

**THE IMPLEMENTATION OF THE FRAMEWORK  
DECISIONS.  
FOCUS ON FRAMEWORK DECISION 2008/947/JAI**

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PART 2

# ONE CASE STUDY

Mr. CV is an adult under the supervision of the Probation Service in Romania. He is currently working in Austria and therefore expressed his wish to be transferred to Austria for supervision.

He has asked the Probation service in Romania to be transferred to Austria. Probation service asked the competent judge to start the procedure. As the procedure is new, none of the above knew what to do. The judge asked the Probation service about the procedure. The Probation service asked the Probation Directorate about the procedure. This delay and uncertainty created some frustration for the supervised person:

*'not only that they did not know the procedure but they didn't even treat me warmly'*

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At a latter stage, when the Probation service received the information from the Probation Directorate – official request 11.02.2014

CV had to make many trips from Romania to Austria to collect documents and attend supervision appointments. He was not informed about how supervision will look/feel like in Austria.

On the 29.09.2014 – the transfer was approved by the court in Vienna.

# CASE STUDY

The transfer was possible because Austria declared in the light of art. 5(4) of the FD:

*'Austria declares that monitoring of supervision measures or alternative sanctions by the competent Austrian court can be approved **irrespective** of whether the sentenced person has their domicile or permanent residence in Austria, 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.'*

CV has a job in Austria!!!

# CASE STUDY

When CV arrived in Austria for supervision he was surprised to find a very supportive probation counselor:

*'when I have arrived in Austria I didn't even know very well the language. They all started to ask me: shall we bring you a translator? Do you need anything ? What can I say ... even now when the probation time is over, the lady still calls me asking me if I need anything, if I have any problem, if I have a job ... '*

# CASE STUDY

Furthermore, he was very happy to notice that the probation counselor has a totally different approach than the one in Romania:

*'...in Romania I was constantly asked to do this and that. They were like my bosses. If I find a job in Austria or elsewhere I should be supported to go there because this will help me not to reoffend. Right? Otherwise I will have to commit crimes again.'*

# CASE STUDY CONCLUSIONS

- The procedure is still unknown by the judiciary and the probation services
- The procedure is still taking very long and sometimes too bureaucratic
- Probationers should be informed about **how** supervision is constructed in the ES: how is the frequency of the meetings decided, if they can expect any practical help or not, how is the relationship with the probation counselor, how is the breach procedure etc.
- How CV would have reacted if he would be transferred from Austria to Romania????
- Informed consent – the core of legitimacy and the substantive compliance.

# MORE OBSTACLES

- Based on the ISTEP project:
  - Too many competent authorities
  - The FD covers mainly the judicial process and not the supervision process logic – no information exchange between probation services, continuity etc.
  - Consent is rather implicit rather than informed and explicit.
  - Praetorian probation is not covered in the FD – the prosecution decisions can not be transferred.



# SOME SOLUTIONS ?!!

- Clearing houses – MoJ or Probation Directorates
- Close cooperation between probation services – maybe based on hub approach: regional or traditional networks (e.g. Nordic states, Belgium-Germany-Netherlands, Romania-Italy-Spain) – following the migration or touristic trends.
- More consultation and information sharing - CEP website
- More training for judges and probation services
- Upgrade the FD with the praetorian probation and informed consent
- Eurobarometer on experiencing supervision – service user perspective:
  - supervision as a general experience,
  - supervision and practical help,
  - The relationship with the PO
  - Supervision and compliance
  - Supervision and breach
  - Supervision and rehabilitation
  - Supervision and involvement.