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

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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:

Alternative sanctions to prison sentence and probation measures[1]

The conditional deferral of serving a prison sentence,

Conditional release is instituted in **sections 49 and 50 of the Act no. 300/2005 Coll. (Penal code**[2]**)**

„The essence of this institute consists of the idea that even though court delivers a condemnatory sentence imposing to offender a prison sentence, it may conditionally defer the execution of that punishment under a condition that condemned person would lead during a probation period an orderly life and would comply with ordered conditions. Court sets a probation period from one to five years and during this period condemned person has to lead an orderly life. Conditional release is possible only in cases when sentence is not higher than two years of imprisonment and when personality of offender and circumstances of case suppose that security of society and redress of the condemned persons do not require the prison sentence."[3]

Conditional deferral of punishment by prison sentence with probational supervision

Section 51 of the Penal code

Having the same conditions as in the previous case the court can also defer the execution of the prison sentence (not longer than 3 years) ordering at the same time a supervision over fulfilling the probation measures imposed on offender during the probation period.
Probation period is from one to five years and starts to be counted from the day after the sentence came into force[4].

It consists of different types of limitations:
a) prohibition to visit sport or other massive events,
b) prohibition of use of alcohol drinks and other addictive substances,

[1] Titursová, K. (2013), ´Probácia ako inštitút trestného práva´, *Najprávo*, 14 February 2013.
[2] Slovakia, Act No. 300/2005 Penal Code (*Trestný zákon)*, 20 May 2005.
[3] Vincencová, G. (2014), *Trestné právo*, Bratislava, Metodicko-pedagogické centrum, p.24.
[4] Titursová, K. (2013), ´Probácia ako inštitút trestného práva´, *Najprávo*, 14 February 2013.

c) prohibition to meet persons who may exercise a negative influence on the offender or who were accessory offenders or participated in the offence,
d) prohibition to enter into concrete places or areas, where the offense was committed,
e) prohibition to involve in gambling and making bets

Obligations consisting of order to:

a) not to get closer than 5 meters from victim and not to stay close to the victim´s house,
b) move away from apartment or house, where he/she has illegally stayed or illegally moved to,
c) indemnify the damage during the probation period,
d) pay debts and owed allowance within the probation period,
e) make personal or public apologize to the victim,
f) acquire a professional qualification or attend a requalification course during the probation period,
g) attend a programme of social training or other educational training in cooperation with a probation officer or other expert
h) undergo a rehabilitation treatment in case where court did not impose a protection treatment,
i) undergo a psychological therapy or consultation during the probation period,
j) get a probationary employment or at least prove he/she tried for during the probation period.

Punishment by house arrest

According to the **section 53 of the Penal code** the condemned persons during the execution of the punishment has to stay in his/her house including areas belonging to it, leading an orderly life and undergo a control by technical means in case it is ordered so.

Technical means are defined in Act no. 75/2015 Coll. on control of execution of some decisions by technical means[5]
Section 3
Definition of technical means
(1) Technical means are:
a) personal identification device,
b) device controlling the presence in the place of execution of the decision (hereinafter "presence controlling device"),
c) device for localization of the controlled person,
d) device alerting proximity,
e) control device for alcohol consumption,
f) voice verification device of the presence of the controlled person,
g) devices of the probation and mediation officer.

[5] Slovakia, The Act on the control of execution of some decisions by technical means (*Zákon o kontrole výkonu niektorých rozhodnutí technickými prostriedkami*), 19 March 2015.

Punishment of community service

Section 54 of the Penal code mentions a series of offenses for which it is allowed to impose a punishment of community service. It is limited to category of offenses in which the criminal penalty does not exceed five years.

Other alternative punishments to the non- conditional prison sentence

There are some alternative punishments. These are usually additional to punishments which are considered as principal.
Examples:

- Financial sanction (Section 32 letter d) of the penal code)
- forfeiture of assets, (Section 32 letter e) of the Penal code)
- forfeiture of items, (Section 32 letter f) of the Penal code)
- punishment by prohibition of residence, (Section 32 letter h) of the Penal code)
- punishment by disqualification, (Section 32 letter g) of the Penal code)
- punishment by deportation. (Section 32 letter l) of the Penal code)

Some alternative sanctions are often not applied in practice. Such an example is a punishment by house arrest. This punishment is conditioned by a supervision of probation officers. However there are fewer than 60 for the whole Slovak territory and so their effectiveness is very weak. There is also a problem with their qualification and skills. As there does not exist a systemic regulation of this area it functions at a very low quality. Thus courts usually do not even consider these alternatives sanctions as being a real option[6].

Alternative sanctions and institute of probation are very young concepts in the context of Slovak criminal justice. These are issues that only start to be raised by Slovak policy makers. Enhancement of these tools (alternative sanctions) of criminal policy figures in the "Conception of the modernization and stabilization of the judiciary" and it is planned for a period 2015-2020. This Conception has been in May 2015 and is still in legislative process[7].

[6] Information provided by a representative of NGO EDUKOS and by a representative of the Probation and Mediation Committee.
[7] Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti*), *Koncepcia stabilizácie a modernizácie súdnictva* (Concept of stabilization and modernization of judiciary), May 2015,Bratislava, Portál právnych predpisov, available at https://lt.justice.gov.sk/Material/MaterialWorkflow.aspx?instEID=-1&matEID=8199&langEID=1.

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

The alternatives to pre-trial detention are defined in the Sections 80-82 of the Code of Criminal Procedure (Act No. 301/2005 Coll)[8].

All alternatives are decided by the court, or in the preliminary hearing by the judge.

Replacement of Custody with Guarantees, Promises and Supervision (Section 80)

The accused may be released **if**:

(1) If the reasons for custody under Section 71 Subsection 1 Paragraphs a) or c)[9] are given, the court and, in the preliminary hearing, the judge for the preliminary hearing may leave the accused at liberty or release them to liberty, if

a) a public interest group or a trustworthy person offers to assume the guarantee for the future behaviour of the accused and for the fact that the accused will fulfil his/her notification obligation.

b) the accused gives a written promise to lead an orderly life, particularly not to commit criminal activities, and to fulfil the obligations and comply with the restrictions that are imposed upon him/her,

c) with regards to the character of the accused and the nature of the heard case, the purpose of the custody may be achieved with the supervision of the probation and mediation officers over the accused or with transferring supervision over the accused to another Member State of the European Union under a special regulation.

The stipulated conditions are alternative.

[8] Slovakia, Code of Criminal Procedure *(Trestný poriadok)*, 24 May 2005

[9] *Section 71:*
Reasons for Arrest
(1) The accused may be taken into custody only if the currently ascertained facts suggest that the act for which the criminal prosecution was initiated was committed, that it has signs of a criminal offence, and that there are reasons for the suspicion that such act was committed by the accused, and based on their conduct and further specific facts there is a reasonable concern that
a) they will flee or hide, to avoid criminal prosecution or punishment, in particular if their identity cannot be immediately determined, when they do not have permanent residence, or if they are facing a severe penalty,
(…)
c) they will continue in the criminal activity, complete the criminal offence which they attempted, or commit a criminal offence that they premeditated or threatened to commit.
(…)

Bail (**Section 81)**

The court (the judge), may bail out the accused if the accused paid the bail and the court or the judge for the preliminary hearing accepted it. If the accused is being prosecuted for a particularly serious crime, the court (the judge) may only accept the bail if the exceptional circumstances of the case justify it. The accused shall always have a notification obligation. Another person may pay the bail with the consent of the accused but, prior to its acceptance, they must be instructed on the nature of the accusations and the facts for which there are reasons for custody.

