

Rehabilitation and mutual recognition – practice concerning EU law on transfer of persons sentenced or awaiting trial

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Author(s) name: Maria Nilsson

Reviewed by (on contractor's side): Elisabeth Abiri

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Contents

Section A: General information on existing situation: probation measures, alternative sanctions and supervision measures as an alternative to pre-trial detention	3
Q1. Please outline the specific probation measures or alternative sanctions that are available at the post-trial stage in the Member State on which you are reporting	3
Q2. Please outline the specific supervision measures as alternatives to pre-trial detention that are available in the Member State	4
Q3. Are there any specific legislative or policy developments regarding alternatives to prison (at the pre- and post-trial stage) of particular suspects/sentenced persons (such as children, persons with disabilities, persons in need of special treatment or mothers with young children)?	5
Section B: Transfer of suspects/sentenced persons	6
Q1. Availability of information	6
Q2. Informed consent of the suspect/sentenced person	9
Q3. Decision on transfer	19
Q4. Victims	24

Section A: General information on existing situation: probation measures, alternative sanctions and supervision measures as an alternative to pre-trial detention

Please add the information required to answer the questions. Provide supporting or explanatory information – highlighting laws, policies and measures which justify the answer.

Q1. Please outline the specific probation measures or alternative sanctions that are available at the post-trial stage in the Member State on which you are reporting:

Max 200 words

According to the Penal Code (*Brottsbalk* 1962:700), chapter 1 paragraph 3 the following measures are available at the post trial stage in Sweden apart from prison; fine, probational sentence and transfer to special care¹. The Swedish law separates probation in two different concepts: “protective supervision” (*skyddtillsyn*) and “conditional sentence” (*villkorlig dom*). Conditional sentence (*villkorlig dom*) has a probation period of two years and can be combined with fine and/or community service². Protective supervision (*skyddtillsyn*) has a probation period of three years and can be combined with prison or with the obligation to undergo treatment plan Protective supervision. (*skyddtillsyn*) can also be combined with fine and or community service³

If the sentenced person is sentenced to community service it is always in combination with probation either protective supervision (*skyddstillsyn*) or conditional sentence (*villkorlig dom*). Community service is unpaid work benefitting society that is carried out for certain amount of hours, determined by the court⁴. The alternative sanction titled transfer to special care is to be carried out if the person in question is sentenced to a sentence more severe than fine have a serious mental condition. The sentenced is then to be transferred to forensic psychiatric care⁵.

¹ Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 1 paragraph 3, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/, All hyperlinks were accessed on 15 June 2015

² Sweden, the Swedish courts (*Sveriges domstolar*), Webpage, Title: *Brott & straff; Följder av brott; Villkorlig dom*, available at: www.domstol.se/Brott--straff/Foljder-av-brott/Villkorlig-dom/

³ Sweden, the Swedish courts (*Sveriges domstolar*), Webpage, Title: *Brott & straff; Följder av brott; Skyddstillsyn*, available at: www.domstol.se/Brott--straff/Foljder-av-brott/Skyddstillsyn/

⁴ Sweden, the Swedish courts (*Sveriges domstolar*), Webpage, Title: *Brott & straff; Följder av brott; Samhallstjänst*, available at: www.domstol.se/Brott--straff/Foljder-av-brott/Samhallstjanst/

Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 31 paragraph 3, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/

Q2. Please outline the specific supervision measures as alternatives to pre-trial detention that are available in the Member State:

Max 200 words

The guiding principle is that a person is to be placed in pre-trial detention if he/she on probable grounds is suspected for a crime for which the subscribed sanction is prison for at least one year, or if it is ruled that the person is at risk of fleeing the country, remove evidence or continue committing crime⁶. In the cases where suspected crimes are not subjected to prison but fine, pre-trial detention is not applicable⁷.

The alternatives to pre-trial detention if the person due to age or health-related issues is deemed not to cope with detention are travel ban and continuous duty to report⁸. This includes women who recently have given birth and where pre-trial detention is deemed to cause damage to the child.⁹ Travel ban is a ban on leaving the domicile without permission and the duty to report means to report to the police authorities on certain times and on a certain location¹⁰.

