



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 5 February 2014

Detention: Commission calls on Member States to implement commonly agreed rules for people sentenced or awaiting trial in another EU country

Common rules on matters related to detention, adopted unanimously by Member States, have been implemented only in around half of the EU's 28 countries, according to a new European Commission report released today. The report examines the implementation of three separate EU Framework Decisions covering (1) the transfer of prisoners, (2) probation and alternative sanctions, (3) and the European Supervision Order. The three EU laws enable prison sentences, probation decisions or alternative sanctions and pre-trial supervision measures to be executed in an EU country other than the one in which the person is sentenced or awaiting trial. This may be the country of nationality, habitual residence or another EU country with which the person has close ties.

The rules, agreed by Member States unanimously between 2008 and 2009, should have been implemented by (1) 5 December 2011, (2) 6 December 2011 and (3) 1 December 2012 respectively. However, today only 18 Member States have implemented the [transfer of prisoners decision](#), 14 have implemented the [decision on probation and alternative sanctions](#) and 12 have implemented the [European Supervision Order](#) (see Annex for breakdown by country).

The rules aim to improve mutual trust between judicial systems in Europe – an essential element of a common European area of justice. The three Framework Decisions are also important tools to further social rehabilitation of prisoners and reduce the use of pre-trial detention. Their proper implementation is crucial.

The late or incomplete implementation by several Member States is particularly regrettable as the Framework Decisions have the potential to lead to a reduction in prison sentences imposed by judges on non-residents. This could serve to reduce prison overcrowding and thereby improve detention conditions, but also allow for savings in national prison budgets.

The Commission therefore urges all those Member States which have not yet done so to take swift measures to implement these EU laws fully.

Today's report provides a preliminary evaluation of the status of implementation by Member States of the three Framework Decisions. It does not evaluate how well these rules are applied given that half of the Member States have not yet implemented them.

Next Steps

The European Commission does not currently have the powers to launch infringement proceedings under Article 258 TFEU with regard to Framework Decisions adopted prior to the entry into force of the Treaty of Lisbon (see Article 10(1) of Protocol No 36 to the Treaties).

As of 1 December 2014, the Commission will be able to launch infringement proceedings.

Today's report thus gives an overview of where further work by Member States is required to align national legislation.

Background

Every year, tens of thousands of EU citizens are prosecuted for alleged crimes or convicted in another EU Member State. Very often, criminal courts order the detention, while awaiting trial; of non-residents because there is a fear of flight and that they will not turn up for trial. A suspect who is resident in the country would in a similar situation often benefit from a less coercive supervision measure, such as reporting to the police or a travel prohibition.

The Framework Decisions are intended to be a package of coherent and complementary legislation addressing the issue of detention of EU citizens in other Member States and has the potential to lead to a reduction in pre-trial detention or to facilitate social rehabilitation of prisoners in a cross border context. There are in fact operational links between the three Framework Decisions, but also between these Framework Decisions and the Framework Decision on the European Arrest Warrant.

In June 2011, the Commission presented a [Green Paper on detention](#), assessing how pre-trial detention and detention conditions affect mutual trust and effective judicial cooperation between Member States and, more generally, what the role of the EU should be in this area ([IP/11/702](#)).

The assessment of the numerous replies to the Green Paper showed that it is important to first properly implement in a timely manner the EU laws which exist and which aim at improving alternatives to detention.

For more information

Press pack:

http://ec.europa.eu/justice/newsroom/criminal/news/140205_en.htm

European Commission – Criminal Justice - Recognition of decisions between EU countries:

http://ec.europa.eu/justice/criminal/recognition-decision/index_en.htm

Homepage of Vice-President Viviane Reding, EU Justice Commissioner:

<http://ec.europa.eu/reding>

Follow the Vice-President on Twitter: [@VivianeRedingEU](#)

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ANNEX: State of Play of implementation of the three Framework Decisions (FD) by the Member States

	TRANSFER OF PRISONERS (FD 2008/909/JHA)	PROBATION AND ALTERNATIVE SANCTIONS (FD 2008/947/JHA)	EUROPEAN SUPERVISION ORDER (FD 2008/829/JHA)
<i>Deadline for implementation</i>	5.12.2011	6.12.2011	1.12.2012
Austria	✓ (1.1.2012)	✓ (1.8.2013)	✓ (1.8.2013)
Belgium	✓ (18.6.2012)	✓ (23.6.2013)	✗
Bulgaria	✗	✓ (14.3.2012)	✗
Czech Republic	✓ (1.1.2014)	✓ (1.1.2014)	✓ (1.1.2014)
Cyprus	✗	✗	✗
Germany	✗	✗	✗
Denmark	✓ (5.12.2011)	✓ (5.12.2011)	✓ (1.12.2012)
Estonia	✗	✗	✗
Greece	✗	✗	✗
Spain	✗	✗	✗
Finland	✓ (5.12.2011)	✓ (5.12.2011)	✓ (1.12.2012)
France	✓ (7.8.2013)	✗	✗
Croatia	✓ (1.7.2013)	✓ (1.7.2013)	✓ (1.7.2013)
Hungary	✓ (1.1.2013)	✓ (1.1.2013)	✓ (1.1.2013)
Ireland	✗	✗	✗
Italy	✓ (7.9.2010)	✗	✗
Lithuania	✗	✗	✗
Luxembourg	✓ (1.3.2011)	✗	✗
Latvia	✓ (1.7.2012)	✓ (1.7.2012)	✓ (1.7.2012)
Malta	✓ (1.1.2012)	✗	✗
Netherlands	✓ (1.11.2012)	✓ (1.11.2012)	✓ (1.11.2013)
Poland	✓ (1.1.2012)	✓ (1.1.2012)	✓ (1.12.2012)
Portugal	✗	✗	✗
Romania	✓ (25.12.2013)	✓ (25.12.2013)	✓ (25.12.2013)
Sweden	✗	✗	✗
Slovenia	✓ (20.9.2013)	✓ (20.9.2013)	✓ (20.9.2013)
Slovakia	✓ (1.2.2012)	✓ (1.2.2012)	✓ (1.7.2013)
United Kingdom	✓ (5.12.2011)	✗	✗
TOTAL:	18	14	12

