



Report

**Framework Decision 909
Expert Group Meeting
25-26 September 2019
Leuven, Belgium**

Nalini Hussain & Stephen Gardner

**United Kingdom
November 2019**

**PROMOTING
PROFESSIONAL
PRISON
PRACTICE**

TABLE OF CONTENTS

INTRODUCTION.....	2
ATTENDEES.....	3
WORLD CAFÉ DISCUSSION GROUPS	4
- DRUG ADDICTIONS	4
- AVENUES OF APPEAL OPEN TO PRISONERS' SUBJECT TO TRANSFER	4
- DATA REQUESTS.....	4
- HOW CAN WE IMPROVE COMMUNICATIONS BETWEEN MEMBER STATES?	4
- TRANSFER ISSUES	5
PRESENTATION: AMAPOLA PROGREGGI'S EU REHABILITATION PROJECT	5
PRESENTATION: GENERAL SECRETARIAT OF THE COUNCIL OF THE EUROPEAN UNION	5
COUNTRY OVERVIEW: SPAIN.....	5
COUNTRY OVERVIEW: REPUBLIC OF IRELAND	6
GENERAL DISCUSSION ON TRANSFER ISSUES	6
CONCLUSION	6

Introduction

The EuroPris expert group on the transfer of foreign national prisoners was established in 2012 to assist members with the implementation of European Council Framework Decision 2008/909/JHA and examine lessons that could be learned through shared exchange of information. Over the years, the expert group has convened in different formations and sought to share the recommendations of best practice amongst other EuroPris members and European Union Member States.

Due to the importance of this measure to Member States and its impact on the rehabilitation of prisoners, the European Commission provided additional funding to EuroPris to invite all 28 EU Member States to attend the expert group meetings from 2015.

EuroPris was founded with the purpose to promote professional prison practice across Europe and the expert group meets that objective by discussing practical issues and solutions, to support Member States in using the Framework Decision and transferring prisoners to their countries of nationality or residence.

The 2019 expert group meeting was hosted at The Leuven Institute, Leuven, Belgium on 25 and 26 September 2019. Experts were representatives of the authority responsible for the transfer of foreign national prisoners which include national prison services, Ministry of Justice, Judges and Prosecutors.

The meeting was jointly chaired by Kris Opdenbosch (Belgium) and Kirsten Hawlitschek (EuroPris). This report, prepared by Stephen Gardner on behalf of Nalini Hussain, presents a summary of the discussions.

Attendees

Christine Goedl	Austrian Federal Ministry of Justice	Austria
Kris Van Opdenbosch	Belgian Prison Service	Belgium
Ana Sever	Ministry of Justice of the Republic of Croatia	Croatia
Andreas Kyriakides	Ministry of Justice and Public Order	Cyprus
Jitka Formankova	Prison Service of the Czech Republic	Czech Republic
Katrine Grith Vinten	Department of Prisons and Probation	Denmark
Morten Gudmand-Hoyer	Department of Prisons and Probation	Denmark
Helen Tonise	Ministry of Justice: Department of Prisons	Estonia
Mia Sandberg	Criminal Sanctions Agency	Finland
Heli Tamminen	Criminal Sanctions Agency	Finland
Solveig Volquardsen	Federal Ministry of Justice	Germany
Apostolos Spanos	Ministry of Justice	Greece
Dr Mariann Giba	Hungarian Prison Service	Hungary
Paul Mannering	Irish Prison Service	Ireland
Jūlija Muraru-Kļučica	Ministry of Justice	Latvia
Angele Vella	Office of the Attorney General	Malta
Lisa Baban	Dutch Custodial Institutions Agency	Netherlands
Paul de Graaff	Dutch Custodial Institutions Agency	Netherlands
Przemysław Zwiech	Central Board of Prison Service	Poland
Emanuela Mirita	National Administration of Penitentiaries	Romania
Nina Chlapečková	General Directorate of the Corps of Prison	Slovakia
Vesna Pavlič Pivk	Prison Administration of the Republic of Slovenia	Slovenia
Maximo Martinez Bernal	Directorate General of Prison Services – Catalonia	Spain
Asa Gustafsson	Swedish Prison and Probation Service	Sweden
Lisa Gezelius	Swedish Prison and Probation Service	Sweden
Stephen Gardner	Her Majesty's Prison and Probation Service	United Kingdom
Eniko Felfoldi	European Commission	
Kirsten Hawlitschek	EuroPris	
Giovanna Giglio	General Secretariat of the European Council	
Carmen Giuffrida	General Secretariat of the European Council	
Valeria Ferraris	Amapola Progetti	

