



Council of the
European Union

125052/EU XXVII. GP
Eingelangt am 15/12/22

Brussels, 15 December 2022
(OR. en)

12523/1/22
REV 1

COPEN 318
DROIPEN 120
EVAL 19
JAI 1190
EUROJUST 86
EJN 32
CATS 56

NOTE

From: General Secretariat of the Council

To: Delegations

Subject: **EVALUATION REPORT ON THE NINTH ROUND OF MUTUAL
EVALUATIONS**
**Ninth round of mutual evaluations on mutual recognition legal
instruments in the field of deprivation or restriction of liberty**
REPORT ON LATVIA

**EVALUATION REPORT ON THE
NINTH ROUND OF MUTUAL EVALUATIONS**

**Ninth round of mutual evaluations on mutual recognition legal instruments in
the field of deprivation or restriction of liberty**

REPORT ON LATVIA

Table of Contents

1. EXECUTIVE SUMMARY	8
1.1. Cross-cutting elements	8
1.2. FD 2002/584/JHA	9
1.3. FD 2008/909/JHA	11
1.4. Links between FDs 2002/584/JHA and 2008/909/JHA	14
1.5. FDs 2008/947/JHA and 2009/829/JHA	14
1.6. Training	16
2. INTRODUCTION	18
3. FD 2002/584/JHA ON THE EAW	21
3.1. Competent authorities for the EAW	21
3.1.1. <i>The central and competent authority: the PGO</i>	21
3.1.2. <i>Latvia as issuing Member State</i>	22
3.1.3. <i>Latvia as executing Member State</i>	24
3.2. The principle of proportionality	25
3.2.1. <i>As issuing Member State</i>	25
3.2.2. <i>As executing Member State</i>	27
3.3. Exchange of information	27
3.3.1. <i>As issuing Member State</i>	27
3.3.2. <i>As executing Member State</i>	28
3.3.3. <i>Channel used to exchange information</i>	28
3.4. Grounds for refusal	28
3.4.1. <i>Refusal in the event of a potential risk of violation of fundamental rights in relation to detention</i>	28
3.4.2. <i>Refusal in the event of judgment in absentia</i>	30
3.4.3. <i>Other grounds for refusal</i>	31

3.5. Further challenges	32
3.5.1. <i>Practical difficulties in the surrender of the sought person.....</i>	<i>32</i>
3.5.2. <i>CJEU case-law</i>	<i>33</i>
3.5.3. <i>Competing EAWs</i>	<i>33</i>
3.6. Statistics.....	34
3.7. Conclusions	35
3.7.1. <i>General considerations</i>	<i>35</i>
3.7.2. <i>Latvia as issuing State.....</i>	<i>37</i>
3.7.3. <i>Latvia as executing State.....</i>	<i>39</i>
4. FD 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	40
4.1. Competent authorities for the recognition of the judgment and execution of the sentence	40
4.1.1. <i>Competence of the central authority</i>	<i>40</i>
4.1.2. <i>As executing State</i>	<i>41</i>
4.1.3. <i>As issuing Member State</i>	<i>43</i>
4.2. Documents required for recognition of the judgment and executing the sentence	44
4.2.1. <i>As executing Member State</i>	<i>44</i>
4.2.2. <i>As issuing Member State</i>	<i>45</i>
4.3. Criteria to assess the facilitation of social rehabilitation	45
4.3.1. <i>Criteria defined and exchange of information between the issuing Member State and executing Member State</i>	<i>45</i>
4.3.2. <i>Respect of Article 21 of FD 2008/909/JHA</i>	<i>46</i>
4.3.3. <i>Practical arrangements on a bilateral basis.....</i>	<i>47</i>
4.3.4. <i>Opinion and notification of the sentenced person</i>	<i>47</i>
4.3.5. <i>A limited legal remedy and rights for an effective defence</i>	<i>49</i>

4.4.	Adaptation of the sentence	50
4.5.	Grounds for non-recognition or non-enforcement	51
4.5.1.	<i>Main grounds for non-recognition or non-enforcement</i>	51
4.5.2.	<i>Judgment in absentia</i>	52
4.5.3.	<i>Decisions of criminal irresponsibility and imposition of psychiatric care</i>	52
4.6.	Partial recognition	52
4.7.	Challenges relating to compliance with the deadline for recognition and enforcement	53
4.8.	Law governing the enforcement of the sentence	53
4.9.	Practical and legal problems related to transit	53
4.10.	Statistics	54
4.11.	Conclusions	56
4.11.1.	<i>General considerations</i>	56
4.11.2.	<i>Latvia as issuing Member State</i>	58
4.11.3.	<i>Latvia as executing State</i>	60
5.	LINK BETWEEN FD 2002/584/JHA ON THE EAW AND FD 2008/909/JHA ON CUSTODIAL SENTENCES	61
5.1.	Problems related to the link between FD 2002/584/JHA on the EAW and FD 2008/909/JHA on custodial sentences	61
5.1.1.	<i>Criteria used to decide on the use of an EAW or a certificate:</i>	61
5.1.2.	<i>As executing Member State, the need for a certificate after rejecting an EAW (Article 4(6) of FD 2002/584/JHA) or after a surrender granted under Article 5(3) of FD 2002/584/JHA:</i>	61
5.1.3.	<i>The possibility for Latvia, as issuing Member State, and after rejecting an EAW, to ask for a certificate from the executing Member State</i>	62
5.1.4.	<i>Certificate related to the Popławski case:</i>	62
5.2.	Conclusions	62
6.	FD 2008/947/JHA ON PROBATION AND ALTERNATIVE SANCTIONS	64
6.1.	Competent authorities for FD 2008/947/JHA	64

6.1.1.	<i>Latvia as executing Member State</i>	64
6.1.2.	<i>Latvia as issuing Member State</i>	65
6.1.3.	<i>The central authority has the main role in communication</i>	65
6.1.4.	<i>State Probation Service</i>	66
6.2.	Problems related to a lack of application of FD 2008/947/JHA	66
6.2.1.	<i>No problem regarding the law or the institutional organisation.....</i>	66
6.2.2.	<i>Practical difficulties identified.....</i>	67
6.2.3.	<i>Statistics</i>	68
6.3.	Conclusions	70
7.	FD 2009/829/JHA ON THE EUROPEAN SUPERVISION ORDER (ESO).....	72
7.1.	Competent authorities for FD 2009/829/JHA	72
7.2.	Problems related to a lack of application of FD 2009/829/JHA	72
7.2.1.	<i>No problem regarding the law or the institutional organisation.....</i>	72
7.2.2.	<i>Practical problems</i>	73
7.2.3.	<i>Statistics</i>	73
7.3.	Conclusions	74
8.	TRAINING	75
8.1.	Training related to FDs 2002/584/JHA, 2008/909/JHA, 2008/947/JHA and 2009/829/JHA	75
8.1.1.	<i>General description of the training of the Latvian judicial authorities</i>	75
8.1.2.	<i>Training related to FD 2002/584/JHA.....</i>	78
8.1.3.	<i>Training related to FD 2008/909/JHA.....</i>	79
8.1.4.	<i>Training related to FD 2008/947/JHA.....</i>	81
8.1.5.	<i>Training related to FD 2009/829/JHA.....</i>	82
8.2.	Conclusions	83
9.	FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES	84
9.1.	Suggestions from Latvia	84

9.1.1.	<i>FD 2002/584/JHA</i>	84
9.1.2.	<i>FD 2008/947/JHA</i>	84
9.1.3.	<i>Training</i>	85
9.2.	Recommendations	85
9.2.1.	<i>Recommendations to Latvia</i>	85
9.2.2.	<i>Recommendations for the other Member States</i>	88
9.2.3.	<i>Recommendations for the European Union and its institutions</i>	88
9.3.	Best practices	89

1. EXECUTIVE SUMMARY

The preparatory work and the evaluation visit to Latvia took place in a very positive and professional atmosphere thanks to excellent preparation by the Latvian authorities and the proactive support provided by the Ministry of Justice (MoJ), which coordinated the exercise.

During the visit the Latvian authorities and representatives did their utmost, in a frank and open manner, to provide the evaluation team with information and clarifications on legal and operational aspects of the European arrest warrant (EAW), the transfer of prisoners, the European Supervision Order (ESO) and alternative sanctions. The evaluation team met the relevant bodies with responsibilities in the field of the four Framework Decisions which are the subject of the ninth round of mutual evaluations: the MoJ, the Prison Administration, the State Probation Service, the judiciary (prosecutors and judges), lawyers and the State Police.

1.1. Cross-cutting elements

Following the notifications made to the General Secretariat of the Council (GSC), Latvia designated as central authorities the Prosecutor General's Office (PGO) in the field of Framework Decision (FD) 2002/584/JHA and the MoJ in the field of FDs 2008/909/JHA and 2008/947/JHA. No central authority was appointed with regard to FD 2009/829/JHA.

The Latvian law implementing the four FDs that are the subject of the ninth round of mutual evaluations is to be found in Section C of the Criminal Procedure Law. Centralising all the FDs in one single law facilitates practitioners' work.

Latvian law provides for direct contact between competent authorities. Nevertheless, in practice, especially regarding FDs 2008/909/JHA and 2008/947/JHA, it is the MoJ as the central authority that communicates with the authorities of other Member States. The competent authorities, i.e. the district courts, rarely do this. Latvian competent authorities do not usually have difficulty in communicating with their European counterparts. If necessary, the Latvian competent authorities are well aware of the EJN and its Atlas, where the competent authorities of the other Member States can be found. The EJN is seen as the primary network to facilitate communication with other Member States but Eurojust is also known and often used.

In terms of statistics, the Latvian authorities underlined their difficulties in gathering relevant data. There is no specific electronic and automated tool to help them in this task. Thus the collection of data is often carried out manually. This applies to all four FDs that are the subject of the ninth round of mutual evaluations. Moreover, the experts noted that there are discrepancies in the statistics provided by different bodies on the same topic. This suggests that there are some difficulties in communicating or exchanging data between the relevant authorities. Therefore the experts recommend that Latvia improve its method of collecting statistical data in the field of the four FDs that are the subject of the ninth round of mutual evaluations. They consider that an electronic tool would save time for all the competent authorities and help get a better picture of the use of the four FDs.

1.2. FD 2002/584/JHA

Generally speaking, the EAW procedures function well in practice and this mutual recognition instrument is highly appreciated by Latvian practitioners.

When reading the English translation of the law implementing FD 2002/584/JHA, the experts realised that only the word ‘extradition’ is used. The experts consider that using ‘extradition’ when referring to the EAW could create confusion with the extradition regime. They recommend that translators use the word ‘surrender’ to clearly distinguish between the EAW and extradition.

The competent authority for issuing and executing an EAW is the PGO, or rather the International Cooperation Division within the Department of Analysis and Management, which comprises nine prosecutors. As a centralised body, the PGO is highly specialised and is made up of experienced prosecutors who are able to speak various languages and provide colleagues with advice and training. The experts also praised the fact that the PGO has a German interpreter working directly within the Office. They consider such specialisation and language skills to be a best practice that could inspire other Member States.

The tasks assigned to the PGO are numerous and diverse. Two prosecutors are responsible for issuing EAWs and two others for executing EAWs. Given the number of EAWs issued and executed in Latvia, the experts consider it necessary to increase the number of prosecutors in this division. This will avoid the bottleneck effect of a central authority in the event of insufficient human resources, while maintaining the high level of expertise of the PGO's prosecutors.

The same applies to the Supreme Court. Indeed, when executing an EAW, if the sought person appeals the PGO's decision, the Supreme Court is competent. At the Supreme Court there is only one judge in charge of appeals against the execution of EAWs. Any unexpected problems occurring with the judge responsible, could negatively effect the speed of the EAW procedures, in the opinion of the experts. Moreover, the judge has no possibility to exchange views or consult on any issues that might arise. In addition, all the Latvian practitioners interviewed stressed the difficulty of finding time slots for hearings and time limits are usually exceeded in the event of an appeal. Therefore, experts recommend that Latvia increase the number of judges at the Supreme Court that are specialised in FD 2002/584/JHA.