Reasonable Obligations and Restrictions (Section 82)

In order to strengthen the purpose that could otherwise be reached through custody, the authority deciding on the custody may simultaneously impose one or more appropriate restrictions or obligations, in particular

a) a ban on travel abroad,
b) a prohibition on engaging in an activity in which a criminal offence was committed,
c) a ban on visiting designated places,
d) the obligation to surrender a legally possessed weapon,
e) a prohibition of absence from the place of residence or dwelling, except for defined terms,
f) an obligation to attend a public authority appointed by the court, either regularly or at a specified time,
g) a driving ban and transfer of the driving licence,
h) a prohibition of contact with certain persons or a prohibition of intentional approach of a certain person for a distance of less than five meters, or
i) the obligation to pay the funds to ensure the entitlement of the victim to damages.

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)?

There is a specific part of the Penal Code dealing with sanctions of juveniles (between 14–18 years of age). Besides prison there are other possibilities of punishments:

Protective education (Section 102 and following): the court may impose protective education on juveniles if:

- the education of the juvenile is not properly ensured and this deficiency cannot be eliminated in the family with which they live,
- the past education of the juvenile was neglected, or
- the environment in which the juvenile lives does not guarantee their proper education.

Protective education cannot be imposed upon a member of the armed forces.

Protective education shall be executed in a special educational facility ("protective institutional education") or it may also be executed in a professional foster family ("foster family care"); however if the health of the juvenile so requires, it is preferably executed in a medical facility.

Protective education may be also imposed on a person between the age of 12 to 14 if such child commits a crime for which the Penal Code allows the imposition of a life prison sentence.

Educational measures (Section 106 and following): these may be imposed on juveniles in pre-trial stage or in case there is conditionally desist from punishment. These are:

- educational obligations and restrictions, which includes probational supervision executed by probation or mediation clerk, obligation to live with parents or other adult responsible for his/her upbringing, obligation to take effort to settle with a damaged person, obligation to indemnify damage or otherwise contribute to removal of consequences of a crime, obligation to undergo medical treatment of his/her harmful addiction, or obligation to undergo social training, psychological assistance, or other psychotherapeutic, educational or retraining program. Community services in maximum of four hours per day (18 hours / week), 60 hours all together) may be imposed on juvenile only if they are not interfering with his/her education or employment.
- admonition with warning.

As we have already mentioned execution of alternative sanctions and probations measures are supervised by probation officers. Probation is a very recent institute in the Slovak legal order that has been introduced by **the Act no. 550/2003 Coll**[10]**.. on probation and mediations officers.**[11] **Probation officers shall especially focus on the assistance to juvenile delinquents and in the process of their resocialization. They also shall help victims and other persons affected by the offence when eliminating consequences of offences.** They should coordinate social and therapeutic programs for sentenced persons predominantly for juvenile delinquents.[12] However in practice the institute of probation is not functioning very well. There is a very vague legislative regulation in this respect which fails to address various practical aspects. First of all there does not exist any systematization of education programs for probation officers. Often these persons do not have enough skills to perform their profession. Secondly there does not exist any policies or conceptual materials which would define framework and methodology for implementation of probation programs at national scale. Probation programs and implementation of alternative sanction do not follow any complex conceptions and thus function in a very chaotic way. A few of probation programs that function are not being evaluated and no data are being collected at this respect. So currently we are not able to evaluate the effectiveness of alternative sanctions and their impact within our society and we are even less able to evaluate their impact on specific groups of persons. Other problems relates to the lack of control over the work of probation officers. According to the experience probation officers work frequently in a very formalistic manner. The NGO EDUKOS[13] working with sentenced persons in resocialization programs mentioned a frequent practice of probation officers who are supposed to find a psychological therapy for suspected/sentenced persons but frequently let sentenced persons find themselves their private psychologist. Often probation officers do not even check how these sessions are lead (and if they are truly carried out) and they are not aware of their results. [14]
So in conclusion there is an absolute lack of any comprehensive policy in matters of alternative sanctions and probation measures in Slovakia.[15]

[10] Slovakia, The Act on probation and mediations officers (*Zákon o probačných a mediačných úradníkoch*), 27 October 2003.
[11] Titursová, K. (2013), ´Probácia ako inštitút trestného práva´, *Najprávo*, 14 February 2013.
[12]Kučera, R. (2013), ´Probácia, mediácia a ich význam pri riešení delikvencie detí a mládeže´, PROHUMAN, 27 June 2013.
[13]EDUKOS, available at: www.edukos.sk.
[14] Information provided by a representative of NGO EDUKOS and by a representative of the Probation and Mediation Committee.
[15] Information provided by a representative of NGO EDUKOS and by a representative of the Probation and Mediation Committee

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.			
• 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)?	According to the Ministry of Justice sentenced persons shall be informed during criminal proceedings by competent authorities (courts or prosecution service) about all their rights and options they have[16]. The provision of section 70 par. 1 of the Act. No. 543/2005 Coll. on Administration and Office order for courts institutes an obligation for courts to inform competent representative body of the state whose citizen is the suspect/sentenced person. In case the court does not know which representative body should be informed, it shall send the information to the Ministry of foreign affairs of the Slovak republic together with a request to forward this information to the competent representative body.	According to the Ministry of Justice sentenced persons are informed during criminal proceedings by competent authorities on all their rights and options they have. But with respect to FD 2008/947 there is not any special experience. There is a lack of application practice[22]. In Slovakia there is not any experience with issuing decisions on alternative sanction and probations measures that would be forwarded for execution to other Member State- home country of the sentenced/suspect person. Thus there is not any experience or practice on how would be provided information	The framework decision was transposed into the legal order by the Act 161/2013 Coll. on transmission, recognition and enforcement of decisions on supervision measures as a replacement for custody in the European Union.[23]

[16] Information provided by a representative of the Ministry of Justice.
[22] According to representatives of various organisations (Ministry of Justice, judges, judge´s assistants).
[23] Slovakia, Act No. 161/2013 Coll. on transmission, recognition and enforcement of decisions on supervision measures as a replacement for custody in the European Union.(Zákon o odovzdávaní, uznávaní a výkone rozhodnutí o opatreniach dohľadu ako náhrade väzby vEurópskej únii), 22 May 2013

	Slovakia does not have experience with forwarding execution of judgements to other Member states. According to the Ministry of Justice, Slovak courts do not inform sentenced persons who are other residents of other Member State about the option to execute their sentence in their home country.[17] More frequent is the experience of receiving Slovak residents into Slovakia for execution of their prison sentence delivered in another Member Sate[18]. Mostly they are sent from Austria, Germany or Czech Republic[19]. Thus the only information provided for suspect/sentenced persons is for Slovak residents asking to execute their sentence in Slovakia. There are no publicly available information the other way round. Some information concerning the procedure of transfer of sentenced persons to Slovakia are available on the website of the Ministry of Justice. However this information makes reference to Convention on transfer of sentenced persons, not to framework decision.[20]	tosuspect/sentenced persons within these proceedings.	

[17] Information provided by a representative of the Ministry of Justice.
[18] Various representatives pointed out to this fact (representatives of the Ministry of the Justice, judges).
[19] Information provided by a representative of the Ministry of Justice.
[20] Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti*), *Praktické informácie pre občanov k dovzdávaniu odsúdených osôb*, available at: www.justice.gov.sk/Stranky/Nase-sluzby/Medzinarodne-pravo/Justicna-spolupraca-v-trestnych-veciach/Prakticke-informacie-pre-obcanov-k-odovzdavaniu-odsudenych-osob.aspx.

