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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14630/13 COPEN 148 EJN 59 EUROJUST 84
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

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 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 16 Member States (BE, BG, CZ, DK, HR, CY, LT, LV, HU, NL, AT, PL, RO, SI, SK, FI) have implemented the Framework Decision in their national legal order.

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 30 January 2015. Any comments or suggestions for improvement should be sent to secretariat.criminal-law@consilium.europa.eu

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)
BELGIUM	Implemented. Entry into force of legislation: 23 June 2013	(a) BE as issuing State: Public prosecutor's office (b) 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	(a) BG as issuing State: first-instance courts (b) BG as executing State: provincial courts or Sofia City Court.					Bulgarian		11438/12
CZECH REPUBLIC	Implemented. Entry into force of legislation: 1 January 2014	(a) 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. (b) CZ as executing State: - the locally competent district courts. - 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
DEUTSCHLAND/ GERMANY									

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ELLAS / GREECE									
ESPANA/ SPAIN									
ESTONIA									
FRANCE									

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HRVATSKA / CROATIA	Implemented as part of the <i>acquis</i> - 1 July 2013.	(a) HR as issuing State: competent courts (b) 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									
KYPROS/ CYPRUS	Implemented. Entry into force of legislation: 4 June 2014		(a) CY as issuing State: The assize court or the district court (b) CY as executing State: - The territorial competent district court (for	The competent executing authority of CY may consent to the forwarding of a judgment issued in another Member State and, where applicable, the probation decision, only when the sentenced person is lawfully and ordinarily resident in the Republic of Cyprus and has		CY will not assume responsibility for taking any subsequent decision in the event of the sentenced person's non-compliance with a probation measure or alternative sanction or if he commits a new criminal offence.	Greek and English		11315/14

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			enforcement) - The competent Ministry, section or service (for ensuing measures)	returned or wants to return there.		In such cases jurisdiction will be transferred back to the competent authority of the issuing Member State.			
LATVIA	Implemented. Entry into force of legislation: 1 July 2012	A "municipal (district) court" Ministry of Justice acts as central authority.					Latvian		14271/12 14363/13
LITHUANIA	Implemented. Entry into force of legislation:	LT as issuing State:	LT will recognise and execute the probation	In the cases referred to in Article 5(2), the LT court will generally agree to	LT will not apply Article 10(1)		Lithuanian		5798/15, Annex II

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	1 April 2015	District courts LT as executing State: District courts and Probation services See for more information doc 5798/15, Annex II.	measures and alternative sanctions referred to in Article 4(1) only.	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 reasons for taking over the execution of the alternative sanction or probation measure.					

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LUXEMBOURG									
MAGYARORSZÁG / HUNGARY	Implemented			HU consents to the forwarding provided that the sentenced person is not lawfully and ordinarily resident in Hungary, 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				14288/13

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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 Article 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 (list of 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		For the purposes of securing the execution of a decision, the court may, upon request of the sentenced person, forward the judgment and, where applicable, the probation decision to a			Slovak. In respect of the Czech Republic: also in Czech. (doc.: 6883/14)		5314/14

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		court in whose area or jurisdiction the sentenced person ordinarily resides.		competent authority of a Member State other than the Member State in which the sentenced person ordinarily resides, on condition that the executing judicial authority gives its consent. The execution of a decision may be transferred to only one Member State at a time.					

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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

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SWEDEN									
UNITED KINGDOM									