⁶ Sweden, Ministry of justice (*Justitiedepartementet*), Code of judicial procedure (Rättegångsbalk 1942:740), chapter 24 paragraph 1, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1942-740/#K24

⁷Sweden, Ministry of justice (*Justitiedepartementet*), Code of judicial procedure (Rättegångsbalk 1942:740), chapter 24 paragraph 1, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1942-740/#K24

⁸ Sweden, Ministry of justice (*Justitiedepartementet*), Code of judicial procedure (Rättegångsbalk 1942:740), chapter 24 paragraph 4, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1942-740/#K24

⁹ Sweden, Ministry of justice (*Justitiedepartementet*), Code of judicial procedure (Rättegångsbalk 1942:740), chapter 24 paragraph 4, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1942-740/#K24

¹⁰ Sweden, Sweden, Ministry of justice (*Justitiedepartementet*), Code of judicial procedure (Rättegångsbalk 1942:740), chapter 24 paragraph 1, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1942-740/#K24

Q3. Are there any specific legislative or policy developments regarding alternatives to prison (at the pre- and post-trial stage) of particular suspects/sentenced persons (such as children, persons with disabilities, persons in need of special treatment or mothers with young children)?

Max 200 words

Children who at the time of committing the crime where under 15 years of age is not allowed to be sentenced¹¹.

According to chapter 32 paragraph 1 of the Penal Code can young people under the age of 21, who committed crimes, be sentenced to care of young persons if there is special need of care or other measures present¹² (according to the Social Service Act¹³ or the Care of Young Persons (Special Provisions) Act¹⁴). A person under the age of 21 and who committed a crime can be sentenced to youth service if the person gives his or hers consent and the arrangements are considered appropriate¹⁵.

If the suspect/sentenced person can be in question of care for addicts the court can assign this to the social service committee. If the crime committed is imposed with prison for more than one year special reasons must be present.¹⁶

If it is determined that the suspect/sentenced person who committed a crime for which a fine is not applicable is suffering from at severe mental disturbance the court can transfer the person to forensic psychiatric care¹⁷

Special decision for mothers to have their infants with them can only be given after an opinion have been given by the social welfare committee (*Socialnämnd*)¹⁸.

¹¹ Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 1 paragraph 6 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/?bet=1962:700

¹² Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 32 paragraph 1 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/?bet=1962:700

¹³ Sweden, Ministry of Health and Social Affairs (*Socialdepartementet*), The Social Service Act (Socialtjänstlag (2001:453)), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Socialtjanstlag-2001453_sfs-2001-453/

¹⁴ Sweden, Ministry of Health and Social Affairs (*Socialdepartementet*), The Care of Young Persons (Special Provisions) Act (Lag (1990:52) med särskilda bestämmelser om vård av unga, LVU), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/sfs_sfs-1990-52/

¹⁵ Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 32 paragraph 2 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/?bet=1962:700

¹⁶ Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 31 paragraph 3 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/?bet=1962:700

¹⁷ Sweden, Ministry of Justice (*Justitiedepartementet*), Penal Code (Brottsbalk 1962:700), chapter 31 paragraph 3 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Brottsbalk-1962700_sfs-1962-700/?bet=1962:700

¹⁸ Sweden, Ministry of Justice (*Justitiedepartementet*), The prison ordinance (*Fängelseförordning (2010:2010)*), paragraph 11 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Fangelseforordning-20102010_sfs-2010-2010

Section B: Transfer of suspects/sentenced persons

Please give a response for each of the boxes. If the information is the same in two boxes, duplicate the text. If the question is not applicable, specify why.