	The Ministry of Justice provides answers to frequently asked questions – but again, the information is relevant only to persons seeking their transfer to Slovakia.[21]		
• How is the information made publically available (tools, or networks used)?	As mentioned above the only information available at this respect can be found on the website of the Ministry of Justice of the Slovak Republic. This information deals only with the situation when suspect/sentenced person seeks to be transferred to Slovak Republic. Concerning the publicity of information Ministry of justice pointed out to the fact that laws are public so it also constitutes a source of information for sentenced persons[24].	No information available.	N/A
• In which languages is the information provided?	Only in Slovak language.	N/A	N/A
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	Basically, the courts and the Ministry of Justice are involved in negotiations on transfer of sentenced persons. They communicate with competent authorities in executing/issuing Member state. Besides the Ministry of Justice also	According to the Act no. 533/2011 Coll. on recognition and execution of sentences imposing other than prison sentence or imposing probations measures for the purpose of the	N/A

[21] Slovakia, Ministry of Justice (*Ministerstvo spravodlivsti*), *Často kladené otázky* (Frequent asked questions), available at www.justice.gov.sk/Stranky/Nase-sluzby/Medzinarodne-pravo/Justicna-spolupraca-v-trestnych-veciach/casto-kladene-otazky.aspx.

[24] Information provided by a representative of the Ministry of Justice.

issuing and executing state)? If yes, please provide brief details.	European Judicial Network (EJN) points can be contacted. Courts shall ask for a collaboration of the Ministry of Justice also in case when it needs to verify the fulfilment of conditions for forwarding the execution of a sentence in the executing Member State[25]. This request of cooperation of the Ministry is stipulated in section 22 par. 1 and section 28 of the Act no. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union. Within the Ministry of Justice there is a **Department for Judicial Cooperation in criminal matters** that is in charge of issues related to transfer of sentenced persons.	supervision in European Union, Section 17 provides information on forms of communication and sending of documents. This provision refers to the Ministry of Justice and to the Contact point of European Justice Network.	
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 various representatives of the Ministry of Justice they do not gather such information even though they are aware of that necessity. Statistics are being elaborated only in respect to criminal cases having merely national character[26].	According to various representatives of the Ministry of Justice they do not gather such information even though they are aware of that necessity. Statistics are being elaborated only in respect to criminal cases having merely national character[27].	

[25]Slovakia, Judicial academy of the Slovak republic (*Justičná akadémia Slovenskej republiky*) (2013), *Uznávanie a výkon trestných sankcií v EÚ* (Recognition and execution of penal sanctions), lecture 21 May 2013, available at: www.ja-sr.sk/files/Uznavanie_a_vykon_sankcii_v_EU.pdf.
[26]Information provided by representatives of the Ministry of Justice.
[27]Information provided by representatives of the Ministry of Justice.

TOPIC	FD 2008/909	FD 2008/947	FD 2009/829 (ESO)
Q2. INFORMED CONSENT OF THE SUSPECT/SENTENCED PERSON			
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.	There does not exist such a procedure. Courts can (but do not have to) inform sentenced persons about this option during the proceedings. In practice, it is very rare they do so. Sentenced persons get information about such a possibility of forwarding the execution of judgement to their home country more frequently through educational programs and social services operating in prisons.[28]	There does not exist such a procedure. Courts can (but do not have to) inform sentenced persons about this option during the proceedings. In practice, it is very rare they do so.	N/A
Q2.2. Is there a procedure in place in the issuing state to obtain the informed consent 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).	Section 7 of the act no. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union describes proceedings before forwarding the judgment to the executing state.. There are situations when consent of sentenced person is obligatory. If the forwarding of the execution of the judgement requires consent of sentenced person and sentenced person is located on the territory of the Slovak Republic, the court shall hear the sentenced person. Sentenced person shall make a declaration of consent after being heard and understood consequences of such a proceeding and that shall be recorded in the report from hearing. Declaration of consent cannot be taken back.	There is no specific procedure with regard to the FD 2008/947.	N/A

[28]Information provided by a representative of the Ministry of Justice.

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 briefly specify until which stage of the procedure this right exists.	As already stated above in the cited legislation, once the sentenced person has expressed her/his consent during the court hearing, this consent cannot be taken back. Act no. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union Section 7 paragraph 1 If the forwarding of the execution of the decision requires the consent of the sentenced person and that person is located in the Slovak Republic, the court shall hear him/her. Sentenced person shall declare his/her consent after the hearing and after he/she received instructions on consequences of such proceeding and this should be recorded. Declaration of the consent cannot be taken back.	According to the legislation implementing this framework decision, namely the Act no. 533/2011 Coll. on recognition and execution of judgements imposing penal sanction other than deprivation of liberty or probation measures with purpose of supervision in European union, no consent is required from sentenced person.	
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).	According to the Section 8 par. 1 of the Act no. 549/2011 Coll. issuing court together with the decision has to provide a certificate to the executing judicial authority. This certificate figures in the annex of the mentioned law and in its point k) requires to ask for the "Opinion of the sentenced person". This opinion is required in both cases- when consent is required or not.[29] This opinion is expressed in written		

[29]Information provided by a representative of the Ministry of Justice.

	manner and is attached to the certificate sent by court. Information to be filled in by court in the certificate: *Certificate* *Letter k)* *2. Sentenced person is located in issuing state and:* *a)* *- he/she required forwarding of the judgement and certificate* *- he/she agreed with forwarding the judgement and certificate,* *- he/she did not agree with forwarding the judgement and certificate (indicate reasons provided by sentenced person)*		
• When consent is not required)?	According to the Section 7 par.2 of the Act n 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union in case when the consent is not required court shall ask for the opinion of the sentenced person in respect to adopted measure: If the forwarding of the execution of the judgement does not require consent of sentenced and sentenced person is still present on the territory of the Slovak		

	Republic, the court shall ask for opinion of the sentenced person concerning such a proceeding. If sentenced person is a minor, court shall ask for the opinion of his/her legal representative. On the basis of Section 8 par.1 of this Act this opinion shall be attached to the certificate sent together with forwarding decision.		
• When consent is required, Article 6 (3) of FD 2008/909/JHA).	It is the same as when consent is not required: According to the Section 7 par.2 of the Act n 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union in case when the consent is not required court shall ask for the opinion of the sentenced person in respect to adopted measure: If the forwarding of the execution of the judgement does not require consent of sentenced and sentenced person is still present on the territory of the Slovak Republic, the court shall ask for opinion of the sentenced person concerning such a proceeding. If sentenced person is a minor, court shall ask for the opinion of his/her legal representative. On the basis of Section 8 par.1 of this Act this opinion shall be attached to the certificate sent together with forwarding decision.		