The experts consider that Latvia has taken the necessary measures since the fourth round of mutual evaluations to improve its application of the principle of proportionality. Criteria referred to by the judiciary follow the right path. The PGO has published guidelines for local prosecutors, and the Commission's handbook on how to use the EAW is well known. The PGO's representatives mentioned that they now refuse fewer proposals from local prosecutors to issue EAWs due to a lack of proportionality. Furthermore, lawyers did not complain about difficulties linked to proportionality. As executing Member State, the Latvian authorities clearly stated that they do not assess the proportionality of an EAW. The experts consider that this approach follows the principle of mutual trust.

The representative of the SIRENE Bureau informed the experts that all incoming alerts in the SIS are checked by police officers without electronic support. This task is time consuming and experience in the other Member States shows that it is possible to create software to help police officers. In addition, not all police officers are able to check SIS alerts on their mobile device. This function is gradually being rolled out within the police force. Therefore, the experts consider that there is room for improvement here. They recommend that Latvia develop an electronic tool to simplify the SIRENE Bureau's work and increase the availability of mobile devices on which police officers can check SIS alerts.

1.3. FD 2008/909/JHA

Following Latvia's notification to the GSC regarding FD 2008/909/JHA, the competent authorities are the district courts, and the central authority is the MoJ. However, in practice the district courts may initiate the procedure but the MoJ is the competent authority to issue the certificate. The proceedings are not exclusively judicial, since the district courts' competences are intertwined with those of the MoJ.

Significant responsibilities are devolved to the MoJ. The MoJ is responsible for checking whether all the necessary documentation is complete, assessing the possibility of initiating a transfer, initiating a transfer without a district court proposal in some cases, asking for additional information, ordering a provisional arrest, withdrawing the certificate or contacting the Member State authorities (although the courts can also contact them directly). The MoJ can also refuse to issue the certificate and the district court cannot override the decision of the MoJ. Therefore, the experts consider that the powers devolved to the MoJ make it a competent authority. Under Latvian law, the MoJ has even more power than the district courts. The experts believe that Latvia should clearly define the competent authority for issuing and executing a transfer of a prisoner and should subsequently confer all necessary powers on this authority.

The MoJ, as central authority, is highly specialised. The three lawyers within the Department of International Judicial Cooperation regularly help the Latvian judiciary by providing them with advice by phone or email. They are also able to communicate in foreign languages. However, as in the PGO, organising the various tasks of the Department of International Judicial Cooperation and the transfer of sentences (custodial sentences and alternative sanctions) would require additional human resources. Therefore, the experts encourage Latvia to increase its staff within the international unit of the MoJ.

As a decentralised body, judges do not appear to be specialised. In practice, judges mostly rely on the MoJ to perform their tasks in the field of FD 2008/909/JHA. If the district courts are to be considered as competent authorities, there is undeniably a need to specialise judges and provide specialized language training. An e-learning course is available for FD 2008/909/JHA, however, this does not seem to ensure specialization in itself.

The Prison Administration explained to the experts that prisoners should be informed about the possibility to ask for a transfer within 21 days of their arrival in prison. The experts believe that a faster way to inform prisoners may exist. One idea could be to deliver this information to the sentenced person during the trial. Indeed there is usually an interpreter and a lawyer at the trial who could easily explain and stress the importance of the information provided by the judicial authorities. Moreover, the experts are convinced that this kind of information would be relevant not only to FD 2008/909/JHA but also to FDs 2008/947/JHA and 2009/829/JHA.

The Prison Administration can carry out specific searches in its software to find foreign prisoners, but there is no dedicated electronic tool to do it automatically. Latvia is encouraged to create such a tool to simplify the staff's work and help to initiate a transfer earlier. Moreover, this electronic tool could also calculate the remaining days to be served. Regarding the latter, Latvian authorities face the same difficulties as other Member States. Indeed, there is no guidance on how to calculate the remaining days to be served. The experts consider that a solution to this issue should be found at EU level.

The Prison Administration provides prisoners with a leaflet on the relevant sections of the Criminal Procedure Law on how to apply for a transfer. Currently this leaflet is available in three languages: Latvian, Russian and English. The Prison Administration has started working on the simplification of this leaflet. The experts welcome this initiative. Indeed, prisoners are usually not familiar with procedural law and sharing information in a more accessible way would enhance the prisoner's understanding of FD 2008/909/JHA. The experts also consider that a translation of this leaflet into all EU languages would be useful.

The Latvian procedure to recognise a custodial sentence (FD 2008/909/JHA) or an alternative sanction/probation (FD 2008/947/JHA) sent by the issuing Member State is a two-step procedure. In the first step, the district court decides on the recognition. If the district court accepts the transfer then the surrender of the sentenced person is carried out under FD 2008/909/JHA. The second step concerns the adaptation of the sentence. Only this second decision is appealable. The experts question this two-step procedure. They can understand the historical reason behind it but feel that the district court should render one single decision. It would make the procedure faster and consequently, it would also enable the person concerned to appeal the decision on the principle of the transfer in Latvia, not only on the adaptation of the sentence.

1.4. Links between FDs 2002/584/JHA and 2008/909/JHA

The criteria to assess whether an EAW or a certificate should be issued are well identified and come from practice. They are not expressly mentioned in the guidelines. In such a situation two entities are competent: the PGO and the district court. Following the discussions with Latvian judiciary, it seems that the PGO takes the lead in deciding which mutual recognition instrument would be of better use. Relations between these two competent authorities do not present difficulties. No memorandum of understanding or other legal documentation is in force to describe the process to be followed by the PGO and the district court when there is a need to choose between an EAW and a certificate.

If an EAW issued to enforce a sentence is denied, and the sentence could be enforced in the executing Member State, Latvian authorities explained that they would not necessarily contact the issuing authorities in order for them to issue a certificate if Latvia was the executing Member State, or contact the district court in order for them to issue a certificate if Latvia was the issuing Member State.

The reason given by the PGO's representatives is that they would not want to instruct the issuing authorities or the district court. The experts consider that, without instructing any authority, discussions could be held with the aim of avoiding the impunity of the sought person. Various options exist, such as the provisional arrest provided for by FD 2008/909/JHA or postponing the final decision on the surrender while waiting for the certificate. Therefore, the experts encourage Latvian authorities to find a more proactive way to avoid impunity.

1.5. FDs 2008/947/JHA and 2009/829/JHA

Latvia has made good progress since questions were asked about why FD 2008/947/JHA was not widely used. Discussions with Latvian practitioners clearly showed that they have developed good experience in this field since 2012. Figures presented to the experts confirmed this impression. Only lawyers' representatives stated that probation staff are not sufficiently aware of FD 2008/947/JHA.

Therefore, rather than listing ways to increase the use of FD 2008/947/JHA, the experts were able to gain insight into Latvian practice and thus identify areas for improvement.

The discussions with Latvian practitioners highlighted a lack of communication between the district courts and the State Probation Service. Indeed, in several cases, probation staff was not informed by the district court that a transfer of a probation measure had been initiated. Thus the probation staff continued to execute the measure, although the sentenced person, who believed that the measure had been successfully recognised in the executing Member State, did not respond. Consequently, in such cases the State Probation Service may decide to end the probation measure and enforce the prison sentence. There is therefore a risk that the convicted person may face imprisonment while a transfer of their sentence is ongoing or has been granted. To avoid this situation, the experts recommend that Latvia takes the necessary action to effectively inform all the competent authorities, especially the Probation Service, when a probation sentence is transferred.

The State Probation Service also explained that it would welcome more visibility at EU level on the state of play of FD 2008/947/JHA and an active exchange of information between the competent authorities in the Member States. Indeed, the EJA Atlas does not include information on probation authorities. Such meetings or working groups, like the one created by the Confederation of European Probation, could also lead to sharing experience and finding common solutions when using FD 2008/947/JHA. The experts consider this suggestion relevant and recommend that EU institutions follow it up.

Regarding the use of FD 2009/829/JHA, the situation is not comparable to that of FD 2008/947/JHA. Indeed, the ESO has not been used when Latvia is the issuing Member State and rarely used when Latvia is the executing Member State. The reason for the rare use of this mutual recognition instrument cannot be found in the way FD 2009/829/JHA has been implemented. Practitioners find the Latvian law understandable. Moreover, the competent authority is the PGO. This highly specialised body in EU legislation is aware of this mutual recognition instrument.

The explanation for the scarce application of FD 2009/829/JHA is primarily that it does not suit the needs of criminal proceedings. Indeed, the decision to put a person under provisional detention must be taken within a few hours and it is not possible in this timeframe to issue an ESO and receive a reply from the executing Member State. Moreover, Latvian practitioners mentioned that a criminal case is solved faster if the foreign person is briefly under provisional detention than if they are released and have to come back for further investigation or the trial.

In addition, lawyers who should be key players in this field are not aware of FD 2009/829/JHA and it is complicated for them to receive timely documentation from the executing Member State to support a request for an ESO. Therefore, the experts recommend that Latvian Council of Sworn Advocates should raise awareness of FD 2009/829/JHA.

1.6. Training

Except sworn advocates, all the competent authorities involved in the four FDs that are the subject of the ninth round of mutual evaluation could benefit from training on mutual recognition instruments. The experts recommend that Latvian Council of Sworn Advocates create training courses on these mutual recognition instruments.

However, the diversity of training offered depends on the FD. Training on FDs 2002/584/JHA and 2008/909/JHA appears to be sufficient and well implemented. The experts praised the fact that the Latvian Judicial Training Centre with cooperation of MoJ has created e-training for judges. This is a good way to swiftly spread knowledge to a large number of judges and it gives latitude to these practitioners to follow these courses whenever they want, or can.

Training on FD 2008/947/JHA appears to be less frequent but focuses on the right authorities: judges and probation staff. Currently these two authorities do not share common training. Given their difficulties in exchanging information, the experts recommend that Latvia create joint training for probation staff and judges on FD 2008/947/JHA. This would help them to share experience and solve practical issues.

Taking all factors into account, the evaluation team appreciates Latvia's practice in the use of mutual recognition instruments. From a general perspective, the Latvian system works well. The law implementing the four FDs is clear and easily accessible. Moreover, Latvia has taken the necessary measures to enhance proportionality when issuing an EAW. Nevertheless, the evaluation team believes that some aspects could be improved, such as training for lawyers in the field of mutual recognition instruments or combined training involving judges and probation staff. The two-step process to recognise custodial sentences or alternative sanctions/probation could be amended. The competent authority for FD 2008/909/JHA should be clearly defined. Also, the number of practitioners in the competent and central authorities, so the MoJ, the PGO and in the Supreme Court working on the mutual recognition instruments could be increased. However, the main feeling is that Latvia is willing to ensure mutual trust with the other MS. The PGO, as a central and competent authority, but also the MoJ, as a central authority, are highly specialised. They respond quickly to their European counterparts using foreign languages to communicate. They demonstrate that Latvia is committed to making the best use of the mutual recognition instruments and to fostering the principle of mutual trust. The general opinion of the evaluators is therefore positive.

2. INTRODUCTION

Following the adoption of Joint Action 97/827/JHA of 5 December 1997, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime was established.

In line with Article 2 of Joint Action 97/827/JHA of 5 December 1997, at its meeting on 21 November 2018, CATS decided that the ninth round of mutual evaluations would be devoted to the mutual recognition principle.

Due to the wide range of legal instruments on mutual recognition and their broad scope, at the CATS meeting on 12 February 2019 it was agreed that the evaluation would focus on the following mutual recognition instruments:

- FD 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States (EAW);
- FD 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 (custodial sentences);
- FD 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 (probation and alternative measures);
- FD 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 (ESO).

