Detention and transfer of prisoners

The EU helps rehabilitate prisoners by allowing them to serve their sentence in their home country. To do this, it has set up a system to transfer prisoners back to the EU country from which they come, the one they normally live in or with which they have close ties.

The system is based on **3 'framework decisions'**:

Decision on transferring prisoners to their home country

The 2008 Framework decision on custodial sentences allows prisoners to be transferred back to the country they normally live in. This is because prisoners are more likely to be rehabilitated if they can serve their sentence in their home country.

The Decision improves communication between countries and allows transfers to take place within fixed time-limits.

Since when it is applied?

EU countries had to incorporate this decision into their national law by **5 December 2011**. Information on the state of play of implementation can be found here.

What does it replace?

For the EU, the Decision replaces the European Convention on the transfer of sentenced persons (1983) and its Additional Protocol (1997), although these Conventions will continue to apply to non-EU countries.

Decision on probation in the offenders' home country

The 2008 Framework decision on probation measures & alternative sanctions makes it possible for a person to be sent back to the country where they normally live if they have been:

sentenced and released on probation, or

given an alternative penalty

in an EU country where they do not normally live.

This country will then supervise them in serving their sentence, since people are more easily rehabilitated in their home country.

Since when it is applied?

EU countries had to incorporate this decision into their national law by **6 December 2011**. Information on the state of play of implementation can be found here.

What does it replace?

The decision replaces the relevant parts of the 1964 Council of Europe Convention on conditionally sentenced or released offenders, although this Convention will continue to apply to non-EU countries.

Decision on alternatives to pre-trial detention

The 2009 Framework Decision applies the principle of mutual recognition to decisions on supervision measures as an alternative to pre-trial detention.

For suspects provisionally released in advance of their trial, this decision enables responsibility for **non-custodial supervision** to be transferred to the country where they normally live.

This allows EU citizens to return home, while awaiting trial in another EU country. Their home country will supervise them using non-custodial measures (e.g. requiring them to remain at a specified place, or asking them to report to a police station every day). This avoids lengthy pre-trial detention abroad.

Since when it is applied?

Countries had to incorporate this decision into their national law by **11 December 2012**. Information on the state of play of implementation can be found here.

More information

See Europris and CEP.

Last update: 02/12/2021

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