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.	In case when Slovakia is in the position of issuing state, the sentenced person cannot take back the consent after he/she has declared it in court. (see above Section 7 par. 1 of the Act no. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union).		
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)	Besides general provisions regulating right to legal defence stipulated by the Penal Procedure Code, there is a special provision (in the same Act) dealing with right to a legal counsel in cases of transferring sentenced persons into another state: The accused must have a defence counsel in proceedings for extradition to a foreign State and in proceedings when a decision is made on the imposition of protective treatment, with the exception of treatment for alcoholism or drug addiction. (Section 37) Otherwise general rules of the Penal Procedure Code apply: Any person against whom there is a criminal prosecution has the right to a defence counsel. (Section 2 paragraph 9) If the accused does not have sufficient funds to pay the costs of the defence, they are entitled to a free defence or a defence at a reduced fee**. (**Section 34)	Besides general provisions regulating right to legal defence stipulated by the Penal Procedure Code, there is a special provision (in the same Act) dealing with right to a legal counsel in cases of transferring sentenced persons into another state: The accused must have a defence counsel in proceedings for extradition to a foreign State and in proceedings when a decision is made on the imposition of protective treatment, with the exception of treatment for alcoholism or drug addiction. (Section 37) Otherwise general rules of the Penal Procedure Code apply: Any person against whom there is a criminal prosecution has the right to a defence counsel. (Section 2 paragraph 9)	N/A

	The law enforcement authorities and the court are always obligated to instruct the accused on their rights, including the importance of confession, and provide them with the full opportunity to exercise such rights. (Section 34) Legal defence is obligatory in cases specified in the Penal Procedure Code: The accused must have a defence counsel during the preliminary hearing after an accusation was raised, if a) they are in custody, are serving a prison sentence, or are under observation in a medical facility, b) they are denied their legal capacity or if their legal capacity is restricted, c) it is a proceeding on a particularly serious crime, d) it is a proceeding against a juvenile, e) it is a proceeding against a fugitive. The accused must also have a defence counsel if the court and, in the preliminary hearing, the public prosecutor or a police officer deems it necessary mainly if there is any doubt about their capacity to properly defend themselves.	If the accused does not have sufficient funds to pay the costs of the defence, they are entitled to a free defence or a defence at a reduced fee**. (**Section 34) The law enforcement authorities and the court are always obligated to instruct the accused on their rights, including the importance of confession, and provide them with the full opportunity to exercise such rights. (Section 34) Legal defence is obligatory in cases specified in the Penal Procedure Code: The accused must have a defence counsel during the preliminary hearing after an accusation was raised, if a) they are in custody, are serving a prison sentence, or are under observation in a medical facility, b) they are denied their legal capacity or if their legal capacity is restricted, c) it is a proceeding on a particularly serious crime,	

	Legal defence is usually performed face to face[30].	d) it is a proceeding against a juvenile, e) it is a proceeding against a fugitive. The accused must also have a defence counsel if the court and, in the preliminary hearing, the public prosecutor or a police officer deems it necessary mainly if there is any doubt about their capacity to properly defend themselves. Legal defence is usually performed face to face[31].	
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.	There is no such procedure. The Penal Procedure Code institutes for these cases interpreters but does not mention counsels speaking and understanding suspect/sentenced person's language. In case when legal counsel is instituted *ex officio* by the court, from court´s official register it can take in account language skills of particular lawyers and make its choice in function of this criteria. However	There is no such procedure. The Penal Procedure Code institutes for these cases interpreters but does not mention counsels speaking and understanding suspect/sentenced person's language. In case when legal counsel is instituted *ex officio* by the court, from court´s official register it can take in account language skills of particular lawyers and	N/A

[30]Information provided by a representative of the Ministry of Justice.
[31]Information provided by a representative of the Ministry of Justice.

	these skills are not always in reality as good as lawyers have declared[32].	make its choice in function of this criteria. However these skills are not always in reality as good as lawyers have declared[33].	
Q2.8. Does the suspect/sentenced person have the right to legal aid in the issuing state?	The suspect/sentenced person has in general the right to legal aid in the Slovak Republic. Besides general rules the accused must have a defence counsel in proceedings for extradition to a foreign State and in proceedings when a decision is made on the imposition of protective treatment, with the exception of treatment for alcoholism or drug addiction. (Section 37 of the Penal Procedure Code)	The suspect/sentenced person has in general the right to legal aid in the Slovak Republic. Besides general rules the accused must have a defence counsel in proceedings for extradition to a foreign State and in proceedings when a decision is made on the imposition of protective treatment, with the exception of treatment for alcoholism or drug addiction. (Section 37 of the Penal Procedure Code)	N/A
Q2.9. Is the suspect/sentenced person assisted by an interpreter in the issuing state, if required:	The suspect/sentenced person has the right to an interpreter. General rules stipulated by the Code of Criminal Procedure apply also in this case.	The suspect/sentenced person has the right to an interpreter. General rules stipulated by the Penal Procedure Code apply also in this case.	N/A

[32]Information provided by a representative of the Ministry of Justice.
[33]Information provided by a representative of the Ministry of Justice.

	As there is no experience with proceedings involving a third country resident, in relation to this particular framework decision we cannot comment in more detail. However we would like to underline the experience with other types of criminal proceedings involving third-country residents as for example extradition. It is frequent that courts do no guarantee the effectiveness of the right to interpreter. It is a usual practice of Slovak courts that foreigners receive courts´ decisions or other types of documents related to the proceeding only in Slovak language. Further they have to find their own means to translate it. So in general the right to interpreter is far from being effective in Slovakia[34]. The general provisions are as follows: If the accused, their legal representative, suspected person, victim, witness, or a party to an action declares that they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator. (Section 2 par. 20) If it is necessary to interpret the contents of a testimony, or if the persons referred to in Section 2 par. 20 declares that they do not	As there is no experience with proceedings involving a third country resident, in relation to this particular framework decision we cannot comment in more detail. However we would like to underline the experience with other types of criminal proceedings involving third-country residents as for example extradition. It is frequent that courts do no guarantee the effectiveness of the right to interpreter. It is a usual practice of Slovak courts that foreigners receive courts´ decisions or other types of documents related to the proceeding only in Slovak language. Further they have to find their own means to translate it. So in general the right to interpreter is far from being effective in Slovakia[35]. The general provisions are as follows: If the accused, their legal representative, suspected person, victim, witness, or a party to an action declares that	

[34]Information provided by a lawyer defending third-country residents in civil and criminal matters.
[35]Information provided by a lawyer defending third-country residents in civil and criminal matters.

	understand the language in which proceedings are held or that they do not speak the language, an interpreter shall be invited by a judicial measure. The court reporter may also act as an interpreter in exceptional circumstances. If the convicted persons exercise their right under Section 2 par. 20, the invited interpreter shall also interpret, at the request of the convicted person, any consultation between the convicted and the defence counsel in the course of, or in direct connection with, a procedural act, with filing an appeal or with other procedural submissions. (Section 28 par. 1) An interpreter shall also be invited if the persons referred to in Section 2 par. 20 declares that they understand the language in which proceedings are held but the authority which performs an act ascertains that the language skills of such persons are insufficient to duly exercise their rights in the language in which proceedings are held; in such case, a decision to invite an interpreter shall be issued in the form of a resolution against which a complaint is admissible. (Section 28 par. 2) If it is necessary to translate the transcript of a testimony or another document, a translator shall be invited by a measure. The accused shall be provided with a written translation of the resolution on pressing charges, resolution on remanding the accused in custody, an indictment, an agreement on guilt and punishment and a petition for approval of such agreement, a	they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator. (Section 2 par. 20) If it is necessary to interpret the contents of a testimony, or if the persons referred to in Section 2 par. 20 declares that they do not understand the language in which proceedings are held or that they do not speak the language, an interpreter shall be invited by a judicial measure. The court reporter may also act as an interpreter in exceptional circumstances. If the convicted persons exercise their right under Section 2 par. 20, the invited interpreter shall also interpret, at the request of the convicted person, any consultation between the convicted and the defence counsel in the course of, or in direct connection with, a procedural act, with filing an appeal or with other procedural submissions. (Section 28 par. 1) An interpreter shall also be invited if the persons referred to in Section 2 par. 20 declares that they understand the language in which proceedings are held but the authority which performs an act ascertains that	

