

MINUTES

CEP Expert Meeting Enhancing the Implementation of Framework Decisions 2008/JHA/947 & 2009/JHA/829

**Date: 25th September 2018
Brussels, Belgium**

Present:

- Ms. Christine Gödl Federal Ministry for Constitutional Affairs, Austria
- Mr. Pedro Ferreira Marum Maisons de Justice, Belgium
- Ms. Jesca Beneder European Commission, Belgium
- Ms. Vasiliki Kalimeri Tipik S.A., Belgium
- Mr. Ralph Bunche Fair Trials, Belgium
- Ms. Klaudia Sabljak Ministry of Justice, Croatia
- Ms. Katrine Grith Vinten Ministry of Justice, Denmark
- Ms. Helen Tõnise Ministry of Justice, Estonia
- Ms. Katja Dogovic Criminal Sanctions Agency, Finland
- Ms. Johanna Hietapakka Criminal Sanctions Agency, Finland
- Ms. Céline Tripiana Ministry of Justice, France
- Mr. Daniel Wolter DBH, Germany
- Ms. Tina Jörleman AJSD Büro Osnabrück, Germany
- Ms. Marina Boznou Judge, Greece
- Mr. Gerry McNally CEP President, Ireland
- Ms. Rachel Woods Irish Probation Service, Ireland
- Mr. James Kelly Irish Probation Service, Ireland
- Mr. Antonio Pastore Ministry of Justice, Italy
- Mr. Claude Kettel Service Central d'Assistance Sociale, Luxembourg
- Ms. Miriam Sevasta Department of Probation and Parole, Malta
- Ms. Sandra Scicluna University of Malta, Malta
- Ms. Marina Beun Prosecution, International Legal Centre, Netherlands
- Ms. Meta Vos Prosecution, International Legal Centre, Netherlands
- Ms. Natasja Goosen Prosecution, International Legal Centre, Netherlands
- Ms. Gisella Conrad Dutch Probation Service, Foreign Office, Netherlands
- Mr. Willem van der Brugge CEP, Netherlands
- Ms. Mirjam van der Kooij CEP, Netherlands
- Mr. Francisco Navalho DGRSP, Portugal
- Mr. Ioan Durnescu University of Bucharest, Romania
- Ms. Alexandra Ravingerova Ministry of Justice, Slovak Republic
- Ms. Lisa Gezelius Swedish Prison and Probation Service, Sweden
- Ms. Karolina Markgren Swedish Prison and Probation Service, Sweden
- Ms. Maria Lindström CEP, Sweden

Apologies: Mr. Anton van Kalmthout University of Tilburg, Netherlands

Welcome

Pedro Ferreira Marum, deputy Director General of the Houses of Justice, welcomed all participants to the Expert Meeting and said that it was a pleasure to host this, already fourth, CEP meeting on the European Framework Decisions 829 and 947 at the new premises of his organization. Gerry McNally (CEP President) and Willem van der Brugge (CEP Secretary General) also welcomed the delegates and mentioned the importance of the subject because of the great complexity of the field and the importance of meeting in person and sharing knowledge and best practices.

Purpose/aims of the meeting

Gerry McNally started to say that the main aim of this meeting was to follow up the one of last year, and also to deepen/broaden the network and further develop knowledge and expertise. "One of the main reasons for a meeting like this is to come together and share experiences", he said. Another reason was to follow up the actions that had been taken up by CEP since last year. The Framework Decisions 947 and 829 are now implemented in all EU member states except for Ireland, where the legislation is expected to be in place in the beginning of 2019.

The actions that were set up after last year's meeting and during this year's meeting will be followed up by CEP Policy Officer Maria Lindström, who has the topic of the Framework Decisions in her work portfolio. Gerry McNally also encouraged the delegates to take the opportunity to talk to each other and exchange experiences.