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q1. AVAILABILITY OF INFORMATION			
Q1.1. Is information publicly available in 'issuing states' concerning the following:? If yes, please specify.			
<ul style="list-style-type: none"> What information is provided (e.g. conditions for early release for FD 909 or the need for a suspect/sentenced person's consent to a measure for FD 947 and 829)? 	<p>A brochure containing information regarding transfer and consent is available in five different language (English, Russian, Arabic, Spanish and Swedish). The brochure describes the procedures in Sweden on a step by step basis and is given to the suspect/sentenced person upon arrival to penitention center. The brochure is not specifically targeting suspect/sentenced persons falling under FD 2008/909 but all, non-Swedish sentenced persons¹⁹.</p>	<p>FD 2008/947 and FD 2008/909 were part of the Swedish government official reports published 2013.²⁰ This constitutes the first step towards implementing the framework decisions in the Swedish law. FD 2008/947 is currently under consideration by the Council on legislation (<i>Lagrådet</i>). The Council on legislation (<i>Lagrådet</i>) is assigned by the Swedish government and the Swedish Parliament to give their opinion on proposed bills.²¹ Based on this</p>	<p>A ministry memorandum was issued by the Ministry of Justice (Justitiedepartementet).</p> <p>The memorandum was also taken under consideration by the Council on legislation. Based on this the government submitted the Government bill to the Parliament on 23 April 2015. The law is expected to come into effect on 1 August 2015²³.</p>

¹⁹ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

¹⁹ Sweden, Swedish prison and probation service (*Kriminalvården*) internal brochure, title: "To serve a prison sentence in another country – we break the vicious circle" (*Att avtjäna ett fängelsestraff i ett annat land – vi bryter den onda cirkeln.*)

²⁰ Sweden, Ministry of Justice (*Justitiedepartementet*), Swedish Government Official Reports, International execution of a sentence (*SOU 2013:21 Internationell straffverkställighet*), available at: www.regeringen.se/rattsdokument/statens-offentliga-utredningar/2013/04/sou-201321/

²¹ Sweden, Council on legislation (*Lagrådet*), Official web page, available at: www.lagradet.se/

²³ Sweden, Ministry of Justice (*Justitiedepartementet*) Government Bill on decisions on supervision measures as alternatives to provisional detention within the European Union (*Regeringens proposition 2014/15:116 Erkännande och uppföljande av beslut om övervakningsåtgärder inom europeiska unionen*), available at: www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/Erkannande-och-uppfoljning-av-H203116/

		<p>the Swedish government will then write a Government Bill, which in turn will be sent to the relevant Parliamentary Committee before it will be voted for in the Parliament's plenum. According to what is written in the comments the bill is expected to come in effect 1 January 2016²²</p> <p>Therefore the questions concerning FD 2008/947 is currently not applicable in the Swedish context.</p>	<p>Therefore the questions concerning FD 2009/829 (ESO) is currently not applicable in the Swedish context.</p>
<ul style="list-style-type: none"> How is the information made publically available (tools, or networks used)? 	<p>The brochure is given to the sentenced person after he/she has received the conviction. It is the responsibility of the staff at the penitention centers to give the information brochure²⁴.</p> <p>The staff are made aware of their responsibility through the intranet and by different internal trainings²⁵.</p>		
<ul style="list-style-type: none"> In which languages is the information provided? 	<p>The Swedish prison and probation service (<i>Kriminalvården</i>) has made the decision that the brochure should be available in the</p>		

²² Sweden, Council of legislation (*Lagrådet*), Consultation on judgements imposing custodial sentences within the European Union (*Lagrådsremiss erkännande och verkställighet av frivårdspåföljder inom europeiska unionen*), available at

www.regeringen.se/rattsdokument/lagradsremiss/2015/05/erkannande-och-verkstallighet-av-frivardspafoljder-inom-europeiska-unionen/

²⁴ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

²⁵ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

	following languages, English, Russian, Arabic, Spanish and Swedish ²⁶ .		
Q1.2. Apart from the competent authorities required by the FDs, is there any other national office or point of contact responsible for leading initial discussions about potential transfers (as issuing and executing state)? If yes, please provide brief details.	According to chapter 1 paragraph 3 of the 2015:109 Ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (<i>Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen</i>) consultations on behalf of the issuing state is to be made with Swedish national board of institutional care (<i>Statens institutionsstyrelse, SiS</i>), if the ruled sanction is institutional care of young persons or in the case of adults with the physician at the forensic psychiatric care ²⁷	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q1.3. Do the competent authorities collate information about their experience of transfers (such as personal data of the suspect/sentenced person, states involved, issues raised during the transfer process)? If yes, specify the information gathered.	According to Lisa Gezelius at the Swedish prison and probation service (<i>Kriminalvården</i>) practices it is usually gathered and coordinated within the department. However no cases has been concluded under the new law concerning FD 2008/909. ²⁸	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.

