



The EU Framework Decisions (and EAW) in Practice in radicalisation/violent extremism

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Gerry McNally
President, CEP



Confederation of European Probation



Is the largest European Network Organization for Probation
Founded in 1981

Mission:

To promote the rehabilitation and social inclusion of offenders through sanctions and measures implemented in the community.

Objectives:

- 1) To **unite probation organisations** all over Europe
- 2) To **professionalize** the sector of probation in Europe
- 3) To **raise the profile** of probation in the global arena of criminal justice systems



CEP Membership - 2017



60 EU Member organizations

34 Countries
38 jurisdictions

9 Universities

16 Individual members

7 Affiliate members

More than
370
Online documents

1700
CEP
Newsletter subscribers



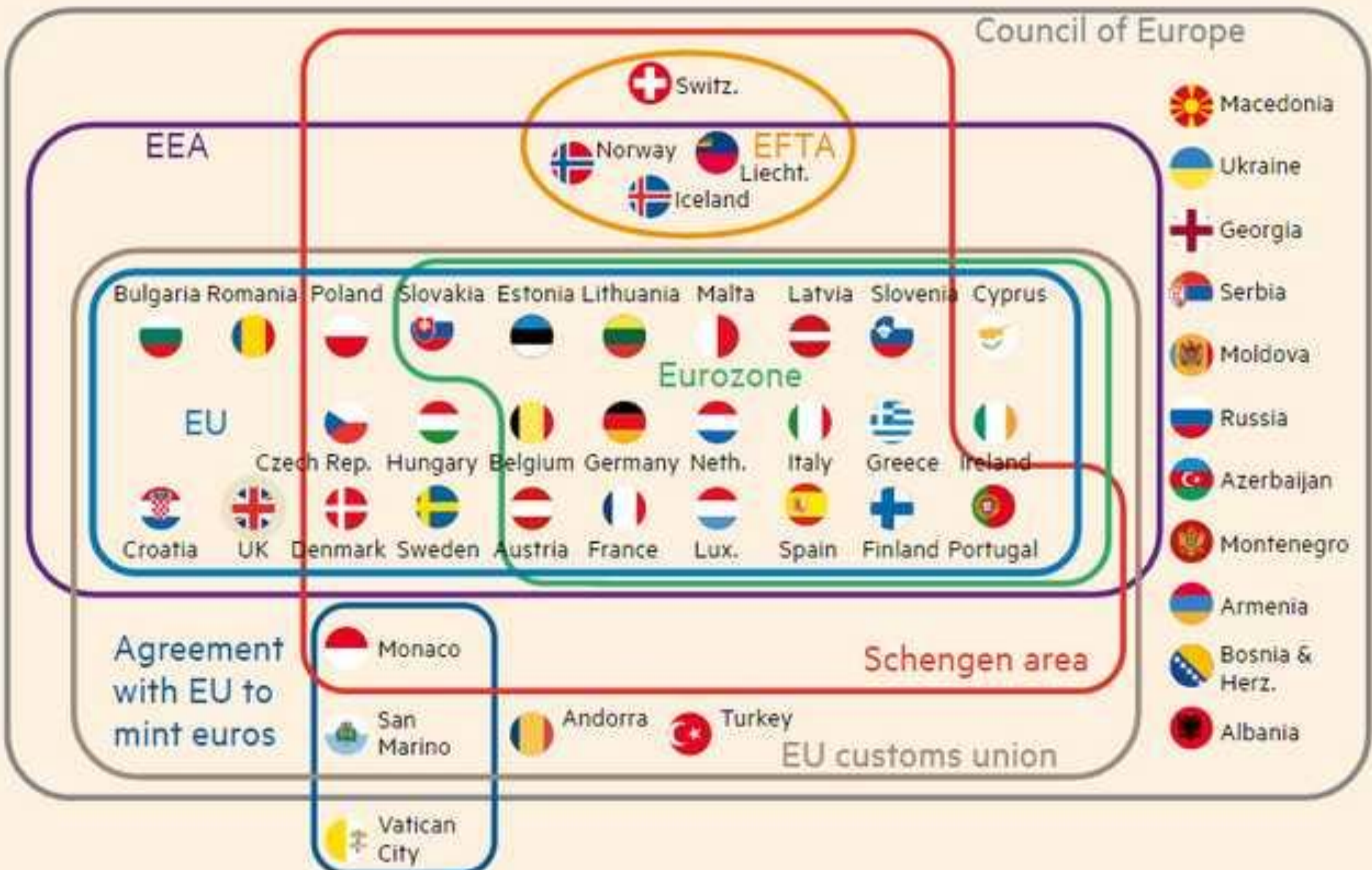
1100
Twitter
followers



1000
LinkedIn
followers



Many Europes (reddit)