Short introduction of delegates

All delegates introduced themselves in order to know who was at the meeting and to further strengthen the network between participants around Europe. At the meeting 32 participants from 18 different jurisdictions were present, with different roles within the justice system in each jurisdiction, e.g. judges, managers of probation services, practitioners and policy makers as well as two European Commission professionals.

Update on the last agreed actions for CEP from the last meeting

Brief report on the results of the questionnaires on the Framework Decisions 829 and 947. Presentation of the draft guideline, the leaflet and the movie.

CEP Policy Officer Maria Lindström gave a presentation of the actions taken up by CEP since last year. The planned actions in summary were:

- The arrange an expert meeting
- The produce a special newsletter on the FD's
- To update the chapters of Probation in Europe
- To update the system maps on the CEP website
- To gather information on the numbers of transfers/caseload for the data base
- To draft a practical guideline for probation officers
- To draft a leaflet for probationers/offenders ("clients")

CEP also produced a short animated movie about the FD's because of the importance to communicate in many different ways in order to reach a broad target group.

Maria presented the draft practical guideline document and the leaflet to the participants. She explained that the target group for the guideline is the probation officer (although it could be very useful as well for lawyers) and that the leaflet is meant for the offenders. After these documents Maria showed the animated movie which in a very easy way explains the FD's. A suggestion from the participants was to include the role of the prosecutor in the film, to show that there is more behind the scene than the work and decision of the probation officer only. Jesca Beneder also emphasized to include the fact that a Framework Decision is a *possibility*, not a right.

One of the delegates suggested to add subtitles in order to make the information understandable in other languages as well? This would be a very good idea indeed. Gerry said that CEP's role would be to provide the basic materials, after which every jurisdiction could (if necessary) personalize the information and add subtitles in the appropriate language.

He invited the participants to think about all possible ways of promoting the FD's in order to make the topic easily accessible. Ioan Durnescu proposed a game as a way of working with it?

In her presentation Maria also gave a summary of the FD questionnaire that CEP had sent out in August. She indicated that it was difficult to really summarize the numbers of transfers and caseload since there is still much information missing, and because of the fact that in many countries the necessary details cannot be found in one central location. Maybe it would be a good idea to include the Framework Decision numbers in the Council of Europe statistics of SPACE II (probation data)? Gerry indicated that indeed this is planned to be done during the coming years, but that since "the coming years" is quite some time from now it is important and necessary for CEP to keep on maintaining its own database until then.

Presentation of a Framework Decision 2008/947 case and presentation of the PONT Project

Professor Ioan Durnescu, University of Bucharest, Romania

Ioan Durnescu, professor from the University of Bucharest, presented the PONT project, an Action Grant project funded by European Commission. PONT stands for "Probation Observatory Networking and Training". The project aims at mapping and identifying local networks that work together in the EU Framework Decisions, and to provide training to them. The goal of this would be to enable them to work better and more efficiently in the future, thus being able to spread the message (and the way of working) to other countries – the Cascade effect. There will be 12 countries involved but they have not yet been identified since the kick-off meeting of the project will only be on 1st October in Bucharest. However some ideas for local network groups are already made: one for the Netherlands, Germany, Belgium and France ; one for Romania, Spain, Italy and Ireland ; and one for Finland, Estonia, Latvia and Lithuania. The project has 4 full partners, each of those taking the lead of themselves plus 3 other countries. CEP is the dissemination partner in the project.

Ioan asked the participants for their opinions, and if they had any suggestions or remarks for him. A few things came up and were discussed:

- To make a risk and mitigation plan
- To look at as many ways of providing training as possible, like web-learning, films, games etcetera
- To involve the European Judicial Network (EJN) in the project

Ioan thanked everyone and asked them to send any other ideas or proposals to his email address idurnescu@gmail.com. He promised to at the next meeting in 2019 give an update on the status of the project.

The second part of his presentation regarded a specific case of FD 947. He was supposed to do this together with Professor Anton van Kalmthout, but unfortunately Anton had not been able to come due to serious back problems.

