2) Local courts DE as executing State: 1) Public prosecutor's offices in the regional courts 2) Regional courts	DE is willing to supervise certain other constraints which satisfactorily make amends for wrongs committed. The same applies to instructions which aim to prevent a specific lifestyle of the sentenced person.	DE may consent to the forwarding of a judgment under Art. 5(2) if the sentenced person is a DE national.	DE will not apply Article 10(1) FD.	DE refuses to assume responsibility for subsequent decisions provided for in Art. 14(1)(b) and (c) in the cases mentioned in Art. 14(3)(a), (b) and (c). DE also refuses to assume responsibility in some other cases. See doc. 5901/16.			5901/16

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ELLAS / GREECE									
ESPANA / SPAIN	Implemented. Entry into force of legislation: 21 November 2014	- ES as issuing state: The competent judge or court - ES as executing state: The Central Criminal Court, or the Central Juvenile Court Judge		The conditions contained in Article 101(2)(b) of the Spanish Law 23/2014 should be fulfilled. See doc 8716/15.		ES declares that the issuing authority, rather than the Spanish Court responsible for enforcement, will be competent for subsequent decisions in relation to the three scenarios set out in Article 14(3).			8716/15

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ESTONIA	PM	Ministry of Justice (See 6664/16)	Estonia will supervise the probation referred to in Article 4(1) (See 6664/16)				Estonian English (See 6664/16)		PM
FRANCE									

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HRVATSKA / CROATIA	Implemented as part of the <i>acquis</i> - 1 July 2013.	- HR as issuing State: competent courts - HR as executing State: competent county courts (list provided)	The domestic competent authorities, on the basis of a recognised foreign probation measure or alternative sanction, will enforce in respect of a convicted person only such types of probation measures and alternative sanctions as are provided for in	In cases where, in addition to the agreement of the convicted person, the agreement of the ministry with responsibility for judicial affairs is required for the transmission of a judgment imposing probation measures or alternative sanctions to HR for recognition, the ministry will, when giving that agreement, pay particular attention to facilitating the		A competent court will not take subsequent decisions in three cases (please consult doc 12335/14, page 8)	Croatian ; English (on reciprocal basis)		12335/14

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			the criminal legislation of the Republic of Croatia	social rehabilitation of the convicted person and the reintegration of the convicted person into society					

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IRELAND									
ITALY	Implemented. Entry into force of legislation: 29 March 2016	IT as issuing State: public prosecutor IT as executing State: court of appeal		Forwarding to the competent authority of a member State other than the member State where the sentenced person is lawfully and ordinarily residing is allowed, on condition that this latter authority gives its consent.			Italian		5919/17
KYPROS/ CYPRUS	Implemented. Entry into force of legislation: 23 May 2014	- CY as issuing State: The assize court or the district court		The competent executing authority of CY may consent to the forwarding of a judgment issued in another Member State and, where		CY will not assume responsibility for taking any subsequent decision in the event of the sentenced	Greek and English In addition, CY also accepts certificates		11315/14

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		<p>- CY as executing State:</p> <p>1) The territorial competent district court (enforcement)</p> <p>2) The competent Ministry, section or service (ensuing measures)</p>		<p>applicable, the probation decision, only when the sentenced person is lawfully and ordinarily resident in the Republic of Cyprus and has returned or wants to return there.</p>		<p>person's non-compliance with a probation measure or alternative sanction or if he commits a new criminal offence. In such cases jurisdiction will be transferred back to the competent authority of the issuing Member State.</p>	<p>drawn up in both Greek and Turkish, being the two official languages of the country.</p>		
LATVIA	Implemented. Entry into force of legislation:	A "municipal (district) court"					Latvian		14271/12 14363/13

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	1 July 2012	Ministry of Justice acts as central authority.							
LITHUANIA	Implemented. Entry into force of legislation: 1 April 2015	- LT as issuing State: District courts - LT as executing State: District courts and Probation services See for more information 12827/15.	LT will recognise and execute the probation measures and alternative sanctions referred to in Article 4(1) only.	In the cases referred to in Article 5(2), the LT court will generally agree to take over the execution of the measure if the sentenced person is studying, working or has been granted an employment contract in LT or if a family member of the sentenced person is resident in LT or if there are other compelling	LT will not apply Article 10(1).		Lithuanian		12827/15

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				reasons for taking over the execution of the alternative sanction or probation measure.					