At the above CATS meeting it was also agreed that the evaluation would focus only on those specific aspects of such instruments which Member States felt warranted particular attention, as set out in detail in 6333/19, and on the legal and operational links between FD 2002/584/JHA on EAW and FD 2008/909/JHA on custodial sentences.

Referring to FD 2008/947 on probation and alternative measures and FD 2009/829 on the ESO, it was decided that the evaluation would be of a rather general nature and would attempt to establish the reasons that have led to a scarce application of these two FDs.

The aim of the ninth mutual evaluation round is to provide real added value by offering the opportunity, with the on-the-spot visits, to consider not only the legal issues but especially the relevant practical and operational aspects linked to the implementation of these instruments by practitioners in the context of criminal proceedings. This would enable shortcomings and areas for improvement to be identified and best practices to be shared among the Member States, thus contributing to a more efficient and coherent application of the principle of mutual recognition at all stages of criminal proceedings across the Union.

More generally, promoting the coherent and effective implementation of this package of legal instruments to its full potential could significantly contribute to enhancing mutual trust among the judicial authorities of the Member States and to a better functioning of cross-border judicial cooperation in criminal matters within the area of freedom, security and justice.

Furthermore, the current process of evaluation could provide useful input for Member States that may not have implemented all aspects of the various instruments.

Latvia was the 27th Member State to be evaluated during this round of evaluations. Due to the sanitary crisis, the order of visits to the Member States adopted by CATS on 13 May 2019 and then amended upon the proposal of some Member States and in the absence of any objection¹ could not be maintained. Therefore, the on-site evaluation primarily scheduled to take place in June 2020 was performed in April 2022.

¹ ST09278-re02.en19.

In accordance with Article 3 of the Joint Action, a list of experts for the evaluations to be carried out was drawn up by the Presidency. Member States nominated experts with substantial practical knowledge in the field pursuant to a written request sent by the Secretariat of the Council of European Union to delegations on Friday 17 May 2019.

Evaluation teams consist of three national experts, supported by one or more staff from the General Secretariat of the Council and observers. For the ninth round of mutual evaluations, it was agreed that the European Commission, Eurojust and the EJP should be invited as observers.

The experts tasked with evaluating Latvia were Ms Sofia Rocha (Portugal), Ms Krasimira Medarova (Bulgaria), and Ms Anu Juho (Finland). The following observers were also present: Ms Anna Ritcherova (Eurojust) together with Mr Mathieu Bertola from the General Secretariat of the Council.

This report was prepared by the team of experts with the assistance of the General Secretariat of the Council, based on findings arising from:

- the preparatory work carried out via videoconference on 8 May 2021;
- the evaluation visit that took place in Latvia from 25 to 29 April 2022;
- and from Latvia's detailed replies to the evaluation questionnaire, together with its detailed answers to the ensuing follow-up questions.

3. FD 2002/584/JHA ON THE EAW

3.1. Competent authorities for the EAW

3.1.1. The central and competent authority: the PGO

In Latvia, following the notification made to the General Secretariat of the Council², the PGO was appointed as the central authority. The role of the PGO as central authority has not changed since the fourth round of mutual evaluations.

The MoJ is not involved in FD 2002/584/JHA and the independence of prosecutors is enshrined in law.

The International Cooperation Division within the Department of Analysis and Management of the PGO is the division of the PGO responsible for judicial cooperation. Nine prosecutors work in this division: the head of unit, two prosecutors who issue EAWs, two prosecutors who execute EAWs (and extraditions), one in charge of transfers and three other prosecutors dealing with mutual legal assistance. Of these practitioners, some work abroad in other institutions such as the EJN.

The law defined the PGO as the competent judicial authority for issuing³ and executing⁴ an EAW. The Latvian authorities consider that this centralisation ensures uniform legal practice in Latvia and the collection of comprehensive statistical data.

The PGO has direct contact with the other competent judicial authorities. Whenever there is a need to identify a Member State authority and its contact details, the PGO uses the European Judicial Atlas available on the EJN website.

² ST 10784/04.

³ Section 692(1) of the Criminal Procedure Law provides that an EAW is issued at the initiative of the person directing the proceedings.

⁴ Section 691(1) of the Criminal Procedure Law provides that the extradition of a person to Latvia from an EU Member State takes place on the basis of a decision taken by the Prosecutor General's Office on the issuance of a European arrest warrant.

3.1.2. *Latvia as issuing Member State*

3.1.2.1. EAW issued for prosecution

The procedure for issuing an EAW first requires a national arrest warrant issued by the investigating judge. The next steps can then be initiated at the request of an investigator if the prosecutor agrees, or by the prosecutor themselves or a judge⁵ when it is deemed necessary that the person should appear at the trial. The International Cooperation Division can also act as an advisor and allows the local prosecutor to consider the necessity to issue an EAW prior to the issuance of the proposal.

Usually, the prosecutor sends a proposal for an EAW to the International Cooperation Division which assesses whether this mutual recognition instrument should be issued or not. This written request does not contain a draft of the EAW form. According to the PGO's representatives, they would not save time by receiving such a draft. Indeed, prosecutors and judges are not particularly specialised and reviewing this draft would be cumbersome.

The PGO assesses the proposal within 10 days and sends its decision to the submitter. If the person sought has been detained in another Member State, the proposal is reviewed within 24 hours.

If the PGO refuses to issue the EAW, it sends the submitter a formal letter explaining its reasons. This decision is final and a judge cannot override this decision. Theoretically, the judge may address the matter to the Prosecutor General. However, in practice there have been no reports of any objections from the judiciary after a refusal by the PGO to issue an EAW. Indeed, the judicial authorities want to end their cases and the formal letter explains why an international search cannot be carried out.

Refusals to issue EAWs by the International Cooperation Division are decreasing every year.

⁵ Section 692(1) of the Criminal Procedure Law.

If the location of a requested person is known, the PGO sends an EAW to the relevant competent authority in the executing Member State, attaching the translation of the EAW. If the location of the person sought is unknown, the PGO sends a copy of the EAW to the State Police to initiate an international search.

The **SIRENE** Bureau receives the EAW and creates the alert in the SIS, usually within half a day and within three days at most. The **SIRENE** Bureau works 24/7 and consists of police officers who are able to directly fill out the A form in English from the Latvian EAW. If the translation is too difficult, there are translators available.

The area of the alert in the SIS and the choice of whether or not to use the INTERPOL channel is made by the police officer in the **SIRENE** Bureau. There is no discussion on this point between the **SIRENE** Bureau and the PGO.

Whenever possible, the Latvian authorities add the following information to the A form: photographs, facial images, copies of identification documents, fingerprint data and the national identification number of the sought person.

3.1.2.2. EAW issued to enforce a sentence

After a person is sentenced to imprisonment, the judge sends a written request to the PGO in order to issue an EAW. These two authorities then discuss which mutual recognition instrument could be better used: FD 2002/584/JHA or FD 2008/909/JHA. If the location of the sought person are unknown, an EAW is issued.

According to the PGO's representatives, 50 % of EAWs issued to enforce a sentence stem from *in absentia* judgments.

The other steps are as described above (see 3.1.2.1).

3.1.3. *Latvia as executing Member State*

According to the **SIRENE** Bureau, Latvia receives around 30 alerts a day in SIS, which are checked by police officers. They have software available to help them but these electronic tools do not function properly.

When arresting a person, not all police officers are able to check the SIS on their mobile device. This function is gradually being rolled out within the police force.

If a police officer arrests a person sought, they inform the **SIRENE** Bureau. This Bureau gives relevant information by phone and email on how to proceed. Information is also available on the police website. If the address of the sought person is already known, the police informs the PGO and the prosecutor decides on the modalities of the arrest.

The person is arrested for 72 hours. It can sometimes prove challenging to receive a translation of the EAW within this period. Nevertheless, in its notification to the GSC⁶, Latvia stated that it could accept EAWs in Latvian and in English. Moreover, the PGO employs a very efficient German speaker who can swiftly and unofficially translate German EAWs.

After the arrest, the person is presented to the prosecutor. A lawyer is present and the prosecutor explains the surrender procedure and the rule of speciality. If the sought person is arrested in a location situated more than 100 km from Riga, the local prosecutor is in charge of executing the EAW, under the supervision of the PGO, who prepares the work for the local prosecutor. As this does not happen very often, the PGO representatives do not consider it useful to create guidelines to be used by local prosecutors, since the PGO assumes that prosecutors are unlikely to memorise them and would therefore always contact the PGO anyway.

⁶ ST 10784/04.

If the prosecutor considers that the sought person should be under provisional arrest, a request is made to the investigative judge. An extradition arrest can be applied for 80 days from the day of the detention of a person. In exceptional cases, a court may extend such term one more time by 30 days.⁷

If the person sought consents to the surrender, the decision cannot be appealed, and the prisoner is handed over within ten days. With neighbouring countries (Lithuania or Estonia) this process is very fast and can be completed within 72 hours.

If the person sought does not agree to the surrender, the PGO's decision may be appealed to the Supreme Court within 10 days from its notification⁸. The Supreme Court sends its decision to the PGO within 20 days.

Within the Supreme Court, only one judge is in charge of EAW. According to this judge, it would be useful to have at least one other colleague involved in EAW cases. It would be helpful to be able to exchange views on legal issues and it would make the process faster. Indeed, time limits cannot always be met by the Supreme Court. Reasons given are notably the difficulty of finding a time slot, security, or requests from lawyers.

Guarantees are also given by the PGO. Thus the PGO is competent to guarantee that the person sought will be surrendered after their conviction in order to serve their sentence in the issuing Member State.

3.2. The principle of proportionality

3.2.1. As issuing Member State

The principle of proportionality when issuing an EAW is provided for by Section 682(3) of the Criminal Procedure Law. An extradition request may not be submitted if the seriousness or nature of a criminal offence is disproportionate in comparison with the cost of the extradition.

⁷ Section 717 (3) of the Criminal Procedural Law

⁸ Section 720 of the Criminal Procedure Law.

Compliance with the principle of proportionality is referred to on the website of the Prosecution Office⁹. The Latvian authorities took note of the recommendations on proportionality that were made after the fourth round of mutual evaluations¹⁰ and defined several criteria for assessing proportionality:

- the seriousness and nature of the criminal offence, and the method and motive of its perpetration;
- indications of the use of violence;
- injury caused to third parties;
- the scale of the damage caused and indemnification of the damage;
- analysis of the administrative costs related to extradition (including the provision of a translation and escorting of the person);
- possible penalty to be imposed;
- non-existence of double criminality in the executing Member State.

According to the information on the website of the Prosecution Office, refusals to issue an EAW because of non-compliance with the principle of proportionality occurs in approximately 10 % of cases.

The PGO takes into account the guidelines provided in the Commission's handbook on how to issue and execute an EWA. As already stated, on the website of the Prosecution Office, special attention is paid to the fact that before an EAW is issued, the seriousness of the offence, the degree of probability of a conviction involving the imposition of a custodial sentence, and the effective securing of the protection of the public interest must be assessed. The Latvian authorities consider that an EAW should not be issued in cases where the sought person could be released by the executing authorities after their surrender, because the EAW system was set up with the specific purpose of combating serious criminal offences and organised crime.

⁹ <http://www.prokuratūra.gov.lv/en/kontakti/generalprokuratūra/darbības-kontroles-un-starptautiskas-sadarbības-departaments/starptautiska-sadarbība/proporcionalitātes-principā-ieverosana-pienemot-eiropas-apcietinājuma-lemumu>

¹⁰ ST 17220/08.

Therefore, in such cases, another instrument (e.g. a European Investigation Order (EIO)) will be used. The PGO also mentioned the possibility of using the transfer of proceedings but underlined that such a solution is not always possible. Indeed, a link between the proceedings and the other Member State is needed.