	judgment, criminal warrant, appeal decision, and a decision on conditional suspension of criminal prosecution; the accused may expressly waive this right and shall be instructed of such option as well as of the consequences of waiving such right. If such decision concerns several accused persons, only such part of the decision that concerns the particular accused shall be translated for them, provided it may be separated from the other statements of the decision and the reasoning thereto. The translation and delivery of the decision shall be arranged by the authority whose decision is concerned. (Section 28 par. 4) Upon a request of the accused or even without such request, the authority before which the proceedings are held shall decide that the accused shall be provided, in addition to the decisions referred to in Subsection 4, with a written translation of some other document if it is necessary for ensuring just proceedings, particularly to duly exercise the right to a defence, to the extent determined by such authority. If the authority before which the proceedings are held does not grant such request of the accused, it shall decide thereon by resolution against which the accused may file a complaint. Instead of a written translation referred to in the first sentence, it is possible to interpret such document or its relevant contents if this does not affect the justice of the proceedings. Such fact shall be recorded in the transcript of the act so that it is obvious whether the whole	the language skills of such persons are insufficient to duly exercise their rights in the language in which proceedings are held; in such case, a decision to invite an interpreter shall be issued in the form of a resolution against which a complaint is admissible. (Section 28 par. 2) If it is necessary to translate the transcript of a testimony or another document, a translator shall be invited by a measure. The accused shall be provided with a written translation of the resolution on pressing charges, resolution on remanding the accused in custody, an indictment, an agreement on guilt and punishment and a petition for approval of such agreement, a judgment, criminal warrant, appeal decision, and a decision on conditional suspension of criminal prosecution; the accused may expressly waive this right and shall be instructed of such option as well as of the consequences of waiving such right. If such decision concerns several accused persons, only such part of the decision that concerns the particular accused shall be translated for them, provided it	

	document or which part thereof was translated. (Section 28 par. 5) If the physical presence of an interpreter is not required for ensuring just proceedings and if an interpreter for a language sufficiently understood by the person referred to in Section 2 par. 20 cannot be provided, then in justified cases it is possible to provide interpretation through technical devices designed for audio and video transmission. (Section 28 par. 6)	may be separated from the other statements of the decision and the reasoning thereto. The translation and delivery of the decision shall be arranged by the authority whose decision is concerned. (Section 28 par. 4) Upon a request of the accused or even without such request, the authority before which the proceedings are held shall decide that the accused shall be provided, in addition to the decisions referred to in Subsection 4, with a written translation of some other document if it is necessary for ensuring just proceedings, particularly to duly exercise the right to a defence, to the extent determined by such authority. If the authority before which the proceedings are held does not grant such request of the accused, it shall decide thereon by resolution against which the accused may file a complaint. Instead of a written translation referred to in the first sentence, it is possible to interpret such document or its relevant contents if this does not affect the justice of the proceedings. Such fact shall be recorded in the transcript of the act so that it is obvious whether the whole document or which part thereof	

		was translated. (Section 28 par. 5) If the physical presence of an interpreter is not required for ensuring just proceedings and if an interpreter for a language sufficiently understood by the person referred to in Section 2 par. 20 cannot be provided, then in justified cases it is possible to provide interpretation through technical devices designed for audio and video transmission. (Section 28 par. 6)	
• While consenting to the transfer?	General provisions on the right to an interpreter stipulated by the Penal Procedure Code shall also apply on process of consenting to the transfer. However as there is no experience with this concrete proceeding, we are not able to provide more comments.	General provisions on the right to an interpreter stipulated by the Penal Procedure Code shall also apply on process of consenting to the transfer. However as there is no experience with this concrete proceeding, we are not able to provide more comments.	
• While requesting the transfer?	General provisions on the right to an interpreter stipulated by the Penal Procedure Code shall also apply on process of requesting the transfer.	General provisions on the right to an interpreter stipulated by the Penal Procedure Code shall also apply on process of requesting the transfer.	

Q2.10. Are these interpretation or translation services provided during a face-to-face consultation? Please provide brief information.	In the Slovak Republic there is only experience with execution of forwarded judgements from other Member states to Slovakia, when sentenced persons are Slovak citizens. In such cases no interpreter is needed[36]. However according to the experience from other type of criminal proceeding against third country residents we can state that there are frequent problems with ensuring interpretation of face-to-face consultations. In case when accused person is provided with a legal defendant *ex officio* often happens that level of language skills is not adequate and accused persons complain about quality of understanding. Often accused persons search for a legal defendant on their own in order to ensure a fluid communication[37].	In the Slovak Republic there is only experience with execution of forwarded judgements from other Member states to Slovakia, when sentenced persons are Slovak citizens. In such cases no interpreter is needed[38]. However according to the experience from other type of criminal proceeding against third country residents we can state that there are frequent problems with ensuring interpretation of face-to-face consultations. In case when accused person is provided with a legal defendant *ex officio* often happens that level of language skills is not adequate and accused persons complain about quality of understanding. Often accused persons search for a legal defendant on their own in order to ensure a fluid communication[39].	N/A
I 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.	There is no experience with these proceedings in Slovakia.	There is no experience with these proceedings in Slovakia.	

[36]Information provided by a lawyer defending third-country residents in civil and criminal matters.
[37]Information provided by a lawyer defending third-country residents in civil and criminal matters.
[38]Information provided by a lawyer defending third-country residents in civil and criminal matters.
[39]Information provided by a lawyer defending third-country residents in civil and criminal matters.

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?	According to the experience of the Ministry of Justice, before sentenced person are transferred to Slovakia they use to contact the Ministry of Justice to get all updates on their situation and particularly on any adaptation of their sentence. [40] The Ministry of Justice does not have any responsibility at this respect. Sentenced persons contact the Ministry on their own initiative. It is the court who recognizes a decision of issuing judicial authority that through its decision on recognition communicates to the sentenced person also details related to the sentence adaptation.[41]	No experience at this respect. Court in the executing state recognizes decision from other Member State by its own decision. When measure ordered by issuing state is adapted by the judicial authority of executing state that fact figures in its decision. In accordance with Section 11 paragraph 4 of the Act no. 533/2011 Coll. , decision on recognition of the forwarded decision shall be communicated to the sentenced person and that is how he/she learns about eventual adaptation of the sentence.	
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 aware of his/her right to appeal and what support is made available to him/her)	The Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union does not provide any specific procedure concerning appeal. Pursuant to the general Penal Procedure Code, the fifth part named Legal contact with foreign countries, the	The Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union does not provide any specific procedure concerning appeal. Pursuant to the general Penal Procedure Code, the fifth part named Legal contact with foreign countries, the courts	N/A

[40]Information provided by a representative of the Ministry of Justice.