FD 909, 947 and 829



- **Council Framework Decision 2008/909/JHA**
 - on the application of the principle of **mutual recognition** to judgments in criminal matters imposing **custodial sentences or measures involving** deprivation of liberty for the purpose of their enforcement in the European Union <https://goo.gl/CFbDyD>
- **Council Framework Decision 2008/947/JHA**
 - on the application of the principle of **mutual recognition** to judgments and probation decisions with a view to the **supervision of probation** measures and alternative sanctions <https://goo.gl/GXZkwi>
- **Council Framework Decision 2009/829/JHA**
 - on the application, between Member States of the European Union, of the principle of **mutual recognition** to decisions on **supervision measures as an alternative to provisional detention** <https://goo.gl/NHWdXT>

<http://eur-lex.europa.eu/homepage.html>



FD 947, 829, 909 Comparative Overview



	FD 947/2008 on alternative to detention and probation decision	FD 829/2009 on alternatives to provisional detention	FD 909/2008 On transferring Custod Sentences
General target group	Offenders that being sentenced with an alternative to detention or probation measure want to go back to their countries (consent)	Suspected offenders that Want to go back to their country under an alternative to provisional detention(consent)	Prisoners in custody in a jurisdiction where they are not a citizen (Consent with limitations and exceptions)
Aim	Enhance social rehabilitation by preserving offender's ties.	Protection of the victim and general public. Enhancing the right to liberty and the presumption of innocence	Mutual recognition to 'deprivation of liberty'-sentences Enhanced cross-border cooperation Facilitate social rehabilitation
Deadline of implementation	6 th December 2011	1 st December 2012	6 th December 2011
Countries that have implemented	(26)AT, BE, CZ, DK, DE, EE, EL, S, FR, HR, IT, CY, LV, LT, LU, HU, MT, NL, PL, PT, RO, SL, SK, FI, SE, BG Ongoing IE Declined UK	(27)AT, BE, CZ, DK, DE, EE, EL, S, FR, HR, IT, CY, LV, LT, LU, HU, MT, NL, PL, PT, RO, SL, SK, FI, SE, UK , BG Ongoing IE	(27)AT, BE, CZ, DK, DE, EL, ES, FR, HR, IT, CY, LV, LU, HU, MT, NL, PL, PT, R SL, SK, FI, SE, UK , IE Ong BG
Documentation	Certificate + sentence (Adaptation – nature and duration)	Certificate + Decision on the supervision measure (Adaptation – nature and duration)	Certificate + sentence (Adaptation – nature and duration)
Grounds of non	Certificate incomplete	Certificate incomplete	

Framework Decision

Updates on Implementation

European Judicial Network <https://www.ejn-crimjust.europa.eu/>

FD 909

- https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat.aspx?CategoryId=37

FD 947

- https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat.aspx?CategoryId=37

FD 829

- https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat.aspx?CategoryId=39



Radicalisation and Framework Decisions

Art. 5(4) of FD 947:

*‘Country B declares that monitoring of supervision measures or alternative sanctions by the competent Country B court can be approved **irrespective** of whether the sentenced person has their domicile or permanent residence in Country B, if **because of specific circumstances ties exist between the sentenced person and Country B of such intensity** that it can be assumed that monitoring in Country B will help facilitate the social rehabilitation and reintegration of the sentenced person.’*



Framework Decisions in Practice



- Early stage of implementation
- Good initial 2016-7 results in FD 947 transfers in some jurisdictions e.g. Netherlands, Latvia
- Most jurisdictions have single figure FD 947 transfers
- FD 829 little used, relatively unknown. An 'Orphan'?
- Differences in Knowledge, Experience and Promotion
- Procedures are sometimes unknown, long and bureaucratic
- Lack of information and trust
- Language, translations and costs issues
- Data protection to be taken into account in transferring data
- Data gathering and evaluation needed



Framework Decisions and Human Rights

5th April 2016 CJEU judgment in *Aranyosi and Căldăraru*

Brought together developments in the Area of Freedom, Security and Justice (AFSJ), more specifically the interplay between the principles of mutual trust and recognition, on the one hand, and the protection of fundamental rights, on the other.

