



# **Resource Book on the Transfer of Sentenced Prisoners under EU Framework Decision 909**

**Nalini Hussain - EuroPris/HMPPS Expert Group Coordinator**  
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**PROMOTING  
PROFESSIONAL  
PRISON  
PRACTICE**

## About EuroPris

The European Organisation of Prison and Correctional Services (EuroPris) is a non-political, non-governmental organisation founded in 2011. The initiative to establish EuroPris was taken during the Swedish EU Presidency in 2009 and was brought forward by the European countries of the International Roundtable for Correctional Excellence.

Membership of the Association is open to those European national Prison and Correctional Administrations which are able and willing to support the agreed aims and objectives of the Association. Public institutions or organisations in the Council of Europe region, which provide prison or correctional services on a legal or statutory basis can become members of EuroPris.

EuroPris brings together practitioners in the prisons' arena with the specific intention of promoting ethical and rights-based imprisonment, exchanging information and providing expert assistance to support this agenda. The organisation exists to improve co-operation among European Prison and Correctional Services, with the aim of improving the lives of prisoners and their families, enhancing public safety and security; reducing re-offending; and advancing professionalism in the corrections' field.

**Contact:**

EuroPris  
Bezuidenhoutseweg 20  
2594 AV, The Hague  
The Netherlands

[secretariat@europris.org](mailto:secretariat@europris.org)  
[www.europris.org](http://www.europris.org)

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# 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 2023 expert group meeting was held virtually on 27 September 2023. Experts were representatives of the authority responsible for the transfer of foreign national prisoners which included national prison services, Ministries of Justice, Judges, and Prosecutors.

Due to the UK leaving the EU on 31 December 2020, there are now 27 Member States. On 2 March 2023, Ireland ratified FD909, being the last MS to do so.

Opening remarks were given by Nalini Hussain, FD909 Co-ordinator for EuroPris. The meeting was chaired by Kris Van Opdenbosch (Belgium). This report, prepared by Nalini Hussain, presents a summary of the discussions.

## Council Framework Decision 2008/909/JHA

The full text of the Council Framework Decision 2008/909/JHA on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purposes of their enforcement in the European Union, is available at:

[EUR-Lex - 32008F0909 - EN - EUR-Lex \(europa.eu\)](#)

## Implementation status of EU Framework Decisions 909, 947, 829

The table below shows the implementation status as of 1 January 2024 of each EU Member State with regards to the Framework Decision on the Transfer of Prisoners (FD 2008/909/JHA), on Probation Measures and Alternative Sanctions (FD 2008/947/JHA) and on European Supervision Measures (FD 2008/829/JHA).

Further information can be obtained via:

[www.ejn-crimjust.europa.eu/ejn/EJN\\_library\\_statusOfImpByCat.aspx?CategoryId=36](http://www.ejn-crimjust.europa.eu/ejn/EJN_library_statusOfImpByCat.aspx?CategoryId=36)

	<b>FD 2008/909/JHA TRANSFER OF PRISONERS</b>	<b>FD 2008/947/JHA PROBATION AND ALTERNATIVE SANCTIONS</b>	<b>FD 2009/829/JHA EUROPEAN SUPERVISION MEASURES</b>
<i>Deadline for implementation</i>	05.12.2011	06.12.2011	01.12.2012
AT(Austria)	YES (01.01.2012)	YES (01.08.2013)	YES (01.08.2013)
BE (Belgium)	YES (18.06.2012)	YES (23.06.2013)	YES (29.05.2017)
BG (Bulgaria)	YES (01.01.2020)	YES (14.03.2012)	YES (27.05.2016)
CZ (Czech Republic)	YES (01.01.2014)	YES (1.1.2014)	YES (01.01.2014)

CY (Cyprus)	YES (23.05.2014)	YES (23.05.2014)	YES (18.11.2016)
DE (Germany)	YES (21.07.2015)	YES (25.07.2015)	YES (23.07.2015)
DK (Denmark)	YES (05.12.2011)	YES (05.12.2011)	YES (01.12.2012)
EE (Estonia)	YES (01.01.2015)	YES (01.01.2015)	YES (01.04.2015)
EL (Greece)	YES (15.11.2014)	YES	YES
ES (Spain)	YES (11.12.2014)	YES (11.12.2014)	YES (11.12.2014)
FI (Finland)	YES (05.12.2011)	YES (05.12.2011)	YES (01.12.2012)
FR (France)	YES (07.08.2013)	YES (17.08.2015)	YES (17.08.2015)
HR (Croatia)	YES (01.07.2013)	YES (01.07.2013)	YES (01.07.2013)