The Supreme Court judge and the lawyers' representatives deem the PGO's decisions well-reasoned, therefore, it appears that in practice there is no problem with proportionality when Latvian authorities issue an EAW.

3.2.2. As executing Member State

The Latvian authorities mentioned that they do not assess proportionality when executing an EAW. They explained that this assessment falls under the competence of the issuing authority and to question it would go against the principal of mutual trust.

The PGO added that it has not had any problems with the surrender instrument being used as a substitute for a mutual legal assistance request.

3.3. Exchange of information

3.3.1. As issuing Member State

Latvian authorities have not experienced a situation whereby the executing authorities encountered information deficits.

Nevertheless, the PGO mentioned cases where the Italian competent authorities made requests considered to be 'unnecessary'. The Italian authorities asked for the judgment (and its translation) sentencing the person sought. The reason given was that it was required by Italian national law. The Latvian authorities expressed their willingness to find a solution and provided the requested information.

Usually the executing Member State informs the Latvian authorities about the decision on surrender. Nevertheless, in some cases (e.g. the United Kingdom before Brexit) a follow-up is needed.

3.3.2. *As executing Member State*

According to the Prosecutor General's Office, whenever additional information has been requested, the time limits provided for by Article 17 of FD 2002/584 have always been met.

The PGO considers that necessary follow-up information after a decision on the EAW cannot be inferred from the judicial decision, so the information is transmitted separately *ex officio*.

3.3.3. *Channel used to exchange information*

Usually the PGO has direct contact with the competent authorities of other Member States via phone, fax or email. When there is no response from those authorities the police channel (SIRENE) is used.

The PGO's representatives explained that they do not have any problem in accepting EAWs signed electronically.

3.4. Grounds for refusal

3.4.1. *Refusal in the event of a potential risk of violation of fundamental rights in relation to detention*

3.4.1.1. As issuing Member State

As issuing Member State, Latvia has been involved in EAW proceedings in which arguments were raised that were related to detention conditions. When additional information on detention conditions is requested, replies will be given by the Prison Administration.

Germany and, in previous years, the United Kingdom, have raised this issue. As a result, the execution of the affected EAWs was delayed, but not considerably.

In one case, Italy refused to surrender a person sentenced by a Latvian court to Latvia due to detention conditions. In this case, the Italian authorities finally decided to enforce the sentence in Italy. In other cases, the persons were surrendered after additional information had been sent to the executing authority.

The Latvian authorities explained that the questions raised in this area differ from one Member State to another. Usually questions concern the space available per person, the availability of daylight for prisoners and the Prison Administration's rules for exercise in prison. The PGO added that they had no experience with diplomatic assurances.

The Latvian authorities do not use general information to reply to requests for additional information on detention conditions. They always individualise the reply. The Prison Administration's representatives explained that executing authorities prefer individual information, especially in Germany.

In cases where the application of the Aranyosi/Căldăraru two-step test on detention conditions has resulted in a refusal by the competent authorities in the executing Member State to surrender the person, the PGO maintains its EAW. The PGO explained that the person could still be arrested in another Member State and surrendered later.

3.4.1.2. As executing Member State

As executing Member State, the PGO reports that Latvia has not been involved in a situation where arguments related to detention conditions were raised. Therefore, no practical point of view can be shared on the main criteria to assess detention conditions, the relevant information used in this area or compliance with the deadlines when asking for additional information.

Generally speaking, the Latvian authorities explained that they would not assess detention conditions in the issuing Member State *ex officio*, unless public information is available. Therefore, the defendant will usually invoke the argument on detention conditions in the issuing Member State.

Should there be a need to assess detention conditions in the issuing Member State, the PGO would be the competent authority to request additional information with the support of the Ministry of Foreign Affairs.

3.4.1.3. Precedence of the consent of the sought person

The Latvian authorities consider that, in theory, the person's consent takes precedence because it reflects the person's attitude towards a fair and effective resolution of criminal proceedings.

3.4.2. Refusal in the event of judgment in absentia

Since FD 2009/299/JHA entered into force, the Latvian authorities have not experienced any problems with regard to grounds for refusal in the event of judgments *in absentia*.

The impact of the Tupikas¹¹, Zdziaszek¹² and Ardic¹³ judgments seems insignificant in Latvia as the need for additional information has not increased.

Moreover, the Latvian authorities as executing authorities do not consider that when issuing an EAW, the issuing authority should as a rule provide more extensive information in the EAW whenever Article 4a of the FD on the EAW applies. The PGO considers the information provided in part 4 (d) of the EAW form to be sufficient.

¹¹ CJEU: Tupikas, C-270/17 PPU, 10 August 2017, ECLI:EU:C:2017:628.

¹² CJEU: Zdziaszek, C-271/17 PPU, 10 August 2017, ECLI:EU:C:2017:629.

¹³ CJEU: Ardic, C-571/17 PPU, 22 December 2017, ECLI:EU:C:2017:1026.

3.4.3. *Other grounds for refusal*

3.4.3.1. *Ne bis in idem*

Latvia has not experienced any refusals of surrender on the ground of *ne bis in idem*.

3.4.3.2. *Double criminality*

3.4.3.2.1. As issuing Member State

As issuing Member State, Latvia has not had any problems with the description of the offence. The Latvian authorities provide a relatively broad description of the criminal offence, so that the executing Member State is able to classify it in accordance with its national legislation based on an account of the offence.

Based on experience from previous cooperation, the PGO has information concerning cases in which the double criminality component might be missing in the executing Member State. The Latvian authorities explained that in theory it is also possible to send a descriptive account to the EJM contact point in order to ascertain whether the acts mentioned are also punishable in the executing Member State. However, this applies only when the surrender of a person from an identified Member State is required and not when the location of the person sought is unknown.

3.4.3.2.2. As executing Member State

As executing Member State, the PGO reported cases of refusal on the grounds of a lack of double criminality. For example, Finland issued an EAW for the distribution of hormonal preparations, but the offence in question was not punishable under Latvian criminal law. In the end, execution of the EAW was refused.

3.5. Further challenges

3.5.1. *Practical difficulties in the surrender of the sought person*

The PGO is the competent authority for granting transit.

3.5.1.1. As issuing Member State

As issuing Member State, Latvia has encountered problems in obtaining a transit permit within the time limit.

3.5.1.2. As executing Member State

As executing Member State, the State Police is responsible for escorting detainees from abroad to Latvia.

In cases where no direct flights are available from the country where the wanted person has been apprehended, or transit by land is being organised, the State Police asks the PGO to organise the transit through the countries that will be crossed when escorting the person. When choosing the itinerary for the escort, the State Police officers seek to avoid, as far as possible, transit through countries outside the Schengen area, as obtaining a permit for transit through third countries is time consuming, and so may jeopardise the transfer of a person from a Member State within the time limit set.

Sometimes, once a transit permit has been obtained, the State Police escort is delayed in reaching the connecting flight because the competent foreign authorities have not sent the necessary information about the escort to the competent authorities of the airport transited. The PGO also mentioned problems with organising a person's escort if there is less than one hour between the connecting flights.

3.5.2. CJEU case-law

Currently the CJEU case-law that seems to have the greatest consequences in Latvia is Case C-182/15 *Petruhhin*. Indeed, following this preliminary ruling, the Criminal Procedure Law was amended (Section 704(2)¹⁴).

Moreover, Latvia has encountered problems in issuing an EAW in accordance with this case-law, when a third country requests the extradition of a Latvian citizen to a Member State. The Latvian authorities highlighted the impossibility of providing sufficient evidence to initiate criminal proceedings in Latvia, recognising a person as a suspect and receiving an arrest warrant from an investigating judge, which are the basic conditions for issuing an EAW.

In addition, Latvian practitioners mentioned problems in cases where a third country requires the extradition of a Latvian citizen from a Member State for an offence for which the maximum prison sentence in Latvia is less than one year. FD 2002/584/JHA does not provide for the possibility of issuing an EAW in such cases.

3.5.3. Competing EAWs

In the event of competing EAWs, the PGO's prosecutors will assess several criteria to determine which EAW should have precedence: the seriousness of the case, the first EAW issued or the issuing State (Member State or third country).

They also contact Eurojust. The PGO praised the Eurojust's coordination meeting and stated that it helps to find a common solution to deal with several EAWs.

¹⁴ Section 704. Examination of an extradition request.

(2²) When examining the extradition request and finding that the foreign country has submitted a request for the extradition of a citizen of an EU Member State, a prosecutor shall send information to the person's country of citizenship regarding the possibility of submitting an EAW and specify a deadline for doing so.

Amended on 27.09.2018 and entered in force on 25.10.2018.

The PGO does not have guidelines on competing EAWs and does not think they would be useful. As the PGO is a centralised authority, knowledge and practical aspects are ensured.

3.6. Statistics

The PGO provided the following statistics for the evaluation.

Number of EAWs received and issued in Latvia from 2018 to 2021

Year	EAWs received	EAWs issued	
		Directly sent to the executing Member State	Place of residence unknown
2018	50	100	169
2019	67	91	112
2020	45	61	100
2021	58	42	111

3.7. Conclusions

3.7.1. *General considerations*

From a general perspective, the FD on the EAW works well in Latvia and practitioners praise its efficiency.

The Latvian law implementing the FD on the EAW, and more generally all the FDs that are the subject of the ninth round of mutual evaluations, are to be found in Section C of the Criminal Procedure Law. Centralising all the FDs in one single law facilitates the work of practitioners.

When reading the English translation of the implementing law on FD 2002/584/JHA, the experts realised that only the word ‘extradition’ is used. The experts consider that using ‘extradition’ when referring to the EAW could create confusion with the extradition regime. They recommend that translators use the word ‘surrender’ to clearly distinguish between the EAW and extradition. The Latvian authorities explained to the experts that the Latvian word for ‘surrender’ is equivalent to the word ‘handover’ in English. Therefore, the word ‘extradition’ continues to be used for EAW proceedings.

Moreover, the Latvian authorities stressed that Latvian translations from the EU institutions can sometimes be problematic. Even if EU translators share their translations with the Latvian authorities, it appears that they do not effectively take into account their remarks. In the end, Latvian practitioners tend to refer to the English version of the legal document rather than the Latvian version. The experts consider that the European institutions should better take into account linguistic remarks from the Latvian authorities.

The competent authority to issue and execute an EAW is the PGO, more precisely the International Cooperation Division within the Department of Analysis and Management. The PGO is also the central authority for FD 2002/584/JHA. As a centralised body, the PGO is highly specialised and made up of experienced prosecutors who are able to speak several languages and provide their colleagues with advice and training. The experts also praised the possibility for the PGO to benefit from the support of an interpreter in German. They consider such specialisation and language skills to be a best practice that could inspire other Member States.

Tasks assigned to the nine prosecutors in the International Cooperation Division are numerous and diverse. Therefore, two prosecutors are responsible for issuing EAWs and two others for executing EAWs. Given the number of EAWs issued and executed in Latvia, the experts consider that the number of prosecutors in this division should be increased. This would avoid the bottleneck effect of a central authority in the event of insufficient human resources, while maintaining the high level of expertise of the PGO's prosecutors.

The PGO has direct contact with the other competent judicial authorities. Whenever there is a need to identify a Member State authority and its contact details, the PGO uses the European Judicial Atlas available on the EJM website. The PGO is also very aware of Eurojust's role and does not hesitate to use its help.

The Latvian authorities were able to provide the experts with general figures on EAWs received and executed in Latvia. Nevertheless, these figures do not go into detail and information such as time limits, grounds for refusal or the length of the procedure are not readily available. This situation is not specific to FD 2002/584/JHA, and also applies to the assessment of the other three FDs that are the subject of the ninth round of mutual evaluations (see 4.11.1, 6.2.3, 6.3, 7.2.3 and 7.3). The experts recommend that Latvia help practitioners on this point by creating an electronic tool that will automatically collect relevant data.