²⁶ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

²⁷ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 1 paragraph 3, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

²⁸ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON			
<p>Q2.1. Is there a procedure in the issuing state (e.g. some form of mechanism that ensures it is done in all relevant cases) in place to inform the suspect/sentenced person of the option to transfer the judgment or decision to another Member State? If yes, please briefly provide information (e.g. is it an oral or written procedure) and specify who provides this information.</p>	<p>Yes, according to chapter 1 paragraph 1 of the 2015:109 Ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (<i>Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen</i>), the sentenced person is to be informed of the option of transfer the judgement. The responsibility of informing is the competent authority i.e. the Swedish prison and probation service (<i>Kriminalvården</i>) or in the case of the suspect/sentenced person is placed in institutional care then it is the responsibility of the Swedish national board of institutional care (<i>Statens institutionsstyrelse, SiS</i>). If the suspect/sentenced person is in forensic psychiatric care then it is the chief physician.²⁹</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q2.2. Is there a procedure in place in the issuing state to obtain the informed consent</p>	<p>According to chapter 1 paragraph 4-5 of the 2015:109 Ordinance on</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>

²⁹ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 1 paragraph 1, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

<p>of the suspect/sentenced person before forwarding the judgment or decision to the executing state? (e.g. a pre-prepared written explanation of the process available in a number of languages). If yes, please briefly specify what information the suspect/sentenced person receives (e.g. information on appeal and release possibilities).</p>	<p>judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (<i>Förordning 2015:109 om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen</i>)³⁰, a sentence is to be transferred if consent by suspect/the sentenced person has been obtained. Consent is not needed in the cases where the suspect/sentenced person is:</p> <ol style="list-style-type: none"> 1. a citizen and resident of the executing state 2. if to be deported to the executing state after the sanction 3. Have escaped to the executing state due to court procedures in the issuing state or after the verdict has been announced³¹. <p>The decision regarding transfer is made by the competent authority (the Swedish prison and probation service, Swedish national board of institutional care, or the chief physician) and the</p>		
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³⁰ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 4-5, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

³¹ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraf 3, a vailable at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

	<p>suspect/sentenced person is informed thereby. Included in the decision is also information regarding the process of appeal³².</p> <p>If the suspect/sentenced person consents to the transfer, it is the responsibility of the person receiving the consent to assure that the sentenced person have left the consent with full awareness of its meaning³³.</p>		
<p>Q2.3. Does the suspect/sentenced person have the right to revoke his/her consent to the transfer in the issuing state? If yes, please</p>	<p>According to the act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (<i>Lag</i></p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>

³² Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

³³ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 4-5, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

<p>briefly specify until which stage of the procedure this right exists.</p>	<p>(2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen), revoking of consent is possible before the decision of the Swedish prison and probation service have taken legal effect³⁴</p> <p>A suspect/sentenced person may revoke his/her given consent directly to the Swedish prison and probation service (<i>Kriminalvården</i>) or to representatives from the authorities to whom the consent was given³⁵</p>		
<p>Q2.4. Is there any procedure in place in the issuing state to obtain the opinion of the sentenced person concerning the following:? If yes, please briefly specify e.g. is it an oral or a written procedure, are there any checks on actual understanding of the option).</p>			
<ul style="list-style-type: none"> • When consent is not required)? 	<p>The suspect/sentenced person can always state his/hers opinion regardless if consent is needed³⁶. The stated opinion must always be in writing³⁷.</p>		

³⁴ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 5, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

³⁵ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 1 paragraph 5, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

³⁶ Consent is not needed in accordance with act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 3 point 1-3.