HU (Hungary)	YES (01.01.2013)	YES (01.01.2013)	YES (01.01.2013)
IE (Ireland)	YES (02.05.2023)	YES (23.09.2019)	YES (05.02.2021)
IT (Italy)	YES (05.12.2011)	YES (26.03.2016)	YES (26.03.2016)
LT (Lithuania)	YES (01.04.2015)	YES (01.04.2015)	YES (01.04.2015)
LU (Luxembourg)	YES (01.03.2011)	YES (20.04.2015)	YES (08.07.2016)
LV (Latvia)	YES (01.07.2012)	YES (01.07.2012)	YES (01.07.2012)
MT (Malta)	YES (01.01.2012)	YES (07.12.2012)	YES (26.08.2013)
NL (Netherlands)	YES (01.11.2012)	YES (01.11.2012)	YES (01.11.2013)
PL (Poland)	YES (01.01.2012)	YES (01.01.2012)	YES (01.12.2012)
PT (Portugal)	YES (17.12.2015)	YES	YES
RO (Romania)	YES (25.12.2013)	YES (25.12.2013)	YES (25.12.2013)
SE (Sweden)	YES (01.04.2015)	YES (01.01.2016)	YES (01.08.2015)
SI (Slovenia)	YES (20.09.2013)	YES (20.09.2013)	YES (20.08.2013)
SK (Slovakia)	YES (01.02.2012)	YES (01.02.2012)	YES (01.07.2013)
<b>TOTAL:</b>	<b>27 MS</b>	<b>27 MS</b>	<b>27 MS</b>

## Competent Authorities

Through implementation of Framework Decision 909, individual Member States determine the Competent Authority responsible for issuing and executing certificates for the transfer of sentenced prisoners. In some Member States, the role of the Competent Authority has been adopted by one single agency such as the national prison administration, in others it has been adopted by multiple agencies, responsible for geographic regions such as regional courts.

The European Judicial Network (EJN) maintains a database of Competent Authorities and contact points. This can be referenced at:

[www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?id=1540](http://www.ejn-crimjust.europa.eu/ejn/libdocumentproperties.aspx?id=1540)

## Consent and information about the transfer process

Framework Decision 909 provides that sentenced prisoners consent to their transfer to another Member State. However, Article 6 of the Framework Decision sets out the circumstances when the consent of the prisoner is not required, including when:

- the person is a national of the country of the executing state and also lives there;
- the person would be deported to the executing state on completion of their sentence; or,
- the person has fled or otherwise returned there in response to the criminal proceedings.

Where the consent of a sentenced prisoner is not required, the opinion of that prisoner should still be sought and considered prior to a certificate being issued. This opinion should be included with the certificate sent to the executing State, with due consideration given to translation of this opinion. In order to give informed consent, the prisoner will require information about the process and consequences of transfer.

The process by which Member States obtain the consent and/or opinion of a sentenced prisoner being considered for transfer under the Framework Decision varies, for example some countries require written consent from the prisoner, whilst others require the prisoner to appear before a judge.

The EuroPris expert group has collated [Information on Prison Conditions in EU countries](#) sheets to enable prisoners, staff and Competent Authorities to access information about prisons in the executing State and support informed consent for transfer. The information sheets are available in the national language and English and provide an overview of topics such as induction procedures, family visiting and early release arrangements. An example of the sort of information provided to prisoners in *Denmark* is included at **Annex 3**. For the full supplement of information from other jurisdictions, access via <http://www.europris.org/fd-909-prisoner-information-sheets/>

Further examples of practices used by Member States to provide information on the process and obtain informed consent to transfer include:

- Telephone information line providing prisoners and their families with information on the transfer process. This is supplemented by a factsheet detailing the stages of the transfer process.
- Providing information to sentenced prisoners, explaining that they are being considered for transfer at the earliest possible opportunity. Some Member States have adopted processes that provide information in multiple languages.
- Asking prisoners to sign a consent to transfer declaration. Some Member States have developed and translated a declaration for prisoners to sign, which is regulated by the Competent Authority.

- In cases where prisoners are seeking voluntary transfer or deportation, the issuing State informs them that they will also seek a compulsory transfer to avoid the situation of a prisoner changing their mind later in the process.

## European Prison Information System (EPIS)

The European Prison Information System (EPIS) has been developed by EuroPris to provide general and operational information on prisons and prison administrations across the EuroPris network. Prison services have direct access and are themselves responsible for updating information on their prison system. The resource provides search functionality across a range of topic areas and countries.