The experts noted that Latvia did not use the opportunity provided for by Article 31(2) of FD 2002/584/JHA. Indeed, Member States can go further in the cooperation with other Member States by concluding bilateral or multilateral agreements or arrangements related to FD 2002/584/JHA in so far as such agreements or arrangements allow the prescriptions of this FD to be extended or enlarged and help to simplify or facilitate further the procedures for the surrender of persons who are the subject of EAWs, in particular by fixing time limits shorter than those fixed in Article 17, by extending the list of offences laid down in Article 2(2), by further limiting the grounds for refusal set out in Articles 3 and 4, or by lowering the threshold provided for in Article 2(1) or (2). The experts encourage Latvia to explore such possibilities to facilitate the surrender process, as exemplified by the Nordic Arrest Warrant.

3.7.2. *Latvia as issuing State*

The experts noticed that in contrast to several other Member States, the local prosecutors handling the criminal cases are not defined as a competent authority to issue an EAW. Moreover, judges cannot issue EAWs themselves, they have to make a request to the PGO and cannot override its decision.

The PGO works in close collaboration with the SIRENE Bureau that creates the alert within the SIS. Police officers within the SIRENE Bureau speak English and can swiftly create the A form in this language.

Whenever possible, the Latvian authorities add the following information to the A form: photographs, facial images, copies of identification documents, fingerprint data and the national identification number of the sought person. The experts would like to highlight this practice as it avoids any dispute as to the identity of the person sought.

The principle of proportionality when issuing an EAW is no longer an issue in Latvia. The recommendation on this point following the fourth round of mutual evaluations was taken into account. Section 682(3) of the Criminal Procedure Law provides explicitly for such principle. It is also mentioned on the Prosecution Office's website with the relevant criteria to be followed and the Commission's handbook on FD 2002/584/JHA is well known. In addition, the PGO's representatives stated that a refusal to issue an EAW due to a lack of proportionality currently represents 10 % of the cases. This shows that the principle of proportionality is well understood by the Latvian judiciary.

Latvian practitioners have had several requests for additional information on detention conditions. Such requests usually lead to delays in the surrender. The PGO relies on the Prison Administration to give useful answers to the executing Member State. The Latvian authorities always individualise the reply and do not use general information for additional information on detention conditions. In some cases, the executing Member State denied the surrender. In such cases the PGO decided to maintain its EAW considering that the sought person could still be arrested in another Member State.

Currently the CJEU case-law that seems to have the greatest consequences in Latvia is Case C-182/15 *Petruhhin*. Indeed, following this preliminary ruling, the Criminal Procedure Law was amended. Latvian practitioners stressed the difficulty of initiating a criminal case and subsequently issuing an EAW when facing a 'Petruhhin situation'. The experts consider that this difficulty no longer exists. Indeed, the CJEU's decision on the preliminary ruling entered into force on 17 December 2020. The CJEU decided that the Member State to which an extradition request is submitted is not obliged to refuse extradition and may conduct a criminal prosecution itself if national law permits it to do so.

3.7.3. *Latvia as executing State*

The **SIRENE** Bureau's representative informed the experts that all incoming alerts in the SIS are checked by police officers without electronic support. This task is time consuming and experience in other Member States shows that it is possible to create software to help police officers. In addition, not all police officers are able to check the SIS on their mobile device. This function is gradually being rolled out within the police force. Therefore, the experts consider that there is room for improvement here. They recommend that Latvia develop an electronic tool to simplify the **SIRENE** Bureau's work and increase the availability of mobile devices on which the SIS alerts can be checked by police officers.

Discussions with Latvian practitioners underlined the fact that only one judge at the Supreme Court is in charge of questions on the EAW when there is an appeal. The experts consider this solution insufficient. Any unexpected problems occurring with the judge responsible could negatively effect the speed of the EAW procedures, in the opinion of the experts. Moreover, the judge has no possibility to exchange views on any issues that might arise. In addition, all the Latvian practitioners interviewed stressed the difficulty of finding time slots for hearings and time limits are usually exceeded in cases of appeal.

The Latvian authorities appear to place importance on mutual trust. Indeed, they do not assess the proportionality of the EAWs as an executing Member State. They also stated that they would not check detention conditions in the issuing Member State except if asked to do so by the defendant or if there is public information available.

Latvia also facilitates cooperation with the other Member States by accepting the EAW form in English as well as in Latvian.

Latvian practitioners mentioned the difficulties of receiving replies to requests for additional information from some Member States. Sometimes replies take months to be sent, and in some cases there is no reply at all. The experts recommend that the Member States raise awareness among their practitioners in order to avoid such situations.

4. FD 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

There are currently nine prisons in Latvia and the Latvian authorities work constantly to enhance them. They are currently building a new prison in Liepaja (1.200 places) and, in parallel, closing three others. The Prison Administration explained that prisons are not overcrowded; the number of persons in prison has been decreasing since 2004. Indeed, there were 8.231 prisoners in 2004 and in 2021 the figure was 3.183.

4.1. Competent authorities for the recognition of the judgment and execution of the sentence

In Latvia, following the notification made to the GSC¹⁵, the central authority is the MoJ.

Moreover, the procedure for issuing and executing a transfer of prisoners is shared by administrative and judicial bodies. It involves the MoJ and the district courts. The procedure is provided for in the Criminal Procedure Law.

4.1.1. Competence of the central authority

The MoJ is primarily responsible for receiving, checking and sending documents, but also directly assists the competent authorities, the district courts.

Within the MoJ, the Department of International Cooperation is competent to deal with cases under FD 2008/909/JHA. This department is made up of three lawyers who also deal with mutual legal assistance and international cooperation in civil cases. This staff also trains judges and creates e-learning content on the webpage of the Latvian Judicial Training Centre. Moreover, it shares knowledge on the MoJ's webpage.

¹⁵ ST 14363/13.

The MoJ assists in all cases where assistance is needed, from receiving and sending the request to dealing with organisational matters related to the reception and surrender of the sentenced persons. The MoJ coordinates proceedings under FD 2008/909/JHA from start to finish.

This explains why the MoJ is responsible for communicating with Member State authorities. The courts rarely communicate directly with the authorities of other Member States; usually the request for additional information is made via the MoJ.

Latvian practitioners mentioned that communication takes place where necessary and if necessary via the MoJ or the EJM contact points.

4.1.2. *As executing State*

The district courts are the competent authority to recognise a custodial sentence sent by the issuing State.

In cases where the issuing Member State sends a notification of its intention to transfer a prisoner to the MoJ, the MoJ checks whether the sentenced person is habitually resident in Latvia, or has family, social, professional or other ties to Latvia, which will facilitate that person's social rehabilitation. If necessary, the MoJ may instruct the State Police to perform such verification¹⁶. The MoJ sends a prepared opinion to the issuing Member State¹⁷. In the most cases however, the issuing Member State is sending the certificate without a prior notification.

The law empowers the MoJ to take a decision on whether or not to agree to forward the foreign sentence and the certificate to the competent district court in cases where the person has been sentenced *in absentia*¹⁸. The MoJ can give its opinion. The certificate is forwarded to the district court even if the MoJ has given a negative opinion to the issuing Member State. There have been no cases in which the MoJ refused to receive the certificate.

¹⁶ Section 777(1) of the Criminal Procedure Law.

¹⁷ Section 777(2) of the Criminal Procedure Law.

¹⁸ Sections 755 to 757 of the Criminal Procedure Law.

After having received the foreign judgment together with the certificate, the MoJ examines the documents in accordance with the procedures laid down in the Criminal Procedure Law and sends the documents to a district court, notifying the issuing Member State thereof¹⁹.

The law empowers the MoJ to order the police to detain a convicted person for up to 72 hours²⁰. The MoJ is therefore competent to decide on the provisional arrest of the sentenced person. After this period, the MoJ has to ask the investigative judge for provisional detention²¹.

Finally, the judge from the district court takes a decision independently of the MoJ.

The district court's decision process is divided into two parts:

- The first decision is on the recognition and execution of the foreign sentence. This decision is rendered in writing within 30 days²². The district court judge is assigned randomly. The documents are received through the case management system. The decision is notified to the sentenced person, the issuing Member State and the MoJ. If the district court recognises the foreign judgment, then the police carry out the surrender of the sentenced person. When the sentenced person is transferred to Latvia competent court notify him of the decision.
- The second decision is related to a potential adaptation of the sentence to be executed in Latvia.

Only the second decision (on the sentence) can be appealed²³. An appeal must be made to the regional court within 10 days.

¹⁹ Section 778 of the Criminal Procedure Law.

²⁰ Section 770 of the Criminal Procedure Law.

²¹ Section 771 of the Criminal Procedure Law.

²² Section 759 of the Criminal Procedure Law.

²³ Section 779(1) of the Criminal Procedure Law referring to Section 760(7) of the Criminal Procedure Law.

4.1.3. *As issuing Member State*

The competent authority to initiate the transfer of a prisoner to another Member State is the district court.

When the judgment is final, the district court sends a written proposal to the MoJ, requesting that another Member State executes the sentence. The MoJ examines the proposal within 10 days and notifies the district court. It is within the power of the MoJ to refuse to issue the certificate.

If there are grounds for requesting the execution in another Member State of a sentence imposed in Latvia, the MoJ issues the certificate, ensures its translation and sends it to the executing Member State.

The MoJ can also consider requesting a transfer if it has received a court proposal, a request from a sentenced person or their representative, or information from a Member State, as well as upon the initiative of a penal institution (the Latvian Prison Administration or the penal institution where the person is serving their sentence)²⁴. In such situations, the MoJ can initiate the transfer without the district court's approval.

Each quarter, the MoJ receives a list from the Prison Administration with the names of prisoners who are eligible to be transferred. The Prison Administration can carry out a specific search in their software to find foreign prisoners but they do not have a dedicated electronic tool that can do that automatically.

The MoJ is entitled to request additional information²⁵. It has also the right to withdraw the certificate²⁶ and to ask the executing Member State for the provisional arrest of the sentenced person²⁷.

²⁴ Section 825(3) of the Criminal Procedure Law.

²⁵ Section 825(4) of the Criminal Procedure Law.

²⁶ Section 827 of the Criminal Procedure Law.

²⁷ Section 828 of the Criminal Procedure Law.

Finally, Section 829 of the Criminal Procedure Law sets out the procedure whereby the MoJ may instruct the State Police to organise the person's transfer.

4.2. Documents required for recognition of the judgment and executing the sentence

4.2.1. As executing Member State

Latvian legislation requires a written judgment²⁸. The MoJ notes that there have been no problems with this requirement so far, even when the issuing Member State does not require it.

The MoJ explained to the evaluation team that, in most cases, a full judgment is required from the issuing State, but there have been cases where mutual consultation has resulted in an agreement on the submission of a summary judgment rather than a full judgment.

As regards translation, the notification sent to the GSC states that Latvia only accepts documents translated into Latvian²⁹. Section 11 of the Latvian Criminal Procedure Law, entitled 'Language to be used in criminal proceedings', provides that criminal proceedings are to be conducted in the national (official) language. The MoJ mentioned that, in practice, a translation of the judgment is not requested from the issuing Member State, given that FD 2008/909/JHA does not provide for it. Therefore, the MoJ provides for a translation in order to meet the requirements of the Criminal Procedure Law on the use of the official language in legal proceedings. The interpreters of the Court Administration carry out this task and translation usually takes around one month.

Otherwise additional information is usually requested from the issuing authorities because: the address of the sentenced person is missing, the ties with Latvia are unclear, the nature of the offence, the punishment for each offence or the issuing authority's signature are missing.

²⁸ Section 774 of the Criminal Procedure Law.

²⁹ ST 14363/13.