After having presented the case [*see power point*] Ioan emphasized the importance for offenders to know what to expect regarding their supervision in another country. In fact - if there is not enough information that can be provided to them and if they are not fully aware of what to expect, is it really possible for them to agree on a transfer? And what happens when cases take a long time to realize, resulting in situations that might have changed in the course of time?

Gisella Conrad of the Dutch Probation Service said that having information is certainly important for the offender, but that too many details would only be raising more questions, thus leading to a loss of valuable time.

Another problem could be the judicial part of a transfer since due to different rules and regulations in the various countries, it is not always possible to transfer the probation sentence one to one. And in case such amendments or adaptations need to be made – is it then still the same sentence?

From the short discussion became clear that one of the most important things is to know to whom to turn in the executing state – Jesca therefore suggested to include a link to the EJN website on the CEP website since there many contact details can be found.

Other problems clearly concern the time process and its limits. In order to solve this 3 options for solutions were mentioned:

- To shorten the official process
- To facilitate a good knowledge of the competent authorities so the right person can quickly be found and contacted
- To change from regular post services (slow) to electronic correspondence and electronic signatures (much quicker)

Jesca asked CEP and the participants if it would be possible to gather data on these time processes, for example to find out how much time an average case costs? This would give more transparency on where the difficulties lie.

She also suggested to make the e-CODEX (now only for FD 909 - https://www.e-codex.eu/sites/default/files/marketingMaterials/e-codex_fd909_digital.pdf) relevant and available for FD 947 as well?

Céline Tripiana said that for her colleagues in France also the language problem was quite an issue. She indicated that it takes a lot of time for people to go through documents in English, and that a professional way of solving this (translation bureaus?) costs a lot of money. France is however at the moment thinking on building a national forum for translation.

Update on 2009/829, European Supervision Order (ESO)

Mr. Ralph Bunche, Regional Director Europe, Fair Trials, Belgium

Ralph Bunch started by introducing Fair Trials as an organization, and informed the participants about the report "Beyond Surrender" (a copy was offered to each delegate). "Beyond Surrender" is an EU-wide project that has looked into the use of the European Arrest Warrant (EAW) and the impact on the life of extradited people. Fair Trials is a global criminal justice watchdog with a vision that every person's right to a fair trial should be respected. Fair trial helps people to understand and exercise these fair trials rights. Together with partners in four countries Fair Trials has produced the report "Beyond Surrender" and also a movie about the EAW. More information and the movie with subtitles in different languages can be found at www.fairtrials.org.

Ralph Bunch stressed that European Arrest Warrant (EAW) is used too much in some countries where the European Supervision Order (ESO) could and should be used instead. There is an-over use of the EAW instead of using the legislation with ESO that allows people to be in their home countries and which would make things more human and better for both the person his-/herself and his/her family and/or children. Sometimes it almost seems as if that the EAW is used by default. Fair Trials is working on getting the member states on board to work with the ESO instead of over-using the EAW. In a prior project they looked at the reasons why the ESO isn't used more and here a lack of comfort among the prosecutors seemed to be the issue preventing them to use alternative sanctions. The ESO was also investigated in the Detour project. Ralph Bunch indicated that he does see some positive changes in for example the Netherlands, which is very good news indeed.

After his short presentation Ralph showed the delegates the movie produced by Fair Trials.

Group sessions and closing of the meeting

A group café session was organised with the aim of exchanging experiences and discussing ideas. The tool Mentimeter was used for the group sessions and the delegates shared their experiences at their tables. The questions and the answers of the sessions can be found in the attached PDF-file presenting the results.

After having finished this part of the programme, CEP President Gerry McNally and CEP Secretary General Willem van der Brugge thanked all participants for their presence and their fabulous contribution to the event. They said that without their knowledge and experiences CEP would never be able to continue with its planned actions and tasks. They also thanked the Maisons de la Justice, Wallonia-Brussels Federation and its Director General Annie Devos for her hospitality in hosting this meeting, and wished everyone a safe journey home.