EPIS also contains an archive of questions and responses to [Knowledge Management System\(KMS\)](#) requests that have been posed and answered by EuroPris members. This provides an operational overview on policy and process within different prison administrations. For more information about KMS please see <http://www.europris.org/kms-guidance/>

EPIS is hosted on the EuroPris website: [EuroPris: Promoting Professional Prison Practice | » European Prison Information System](#). Access is granted via secure login through recognition of official justice / prison service email addresses.

This ensures information is not publicly available. EuroPris has extended domain access to ensure that official email addresses of Competent Authorities are recognised.

Requests for access need to be sent to: [secretariat@europris.org](mailto:secretariat@europris.org)

## Social Rehabilitation

The concept of social rehabilitation is central to Framework Decision 909, as articulated in Article 3: 'The purpose of this Framework Decision is to establish the rules under which a Member State, with a view to facilitating the social rehabilitation of the sentenced person, is to recognise a judgment and enforce the sentence.'

However, there is no definition of 'social rehabilitation' within the Framework Decision and there is differing opinion about what would contribute towards the social rehabilitation of foreign national prisoners. This issue was further explored by De Montfort University (UK) under the STEPS 2 Resettlement Project: [STREAM \(europris.org\)](#).

Within this report, the following best practice examples were identified for returning prisoners transferred under Framework Decision 909:

- i. The prisoner should be informed of what the sentence arrangements will be on their return to their country of residence. This should be achieved by the prison authority responsible for transfer under the Framework Decision giving reliable information (for instance, in the form of a leaflet), setting out the legal position of returning prisoners and how their prison sentence will be implemented.
- ii. The prisoner should be contacted by the Embassy staff or, a representative from their country of residence to discuss transfer arrangements, contact with family/partner and the help / support that can be provided by the country of residence to facilitate their social rehabilitation.

- iii. At that meeting, or by letter, permission should be obtained from the prisoner for the authorities of their country of residence to contact their family/partner or important people in their life to tell them about the impending transfer and involve them in any sentence planning and support arrangements.
- iv. A liaison officer should be appointed in the person's country of residence to be case worker during the transfer process to ensure that transfer is carried out following best practice in social rehabilitation.
- v. Returning prisoners should be placed in a specialist prison (or prisons) where staff are trained in dealing with the specific needs of returning prisoners and can provide the advice/guidance and support that is needed to maximise their opportunities for re- settlement into their home community.
- vi. The trained staff/key worker should arrange early visits for the prisoner if appropriate, with their family/partner/important people to facilitate re-settlement and social rehabilitation.
- vii. After the assessment and sentence planning has been carried out at the specialist prison, the individual, accompanied by all relevant sentence documentation including the sentence plan and post release plan, should be transferred to the nearest appropriate prison to their home community.
- viii. The prison key/case worker should arrange a pre-release planning meeting with the supervising officer (if there is post sentence statutory licence supervision in place), all local agencies who will be working with the prisoner in their home area, any mentor/ volunteer who will be involved and any relevant family members. This meeting is to review progress on the sentence plan and agree the post sentence objectives in the community.
- ix. Successful re-settlement 'through the gate' processes in the release of a prisoner rely on clear communication with any external supervising officer, external agencies, and family/ partner / important individuals. All those involved should provide intense supervision and support during the initial release period to assist in achieving the outcome of social rehabilitation.

The report also identified best practice examples for prisoners transferred out of a country:

- i. There should be one (or more) specialist prison where people who are to be transferred under Framework Decision 909 are placed, so that these may benefit from having experienced staff who are trained to work with people in such circumstances to aid their social rehabilitation.
- ii. The staff in the prison should ensure that the individuals know about their situation and the details of the potential transfer, what their rights are and that they do have a voice in the process.
- iii. One key worker/liaison officer should be appointed to work with each individual before and during the transfer process to ensure continuity and avoid misunderstandings.
- iv. At the earliest opportunity – preferably at the beginning of any sentence - the person should be given in writing a leaflet translated into their own language, explaining the Framework Decision 909 process and how that might impact on them and their social rehabilitation.
- v. As part of the process of transfer, the key worker should obtain the individual's views about the transfer and ensure that these views are heard by the relevant authority that will make the final decision about transfer.
- vi. The key worker should contact the relevant embassy staff to set up a meeting with them (or their representative) to discuss the details and implications for the transfer of the prison sentence.
- vii. The individual should be given assistance and every opportunity to send regular letters to, and have telephone calls with, their family/partner in their country of residence.
- viii. Whilst serving their sentence in the issuing State, the individual should not be discriminated against and should be allowed opportunities to take part in work and programmes, in the same way as a prisoner who is normally resident in that country.
- ix. The key worker or the prison authorities, must contact the authorities in the individual's home area to explain about the transfer and ensure the relevant documentation is sent to the right place and right person.
- x. The key worker should discuss with the individual the people who should be kept informed about the pending transfer, for example, where appropriate, family/partner/ important person in their lives who will be able to assist in their social rehabilitation.