World Café discussion groups

Experts were split into discussion groups for five rotations. Each of the five tables were provided with a suggested topic and discussion points to encourage sharing of knowledge, experiences and best practice. The selected topics had been suggested by the experts prior to the meeting. Approximately 25 minutes were spent by the experts at each table which allowed for bilateral talks on particular cases and issues as well as more general thematic discussions. The experts were asked to summarise their discussions by noting the three main points from each topic discussed.

A summary of the topics discussed is as follows:

- Drug addictions

How do Member States deal with transfer requests for offenders with drug addictions? - Experts agreed that it was important to share as much information as possible on the certificate prior to the transfer so that the executing state can be fully prepared to meet the healthcare needs of the prisoner.

A number of experts commented on the medical needs of the prisoner during the transfer process and possible data protection (medical in confidence) issues when sharing information with the executing state.

It was also noted that in general transfers should not be prevented from going ahead due to a prisoner's drug addiction.

- Avenues of appeal open to prisoners' subject to transfer

Experts agreed that all prisoners must be aware of the appeal process. Some Member States commented that the court decides on outgoing transfers and the prisoner has no right of appeal whilst other Member States noted that prisoners can challenge a decision up to the day before the transfer.

Many experts acknowledged that there has to be a time limit on the right to appeal and that these should be respected by all parties.

There were a few cases in Member States where a prisoner, once he/she had exhausted all avenues of appeal, had applied for asylum. It was agreed that this would normally be resolved within a couple of weeks.

- Data requests

How do Member States deal with data requests from other Member States on their own national in custody, including names, offence details and sentence length? Do data protection laws prevent the transmission of such information? All Member States agreed that it is good practice to comply with legislation when answering data request enquiries but also to use a balanced and common-sense approach.

Several experts commented that it is also good practice to ask for a prisoner's consent before sharing their personal information and that all prisoners should be requested to complete disclosure forms on starting their sentences.

Experts advised that before disclosing sensitive information, the member state should make enquiries to the appropriate authorities about possible consequences.

- How can we improve communications between Member States?

Experts agreed that communication between Member States would be easier if each state had its own single point of contact. This was especially important as in many Member States, the competent authority is decentralised.

All Member States agreed that sending information electronically had to be the objective going forward in order to make the transfer process more efficient, but some experts stated that unfortunately, there are security issues when sending information electronically.

Some experts suggested that a common secure database, where the certificate can be submitted electronically would reduce the time in agreeing transfers.

- Transfer issues

Many experts commented that the timeframe to complete a transfer was not realistic due to amongst other points, translation delays, logistics of the transfer, responses from Judges who request further information, staff shortages and last-minute appeals.

Some Member States said that Interpol was very prompt in responding to their requests whilst others noted that Interpol was slow to respond to their request which can lead to the suggested transfer date being changed and resulting in further delays.

Member States commented that transit problems can also delay the return of the prisoner whilst other members, notably those with several land borders, commented that the competent authorities were very helpful in facilitating transfers.

Presentation: Amapola Progetti's EU Rehabilitation Project

Valeria Ferraris of Amapola (Turin, Italy) gave a presentation about the main results and findings of the RePers Project – Mutual Trust and social rehabilitation and putting this into practice.

The objective of the project was to improve co-operation between Member States using methods such as better collation of data to facilitate increased transfers between countries, (particularly those Member States who transfer a high number of prisoners to a specific country), create learning activities and enhance knowledge with the aim of social rehabilitation.