³⁷ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

<ul style="list-style-type: none"> When consent is required, Article 6 (3) of FD 2008/909/JHA). 	<p>According to the ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union, when consent is required the procedure is to be documented in an appropriate manner³⁸. The person receiving the consent is to make sure that the sentenced understand the full meaning of giving the consent³⁹</p>		
<p>Q2.5. Does the suspect/sentenced person have the right to change his/her opinion on the transfer? If yes, please briefly specify until which stage of the procedure this right exists and how this is implemented in practice.</p>	<p>Revoking of consent is possible before the decision of the Swedish prison and probation service (<i>Kriminalvården</i>) have taken legal effect⁴⁰</p> <p>The Swedish prison and probation service (<i>Kriminalvården</i>) can cancel the decision of the transfer until it is put into effect so that the</p>		

³⁸ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 4, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

³⁹ Sweden, Ministry of Justice (*Justitiedepartementet*), The ordinance on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Förordning (2015:109) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 5 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2015109-om-erkan_sfs-2015-109/?bet=2015:109

⁴⁰ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 5 available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

	sentence have been initiated in the executing country ⁴¹		
Q2.6. Is the suspect/sentenced person assisted by a legal counsel in the issuing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone)	Yes, a public legal counsel is to be appointed to the sentenced in the issuing state. Usually it is the same counsel that has acted as the public defender during the trial, which means that he/she is familiar with the case. The legal advice is usually provided over the phone. Should the sentenced person wish to speak to his/her legal counsel face to face there is no formal obstacles. ⁴²	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q2.7. Is there a procedure in place to ascertain that the legal counsel speaks and understands the suspect/sentenced person’s language in the issuing state? If yes, please specify.	The obligation to ascertain that the the sentenced person understands his/her legal counsel is shared between the legal counsel and the staff at the penitention center. However, the legal counsel has the ultimate responsibility as her/she cannot fulfil its duty otherwise ⁴³ .	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?	Yes, according to the act on public counsel, a public legal counsel is to be appointed to the	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.

⁴¹ Sweden, Ministry of Justice (*Justitiedepartementet*), Government bill on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Regeringens proposition 2014/15:29 Erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), pp.9 available at: www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/prop-20141529-Erkannande-och_H20329/

⁴² Sweden, Ministry of Justice (*Justitiedepartementet*) The act on public counsel (*Lag (1996:1620) om offentligt biträde*), paragraphs 1-9, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-19961620-om-offentligt-sfs-1996-1620/?bet=1996:1620

⁴³ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

	suspect/sentenced in the issuing state ⁴⁴ .		
Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:		Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> While consenting to the transfer? 	The Swedish prison and probation service (<i>Kriminalvården</i>) is obligated to make sure that the sentenced person understand the procedures regarding the potential transfer and the procedures of consent. This is done either by a brochure where the procedure is explained or if the brochure is not available in a certain language by an interpreter ⁴⁵ .		
<ul style="list-style-type: none"> While requesting the transfer? 	The Swedish prison and probation service is obligated to make sure that the sentenced understand the procedures regarding the potential transfer. This is done either by a brochure where the procedure is explained or if the brochure is not available in a certain language by an interpreter ⁴⁶ .		

⁴⁴ Sweden, Ministry of Justice (*Justitiedepartementet*) The act on public counsel (*Lag (1996:1620) om offentligt biträde*), paragraphs 1-9, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-19961620-om-offentligt-sfs-1996-1620/?bet=1996:1620

⁴⁵ Sweden, Swedish prison and probation service (*Kriminalvården*) internal brochure, title: “To serve a prison sentence in another country – we break the vicious circle” (*Att avtjäna ett fängelsestraff i ett annat land – vi bryter den onda cirkeln*), Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁴⁶ Sweden, Swedish prison and probation service (*Kriminalvården*) Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