- xi. Once transfer has taken place, the key worker should ensure that relevant information is sent to the authorities in the receiving country.

## Time Limits

The Framework Decision provides a 90-day time limit for the executing State to decide whether it will take over the enforcement of the sentence (Article 12). If the decision has been made to take over the enforcement of the sentence, the Framework Decision provides that the transfer should be completed with 30 days of the final decision (Article 15).

There is no formal mechanism for recording the length of time that enforcement decisions or practical transfers are taking, although some Member States have developed their own internal procedures for measuring the status and progress of requests. However, there is general consensus that the time limits as laid out in the Framework Decision are not being met, which has implications for the number of prisoners being transferred under the Framework Decision.

Issues that are commonly cited as causing delays in the process, meaning that the time limits are not adhered to include: translation, interpreting the sentence, and information exchange with agencies involved in physical transfer arrangements.

## Translation

Under Article 5, the issuing State of the Competent Authority is required to send the certificate and judgment to the executing State. Competent Authorities set out which languages they will accept certificates to be sent to them in. Details can be accessed via the European Justice Network:

[http://www.ejncrimjust.europa.eu/ejn/ejn\\_home.aspx](http://www.ejncrimjust.europa.eu/ejn/ejn_home.aspx)

Translations can be costly and timely to obtain and cause delays in Competent Authorities issuing certificates for transfers, in particular relating to the judgment and answering supplementary questions the executing State may have.

### **Best practice:**

- As discussed at EuroPris expert group meetings, it is not necessary to fully translate the whole of the judgment. Instead, to satisfy Article 6, a summary of the judgment should be contained in the certificate and include a description of the main facts of the offence. However, where cases were of particularly high risk, or there were distinct differences in sentencing policy, or where the case was particularly complex, the executing State may still request a translation of the full judgment.
- In cases where two countries are in regular communication, e.g., one country receives a high volume of requests to transfer the sentence from another country, regular communication is encouraged. This could take the form of a conversation between Competent Authorities prior to a certificate being issued or, could be a bilateral meeting so that the issuing State understands the elements of the judgment that are most important for the executing State to receive. This would help to avoid repeated requests for further information.

## Interpreting the sentence

Experts responsible for the transfer of sentenced prisoners have often expressed difficulty in obtaining and understanding early release arrangements in other Member States. To add further complexity, there is a lack of consistency regarding how pre-sentence detention is calculated and accounted for by other Member States.

The Framework Decision is explicit in limitations on sentence adaptation and does not provide scope for sentence conversion or the executing State effectively re-sentencing a prisoner following transfer. A different sentence may only be imposed ('adapted') when the sentence in the issuing State exceeds that of the executing State. In this case, a sentence can only be adapted to that maximum sentence and no lower. In some cases, the executing State may be able to recognise part, but not all of the sentence.

In these circumstances, Chapter II, Article 10, provides for 'partial recognition and enforcement'. The possibility of partial enforcement should be considered before refusing a request in these circumstances. Discussion between the Competent Authorities is essential in these cases.

**Best practice:**

- Include the date the sentence started (and anticipated release date where applicable) on the certificate as well as the length of sentence, so that it is clear how long has been served and how early release arrangements might be calculated.
- Issuing States should use section (j) of the certificate to elaborate on information relevant to understanding the sentence and early release arrangements in their country. Where possible, this should include information on how time on remand is accounted for, effect of other sentences and whether early release arrangements are mandatory or discretionary and if that would entail release on licence or full discharge.
- If supplementary information on early release arrangements are annexed to the certificate, it can be helpful for the issuing State to provide a supplementary explanation of how this applies to the particular case.
- For a prisoner with multiple convictions, it should be clearly stated how long the sentence for each conviction is and whether sentences are running consecutively or concurrently. This is especially important where an executing state might not recognise one or more of the offences.
- Summary information on early release arrangements is included within the sheets developed on [Prison Conditions in EU countries](#). These can be accessed via [www.europris.org/fd-909-prisoner-information-sheets/](http://www.europris.org/fd-909-prisoner-information-sheets/)

## Practical Transfer

Time delays can also be caused by information about the prisoner's immediate needs not being fully declared in the first instance e.g., if they were to have a disability that might affect physical transfer arrangements. There are multiple agencies responsible for the physical transfer of prisoners in Member States, including prison agencies and Interpol, and information needs to be appropriately shared with these agencies to manage the risk and responsibility for the transfer of prisoners.