[41]Slovakia, Ministry of Justice (*Ministerstvo spravodlivosti*), *Často kladené otázky*, available at:www.justice.gov.sk/Stranky/Nase-sluzby/Medzinarodne-pravo/Justicna-spolupraca-v-trestnych-veciach/casto-kladene-otazky.aspx.

	courts shall issue resolutions when making decision according this part (Section 487). Pursuant to the Penal Procedure Code the appeal against resolution is complaint (Section 185 par. 1). Complaint against court's decision is possible only if the law explicitly says so (Section 185 par. 2). The law, however, does not explicitly mention right to appeal the forwarding of the judgment in the Slovak Republic. Moreover, the specific Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union addresses the act of issuing court as "forwarding the execution of decision". (Section 6)	shall issue resolutions when making decision according this part (Section 487). Pursuant to the Penal Procedure Code the appeal against resolution is complaint (Section 185 par. 1). Complaint against court's decision is possible only if the law explicitly says so (Section 185 par. 2). The law, however, does not explicitly mention right to appeal the forwarding of the judgment in the Slovak Republic. Moreover, the specific Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union addresses the act of issuing court as "forwarding the execution of decision". (Section 6)	
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)	The Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union does not provide any specific procedure concerning appeal. Pursuant to the general Penal Procedure Code, the fifth part named Legal contact with foreign countries, the	The Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union does not provide any specific procedure concerning appeal. Pursuant to the general Penal Procedure Code, the fifth part	

	courts shall issue resolutions when making decision according this part (Section 487). Pursuant to the Penal Procedure Code the appeal against resolution is complaint (Section 185 par. 1). Complaint against court's decision is possible only if the law explicitly says so (Section 185 par. 2). The law, however, does not explicitly mention right to appeal the forwarding of the judgment in the Slovak Republic. Moreover, the specific Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union addresses the act of issuing court as "forwarding the execution of decision". (Section 6)	named Legal contact with foreign countries, the courts shall issue resolutions when making decision according this part (Section 487). Pursuant to the Penal Procedure Code the appeal against resolution is complaint (Section 185 par. 1). Complaint against court's decision is possible only if the law explicitly says so (Section 185 par. 2). The law, however, does not explicitly mention right to appeal the forwarding of the judgment in the Slovak Republic. Moreover, the specific Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union addresses the act of issuing court as "forwarding the execution of decision". (Section 6)	
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?)	In this case apply general provisions of the Code of Criminal Procedure. According to the Section 2 par.9 any person against whom there is a criminal prosecution has the right to a defence counsel. Legal defence is obligatory in cases specified in the Penal Procedure Code (Section 37):	In this case apply general provisions of the Code of Criminal Procedure. According to the Section 2 par.9 any person against whom there is a criminal prosecution has the right to a defence counsel	

	The accused must have a defence counsel during the preliminary hearing after an accusation was raised, if a) they are in custody, are serving a prison sentence, or are under observation in a medical facility, b) they are denied their legal capacity or if their legal capacity is restricted, c) it is a proceeding on a particularly serious crime, d) it is a proceeding against a juvenile, e) it is a proceeding against a fugitive.		
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.	According to the Ministry of Justice there were several refusals to execute forwarded judgements from other Member State in Slovakia. It concerned cases where the condition of criminality on both sides was not fulfilled, or time limit had passed or the execution of sanction was not possible in the conditions of the Slovak Republic[42]. One of the cases concerned a judgement of an Austrian court which sentenced mother together with her child for prison. In the Slovak Republic a child cannot be sent to a prison. So we refused to receive	No experience at this respect.	N/A

[42]Based on an interview with a representative of the Ministry of Justice.

	this judgement for its execution as it did not comply with Slovak legal order. Slovak Republic has refused several requests to forward execution of judgements delivered by German judicial authorities. It concerned persons sentenced for detention in detention centres. In Slovakia institute of detention exists only *de iure* because we do not have them *de facto*. So Slovakia was not able to execute this judgement.		
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)	No, no special measures in this respect.	No, no special measures in this respect.	N/A

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?			
• The likely impact on the social rehabilitation of the suspect/sentenced person?	The only regulation in respect to the procedure of forwarding the execution of a decision imposing prison sentence to other Member State is the Act no. 549/2011 Coll. This law in its Section 6 paragraph 2 stipulates: *The court which delivered decision in accordance with the paragraph 1, may forward execution of the decision to a Member State in reason of the adequacy and usefulness of such a proceeding in order to guarantee a successful social integration or therapy of the sentenced person. Court can forward execution of the decision to a Member State also on the proposal of the sentenced person or of the competent authority from the executing State This proposal is not binding for the Court.*	Act no. 533/2011 does not mention anything at this respect and there is no such experience.	N/A

	Section 7 *(3) In the case when execution of the decision is forwarded on the base of Section 6 paragraph 1 letter c)[43], the court before the forwarding the execution of the decision shall request the executing judicial authority its statement whether it agrees with the forwarding of the decision and whether it considers such a proceeding as being adequate and useful for easier rehabilitation of the sentenced person. This request is sent together with the statement of the sentenced person according to the paragraph 2.* *(4) The Court may ask to executing judicial authority for a statement according to the paragraph 3 even in case, when it concerns forwarding the execution of a decision according to the section 6 paragraph 1 letter a[44]) or letter*		

[43] 1) Section 6 paragraph 1 letter c): „*The Court may forward to other Member State the execution of a decision imposing a sanction connected with liberty deprivation in case when the sentenced person is located on the territory of the Slovak Republic or on the territory of that Member State and competent authority of that Member State agrees with forwarding of the decision, if it does not concern cases referred to in letter a) or letter b)" („Súd môže odovzdať do iného členského štátu výkon rozhodnutia, ktorým bolo rozhodnuté o uložení trestnej sankcie spojenej s odňatím slobody, ak sa odsúdený nachádza na území Slovenskej republiky alebo tohto členského štátu, a príslušný orgán tohto členského štátu s prevzatím výkonu rozhodnutia súhlasí, ak nejde o prípady uvedené v písmene a) alebo písmene b)")*

[44] Section 6 paragraph 1 letter a):

	b)[45]*, if Court considers it as being necessary for verification of the adequacy and usefulness of such proceeding for easier rehabilitation of the sentenced person.* *(5) If the executing judicial authority in the framework of the proceeding based on the section 3 and 4 states that forwarding of the execution of the decision to the executing State cannot be considered as adequate and useful for a successful social integration or efficient therapy of the sentenced person, the Court will not forward the execution of the decision into the executing State.* There are not any additional procedure or methodical guidelines		

„*The Court may forward to other Member State the execution of a decision imposing a sanction connected with liberty deprivation in case when the sentenced person is located on the territory of the Slovak Republic or on the territory of that Member State and* sentence person is a citizen of that Member State and usually resides there or has within this territory evident family, social or labour ties, which may facilitate his/her rehabilitation during the sentence execution connected with the liberty deprivation“ *(„Súd môže odovzdať do iného členského štátu výkon rozhodnutia, ktorým bolo rozhodnuté o uložení trestnej sankcie spojenej s odňatím slobody, ak sa odsúdený nachádza na území Slovenskej republiky alebo tohto členského štátu, a odsúdený je štátnym občanom tohto členského štátu a má v ňom obvyklý pobyt alebo má na jeho území preukázateľné rodinné, sociálne alebo pracovné väzby, ktoré môžu prispieť k uľahčeniu jeho nápravy počas výkonu trestnej sankcie spojenej s odňatím slobody“)*

[45] Section 6 paragraph 1 letter b):

„The Court may forward to other Member State the execution of a decision imposing a sanction connected with liberty deprivation in case when the sentenced person is located on the territory of the Slovak Republic or on the territory of that Member State and sentenced person is a citizen of that Member State , does not reside there usually but after the release from the sentence execution connected with the liberty deprivation that person shall be deported on the base of a judicial or administrative decision to that Member State“ („Súd môže odovzdať do iného členského štátu výkon rozhodnutia, ktorým bolo rozhodnuté o uložení trestnej sankciet Member State spojenej s odňatím slobody, ak sa odsúdený nachádza na území Slovenskej republiky alebo tohto členského štátu, a odsúdený je štátnym občanom tohto členského štátu, nemá v ňom obvyklý pobyt, ale po prepustení z výkonu trestnej sankcie spojenej s odňatím slobody uloženej v rozhodnutí má byť vyhostený na základe právoplatného rozhodnutia vydaného v súdnom konaní alebo správnom konaní do tohto členského štátu“)

	how to proceed in assessment of these type of cases and which factors to take into account. It is up to every particular judge how he/she will deal with each particular case.[46] However Slovakia does not have practical experience with forwarding judgments to other Member States. We act more in a position of executing state when Slovak citizens are sentenced in other Member State and they are sent to execute their punishment in Slovakia.[47] According to the Ministry of Justice there was a case of a Czech citizen sentenced in the Czech Republic who requested to execute his sentence in Slovakia, claiming that his social and professional ties were stronger in Slovakia. Ministry of Justice of the Slovak Republic was at this respect consulted by the Slovak court in order to prove these facts claimed by sentenced person. The court investigated facts in respect to these considerations[48]. The practice can be however diverse depending on the		