<p>Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.</p>	<p>If needed it is the responsibility of the Swedish prison and probation service (<i>Kriminalvården</i>) to provide a face to face consultation in order for the sentenced to understand the procedure⁴⁷.</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q2.11. Is the suspect/sentenced person’s full understanding of the transfer checked on a case by case basis in the issuing state? Please provide brief information.</p>	<p>It is the responsibility of the Swedish prison and probation service (<i>Kriminalvården</i>) to that any notification regarding the transfer is given in a language that the sentenced person understands⁴⁸.</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q2.12. If the executing state adapts, before the transfer, the sentence or measure imposed by the issuing state (as authorised by Article 8.3 of FD 909, Article 9 of FD 947 and Article 13 of FD 829), does the suspect/sentenced person receive any updated information?</p>	<p>According to general administrative law, the sentenced person has the right to receive information regarding changes of measures imposed and/or of the sentence itself⁴⁹.</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q2.13. Is there a right to appeal the forwarding of the judgment/decision in the issuing state? If yes, please briefly provide information (e.g. how the suspect is made</p>	<p>According to the Government bill on judgements imposing custodial sentences or other forms of deprivation of liberty within the</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>

⁴⁷ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁴⁸ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁴⁹ Sweden, Ministry of justice (*Justitiedepartementet*) The ordinance on time for providing of convictions and verdicts (*Förordning (2003:234) om tiden för tillhandahållande av domar och beslut, m.m.*), paragraph 1-12, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2003234-om-arbet_sfs-2003-234/?bet=2003:234

<p>aware of his/her right to appeal and what support is made available to him/her)</p>	<p>European Union⁵⁰ there is a right to appeal the forwarding decision. This is done in the common court within the district of the prison where the sentenced person is held⁵¹.</p> <p>It is stated in the decision from the Swedish prison and probation service (<i>Kriminalvården</i>) how an appeal is conducted⁵².</p>		
<p>Q2.14. Does the suspect/sentenced person have a right to a regular review of the decision on the transfer in the issuing state? If yes, please briefly provide information (e.g. how often he/she can exercise this right)</p>	<p>The suspect/sentenced person may revoke his/her consent at anytime until the decision has been effectuated⁵³.</p> <p>Further information is not available</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q2.15. Is the suspect/sentenced person assisted by legal counsel in the executing state? If yes, please provide details (e.g. is this legal advice provided face-to-face or over the telephone?)</p>	<p>Sweden cannot appoint a public legal counsel in other countries. The need for public counsel is decided upon in each case by individual examination. If a legal counsel is appointed legal advice</p>		

⁵⁰ Sweden, Ministry of Justice (*Justitiedepartementet*), Government bill on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Regeringens proposition 2014/15:29 Erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), available at www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/prop-20141529-Erkannande-och_H20329/

⁵¹ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 4 paragraph 2, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

⁵² Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁵³ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 5, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

	may only be given over the telephone. ⁵⁴		
Q2.16. Have there been instances where the Member State has refused a transfer based on a pre-determined ground of refusal, as permitted to a varying extent under each FD? If so, please briefly provide details.	Not applicable as the law came in effect 1 april 2015 and no cases have been subjected to the act on judgements imposing custodial sentences within the European Union	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q.2.17. Are there any specific legislative or policy developments regarding the informed consent to the transfer of particular suspects/sentenced persons (such as children or persons with disabilities) in the issuing state? (e.g. the use of healthcare professionals)	Not applicable as the law came in effect 1 april 2015 and no cases have been subjected to the act on judgements imposing custodial sentences within the European Union.	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.

⁵⁴ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q3. DECISION ON TRANSFER			
Q3.1. Are the following factors considered while deciding on forwarding a judgment or decision in the issuing state?			
<ul style="list-style-type: none"> The likely impact on the social rehabilitation of the suspect/sentenced person? 	According to the law chapter 2, paragraph 1 nr. 3. The transfer is to be made if the sentenced social rehabilitation is improved by it ⁵⁵	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> Fundamental rights implications (such as the right to family life, right to education)? 	If there is a documented risk of violations of the fundamental rights according to the European convention on human rights and fundamental freedoms the decision might not be to forward the judgment. For example if the prison conditions of the executing state are in such a state that there is a risk of violation of fundamental rights. The decision of not forwarding a judgment are made by the competent authority Swedish prison and probation service (<i>Kriminalvården</i>) ⁵⁶		