Member States have cited a lack of escort staff, difficulties with airlines accepting prisoners on flights and transiting through other countries as rationale for the 30-day transfer period not being adhered to. Whilst Member States are seeking to address these issues individually, common concerns should be raised through the EuroPris expert group to develop a collective understanding.

**Best practice:**

- The issuing State should seek to include any information that would be vital to the practical transfer arrangements or early days in custody, such as physical needs of the prisoner within section (l) of the certificate. This would enable the executing State to be prepared for adequate transportation, accommodation, and medical arrangements to be made.
- The [Prisoner Information Document](#), developed by the EuroPris expert group, should be completed and accompany a prisoner during transfer. Whilst there are data protection limitations as to what can be included on the form, information that is necessary and proportionate for the safety of the prisoner and accompanying staff should be included.

The Information Form is included in **Annex 4**. This form can be downloaded from the FD909 group resource pages: [http://www.europris.org/resources\\_package/prisoner-transfer-information-form-version-4/](http://www.europris.org/resources_package/prisoner-transfer-information-form-version-4/)

- Member States adequately scope and seek to ensure they have enough staff capacity to escort prisoners.
- Where Member States have entered into contractual arrangements with private companies for the transfer of prisoners, information on these arrangements should be shared with the issuing State.
- Travel documentation is not always crucial for the enforcement of transfer. It is the responsibility of the issuing State to ensure that the requisite travel documents are available.

## Victims

Under implementation of the [Victims Directive](#) (2012/29), Member States will have considered how victims should be notified of the transfer of a foreign national prisoner:

The following best practice examples have been provided to the EuroPris expert group:

- Where the victim is known and in contact with either the prison/probation service or a victim-focused organisation in the issuing State, they should be contacted to see if they would like to make a representation regarding the prisoner transfer.
- Where there is not a specific victim liaison officer, the issuing State should seek to establish the views of the victim at the earliest possible opportunity.
- Where there are known victim issues, the issuing State should share this information with the executing State at the earliest possible opportunity.

## Information to process prisoner transfers within Europe



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FD909

## What are Prisoner Transfers and what is FD909?

This leaflet refers specifically to prisoner transfers under FD909.

FD909 is short for Framework Decision 909 which is the official term for the mutual recognition of sentence transfers between EU Member States.

## What are EU Member States?

These are the countries that make up the European Union. These include:

<b>Austria</b>	<b>France</b>	<b>Netherlands</b>
<b>Belgium</b>	<b>Germany</b>	<b>Poland</b>
<b>Bulgaria</b>	<b>Greece</b>	<b>Portugal</b>
<b>Croatia</b>	<b>Hungary</b>	<b>Romania</b>
<b>Cyprus</b>	<b>Ireland</b>	<b>Slovakia</b>
<b>Czech Republic</b>	<b>Italy</b>	<b>Slovenia</b>
<b>Denmark</b>	<b>Latvia</b>	<b>Spain</b>
<b>Estonia</b>	<b>Lithuania</b>	<b>Sweden</b>
<b>Finland</b>	<b>Luxembourg</b>	
	<b>Malta</b>	

## Can I Apply?

You can apply to be transferred via FD909 to your country of nationality or country of permanent residence only.

You cannot apply if your country of nationality or permanent residence is the country in which you are currently imprisoned.

If you are subject to deportation, you will be transferred back to your country of nationality at the end of your sentence, but you may apply to transfer before this to help establish links with family and job centres for when you are released.

## Compulsory vs. Voluntary transfer

**Compulsory** transfer may be done without your consent if you are subject to deportation at the end of your sentence. This can be automatic depending on the country you are in.

**Voluntary** transfer is where you consent to be transferred when you might not otherwise be transferred. It is not automatic.