4.2.2. *As issuing Member State*

The MoJ explained that when issuing a certificate, Latvian law does not provide for a method to calculate the number of days of a sentence that remain to be served. In practice, this calculation is carried out by the Prison Administration and one month is equivalent to 30 days and a year is equivalent to 365 days. Moreover, the Latvian software used by the Prison Administration (see 4.1.3) does not automatically calculate the number of days of the sentence that remain to be served.

The MoJ explained to the evaluation team that there are cases where additional documents are requested. The kind of documents usually asked for concern information about the notification of the sentenced person, about the trial dates, or regarding the details of the offences for which the person was convicted.

As a general rule, the requirements laid down in the legislation of the other Member State are invoked as justification for asking for additional documents.

4.3. **Criteria to assess the facilitation of social rehabilitation**

4.3.1. *Criteria defined and exchange of information between the issuing Member State and executing Member State*

4.3.1.1. *As executing Member State*

According to the MoJ, the information usually included in the certificate or accompanying the certificate is sufficient to make a decision.

In a very limited number of cases, supplementary information is requested (in about 10 % of all cases). Usually the supplementary information requested concerns the person's links with the country, i.e. language knowledge, family, residential address.

4.3.1.2. As issuing Member State

To assess social rehabilitation, before issuing a certificate the MoJ checks the person's connection to the country in which they wish to serve the sentence and the explanation provided by that person. The person's nationality, residential address, work, language knowledge and family links are also examined.

The Criminal Procedure Law³⁰ provides that, before sending the mandatory documents (judgment and certificate), the MoJ may request that the executing Member State provides an opinion on whether the execution of a sentence will facilitate the social rehabilitation of the sentenced person in that Member State, as well as any necessary additional information. The opinion of the executing Member State must not prevent the sending of the certificate to that Member State.

The MoJ explained that consultations take place in many cases, but that it does not always ask the executing Member State to give its opinion on a person's social reintegration prior to sending a request. Usually it is ascertained whether the person has a job in the Member State, whether they speak the language of the country, and whether they have family there.

Moreover, opinions on a person's reintegration are expressed frequently by the executing Member State, based on Article 4(4) and (5) of FD 2008/909, i.e., in all cases where there was no deportation from Latvia, and the opinions are always taken into consideration.

4.3.2. Respect of Article 21 of FD 2008/909/JHA

According to the MoJ, the Latvian authorities always provide information without delay. If there is a delay, however, there is an objective reason for it.

If the information is not provided in time by the other Member State, the MoJ sends a reminder.

³⁰ Section 826 of the Criminal Procedure Law.

4.3.3. *Practical arrangements on a bilateral basis*

Latvia does not have bilateral arrangements with other Member States for facilitating the application of FD 2008/909/JHA.

4.3.4. *Opinion and notification of the sentenced person*

4.3.4.1. Procedure followed for the prisoner to state his opinion

According to the State prison service, within 21 days of receiving an order by a judge regarding the execution of a judgment, the Prison Administration informs prisoners who are nationals of another Member State or who are habitually resident in another Member State of their right to serve the sentence in their Member State of nationality or habitual residence, or in another Member State. It must explain to the sentenced person the legal consequences of being transferred to another country to serve a sentence³¹.

The sentenced person must then submit their request in writing to the MoJ³², which must, without delay, inform the sentenced person in writing of the fact that notification has been sent to the executing Member State and of the results of the examination of the request.

The Latvian authorities use the notification as set out in Article 6(4) of FD 2008/909/JHA, Annex II. Thus the notification to the executing Member State must indicate³³: the given name, surname and place and date of birth of the sentenced person; the address of the sentenced person in the executing Member State, if such an address exists; the offence for which the sentence has been imposed; the type and length of the sentence, as well as the date on which the prisoner commenced the sentence.

³¹ Article 15 of the Penitentiary Code.

³² Section 819(2) of the Criminal Procedure Law.

³³ Section 819(3) of the Criminal Procedure Law.

According to the Latvian authorities, the opinion of the person is taken into account in all cases. Upon receipt of a person's request for transfer to another Member State for further enforcement of the judgment, the MoJ initiates an examination of the case and accordingly decides, in consultation with the Member State, whether to send the certificate to the Member State.

4.3.4.2. Information provided to the prisoner

The MoJ mentioned that the sentenced person is informed of all activities (correspondence) that it carries out.

Moreover, the Prison Administration gives the prisoners a leaflet explaining the right to be transferred and referring to the relevant articles of Latvian law. Currently this leaflet is available in three languages: Latvian, Russian and English. According to the Prison Administration's representative, it is planned to enhance and simplify this leaflet in the coming years.

On 1 April 2022, there were 31 foreign prisoners in Latvia; 12 of these were from Member States (8 from Lithuania, 3 from Estonia and 1 from Belgium). Usually, most prisoners from Member States come from Lithuania and Estonia and speak Russian.

If a sentenced person is serving a custodial sentence in Latvia and a request to execute the sentence in another Member State has been received, but no written statement from the sentenced person expressing their wish to serve the sentence in the relevant Member State has been attached to the request, the MoJ must, in accordance with the procedures and time periods referred to in the Criminal Procedure Law, acquaint the sentenced person with the request, explaining the legal consequences of the transfer to them. The person's consent or refusal must be drawn up in writing, and the sentenced person must confirm it with their signature³⁴.

³⁴ Section 824(1) of the Criminal Procedure Law.

The Criminal Procedure Law also requires that the convicted person be informed of the transmission of the judgment and the certificate to the executing Member State with a special form, regardless of whether they are serving their sentence in Latvia or in the executing Member State³⁵. If the sentenced person is in the executing Member State, the special form is attached to the certificate.

Moreover, the person must be informed of the decision taken by the executing Member State. As soon as it receives the information, the MoJ notifies the person who submitted the request, the court responsible for the full execution of the judgment and the sentenced person, as well as their representative in cases where the request was submitted by that representative, of that decision³⁶. The information provided also includes information on the person's transfer and the time limits for that transfer.

4.3.5. A limited legal remedy and rights for an effective defence

The Criminal Procedure Law makes no provision for an appeal against a transfer decision as part of proceedings under FD 2008/909/JHA. As mentioned previously (see 4.1.2), the only existing legal remedy is an appeal against the decision on adaptation of the sentence to be executed in Latvia, when Latvia is the executing Member State.

The participation of a lawyer in judicial cooperation in criminal matters is governed by Section 677 of the Criminal Procedure Law. That section provides that during judicial cooperation in criminal matters, a lawyer is to be summoned to provide legal assistance to a person, or, in the cases provided for in that part of the law, to conduct their defence. A lawyer may provide legal assistance from the moment when a person is detained or placed under arrest, or in other cases provided for in that part of the law.

Depending on the person's resources, legal aid can be granted and the Latvian Council of Sworn Advocates may exempt a person from payment for legal assistance and pay for the lawyer's services from its own budget.

³⁵ Section 825(6) of the Criminal Procedure Law.

³⁶ Section 825(7) of the Criminal Procedure Law.

4.4. Adaptation of the sentence

The MoJ has no data on cases in which the sentence was adapted because the duration or the nature of the sentence was incompatible with the law of the Member State concerned.

The Latvian judges reported that they had not encountered any cases where there were difficulties in adapting the sentence.

Cases do not usually give rise to difficulties. For example, the sentence enforceable in Latvia for a person sentenced to three years of imprisonment in Lithuania — a suspended sentence of three years of imprisonment with a probationary period of two years six months — was determined by way of the decision of Daugavpils Court of 5 July 2019, which deferred the sentence for two years six months and imposed a requirement on the sentenced person not to leave their place of residence without being granted authorisation to work or register with the employment services by the authority exercising supervision of that person.

Moreover, Latvian practitioners have not encountered, as executing authorities, cases where the certificate has been withdrawn due to a too lenient sentence after adaptation.

The Latvian judges explained to the experts that when a sentence is adapted, the sentenced person receives updated information by way of a court notice (letter) as soon as the corresponding decision has been taken.

4.5. Grounds for non-recognition or non-enforcement

4.5.1. Main grounds for non-recognition or non-enforcement

4.5.1.1. As executing Member State

The MoJ reported the following main grounds for non-recognition or non-enforcement:

- not enough ties with Latvia (which is the most important reason for refusal);
- absence of certificate or certificate incomplete;
- the offence is not punishable under Latvian criminal law;
- the time limit is too short for the enforcement of the sentence.

The Latvian authorities have also encountered cases where the Member State has withdrawn a request based on unsatisfactory prison conditions.

4.5.1.2. As issuing Member State

The MoJ reported the following main grounds for non-recognition or non-enforcement:

- the time limit is too short for the enforcement of the sentence;
- the person cannot be received by the end of the enforcement period.

4.5.2. *Judgment in absentia*

Section 776(2) of the Criminal Procedure Law provides that the recognition and enforcement of the foreign custodial sentence may be refused if adopted *in absentia*, except in cases where the relevant person:

- has received a summons or has been otherwise informed that the ruling may be made in their absence;
- has been informed of the proceedings and their defence counsel has participated in a court hearing;
- has received the ruling and stated that they do not dispute or have not appealed the ruling.

The district court assesses each request individually and the majority are declined. The reasons given to the evaluation team for such refusals are that in most cases none of the criteria mentioned above are met and even though the law allows the recognition of sentences rendered *in absentia*, if the abovementioned conditions are met, courts normally choose to refuse execution.

4.5.3. *Decisions of criminal irresponsibility and imposition of psychiatric care*

The Latvian authorities have not experienced any requests for a transfer involving decisions of criminal irresponsibility and imposition of psychiatric care.

4.6. **Partial recognition**

The Latvian practitioners mentioned that partial recognition of judgments are very rare. They provided one example, as executing Member State, where the Latvian court recognised a judgment with regard solely to one criminal offence and not another, because the latter offence was not punishable under criminal law in Latvia.

As issuing Member State, the Latvian authorities have not experienced cases where they had to choose between a partial recognition in the executing State or the withdrawal of the certificate.

The MoJ did not experience difficulties in this consultation process established under Article 10(1) of FD 2008/909/JHA.

4.7. Challenges relating to compliance with the deadline for recognition and enforcement

The Latvian authorities underlined that, both as executing or issuing Member State, the deadlines established by Article 12(2) of FD 2008/909/JHA are difficult to meet. The main issues are connected to requests for additional information and the translation of documents.

Furthermore, the MoJ does not provide information to the issuing Member State regarding the reasons for the delay and the estimated time needed to make the final decision. Conversely, this authority has not experienced the practice of receiving intermediate replies from another Member State.

4.8. Law governing the enforcement of the sentence

As issuing Member State, Latvia has not withdrawn a certificate because of applicable provisions on early or conditional release in the executing Member State. Vice versa, this situation did not occur with Latvia as executing Member State.

Moreover, the MoJ did not encounter problems related to the deduction of a period of deprivation of liberty already served in the issuing country.

4.9. Practical and legal problems related to transit

In practice, based on an assignment from the MoJ and the decision of the competent court, the State Police conducts the transfer of persons sentenced abroad, in order to serve the remainder of a custodial sentence in Latvia.

In cases where no direct flights are available from the country from which the person needs to be escorted, or transit by land is being organised, the State Police asks the MoJ to organise the transit through the countries that will be crossed when escorting the person. In addition, the State Police highlighted the same practical problems as already mentioned for the practical surrender (see 3.5.1.).

The MoJ reported a specific situation that occurred with regard to the provision of an escort when transferring a person from the United Kingdom to Latvia. Given that the person was afraid of flying, it was necessary to provide escort by land. The process of requesting permits for each of the German federal states caused problems, and initially individual federal states refused to provide the permits. In this case, the Latvian authorities used the EJM contact points to solve the problem effectively.