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LUXEMBOURG									
MAGYARORSZÁG / HUNGARY	PM	- HU as issuing State: court that imposed the measure or alternative sanction - HU as executing State: District courts, or the Central District Court of Buda (see 9720/16)		HU consents to forwarding if the sentenced person requests execution of the judgment or the probation decision by the HU authorities and provides proof of close family, cultural or economic connections with Hungary.	HU will not apply Article 10(1) of the FD.				PM See also: 14288/13 9720/16

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MALTA									
NETHERLANDS	Implemented. Entry into force: 1 November 2012	Public Prosecutor in Haarlem.	Decision on electronic supervision.		NL will not apply Art. 10(1) of the FD.	In certain cases, NL will refuse to assume responsibility for subsequent decisions referred to in Art. 14(1)(b) and (c), see 13964/12.	Dutch English		13964/12

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ÖSTERREICH/ AUSTRIA	Implemented Entry into force: 1 August 2013	- AT as an issuing State: District and Regional Courts - AT as an executing State: Regional Courts (addresses provided)		Monitoring can be approved if because of specific circumstances ties exist between the sentenced person and Austria of such intensity that it can be assumed that monitoring in Austria will help facilitate the social rehabilitation and reintegration of the sentenced person.		AT refuses to assume responsibility to take subsequent measures in the cases described in Art. 14(3)(a) and (c)	German. Other languages accepted on basis of reciprocity.		15116/13

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POLAND	Implemented.	<p>- PL as issuing State: District or Regional Courts</p> <p>- PL as executing State: Regional Courts with local jurisdiction</p> <p>- PL as exec. State in Art. 5(2) cases : Regional Court of Warsaw.</p>		Where the PL authorities deem that this would better serve the educational or preventive aims of the sanction.	PL will not apply Art.10(1).	PL as an executing State will refuse assuming the responsibility provided for in Art. 14(1)(b) and (c) in the cases mentioned in Art. 14(3)(a) and (b).	Polish		7600/12

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PORTUGAL									
ROMANIA	Implemented. Entry into force of legislation: 26 December 2013	RO as issuing and executing State: The district courts which are territorially competent	Where it is the executing state, RO monitors probation measures and alternative sanctions as referred to in Article 4(1)	RO authorities can recognize judgments and probation decisions not only when the convicted person is a Romanian national and he/she lives or is going to live in Romania, but also in cases when the convicted person is not a Romanian national, but he/she either is a resident of Romania or one of his/her family members is a Romanian national	Romania will make use of the possibility granted by paragraph (3), therefore the recognition of the judgment or probation decision will be subject to a double criminality check	In cases when, after a judgment or a probation decision is recognized, the convicted person fails to comply with the supervision measures or the alternative sanction, or commits a new offence during the probation period, if the foreign decision referred to conditional release or an alternative	Romanian		5681/14

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				or resident, or he/she proves that he/she is going to engage in a professional activity, studying or training in Romania		sanction, without expressly mentioning the custodial sentence which is to be imposed in this case, Romania will not assume jurisdiction and the issuing state will be given the competence to revoke the sanction			
SLOVENIA	Implemented. Entry into force: 20 September 2013	SI as issuing and executing state: District courts which are territorially competent,				SI will refuse to assume responsibility for the subsequent decisions referred to in Article 14(1)(b) and (c) of the Framework	Slovenian English		5473/14

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		depending on the residence of the person concerned. If the competent court cannot be determined, the competent court is the District Court in Ljubljana				Decision in two cases (see doc 5473/14).			
SLOVAKIA	Implemented. Entry into force: 1 February 2012	- SK as an issuing State: The court that issued the decision. - SK as an executing State: The district		PM			Slovak. In respect of the Czech Republic: also in Czech. (doc.: 6883/14)	Special arrangement with CZ, see 11323/15.	5314/14 See also 6883/14 and 11323/15

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		court in whose area or jurisdiction the sentenced person ordinarily resides.							

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SUOMI/ FINLAND	Implemented	FI as an issuing and executing State: Central administrative office of the Criminal Sanctions Agency District courts are competent to take subsequent decisions as referred to in Art. 14(1)(b) and (c).		Where probation in Finland because of particular personal circumstances or other special reason would favour chances of adjusting to society.		In certain circumstances, Finland will not take subsequent decisions in cases referred to in Art. 14(1)(b) and (c).	Finnish Swedish English	Act on cooperation between Finland and other Nordic States will continue to apply.	7382/12

Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions

Member State	State/date of implementation of Framework Decision	Notification re Article 3(1) (Competent Authorities)	(poss.) Notification re Article 4(2) (Additional types of probation measures and alternative sanctions)	Notification re Article 5(4) (Conditions of forwarding a judgment / probation decision)	(poss.) Declaration re Article 10(4) (Double criminality)	(poss.) Notification re Article 14(3) (refusal to assume responsibility for subsequent decisions)	(poss.) Notification re Article 21 (Acceptance of certificate being drawn up in other languages)	(poss.) Notification re Article 23 (Other agreements and arrangements)	Notification re Article 25 (Implementation)
SWEDEN	Implemented. Entry into force: 1 January 2016	- SE as issuing State: 1) Prison and Probation Service 2) Parole boards and ordinary courts - SE as executing State: Prison and Probation Service. (details provided)	SE will not supervise any sanctions or probation measures in addition to those referred to in Article 4(1).	SE authorities may consent to a decision being forwarded to Sweden if the social rehabilitation of the sentenced person is facilitated by the fact that enforcement is transferred to Sweden and is also appropriate.		SE as an executing State will in no case assume jurisdiction to take subsequent decisions as referred to in Article 14(1)(b) and (c).	Swedish Danish Norwegian English		5221/16