⁵⁵ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), chapter 2 paragraph 1, available at www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:96

⁵⁶ Sweden, Ministry of Justice (*Justitiedepartementet*), Government bill on judgements imposing custodial or other forms of deprivation of liberty sentences within the European Union (*Regeringens proposition 2014/15:29 Erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), p.72 available at www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/prop-20141529-Erkannande-och_H20329/

	Given that the law came in effect 1 of April 2015 ot judgment have yet been forwarded ⁵⁷ .		
<ul style="list-style-type: none"> Others? Please specify. 			
Q3.2: While deciding on the transfer, are there any specific criteria/guidelines on the factors considered to be relevant for the purposes of (social) rehabilitation in the issuing state? Please provide any document containing those criteria/guidelines and specify whether the following factors are considered:	According to the government bill it will be up to Swedish prison and probation service (<i>Kriminalvården</i>) to conduct a general assessment in each case taking into account all relevant aspects such as citizenship, time of living in issuing as well as executing states and current housing conditions ⁵⁸	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)? 	According to the government bill concerning sentenced persons with children under the age of 18, the UN childrens convention ratified by Sweden should be taken into consideration by the Swedish prison and probation service (<i>Kriminalvården</i>) in regards to what is best for the child upon conducting their general assessment. Special consideration		

⁵⁷ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁵⁸ Sweden, Ministry of Justice (*Justitiedepartementet*), Government bill on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Regeringens proposition 2014/15:29 Erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), p.69 available at www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/prop-20141529-Erkannande-och_H20329/.

	should apply if there is a child of the sentenced living in the issuing or executing state ⁵⁹ .		
• Criminal history and criminal ties?	No information is stated regarding this		
• Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)?	No information is stated regarding this		
• Detention conditions (e.g. issues of overcrowding or availability of courses, such as the <i>Modulos</i> in Spain which has separate units to promote a progressive accountability of inmates)	No information is stated regarding this		
• Others?			
Q.3.3. Are the following persons/entities consulted in the evaluation of the likelihood of social rehabilitation by the issuing state:			
• Probation agencies or similar entities in the issuing state?	No	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
• The competent authorities in the executing state?	No		
• The suspect/sentenced person?	No		
• The family of the suspect/sentenced persons, especially with regard to child offenders?	No		
• Any other person/entity?	The Swedish prison and probation service (<i>Kriminalvården</i>) is obligated to consult with relevant authorities such as public counsel,		

⁵⁹ Sweden, Ministry of Justice (*Justitiedepartementet*), Government bill on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Regeringens proposition 2014/15:29 Erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), p.69 available at www.riksdagen.se/sv/Dokument-Lagar/Forslag/Propositioner-och-skrivelser/prop-20141529-Erkannande-och_H20329/

	migration board (<i>Migrationsverket</i>), social service (<i>Socialtjänsten</i>). Swedish prison and probation service can also request certificate from the sentenced employee ⁶⁰ .		
Q3.4. Are there any specific legislative or policy developments regarding the evaluation of the likelihood of social rehabilitation of particular suspects/ sentenced persons (such as children or persons with disabilities) by the issuing state?	A general assessment in accordance with the act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union chapter 2, paragraph 1 point 4 is made where for example aspects such as medical care for people with illness och disabilities is taken under consideration ⁶¹	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q3.5. Is additional information, other than that required in the certificate (for which the standard form is given in Annex I of the three FDs), provided to the competent authorities of the executing state while forwarding the judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	No ⁶²	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.