[46] Information provided by a prosecutor.
[47]Information provided by a representative of the Ministry of Justice.
[48]Information provided by a representative of the Ministry of Justice.

	knowledge of the particular judge. Every new norm needs time to be known and correctly implemented in judicial practice. In Slovakia there are still a lot of judges who are not familiar with the European law[49]. There is another problematic aspect - the decisions are often written by judge´s assistants. The Judicial academy organized a training for judges on implementation of this FD. However, these trainings are usually not intended for assistants and thus they prepare decisions without relevant trainings[50]. According to the experience at one regional court no such considerations are being made in cases when Slovakia is receiving its citizens for execution of their sentence within Slovak territory. On the contrary, there is the impression at the courts that sentenced persons have the tendency to misuse considerations of social and family ties when they do not want to come back home		

[49]Information provided by a judge´s assistant.
[49]Information provided by a judge´s assistant.
[50]Information provided by a judge´s assistant.

	because they are afraid of other possible criminal proceedings for crimes they committed and were not sentenced for yet[51]. Pursuant to the Act no. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union the conditions for forwarding execution of the judgment are: *Court can forward to other Member State the execution of a judgement by which it sentenced a penal sanction consisting in deprivation of freedom, in case when the sentenced person is located within the territory of the Slovak Republic or that Member state and* *a) sentenced person is citizen of that Member state and usually resides on its territory or has on its territory evident family, social or professional ties that may facilitate his/her rehabilitation during the execution of the sentences consisting in deprivation of freedom.* (Section 6 par. 1)		
• Fundamental rights implications (such as the right to family life, right to education)?	No experience.	There do not exist any rules at this respect, which would require	N/A

[51]Information provided by a judge´s assistant.

	There do not exist any rules at this respect, which would require that human rights perspective was applied when assessed whether to forward the execution of a decision or not. According to the experience from the position of the executing State when judges assess whether to recognize or not a decision from other Member State they use to take into account from their own initiative for example family relations or language barrier that might complicate process of rehabilitation and re-education of the sentenced person. Issues of human rights are often raised by sentenced persons themselves when arguing why they want to execute their sentence in their home-country, However it is a case-based assessment without any formal rules or procedure.	that human rights perspective was applied when assessed whether to forward the execution of a decision or not. No experience.	
• Others? Please specify.	No experience. There do not exist any rules, which would require that some special criteria was applied when assessed whether to forward the execution of a decision or not. It would be up to every judge to consider whether particular case present some special aspects to be considered in order to decide	No experience. There do not exist any rules, which would require that some special criteria was applied when assessed whether to forward the execution of a decision or not. It would be up to every judge to consider whether particular case present some special aspects to be considered in order to decide	N/A

	whether it is appropriate to forward it or not.[52]	whether it is appropriate to forward it or not.[53]	
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:	No such document exists in the Slovak Republic.	No such document exists in the Slovak republic.	N/A
• Family and social ties (e.g. accommodation, employment or other economic ties, linguistic and cultural links)?	No experience.	No experience.	N/A
• Criminal history and criminal ties?	No experience.	No experience.	N/A
• Humanitarian concerns (i.e. terminal illness of suspect/sentenced person or family members)?	No experience.	No experience.	N/A
• Detention conditions (e.g. issues of overcrowding or availability of courses, such as the *Modulos* in Spain which has separate units to promote a progressive accountability of inmates)	No experience.	No experience.	N/A
• Others?	No.	No.	N/A
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.	No experience.	N/A

[52] Information provided by a prosecutor.
[53] Information provided by a prosecutor.

		There are not any rules to institute such consultation.	
• The competent authorities in the executing state?	No.	No experience.	N/A
• The suspect/sentenced person?	Experience rather says that sentenced persons argue this aspect when they do not want to return to Slovakia. Courts speculate that this is to avoid criminal proceedings related to others crimes.[54]	No experience.	N/A
• The family of the suspect/sentenced persons, especially with regard to child offenders?	No.	No experience.	N/A
• Any other person/entity?	No.	No experience.	N/A
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?	No.	No.	N/A
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	According to the experience of Slovak courts the prosecutors are often requiring lot of additional information from issuing judicial authorities. They never consider	No experience.	N/A

[54]Interview with a judge´s assistant.

judgment or decision? If yes, please specify if pre-sentence reports are forwarded.	certificate as being a sufficient source of information.[55] Prosecutors have been often interested in facts whether sentenced person in other Member State was present in person when the decision on the forwarding the execution of the prison sentence was delivered or whether it was a written proceeding, whether the sentenced person received the decision, whether she/he was instructed on the possibility to make an appeal. However situation is getting better and certificates are already being better filled in. Then specific questions can raise from case to case which cannot be generalized.[56]		
Q3.6. If pre-sentence reports are forwarded by the issuing state, are they translated to the language of the executing state?	According to the section 23 par.4 the Act no. 549/2011 on recognition and execution of judgments imposing custodial sentences in European Union translation of other documents than certificate and judgment (or its part) is not obligatory.	According to the section 18 par.4 the Act no. 533/2011 translation of other documents than certificate is not obligatory.	N/A

[55]Information provided by a judge´s assistant.
[56] Information provided by a judge´s assistant.

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.		
Q3.8. Are there formal and clear rules regarding data protection in the information exchange between:	The general provision on information provided to public in criminal proceedings is stipulated by the Penal Procedure Code (Section 6): *(2) When providing information, the law enforcement authorities* [police, prosecution] *and the court are entitled to conceal such facts that might repulse or hinder the clarification and investigation of the case. At the same time, they are obligated to observe the principle of presumption of innocence; they shall respect that protected personal information or facts of a private nature, especially on family life, dwelling and correspondence, directly not related to the criminal activity are not disclosed. In particular, they shall respect the interests of minors, juveniles and victims whose personal information shall not be disclosed.* The protection of personal data is also regulated by a general law, Act no. 122/2013 Coll. on protection of personal data.	The general provision on information provided to public in criminal proceedings is stipulated by the Penal Procedure Code (Section 6): *(2) When providing information, the law enforcement authorities* [police, prosecution] *and the court are entitled to conceal such facts that might repulse or hinder the clarification and investigation of the case. At the same time, they are obligated to observe the principle of presumption of innocence; they shall respect that protected personal information or facts of a private nature, especially on family life, dwelling and correspondence, directly not related to the criminal activity are not disclosed. In particular, they shall respect the interests of minors, juveniles and victims whose personal information shall not be disclosed.* The protection of personal data is also regulated by a general law,	N/A