Some of the challenges facing the RePers project were the lack of information about the detainees as well as prison personnel and public prosecutors. Also raised was the lack of training and knowledge in legislation of other countries, practical issues and also the difference in the level of transfers between Member States.

A copy of the presentation with data, is available at the following link:

<https://www.europris.org/file/presentations-fd-909-expert-meeting-leuven-2019/>

The Chair thanked Valeria for her research and the findings of the project and commented on the need to involve prison authorities more in the transfer process. The importance of mutual recognition and trust between Member States when transferring high numbers of prisoners cannot be understated and the research in the RePers project shows where improvements can be made.

Presentation: General Secretariat of the Council of the European Union

Giovanna Giglia and Carmen Giuffrida gave a presentation on the ninth evaluation round on mutual recognition legal instruments in the field of deprivation or restriction of liberty. Experts had the opportunity to raise questions on matters that included grounds for refusal due to prison conditions, identifying areas for improvement and challenges faced in relation to criminal irresponsibility and psychiatric care.

A copy of the presentation is available at the following link:

<https://www.europris.org/file/presentations-fd-909-expert-meeting-leuven-2019/>

Country Overview: Spain

Experts received a presentation from Maximo Jose Martinez Bernal from the Directorate General of Prison Services in Catalonia on FD909 from a Spanish perspective. Experts had the opportunity to raise questions and engage in discussion on topics such as local and regional variations, statistics concerning EU citizens in prison in Spain and EU citizens transferred.

A copy of the presentation is available at the following link:

<https://www.europris.org/file/presentations-fd-909-expert-meeting-leuven-2019/>

Country Overview: Republic of Ireland

Experts received a presentation from Paul Mannering of the Irish Prison Service, Member States had the opportunity to raise questions and engage in discussion during and after the presentation. Experts were able to discuss the Transfer of Sentenced Person Act 1995 and 1997 and how administration and legal challenges are conducted in the Republic of Ireland.

A copy of the presentation is available at the following link:

<https://www.europris.org/file/presentations-fd-909-expert-meeting-leuven-2019/>

General discussion on transfer issues

Delays in answering requests for prior consent to send a certificate

Experts commented that prior consent could be done informally over email or through direct contact to make the process easier. One expert noted that it had taken over a year to get a response from a Member State. All experts agreed that prior consent requests should not be complicated and should be dealt with as quickly as possible.

Possible release of convicted murderers sentenced from 30 years to life imprisonment as a result of refusals of compulsory transfers

Experts commented that transfers had been refused, some without reason, and that having no control over a prisoner who is freed after serving a life sentence in another country could cause issues such as reintegration.

Supplementary costs for translations of court decisions

Experts noted that supplementary costs for court decisions cause time delays, add further to the translation expense, and also questioned whether the executing country should pay the cost. Overall it was agreed that this part of the process could be made easier and more cost effective by just translating the relevant parts of the document and relying on mutual trust between Member States.

STEPS 2 project – improvements to prisoner information sheet

All experts agreed that the prisoner information sheets should be standardised regarding the transfer process and in a clear and easy to understand format. It was also agreed that the new sheet should be translated into the local languages and placed on the EuroPris website.

[Click here to see the new prisoner information sheet.](#)

Frequency, conditions and obstacles of provisional arrest as per Article 14 of FD909

All Member States commented that there were no problems with the above.

Conclusion

The Chair commented that although this was the eighth gathering of the FD909 experts, the meetings were productive in addressing new issues and problems. The meetings are also helpful in making new contacts with other Member States. It was important that as many Member States as possible attended in order to discuss and find solutions to challenges encountered. Thanks, was given on behalf of the European Commission, EuroPris and all the attendees.

Supported by the Justice Programme
of the European Union



European Organisation
of Prison and Correctional
Services (EuroPris)



www.europris.org



EuroPris P.O. Box 13635
2501 The Hague, Netherlands