



Confederation of European
Probation

Gerry McNally
Assistant Director, The Probation Service
Ireland

**The findings of the EU 9th Round
evaluation on mutual recognition
instruments**

Brussels 5th December 2023



An tSeirbhís Phromhaidh
The Probation Service



9th Round of Mutual Evaluations

The Coordinating Committee in the area of police and judicial cooperation in criminal matters ('CATS') decided in November 2018 that the ninth round of mutual evaluations would be devoted to the principle of mutual recognition.

It was agreed at the CATS meeting on 12 February 2019 that the evaluation would focus on four key mutual recognition instruments

On 1 March 2023, the General Secretariat of the EU Council tabled the

Final report on the 9th round of mutual evaluations on Mutual recognition legal instruments in the field of deprivation or restriction of liberty.

<https://data.consilium.europa.eu/doc/document/ST-6741-2023-INIT/en/pdf>

Framework Decisions

- [Framework Decision 2002/584](#) on the European Arrest Warrant (FD EAW);
- [Framework Decision 2008/909](#) on mutual recognition of judgments imposing custodial sentences;
- [Framework Decision 2008/947](#) on the mutual recognition of probation measures and alternative sanctions;
- [Framework Decision 2009/829](#) on mutual recognition to decisions on supervision measures as an alternative to provisional detention (“European Supervision Order”).

FD 947/2008 and FD 829/2009

- **Final Report on 9th Round of Mutual Evaluations March 2023**
- The round was dedicated to legal instruments of mutual recognition in the field of deprivation or restriction of liberty.
- Evaluators looked into the legislation and practice of the EU Member States regarding the four instruments
- The report includes recommendations to the Member States and EU institutions/agencies in order to further enhance application of the instruments under evaluation.
- <https://data.consilium.europa.eu/doc/document/ST-6741-2023-INIT/en/pdf>

FD 947/2008 and FD 829/2009

- There is a significant lack of application of FDs 2008/947 and 2009/829 concerning non-custodial measures respectively in the post-trial and pre-trial stages of criminal proceedings;
- Lack of awareness and knowledge among practitioners and potential beneficiaries;
- Complexity and length of the proceedings, need for timely communication;
- Delay, slow and no responses, 'running down the clock', short timeframe;
- Trust between the competent authorities of Member States and knowledge of other judicial systems;
- Limited knowledge of the number of cases with cross-border implications.

FD 947/2008 and FD 829/2009

- Significant differences between national systems regarding the nature and duration of the applicable probation and alternative measures;
- Differences in interpretation of terms e.g. Article 5 ‘lawfully and ordinarily residing...’
- The infrequent application of the European Supervision Order (FD 829) is usually linked to the difficulty in identifying appropriate cases;
- Continued use of cross-border ‘supervision’ without local knowledge.
- Complexity of paperwork and extended length of the proceedings - bureaucracy;
- The report recommends raising awareness of these two FDs and providing guidance and tools for practitioners

9th Round Mutual Evaluation Recommendations

- Member States are encouraged to provide regular and systematic specialist training on Framework Decisions 2002/584/JHA, 2008/909/JHA, **2008/947/JHA** and **2009/829/JHA** and related case-law of the CJEU to all practitioners involved in their application, including joint training for judges, prosecutors and, if possible, lawyers and other relevant staff.
- Member States are encouraged to promote participation of practitioners in training activities at an EU level to increase knowledge and share experience.
- Member States are encouraged to ensure an adequate level of specialisation of practitioners dealing with all the EU mutual recognition instruments involving deprivation or limitation on liberty covered by the ninth round of mutual evaluations

EC 9th Round Mutual Evaluation Recommendations

- The European Commission, where appropriate in cooperation with the EJM and Eurojust, is encouraged to consider providing practitioners with EU handbooks containing practical guidance on the application of Framework Decisions 2008/947/JHA and 2009/829/JHA.
- With a view to facilitating the application of Framework Decisions 2008/947/JHA and 2009/829/JHA, the EJM, in cooperation with the Member States, is encouraged to include relevant information on all national systems and the non-custodial measures they provide for, as well as up-to-date information on all Member States' authorities (points of contact) competent to apply these Framework Decisions, on the EJM website

EC 9th Round Mutual Evaluation Recommendations

- Member States are encouraged to raise awareness and promote the use of Eurojust and the EJN and the tools they offer, taking into account the added value they can provide in overcoming difficulties in the application of EU mutual recognition instruments and, more generally, improving the effectiveness of judicial cooperation with other EU Member States.
- Member States should establish an efficient and reliable system for the collection of statistics on the use of Framework Decisions 2002/584/JHA, 2008/909/JHA, **2008/947/JHA** and **2009/829/JHA**, in order to facilitate analysis of their application and adapt policies and working methods accordingly.

FD 947/2008 and FD 829/2009 - Resources

- The **PONT project** funded by the European Commission's Justice Programme has a range of free online training courses on the application of Framework Decisions 2008/947/JHA and 2009/829/JHA, the completion of required documentation and the management of adaptation and of transfer processes. <https://www.cep-probation.org/wp-content/uploads/2020/11/PONT-The-e-manual-for-the-implementation-of-FDs-947-and-829.pdf>
- **CEP** has taken a lead role in the promotion, information dissemination and skills development of FD 947 with online materials, training events and an annual network meeting <https://www.cep-probation.org/knowledgebases/framework-decisions-on-probation/>.



FD 947/2008 and FD 829/2009 - Resources

- The **METIS project** *European Guide on Mutual Recognition of Judgements* focuses on execution of FD947 and two other FDs in another MS. <https://www.cep-probation.org/wp-content/uploads/2020/11/PONT-The-e-manual-for-the-implementation-of-FDs-947-and-829.pdf>
- **Detour Project Report** (2017) Towards Pre-Trial Detention as Ultima Ratio
http://www.tara.tcd.ie/bitstream/handle/2262/85068/Comparative%20report_master%20fin.pdf?sequence=1&isAllowed=y

CEP online materials, training events and an annual network meeting

- CEP Webinar *Transferring Probation Supervision* <https://www.youtube.com/watch?v=p37od1kr2Pk>
- CEP *Transfer your Probation Sentence*
https://www.youtube.com/watch?v=UA_IS98Ys0Q&list=PL5gFkEtDMSdfQWb14IOiAsHLYsKHUVu5C



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FD 947/2008 and FD 829/2009 - Resources

- **Euro-Lex** – Access to European Union Law <https://eur-lex.europa.eu/>
- **European Judicial Network (EJN)** - The network of contact points for the facilitation of the cooperation and for the establishment of direct contacts between the judicial authorities in the EU Member States. <https://www.ejn-crimjust.europa.eu/>
- **Eurojust** - European Union Agency for Criminal Justice Cooperation. <https://www.eurojust.europa.eu/>
- National single point of contact offices such as the Probation Service International Desk (FD 947) : internationaldesk@probation.ie

FD 947/2008 and FD 829/2009 - Final Message

- FD 2008/947/JHA and FD 2009/829/JHA are valuable European instruments supporting the rehabilitation, integration and settlement of persons subject to community sanctions and measures.
- We must not let them 'wither on the vine' through neglect, excessive bureaucracy, inflexibility/rigidity in interpretation, or lack of knowledge
- Promotion, increased awareness and information dissemination to potential beneficiaries, the criminal justice system and criminal justice professionals

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www.cep-probation.org

secr@cep-probation.org



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Thank you!
Merci!
Dank!
Gracias!
Благодаря!
Grazie!

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secr@cep-probation.org

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