## How long does it take to transfer?

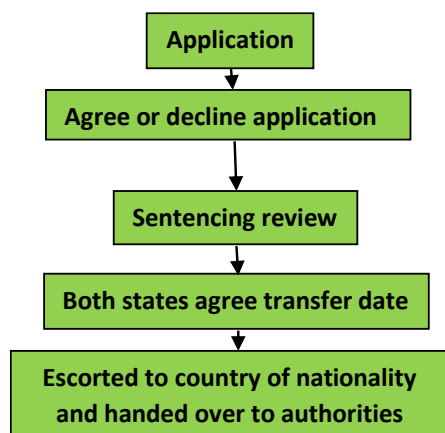
The time it takes to apply is different for each country.

Once the other country has the application, they should reply within 90 days. However, this can sometimes take a bit longer.

Some reasons for the delay might be:

- Translation into another language
- Asking more questions
- Working out the sentence length

## The Process



## Will my sentence change if I transfer?

Each country has different laws and sentencing lengths for offences and so your sentence length might be changed to be similar to other prisoners serving time for the same offence.

Countries will also have different rules for early or conditional release.

## Will the prison conditions be the same?

In general prison conditions can vary from country to country and from region to region within a country so it is best to find the general conditions out from the country factsheet. If you have internet access, you can find this out via the EuroPris website [www.europris.org](http://www.europris.org)

## More information:

This leaflet only contains the basic information about FD909 and therefore it is recommended that you:

- Find out if you are subject to deportation or not.
- Read the more detailed information handbook available either in your library or via a member of prison staff.
- Speak to a member of staff about starting the process
- Use the Question and Answer formulation inside this leaflet to see if you should consider voluntary transfer
- To access this information or the handbook in a different language please visit [www.europris.org](http://www.europris.org) where different versions are available for download.

# Prisoner transfers within Europe

Information Booklet for Prisoners



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FD909

## **This booklet will give you more information on how a prisoner transfer works.**

The EU Prisoner Transfer Agreement makes it simpler for prisoners to move between most EU countries.

There is a glossary at the back of this booklet to help you understand the complicated language you might hear when applying for a transfer.

If you have any extra questions, you should ask within your prison, or speak to your legal team.

## Which countries agree to transfers?

All EU Member States agreed to make country-to-country transfer simpler. These countries include:

Austria	Estonia	Italy	Portugal
Belgium	Finland	Latvia	Romania
Bulgaria	France	Lithuania	Slovakia
Croatia	Germany	Luxembourg	Slovenia
Cyprus	Greece	Malta	Spain
Czech Republic	Hungary	Netherlands	Sweden
Denmark	Ireland	Poland	

## What is the transfer agreement? What does it do?

It is an agreement between all EU Member States about the mutual transfer of a sentence from one country to another. The transfer agreement is also known as Framework Decision 909.

The agreement makes it easier for countries to transfer prisoners whose nationality or permanent residence is not the country where they are currently in prison. Transfer can be either voluntary or without consent depending on which country you are in.

## How does it work?

The Framework Decision 909 allows for all EU Member States to recognize the transfer of a sentenced person to their country of nationality or country of permanent residence. This is done by the mutual agreement between the issuing state (current country of imprisonment) and the executing state (the country you would be transferred to). Your sentence is reviewed by the court or judge in the executing state to determine if the sentence could be carried out in the executing state.

To incorporate the agreement into national law, each Member State has a separate piece of legislation which specifies the authorities responsible and the process for the transfer of prisoners under the Framework Decision. There are therefore some differences in the operation of the process between each Member State.

## What is my country of nationality or permanent residence?

Your country of nationality is the country on your official paperwork such as passport or ID card.

Your permanent residence is the country in which you have leave to remain indefinitely and have proof of permanent residence. For example, where you have a property registered as your official address.

## Compulsory Transfer

### What is compulsory transfer?

If you must be deported at the end of your sentence, the country where you are in prison might decide to start the transfer process early without your agreement. This is known as a compulsory transfer.

You would not have a choice in this transfer, but you may be able to appeal against the decision.

### Why transfer?

If you are subject to deportation at the end of your sentence you will be sent back to your country of nationality or permanent residence without your agreement so it might be better to apply for voluntary transfer. Transferring back early might help you to be closer to family and friends and to start planning for things like finding a job on release.

### Can I be made to go back if I don't want to?

Yes, this is possible. You should speak to the prison and your legal team so you can be sure of what will happen.

You might be asked to tell a judge or court why you don't want to be transferred. This can be in writing or in person and is called "making a representation". The judge or court will take this into consideration when deciding on whether or not you have to be transferred before the end of your sentence.

**If you think you might benefit from a voluntary transfer, please read the Voluntary Transfer section of this booklet.**

### Can I back out of the process?

Withdrawing your consent to the process may have different implications, dependent on the country you are in.

