

Application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. Framework Decision. Initiative Austria, Finland, Sweden

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The Council agreed on a general approach concerning a draft Framework Decision on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the EU.

The agreement reached on this instrument will allow the transfer of sentenced persons to another Member State for the purpose of enforcement of the sentence imposed, taking into account the possibility of social rehabilitation of the sentenced person.

The Council recognised that **Poland** needed more time than the other Member States to face the practical and material consequences of transfer of Polish citizens convicted in other Member States, especially in the light of an increased mobility of Polish citizens within the European Union. For that reason, Poland was granted a **temporary derogation of limited scope for a maximum period of 5 years**.

All Member States have ratified the Council of Europe Convention on the Transfer of Sentenced Persons of 21 March 1983. Under that Convention, sentenced persons may be transferred to serve the remainder of their sentence only to their State of nationality, and only with their consent and that of the States involved. The Additional Protocol to the Convention of 18 December 1997, which allows transfer without the person's consent, subject to certain conditions, has not been ratified by all the Member States. Neither instrument imposes any basic duty to take charge of sentenced persons for enforcement of a sentence or order.

Relations between the Member States, which are characterised by special mutual confidence in other Member States' legal systems, enable recognition by the executing State of decisions taken by the issuing State's authorities. Therefore, this legal instrument envisages further development of the cooperation provided for in the Council of Europe instruments concerning the enforcement of criminal judgments, in particular where EU nationals or other persons legally residing in one Member State have been the subject of a criminal judgment and have been sentenced to a custodial sentence or a measure involving deprivation of liberty in another Member State. Enforcement of the sentence in the executing Member State enhances the possibility of social rehabilitation of the sentenced person, giving him or her the opportunity to maintain family, linguistic, cultural and other links.