4.10. Statistics

The MoJ is the competent authority to gather statistics on FD 2008/909/JHA. Those statistics are general and do not reflect cases where the certificate was withdrawn or the length of the procedure. The MoJ provided the experts with the following statistics:

Number of requests for the transfer of prisoners

	Latvia as executing Member State	Latvia as issuing Member State
2016	26	33
2017	42	24
2018	37	16

According to MoJ the database on FD 2008/909/JHA could be improved. They have access to the criminal case management system but it does not function properly and it creates errors when trying to collect data. When there is a need to present statistics, to ascertain whether time limits were complied with or the reasons for refusal, the MoJ's staff has to do this manually.

The Prison Administration also presented its statistics:

Number of prisoners transferred from 2014 to 2021

	Latvia as executing Member State	Latvia as issuing Member State
2014	125	17
2015	105	65
2016	116	27
2017	101	37
2018	129	26
2019	81	44
2020	64	16
2021	93	24

These figures show a discrepancy between the MoJ's statistics and the Prison Administration's statistics. The latter appear to be more exhaustive.

4.11. Conclusions

4.11.1. *General considerations*

Latvia is working to improve detention conditions by creating new facilities and closing older prisons, and also by decreasing the number of persons in jail.

Following Latvia's notification to the GSC regarding FD 2008/909/JHA, the competent authorities to issue and execute a transfer are the district courts, and the central authority is the MoJ. In practice the proceedings are not solely judicial as the district courts' competences are intertwined with those of the MoJ.

Significant responsibilities are devolved to the MoJ. The MoJ is responsible for checking whether all the necessary documentation is complete, assessing the possibility of initiating a transfer, filling in and signing the certificate, requesting additional information, withdrawing the certificate or contacting the Member State authorities, although the courts could do this themselves. The MoJ can also refuse to initiate a transfer even if a district court would like to do so and the district court cannot override the Ministry's decision. The experts consider that the powers devolved to the MoJ make it a competent authority. Under Latvian law, the MoJ has even more power than the district courts. The experts believe that Latvia should clearly define the competent authority to issue and execute the transfer of a prisoner and subsequently confer the necessary powers on this authority.

The MoJ can even decide on the deprivation of liberty by ordering the police to detain the sentenced person for up to 72 hours without any judicial approval. The experts consider that deprivation of liberty is part of natural judiciary competence and recommend that Latvia amend its law accordingly. This detention³⁷ is similar to the one that can be requested by the investigator or prosecutor in case of extradition³⁸, both of them are meant as exceptional measure to prevent impunity until additional information is received.

³⁷ Section 770 of the Criminal Procedural Law

³⁸ Section 669 of the Criminal Procedural Law

The MoJ, as a central authority, is highly specialised. The three lawyers within the Department of International Judicial Cooperation regularly help the Latvian judiciary by giving them advice by phone or email. They are also able to communicate in foreign languages. However, as for the PGO, the various tasks of the Department of International Judicial Cooperation and the organisation of the transfer of sentences (custodial sentences and alternative sanctions) requires additional human resources. Therefore, the experts encourage Latvia to increase its staff within the international unit of the MoJ.

As a decentralised body, judges do not seem to be specialised. In practice, judges rely mostly on the MoJ to perform their tasks in the field of FD 2008/909/JHA. If the district courts are to be considered as competent authorities, there is undeniably a need to specialise judges. The experts believe that this recommendation does not only apply to FD 2008/909/JHA but also to FD 2008/947/JHA, as the procedures are similar. Relevant training provides a way to increase such specialisation.

Regarding statistics, experts noted that figures differed between the MoJ and the Prison Administration. In addition, Latvian practitioners clearly stated that there is a need to improve the way in which relevant data is collected. Currently the courts' management system does not produce relevant statistics and when there is a specific need the staff of the MoJ have to compile them manually.

The Latvian authorities stated that in some cases, the deadlines for recognition and enforcement are difficult to meet. Two issues were identified to explain this: delays when additional information is needed, and a need for the translation of documents. Moreover, neither Latvian practitioners nor the authorities from other Member States provide information regarding the reasons for the delay and the estimated time needed to make the final decision. The experts encourage Latvia and the other Member States to provide information to the issuing Member State in a timely manner if a delay is expected, explaining the reasons for it and the estimated length of the delay. Missed deadlines can be detrimental to mutual trust between the authorities involved, and can lead to a decrease in the use of this instrument in future cases, if practitioners feel that it is time consuming and inefficient.

4.11.2. *Latvia as issuing Member State*

The Prison Administration explained to the experts that prisoners should be informed, within 21 days of their arrival in prison, of their right to ask for a transfer. This period is provided for by the penitentiary code³⁹. The experts noted that the Criminal Procedure Law provides for a different period for the same matter⁴⁰ - 10 days. The experts consider that there is a discrepancy here and recommend that Latvia amend its legislation to remove any ambiguity and uncertainty on the period within which prisoners should be informed of their right to be transferred.

Moreover, the experts believe that a faster way to inform prisoners may exist. A possibility could be to deliver this information to the sentenced person during the trial. Indeed, an interpreter and a lawyer are usually present at the trial and could easily explain and stress the importance of the information provided by the judicial authorities. Moreover, the experts are convinced that this kind of information would be relevant not only for FD 2008/909/JHA but also for FDs 2008/947/JHA and 2009/829/JHA.

The Prison Administration can carry out specific searches in their software to find foreign prisoners but there is no dedicated electronic tool that can do that automatically. Latvia is encouraged to create such a tool, as it would simplify staff's work and help to initiate a transfer earlier. Moreover, this electronic tool could at the same time calculate the days that remain to be served. Regarding the latter, the Latvian authorities face the same difficulties as in other Member States. Indeed, there is no guidance on how to calculate in days the remaining days to be served. The experts consider that a solution on this point should be found at EU level.

³⁹ Article 15 of the penitentiary code.

⁴⁰ Section 819 of the Criminal Procedure Law.

The Prison Administration provides prisoners with a leaflet on the relevant sections of the Criminal Procedure Law on how to apply for a transfer. Currently this leaflet is available in three languages: Latvian, Russian and English. The Prison Administration has started working on a simplification of this leaflet. The experts welcome this initiative. Indeed, prisoners are not usually familiar with procedural law and sharing information in a more accessible way would enhance the prisoner's understanding of FD 2008/909/JHA. The experts also consider that a translation of this leaflet into all the EU languages would be useful. Moreover, the experts are aware of the METIS project and its findings. They believe that these findings could inspire Latvia to enhance its system and practice.

Discussions with the Prison Administration highlighted the fact that prison staff are not really seen as a competent authority to initiate the transfer process. The Latvian Prison Administration explained that it gives the prisoner the leaflet and shares information with the MoJ, each quarter, about persons eligible to transfer. Nevertheless, prison guards work alongside prisoners on a daily basis. Thus, they are best placed to provide prisoners with up-to-date information on their rights to apply for a transfer and to explain the procedure. The experts consider the support of prison staff in the use of FD 2008/909/JHA to be very useful and advise Latvia to properly train them in this field.

When the judgment is final, the district court sends a written proposal to the MoJ to request that the Member State execute the sentence. The MoJ examines the proposals within 10 days and notifies the district court. If the MoJ refuses to issue the certificate after the district court's proposal, the transfer is ended. Furthermore, the MoJ could transfer a sentenced person without the district court's approval (at the request of a convicted person or their representative, information from an Member State, as well as upon the initiative of the Prison Administration).

The MoJ is in charge of assessing social rehabilitation in the executing Member State. Latvian practitioners mentioned the criteria used to check such rehabilitation. Moreover, the MoJ usually consults the executing Member State before sending the certificate. The experts approve of this approach as it facilitates smooth cooperation with the executing Member State during the further steps of the procedure.

4.11.3. *Latvia as executing State*

The Latvian procedure to recognise a custodial sentence sent by the issuing State is a two-step procedure. In the first decision, the district court decides on the principle of the recognition. If the district court accepts the transfer, then the surrender of the sentenced person is carried out. The second decision concerns the adaptation of the sentence. Only this second decision can be appealed. The experts question this two-step procedure. They can understand the historical reason behind it but feel that the district court's decisions could be given in one single decision. Consequently, it would also enable the prisoner to appeal the decision on the principle of the transfer in Latvia, and not only on the adaptation of the sentence.

The Latvian authorities usually require the full judgment from the issuing Member State. Moreover, Latvian law provides that criminal proceedings are to be conducted in Latvian and Latvia notified the GSC that it would only accept documents in Latvian. Therefore, the MoJ asks Latvian court interpreters for a translation of the judgment. Latvian practitioners did not complain about the length of translation even though it can take a month to complete.

When Latvia is the executing Member State, the most common grounds for refusal are notably a lack of ties with Latvia and a lack of double criminality (when the offence is not punishable under Latvian criminal law). The experts believe that a prior consultation between the issuing authorities and Latvia would avoid such difficulties and in the end save time for all stakeholders.

5. LINK BETWEEN FD 2002/584/JHA ON THE EAW AND FD 2008/909/JHA ON CUSTODIAL SENTENCES

5.1. Problems related to the link between FD 2002/584/JHA on the EAW and FD 2008/909/JHA on custodial sentences

5.1.1. Criteria used to decide on the use of an EAW or a certificate:

If a person is staying in, or is a national or a resident of the executing Member State, the PGO checks whether that Member State has declared that it will not transfer its nationals or residents for the purposes of the execution of the judgment, and whether a refusal to surrender the person pursuant to Article 4(6) of FD 2002/584/JHA has been received.

The principle of proportionality is also taken into account when assessing whether the surrender of a person is required or whether a judgment needs to be submitted for recognition and execution.

5.1.2. As executing Member State, the need for a certificate after rejecting an EAW (Article 4(6) of FD 2002/584/JHA) or after a surrender granted under Article 5(3) of FD 2002/584/JHA:

The MoJ explained that it had not encountered a situation where, as executing Member State, it had to enforce a foreign sentence after rejecting an EAW (Article 4(6) of FD 2002/584/JHA) or after a surrender granted under Article 5(3) of FD 2002/584/JHA.

Moreover, in cases related to Article 4(6) of FD 2002/584/JHA, there is no special procedure provided for by Latvian law to enforce the sentence. The PGO would ask the issuing Member State to issue a certificate under FD 2008/909/JHA.

5.1.3. *The possibility for Latvia, as issuing Member State, and after rejecting an EAW, to ask for a certificate from the executing Member State*

The Latvian authorities had not experienced cases where the executing Member State rejected the EAW for enforcing a sentence. Nevertheless, if the executing Member State were subsequently to request a certificate to enforce the Latvian sentence, the MoJ would act accordingly.

Latvia had not experienced cases of a surrender granted under Article 5(3) of FD 2002/584/JHA. Nevertheless, in such a situation the MoJ would issue a certificate pursuant to FD 2008/909/JHA.

5.1.4. *Certificate related to the Popławski case:*

Neither the PGO nor the MoJ have encountered cases where a certificate was similar to those referred to in the Popławski case⁴¹.

5.2. Conclusions

The criteria to assess whether an EAW or a certificate should be issued are well identified and come from practice. They are not expressly mentioned in guidelines. In such a situation, two entities are competent: the PGO and the district courts. Following discussions with the Latvian judiciary, it seems that the PGO takes the lead in deciding which mutual recognition instrument would be of better use. Relations between these two competent authorities do not present difficulties. No memorandum of understanding or other legal documentation is in force to describe the procedure to be followed between the PGO and the district courts when there is a need to choose between an EAW and a certificate.

Neither Latvia nor other Member States have first denied and then, in a second stage, enforced a sentence under FD 2008/909/JHA. If such a situation were to occur, Latvian practitioners appear to be flexible and might issue a certificate if the executing Member State asked for it. When Latvia is the executing Member State, the PGO seems more assertive and indicated that it would ask the issuing Member State to issue a certificate.

⁴¹ CJEU: C-579/15, Popławski, 29 June 2017, ECLI:EU:C:2017:503.

