

Implementation of EU Framework Decision on Probation Supervision



Probation Service, Haymarket, Smithfield, Dublin 7
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An tSeirbhís Phromhaidh
The Probation Service

Policy Issues: Choices to be Made

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Competent Authority

- Competent Authority (article 3)
 - More than one authority?
 - Who?
- Notification to General Secretariat of the Council

Forwarding the Judgement

- Sentencing court completes Annex 1
- Competent Authority (Issuing State)
- Competent Authority (Executing State)
- Types of probation measures and alternative sanctions (Article 2)

Four Options

- Suspended Sentences
- Alternative Sanction
- Conditional Sentence
- Conditional Release

Requirements of Probation Supervision (Article 4)

1. Change of residence
2. Restricted access
3. Instructions re training, leisure, education
4. No contact with identified person(s)
5. Must not carry objects / weapons

Requirements of Probation Supervision (Article 4) cont.

6. Compensation
7. Community Service
8. Co-operation with Probation Officer
9. Report at specific times
10. Therapeutic / Addiction treatment
11. Restrictions on leaving executing State

Questions ???

- Can we supervise the standard 11 measures?
- Can we offer additional measures?
- Do we wish to notify these to the General Secretariat?

Language (Article 21)

- Required to be in the official language
- Does the Member State wish to nominate other official languages which it will accept?

Executing State (Article 5)

- “Where the sentenced person is lawfully and ordinarily resident”
- May go to other Member State
 - relative, training, employment
- Should the Competent Authority consent to the above? If so, in what circumstances and what are the criteria?

Response from Executing State (Article 8, 9, 10, 11)

- Recognition and Implementation of order
- Postpone decision on recognition
- Adaptation of probation measures or alternative sanctions
- 11 grounds for refusing recognition
- Double criminality
- Supervision despite refusal of recognition

Questions ???

- Does the Member State wish double criminality to be verified in all cases?
- Should Competent Authority agree to supervision without a legal mandate?
If so, in what circumstances?

Consequential Decisions

- (a) Modifications of the obligations or conditions of supervision
- (b) Revocation of the Suspension of a Sentence, or of Conditional Release
- (c) Imposition of a custodial sentence

Should the Executing State decide to decline responsibility for (b) and (c)?

Premature Termination of Supervision

Decision **may** be taken to transfer back to the Issuing State where

- The sentenced person absconds or no longer has a lawful and ordinary residence in the Executing State
- or
- New criminal proceedings are initiated against the person concerned in the Issuing State

Should Member State consider transfer in either or both situations? If so under what circumstances?

Thank you for your Attention