‘the right not to be subjected to inhuman and degrading treatment’

Criminal detention and alternatives: fundamental rights aspects in EU cross-border transfers FRA (2016)

<http://fra.europa.eu/en/publication/2016/criminal-detention-and-alternatives-fundamental-rights-aspects-eu-cross-border>



Case study



Offender: *“Not only that they did not know the procedure they didn’t even treat me seriously”*

Enhancing the implementation of FD 947/829



- Meetings and Expert Meetings since 2008
- Conferences and International Seminars with **EuroPris** and **European Forum for Restorative Justice, Criminal Justice Platform Europe**.
- Planned information resources and practitioner guide
- Developing data gathering mechanisms
- CEP website resources; cep-probation.eu
- Participation in EU projects on FD:
 - ✓ DOMICE
 - ✓ ISTEP (FD 947)
 - ✓ STEPS II (FD 909)
 - ✓ Others
- Europris is providing similar support for FD 909



Some Actions for the future



1. **Information + contact point** → expertise + helpdesk
2. **Make FDs more accessible** → handbook, information, awareness raising
3. **Cooperation** within jurisdictions → one contact point
4. **Training courses** → e-learning, shared events for all professionals involved,
5. **Evaluation of transfers** → data/monitoring system (SPACE I or SPACE II Reports)



Radicalisation Awareness in Practice

- Not all jurisdictions have the same experience or sense of risk
- Assessment and Interventions are still at an early stage of development
- No applications.....yet.
- Differences of Experience and Knowledge
- Local Priorities
- Consent
- Capacity
- Multi-agency co-operation



Radicalisation Awareness Network (RAN)

In [RAN Working Groups](#), frontline practitioners share their extensive knowledge and first-hand experience with one another, and peer review each other's practices.

https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network_en

Prison and Probation Working Group (RAN P&P)

The Working Group focuses on supporting these practitioners, who have a role in preventing radicalisation. The group will exchange ideas, best practices, contacts and insights to formulate recommendations for policy making.



COE PC-CP Handbook: Practical Ways of Addressing Radicalisation and Violent Extremism (2016)

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016806f4fbd

- VE and radicalised offenders have no one single profile, no size fits all
- Identification – motivations, needs, grievances, attitudes, personal history, vulnerability
- Screening, assessment, classification
- Not necessarily a need to invest in new programmes and methods – use resources better
- Staff have a very important role – staffing issues come first, frontline staff
- Multi-agency co-operation and information
- Community engagement



COE Guidelines for prison and probation services regarding radicalisation and violent extremism March 2016

https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016805c1a69

Assessment

Custody as last resort

Admission to prison and allocation

Detection, prevention and dealing with radicalisation and VE in the community and in prison

Security in prisons

Culture and religion

Inter-agency co-operation and information

Disengagement or (De)radicalisation

Post-release work



Capacity building:

- Staff selection and training, empowerment, sufficient staffing
- Creation of networks nationally and internationally
- Research and evaluation
- Communication
- Multi-agency understanding and co-operation
- Media and public opinion
- Cost-effectiveness



CEP actions 2017 - 2018



- ✓ Work with other network organizations including judges, prosecutors, lawyers and other professionals to **develop awareness, e-learning and other programmes**
- ✓ Work with the **European Commission** and others to collect **data** on FD 947/829/909 in practice
- ✓ **Develop a network of experts** with the aim of enabling transfers and discussing FD 947/829 issues in practice
- ✓ Continue organizing **expert meetings** with experts from different jurisdictions
- ✓ **Make updates of the project websites e.g.** probationtransfers.eu
- ✓ **Co-operation and co-ordination** with experts and interests e.g, Europris, EJM, EC, RAN...



Relevant documents

- European Rules on Community Sanction Measures
- Recommendation Rec(2006)2 to member states on the European Prison Rules
- Recommendation CM/Rec(2010)1 on the Council of Europe Probation Rules
- Council of Europe handbook and guidelines on dealing with radicalization
- Rec. R (99) 22 concerning prison overcrowding and prison population inflation
- Reports from the EU Agency for Fundamental Rights (FRA):
 - Criminal detention and alternatives: fundamental rights aspects in EU cross-border transfers
 - Rights of suspected and accused persons across the EU: translation, interpretation and information
- <http://www.probationtransfers.eu/>
- <http://steps2.euopris.org/>
- www.cep-probation.org
- <https://www.ejn-crimjust.europa.eu/>
- Legal and practitioner handbooks (current and in preparation)
- COE SPACE I (custody) & II (non-custody) <http://www.coe.int/en/web/prison/space>





Thank you!
Merci!
Dank!
Gracias!
Благодаря!
Grazie!

www.cep-probation.org

info@cep-probation.org

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