	General regulation or specific regulations are applied in function of a phase of investigations or revealing criminal activities[57].	Act no. 122/2013 Coll. on protection of personal data. General regulation or specific regulations are applied in function of a phase of investigations or revealing criminal activities[58].	
• National authorities (consulted in the evaluation of the likelihood of social rehabilitation) in the issuing state?	There are no specific rules regarding data protection in the information exchange between national authorities in the issuing state. Therefore general legislation on data protection should by applied.	There are no specific rules regarding data protection in the information exchange between national authorities in the issuing state. Therefore general legislation on data protection should by applied.	N/A
• Authorities in the issuing and executing state?	According to the Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union courts are obliged to inform executing judicial authority and ministry of justice about fact that the sentenced was granted amnesty / pardon, or on other measure or	There are no specific rules regarding data protection in the information exchange between authorities in the issuing and executing state. Therefore general legislation on data protection should by applied.	N/A

[57]Čarnogurský law firm (2011), ´Ochrana osobných údajov v procese policajnej a justičnej spolupráce v trestných veciach´, *ULC Čarnogurský Bulletin PRO BONO 2011*, May 2011.
[58]Čarnogurský law firm (2011), ´Ochrana osobných údajov v procese policajnej a justičnej spolupráce v trestných veciach´, *ULC Čarnogurský Bulletin PRO BONO 2011*, May 2011.

	other fact due to which the judgment is partly or fully non-executable. (Section 11) The Act also stipulates other information which shall be provided to the relevant judicial authorities and the ministry of justice of the issuing state. (Section 20) There are no specific rules regarding data protection in the information exchange between authorities in the issuing and executing state. Therefore general legislation on data protection should by applied. On 1 August 2011 entered into force amendment of the Act no. 757/2004 Coll. on courts. This amendment transposed Council framework decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters[59]. Provisions of section 82c to section 82h of the Act on courts regulate		

[59]Čarnogurský law firm (2011), ´Ochrana osobných údajov v procese policajnej a justičnej spolupráce v trestných veciach´, *ULC Čarnogurský Bulletin PRO BONO 2011*, May 2011.

	transmission, providing and processing of personal data in the framework of judicial cooperation in criminal matters in EU[60]. This amendment indirectly amended various acts[61]: -Act no. 171/1993 Coll. on Police corps - Act no. 124/1992 Coll. on Military police -Act no. 46/1993 Coll. on Slovak information service –Act no. 4/2001 Coll. on Body of prison and justice guards -Act no. 153/2001 Coll. on prosecution service -Act no. 215/2004 Coll. on protection of classified information - Act no. 652/2004 Coll. on public administration authorities in customs		

[60]Čarnogurský law firm (2011), ´Ochrana osobných údajov v procese policajnej a justičnej spolupráce v trestných veciach´, *ULC Čarnogurský Bulletin PRO BONO 2011,* May 2011.
[61] Čarnogurský law firm (2011), ´Ochrana osobných údajov v procese policajnej a justičnej spolupráce v trestných veciach´, *ULC Čarnogurský Bulletin PRO BONO 2011,* May 2011.

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:			
• The decision to transfer	There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply. The law enforcement authority is obligated to provide the victim with information on his/her rights in the criminal proceedings and with information on organisations for the assistance of the victims in writing during their first contact, including the services they provide. The law enforcement authority and the court are obligated to instruct the victim on their rights and provide them with the full opportunity of exercising them. (Section 49 par. 1 and 2)	There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply.	N/A

	The victim shall provide police / prosecution with his/her address to receive all written documents (Section 46 par. 2) If there is a threat of danger related to the release of accused/sentenced, police / prosecutor shall inform victim about the fact that the accused was released from the detention or escaped, or that the sentenced was released from the prison or escaped. Victim may request such information already in pre-trial procedure. (Section 46 par. 8 and 9) Victim has access to other information during criminal procedures, however, there is no law specifically mentioning right of a victim to information on decision to transfer.		
• The status of the transfer	As above mentioned: There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union).	As above mentioned: There are no special provisions on providing information to the victims in specific laws. That is why the general provisions of the Penal Procedure Code shall apply.	N/A

	That is why the general provisions of the Penal Procedure Code shall apply.		
• Other? Please specify.	Slovak criminal justice system has a predominantly retributive character what implies that role of victim in criminal proceedings is not very much participative. The major purpose is rather to punish crime than to observe necessities of victims. Ministry of Justice is currently preparing an important amendment of the Penal legislation which would incorporate more restorative justice principles and strengthen position of victim in criminal proceedings[62]. Moreover there are not particular experiences within the proceedings on recognition and execution of sentences in Slovakia related to informing of victims.	no information	N/A
Q4.2. Is there any procedure in place to provide this information as issuing or executing state? If yes, please specify:			

[62] Information provided by a representative of the Ministry of Justice.

• Is the information provided upon request of the victim?	As above mentioned: There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply. If there is a threat of danger related to the release of accused/sentenced, police / prosecutor shall inform victim about the fact that the accused was released from the detention or escaped, or that the sentenced was released from the prison or escaped. Victim may request such information already in pre-trial procedure. The victim may request the public prosecutor during the preliminary hearing and, in proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 8 and 9)	As above mentioned: There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply. If there is a threat of danger related to the release of accused/sentenced, police / prosecutor shall inform victim about the fact that the accused was released from the detention or escaped, or that the sentenced was released from the prison or escaped. Victim may request such information already in pre-trial procedure. The victim may request the public prosecutor during the preliminary hearing and, in proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 8 and 9)	

• Who responsible for providing this information?	The prosecutor (during pre-trial proceedings) and the court. The victim may request the public prosecutor during the preliminary hearing and, in proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 9, Penal Procedure Code)	The prosecutor (during pre-trial proceedings) and the court. The victim may request the public prosecutor during the preliminary hearing and, in proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 9, Penal Procedure Code)	N/A
• Is it a verbal or written communication?	The law does not specify this.	The law does not specify this.	
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)	Nothing in this respect is stipulated in the legislation.	Nothing in this respect is stipulated in the legislation.	
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.	Nothing in this respect is stipulated in the legislation.	Nothing in this respect is stipulated in the legislation.	
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)?	There are no specific provisions dealing with such issue, that is why the general law – Penal Procedure Code shall apply.	There are no specific provisions dealing with such issue, that is why the general law – Penal Procedure Code shall apply.	N/A

	If the accused, their legal representative, suspected person, victim, witness, or a party to an action declares that they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator. (Section 2)	If the accused, their legal representative, suspected person, victim, witness, or a party to an action declares that they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator. (Section 2)	
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)?	As above mentioned: There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply. If there is a threat of danger related to the release of accused/sentenced, police / prosecutor shall inform victim about the fact that the accused was released from the detention or escaped, or that the sentenced was released from the prison or escaped. Victim may request such information already in pre-trial procedure. The victim may request the public prosecutor during the preliminary hearing and, in	As above mentioned: There are no special provisions on providing information to the victims in specific laws (such as Act No. 549/2011 Coll. on recognition and execution of judgments imposing custodial sentences in European Union). That is why the general provisions of the Penal Procedure Code shall apply. If there is a threat of danger related to the release of accused/sentenced, police / prosecutor shall inform victim about the fact that the accused was released from the detention or escaped, or that the sentenced was released from the prison or escaped. Victim may request such information already in pre-trial procedure. The victim may request the public prosecutor during the preliminary hearing	

	proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 8 and 9) The right of victim to be informed is conditioned by consideration of the court that victim is in danger.	and, in proceedings before the court, the court, to be informed about these facts. If the convicted person is serving a prison sentence, the request shall be filed at the court which decided in the first instance. (Section 46 par. 8 and 9) The right of victim to be informed is conditioned by consideration of the court that victim is in danger.	