

*THEORETHICAL AND PRACTICAL APPLICATION
ASPECTS OF THE COUNCIL FRAMEWORK
DECISION 2008/909/JHA*

Closing e-conference

«Development of the Judicial Cooperation in Criminal Matters»

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Council Framework Decision 909

Attention should be paid:

- **Subjects that may initiate the process**
- **Evaluation of the reintegration aspects**
- **respect for the human rights of convicted persons**
- **Recognition process and provisional arrest (Art.14)**

Subjects that may initiate the process

- **The issuing State**
- **Prison administration**- LV – very rare!
- **Executing State**- on its own initiative (the role of the MoJ)
- **Convicted person/representative**



- **The role of the competent court? – to control the execution of the judgment - ierosinājums (atbilstoši KPL 809.panta pirmā daļa)**

The Role of the Court

- **Procedures for Sending of a Request Regarding the Execution of a Punishment**

- A request shall indicate:

- 1) the name of the authority of the submitter of the request;
- 2) the object and essence of the request;
- 3) a description of the criminal offence and the legal classification of such offence;
- 4) information that may help to identify a person.



+ the following shall be attached thereto:

- 1) a certified copy of a valid court ruling;**
- 2) a certified copy of an order regarding the execution of a judgment or a certified copy of the writ of execution;**
- 3) the text of the section of the law according to which the person has been convicted;**
- 4) the text of the sections of the law, which regulate the running of the limitation period.**

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MS (issuing state) competence to execute the judgment (there is no obligation to initiate proceedings)

- - better conditions for early release
- Social reintegration interests of the convicted person are not observed (reintegration in the criminal environment)

facilitating the social rehabilitation of the sentenced person

- Social rehabilitation- central aspect of the FD 909!
- The competent authority of the issuing State must be "satisfied that the enforcement of the judgment in the executing State will be consistent with the objective of facilitating the social rehabilitation of the sentenced person".
- should be carefully assessed on a case-by-case basis

Social rehabilitation



- *family*
- *language,*
- *culture,*
- *social or economic links,*
- *ect.*



Respect for human right

- Convention for the Protection of Human Rights and Fundamental Freedoms
- Art.5 - Right to liberty and security

Recognition Process and Provisional Arrest

- **The sentenced person is in the executing State**
- **request for provisional arrest should be submitted**
- **The executing State may submit the request before the arrival of the judgment and the certificate, or before the decision to recognise the judgment and enforce the sentence**

Deadlines in the proceses of transfer of the sentences persons

- The decision should be taken as soon as possible (within 30 days)!**
- Decision about the determination of the punishment (within 90 days)**

Transfer of the sentenced person- within 30 days!

COVID-19

Problems existed during the process

- - The special form (certificate) is not completed accurately;
- - the quality of the translation
- - communication problems
- - deadlines
- - providing the information about the results of the execution of the request/judgment

Future problems under the discussion

- Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
- Evaluation of the prisons conditions!

THANK YOU VERY MUCH FOR YOUR ATTENTION!

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