As compulsory transfers do not need your consent, you may still be transferred even if you revoke consent to a voluntary transfer.

# Voluntary Transfer

## What is a voluntary transfer?

A voluntary transfer is where you ask to be transferred to your country of nationality or country of permanent residence before the end of your sentence. You must agree to the transfer, both countries must agree to the transfer, and you must meet the minimum requirements. These include:

- Your sentence must be final (this means you cannot be going through any appeal process against your conviction or sentence in the country where you are currently in prison). You can, however, still apply, if you are waiting for the result of an appeal at the European Court of Human Rights
- You must have a minimum time left to serve when you place your application (usually six months or more)
- The executing state must have space for you to transfer.

## Reasons to transfer

Serving a prison sentence can be difficult in any country, but it can be harder if you are a long way from home. Some of the reasons prisoners wish to transfer back to their home country include:

- Be closer to family and friends for visits.
- Get help from the prison and others in your own language.
- Prepare for release by using prison services such as education and probation support.

## How do I apply for a transfer?

- Speak to prison staff first as they can let you know more about the process specific to the country you are in. They will contact the relevant person to start the paperwork.

## Administration will:

- Contact the right people in the country you want to transfer to.
- Get information for you about what prison is like in the country you want to transfer to.
- Fill out the "certificate" (this is the application for transfer).

## Do I have to go back to the country I was born in?

No, but you will not be allowed to transfer unless you have nationality of the country you wish to transfer to or have close links with that country (normally through permanent residence).

## Can I back out of the process if I had initially agreed?

This depends on how far the process has gone, you can withdraw as long as the transfer has not yet been agreed between both countries.

# The Transfer

## How does the transfer work?

The country you transfer to will take over the management of your sentence. You will have to follow the prison rules and laws within that country from the time you are transferred.

## What is the process for transfers?

1. Application (certificate) – completed by issuing state.
2. Certificate reviewed by executing state.
3. Certificate approved or denied by executing state (if denied the certificate may need more information or is denied under one of the grounds for refusal)
4. If you have not agreed to transfer now is when you could put forward reasons why you shouldn't be transferred
5. If approved, then the sentence is reviewed by the executing state.
6. Sentence is agreed between executing state and issuing state.
7. Transfer date is agreed.
8. Travel to executing state.
9. Sentence is served in executing state until release.

## Will the transfer be automatic?

No, the country where you have been convicted and the country you are going to return to, must agree on the terms for your transfer. The transfer might not happen for many reasons, some of which include:

- Your offence is not recognised as a crime.
- The sentence lengths for your offence are very different in the two countries who need to agree to your transfer. This might concern the authorities and victims of your crime.
- You owe a fine to the country you were convicted in – which would be difficult for that country to collect after you are transferred.

## How long does it take?

The time it takes to apply is different for each country.

Once the other country has the “certificate” they should reply within 90 days. However, this can sometimes take a bit longer. Some reasons for the delay might be:

- Translation into another language.
- Asking more questions.
- Working out the sentence length.

## What information is sent?

A certificate is sent from the country where you are in prison to the country that you could transfer to. It will include the following details:

- Relevant information about family/work to the country you are being transferred to.
- Personal information e.g. name, date of birth, nationality, passport/identity card number, languages spoken etc.
- Information about your offences and the sentence received.
- Whether you would be eligible for early release in the country where you were sentenced.
- Whether you are consenting to the transfer.
- You will be given a copy of the agreed certificate.

## How does the actual transfer happen?

The Issuing State (current country you are in) will escort you to the Executing state (country you are transferring to) and will then hand you over to the authorities in the executing state. From this point you will be subject to the laws, rights, and policies of the executing state (including rights and privileges) and have no further contact or association with the Issuing state.

## Sentence Details

### Will I have to serve the same time in prison?

Each country has different laws and sentencing lengths for offences and so your sentence length might be changed to be similar to other prisoners serving time for the same offence.

Countries will also have different rules for early or conditional release. For example, some countries automatically release prisoners from prison halfway through their sentence, while other countries release prisoners two-thirds of the way through their sentence.

Prison staff will be able to help you find out what the early release scheme is in the country you are transferring to. [www.europris.org](http://www.europris.org)

### Are prison conditions different in my home country?

Prison conditions can vary across countries and regions, so it is best to read the country factsheet to find out. If you have internet access, you should visit the EuroPris website [www.europris.org](http://www.europris.org). If you do not have access to the internet, please ask a member of staff to find this information for you.