⁶⁰ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁶¹ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:9

⁶² Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:9

Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	Pre-sentence reports are not forwarded ⁶³	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
Q3.7. Are there specific measures, as required by Article 4 (6) FD 909, which constitute the basis on which the competent authorities in the executing State have to take their decisions whether or not to consent to the forwarding of the judgement and the certificate (where required)?	No specific measures ⁶⁴		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:		Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state? 	Yes the guiding act are the two following; personal data act and national public access to information and secrecy act ⁶⁵		
<ul style="list-style-type: none"> Authorities in the issuing and executing state? 	Yes the guiding act are the two following; personal data act and national public access to information and secrecy act. ⁶⁶		

⁶³ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:9

⁶⁴ Sweden, Ministry of Justice (*Justitiedepartementet*), The act on judgements imposing custodial sentences or other forms of deprivation of liberty within the European Union (*Lag (2015:96) om erkännande och verkställighet av frihetsberövande påföljder inom Europeiska unionen*), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Lag-201596-om-erkannande-oc_sfs-2015-96/?bet=2015:9

⁶⁵ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

⁶⁶ Information from a representative of the Swedish prison and probation service (*Kriminalvården*)

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q4. VICTIMS			
Q4.1. Do the victims have the right to receive the following information regarding the transfer from the issuing state:			
<ul style="list-style-type: none"> The decision to transfer 	<p>According to paragraph 35 of the prisons regulation (<i>Fängelseförordning (2010:2010)</i>) shall the prosecutor be asked if he/she wants to be informed of if the sentenced is being transferred to another state for execution.⁶⁷ That is if the crime has been directed towards someones life, health, freedom or peace.⁶⁸</p>	Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> The status of the transfer 	No.		
<ul style="list-style-type: none"> Other? Please specify. 	No.		
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:		Please see first section of “Q1.1”.	Please see first section of “Q1.1”.
<ul style="list-style-type: none"> Is the information provided upon request of the victim? 	<p>Yes, as issuing state, but not in the case where the information is obviously unnecessary, or if it is to be feared for the internees life or health.⁶⁹</p>		

⁶⁷ Sweden, Ministry of Justice (*Justitiedepartementet*), The prisons ordinance (*Fängelseförordning (2010:2010)*), paragraph 35 (2), available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Fangelseforordning-20102010_sfs-2010-2010/

⁶⁸ Sweden, Ministry of Justice (*Justitiedepartementet*), The prisons ordinance (*Fängelseförordning (2010:2010)*), paragraph 35, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Fangelseforordning-20102010_sfs-2010-2010/

⁶⁹ Sweden, Ministry of Justice (*Justitiedepartementet*), The prisons ordinance (*Fängelseförordning (2010:2010)*), paragraph 35, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Fangelseforordning-20102010_sfs-2010-2010/

<ul style="list-style-type: none"> Who is responsible for providing this information? 	<p>As the issuing state, the staff at the institution where the sentenced person is located is responsible for providing information of the transfer to the victim. As for which is regulated in the prisons ordinance (<i>Fängelseförordning 2010:2010</i>) and an internal manual at the institution.</p>		
<ul style="list-style-type: none"> Is it a verbal or written communication? 	<p>The prisons ordinance (<i>Fängelseförordning 2010:2010</i>) does not regulate the form of communication</p>		
<p>Q4.3. Do the victims have the right to be heard concerning the transfer (in the state you are describing, as issuing or executing state)? (e.g. through submitting an oral or written response)</p>	<p>No</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q4.4. Do the victims have any other rights concerning the transfer (in the state you are describing, as issuing or executing state)? Please specify.</p>	<p>No</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>
<p>Q4.5. Do the victims have access to translators/interpreter in order to be kept fully informed of the transfer (in the state you are describing, as issuing or executing state)?</p>	<p>Information about the transfer as for the prisons ordinance (<i>Fängelseförordning 2010:2010</i>) paragraph 35, shall be given with the specific circumstances taken into consideration according to</p>	<p>Please see first section of “Q1.1”.</p>	<p>Please see first section of “Q1.1”.</p>

	paragraph 36 of the same regulation. ⁷⁰		
Q4.6. Do the victims have the right to be informed of the suspect/sentenced person's release (in the state you are describing, as issuing or executing state)?	No	Please see first section of "Q1.1".	Please see first section of "Q1.1".

⁷⁰ Sweden, Ministry of Justice (*Justitiedepartementet*), The prisons ordinance (*Fängelseförordning (2010:2010)*), paragraph 36, available at: www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Fangelseforordning-20102010_sfs-2010-2010/