### Can I return to the issuing state after transfer and being released?

Yes, if you weren't subject to deportation. If you have been subject to deportation you would have to wait until your deportation order expired.

## Is the Prisoner Transfer Agreement the only way I can be sent home?

No. You may be deported if you are not allowed to remain in the sentencing country.

## What to consider before I apply?

- Am I a voluntary or compulsory transfer?
- Where will my family be at the end of my sentence?
- What are the prison conditions like in my country of nationality (think about education, visits, work, and housing)?
- Have I got long enough time left on my sentence to be eligible? (the transfer process can take over 90 days from application)
- Am I prepared to accept a longer sentence if I apply?
- Do I fully understand my rights in the transfer process?

Once you have the answers to all these questions it can help you make an informed decision on whether to transfer or not. If it is a compulsory transfer, you can make preparations to make it easier.

## Glossary

There are some words and phrases that you might hear prison officers and lawyers use during the process.

You don't need to know all of them, but it might be helpful to understand some that are used often.

<b>Certificate:</b>	The application for transfer sent to the country you might transfer to. It includes information the other country will need to know about you.
<b>Competent Authority:</b>	The court or public body that will process your transfer, e.g. Ministry of Justice.
<b>Council of Europe Convention:</b>	This has been replaced by FD909. It used to be the authority for the transfer of prisoners within EU countries.
<b>Executing State:</b>	This is another name for the country where you could be transferred to and would carry out your sentence.

**Framework Decision:** Used within the European Union for countries to work together in criminal justice matters.

**Framework Decision 909 (FD909):** This is the official name for the transfer of sentence from one EU Member State to another

**Implemented:** This refers to whether a country has adopted a Framework Decision into their national law

**Issuing State:** The country where you are currently in prison, that is requesting the transfer

**Member State:** One of the 28 countries that make up the European Union

**Social Rehabilitation:** This is a phrase that is used in the Framework Decision. There is no universal definition and each country has a slightly different interpretation of what "social rehabilitation" can mean. Although, it is accepted that it includes factors which can aid a reduction in the risk of reoffending, such as access to work, education, healthcare and family contact.

## Resource

Information on Serving a Prison Sentence – Kriminal Forsorgen

[This folder](#) gives you the most important rules for people who have to serve a prison sentence. If you want to know more, you can borrow rules and laws from the staff.

Also, you can always ask the staff if you are in doubt about anything.



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# Prisoner Information Document

COUNTRY ISSUING (Issuing state):  
COUNTRY RECEIVING (Executing state):  
DATE OF TRANSFER:

The transfer is based on the following decision:

.....  
.....  
.....

Transfer Agreement number: .....

## PERSONAL DETAILS OF OFFENDER

Full name:.....

Date of Birth: .....

Type of travel document:.....

## SENTENCE DETAILS

Details of Main Offence:  
.....  
.....  
.....

Warrant/Judgement number:.....

## MEDICAL DETAILS

Are there any specific medical issues that the executing state should be aware of upon receiving the prisoner?  
(For example – diabetic and requires regular insulin, or any other required medication to be administered frequently or on-going treatment to be continued?)

Disabilities:  
.....  
.....  
.....

**RISK**

Risk level prior to transfer (Low.... Medium....High) *Please circle.*

*If high risk level, please supply additional information explaining the reasons:*

.....  
.....  
.....

**TRANSFER DETAILS**

Departure airport:.....

Arrival airport:.....

Flight number:.....

Flight departure time:.....

Flight arrival time:.....

Specific requests with regards to where the escorts hand the prisoner over:

.....  
.....  
.....

In the event the flight is delayed or cancelled contact.

Name.....

Number.....

Any other relevant information:

.....  
.....  
.....

**DECLARATIONS**

We ensure that the prisoner is handed over and received by the authorities of the executing state.

**Issuing state**

Name of authority:.....

Contact number:.....

Name of Escorting Officers:

1,.....  
2,.....

Date:..... Signature:.....

**Receiving/executing state**

Name of authority:.....  
Contact number:.....

Name of receiving Officers:

1, .....  
2,.....

Date:..... Signature:.....

**Optional information**

Prisoner history sheet (copy attached) Yes...No

Prisoner record of imprisonment (copy attached) Yes....No

Prisoner Security information reports (copy attached) Yes.....No

*The Prisoner Information Document is to accompany the prisoner when they are being transferred between Member States of the European Union under the Framework Decision 909.*



**PROMOTING  
PROFESSIONAL  
PRISON PRACTICE**



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