If an EAW issued to enforce a sentence is denied and the sentence could be enforced in the executing Member State, Latvian authorities explained that they would not necessarily:

- contact the issuing authorities to issue a certificate, if Latvia is the executing Member State;
- contact the district court to issue a certificate, if Latvia is the issuing Member State.

The reason given by the PGO's representatives is that they would not want to instruct the issuing authorities or the district courts. The experts consider that, without instructing any authority, discussions could be held with the aim of avoiding the impunity of the sought person. There are various options available such as the provisional arrest provided for in FD 2008/909/JHA or a postponement of the final decision on the surrender while waiting for the certificate. Therefore, the experts encourage Latvian authorities to find a more proactive solution to avoid impunity.

6. FD 2008/947/JHA ON PROBATION AND ALTERNATIVE SANCTIONS

6.1. Competent authorities for FD 2008/947/JHA

In Latvia, the competent authorities for using the probation and alternative sanctions mutual recognition instrument are the district courts. The MoJ is the central authority and performs the role of coordinator. The procedure is similar to the one implemented for FD 2008/909/JHA.

6.1.1. Latvia as executing Member State

In cases where Latvia is involved as the executing Member State, the MoJ as central authority receives the request from the issuing Member State.

Before sending it to the court, it checks that the certificate is complete and conforms to the sentence. If not, the MoJ informs the issuing Member State⁴². If everything is in order, all the relevant documents are sent to the district court for a decision on the recognition and execution of the foreign alternative sanction⁴³.

As for FD 2008/909/JHA, the district court's decision process is divided into two parts:

- the first decision is on the recognition and execution of the foreign sentence. This decision is rendered in writing within 30 days;
- the second decision is related to the potential adaptation of the sentence to be executed in Latvia. Only this second decision may be appealed at the regional court.

When enforcing the foreign sentence, the district court, via the MoJ, informs the issuing Member State of the decision determining the alternative sanction to be applied in Latvia⁴⁴. The State Probation Service then executes the sentence.

⁴² Section 804 of the Criminal Procedure Law.

⁴³ Section 805(1) of the Criminal Procedure Law.

⁴⁴ Section 805(5) of the Criminal Procedure Law.

If the sentenced person does not comply with the applied alternative sanction, the district court sends this information to the MoJ that in turn forwards it to the issuing Member State⁴⁵. The procedure is the same when the execution of the alternative sanction is terminated⁴⁶.

6.1.2. *Latvia as issuing Member State*

In the event that the sentenced person wishes to return to their permanent residence in another Member State, or has absconded, a request can be made to the court that rendered the judgment in first instance.

Usually the State Probation Service receives the sentenced person's opinion about a transfer of their sentence. If the person agrees, the Probation Service's staff send an application to the district court.

The district court sends the judgment and the certificate to the MoJ⁴⁷.

Upon receipt of those documents, the MoJ supplies a translation of the certificate, prepares information regarding the limitation period for the execution of a conviction specified in criminal law and sends these documents to the executing Member State.

6.1.3. *The central authority has the main role in communication*

Depending on the complexity of the issue, the court decides whether it is more effective to communicate directly or through the central authority.

However, according to the MoJ, it first liaises with the central authority. Latvian practitioners also frequently use information provided by the EJN.

The MoJ ensures the translation of the documents and checks the accuracy of the documents sent by the court.

⁴⁵ Section 807 of the Criminal Procedure Law.

⁴⁶ Section 806(4) of the Criminal Procedure Law.

⁴⁷ Section 841(1) of the Criminal Procedure Law.

6.1.4. *State Probation Service*

The State Probation Service was founded in 2003. It falls under the auspices of the MoJ. Its main task is to check the effective implementation of probation measures and to work in close cooperation with the courts.

Within the State Probation Service, two people are specialised in FD 2008/947/JHA. Given the number of probation measures that are transferred, the Latvian authorities consider this figure to be sufficient.

Moreover, the State Probation Service has an internal regulation on probation programmes⁴⁸. It also provides the staff of the Probation Service with relevant information on FD 2008/947/JHA on its website.

6.2. Problems related to a lack of application of FD 2008/947/JHA

6.2.1. *No problem regarding the law or the institutional organisation*

The implementation of FD 2008/947/JHA did not require changes to the institutional organisation of Latvia.

According to Latvian practitioners, the legislation in force in Latvia is clear and understandable. However, the Latvian lawyers' representatives explained that lawyers are not familiar with this FD.

The MoJ reported that updates are provided to the authorities involved and that the specific forms related to FD 2008/947/JHA had been distributed to all the relevant entities, but it explained that no specific information sheets had been prepared.

⁴⁸ 30 December 2020, SPS Internal Regulation No 1110-1-1-01/INA2020/14/14 'Procedures for the implementation of supervision and probation programmes'.

The State Probation Service provides guidelines on its internal homepage on how to initiate the transfer of the execution of a judgment to another Member State and what tasks must be performed by State Probation Service officials during the transfer process.

6.2.2. *Practical difficulties identified*

According to the judge's representative, the most common grounds for refusal are:

- an incomplete certificate or judgment. This problem is usually solved with the aid of additional information;
- the offence for which the person was sentenced in the issuing Member State is not a criminal offence in Latvia (lack of double criminality).

The State Probation Service, which is one of the authorities responsible for the enforcement of alternative sanctions, also reported that transferring the execution of a community service-based alternative sanction to another Member State tends to be problematic. Indeed, they consider that transferring the execution of such alternative sanctions is difficult because according to Latvia's legislation community service is expressed not in months and years, but in hours.

However, the main problem identified by the State Probation Service is the disproportionate length of time needed in practice to recognise a judgment and assume responsibility for the enforcement of the judgment. Failure to comply with the 60-day time limit laid down in Article 12 of FD 2008/947/JHA for the recognition of judgments is very common. Due to the length of the whole process (several years, in some cases), the State Probation Service takes too long to start working with the sentenced person, jeopardising their social rehabilitation as well as the victim's rights.

Moreover, if a Latvian court sentences a person and decides to transfer the execution of the judgment to another Member State, there seems to be a lack of communication between the courts and the State Probation Service'. The State Probation Service is not informed of the transfer of the execution of the probation and may decide to end the probation and suggest an enforcement of a prison sentence because the sentenced person does not reply, yet the sentenced person is in fact in the executing Member State. In short, when the State Probation Service is not informed of the transfer by the court, there is a risk that the person on probation might have their probation revoked and be placed in detention.

Another problem arises when the court sends the judgment to the State Probation Service even though the court is aware that the sentenced person is in another Member State. In such cases, the State Probation Service cannot initiate a transfer of the sentence because the consent of the convicted person must first be obtained.

In addition, the State Probation Service stressed that it can handle probation measures where the sentenced person lives near the border. Occasionally the convicted person prefers to return to Latvia to serve the probation, even if he or she is living in another Member State.

As executing State, the State Probation Service mentioned that sometimes the period of probation in the issuing State is not mentioned.

Latvian lawyers' representatives suggested improving the level of awareness of FD 2008/947/JHA among the probation staff. Indeed, in their experience, probation staff do not inform the sentenced person about the option of serving their sentence abroad.

6.2.3. *Statistics*

The statistics presented by the MoJ and the State Probation Service have shown a difference, despite the fact that the State Probation Service is under the auspices of the MoJ. These differences could be explained by the fact that the State Probation Service is not always informed of requests to transfer a probation to another Member State (see 6.2.2).

As the MoJ statistics appear to be more complete, they are displayed below:

Number of requests to recognise alternative sanctions

	Latvia as executing Member State	Latvia as issuing Member State
2017	14	55
2018	10	54
2020	11	24
2021	9	18

The State Probation Service highlighted that:

- as issuing Member State, the most important partner is Lithuania, followed by Germany and finally Poland;
- as executing Member State, the most important partner is Lithuania.

6.3. Conclusions

Latvian procedures to issue and execute a certificate related to FD 2008/947/JHA are quite similar to those described for FD 2008/909/JHA. The district courts are appointed as competent authorities and the MoJ is the central authority with a high level of responsibility.

Latvia has made good progress since questions were asked about why FD 2008/947/JHA was not widely used. Discussions with Latvian practitioners clearly showed that they have had more experience in this field since 2012. Figures presented to the experts confirmed this impression, even though figures provided by the MoJ and the State Probation Service differed and could be more accurate. Only lawyers' representatives stated that probation staff are not sufficiently aware of FD 2008/947/JHA.

Therefore, rather than listing recommendations to increase the use of FD 2008/947/JHA, the experts were able to gain insight into Latvian practice and to identify areas for improvement.

The discussions with Latvian practitioners highlighted a lack of communication between the district courts and the State Probation Service. Indeed, in several cases probation staff were not informed by the district court that a transfer of the probation measure had been initiated. Thus, the probation staff continued to handle the measure, without any response from the sentenced person who believed that the measure had been successfully recognised in the executing Member State. Consequently, the State Probation Service could decide to end the probation measure and enforce the prison sentence. There is therefore a risk that the convicted person could face imprisonment during a transfer of their sentence. To avoid this situation, the experts recommend that Latvia take the necessary measures to effectively inform all the competent authorities, especially the Probation Service, when a probation sentence is transferred.

The Latvian authorities also stressed that the time limits provided for in Article 12 of FD 2008/947/JHA are rarely met. The main explanation for this situation is that the executing Member State does not reply after receiving the necessary documentation to recognise the Latvian sentence. When the executing Member State is asked why its decision-making process is taking so long, there is sometimes no reply or merely the information that the process is ongoing. To solve this main difficulty, the experts recommend that other Member States reply in a timely manner to the issuing Member State when a mutual recognition request is sent.

As for FD 2008/909/JHA, the Latvian decision-making process for FD 2008/947/JHA when Latvia is the executing Member State follows two steps. In the first step, the district courts render a written decision on the recognition of the alternative sanction sentence. The second decision concerns the adaptation of the sentence. Once again, the experts feel that the district court's decision could be rendered in one single decision. Consequently, it would also enable the person concerned to appeal the decision on the principle of the transfer and not only on the adaptation of the sentence.

The State Probation Service also explained that it would welcome more visibility at EU level regarding the state of play of FD 2008/947/JHA and an active exchange of information between the competent authorities in the Member States. Indeed, the EJN Atlas does not include information on the probation authorities. Such a meeting, or working group, could also lead to shared experience and common solutions for FD 2008/947/JHA. The experts consider that this suggestion is relevant and recommend that the EU institutions take it up.

7. FD 2009/829/JHA ON THE EUROPEAN SUPERVISION ORDER (ESO)

7.1. Competent authorities for FD 2009/829/JHA

The competent authority in Latvia for issuing⁴⁹ or executing⁵⁰ an ESO is the PGO. For the issuance of an ESO, the person directing the proceedings may address a written proposal to the PGO.

Latvia has not appointed a central authority. Indeed the PGO is the only competent authority; therefore, it would have been redundant to appoint it as a central authority. Naturally, the PGO performs the traditional functions of a central authority, sending requests and information to the other Member States and consulting with local authorities.

The PGO does not have direct contact with the Member State authorities but primary uses the EJN.

7.2. Problems related to a lack of application of FD 2009/829/JHA

7.2.1. No problem regarding the law or the institutional organisation

The implementation of FD 2009/829/JHA did not require changes to the institutional organisation of Latvia.

According to Latvian practitioners, the legislation in force in Latvia is clear and understandable. The Latvian lawyers' representatives explained that lawyers are not aware of this FD.

The MoJ mentioned that no specific information sheets on the ESO have been prepared. However, the specific forms related to FD 2009/829/JHA have been distributed to all the relevant entities.

The PGO added that it can advise practitioners by telephone on the application of the ESO.

⁴⁹ Section 884(1) of the Criminal Procedure Law.

⁵⁰ Section 866 of the Criminal Procedure Law.

7.2.2. *Practical problems*

According to the PGO, the legislation is not unclear but simply unpopular, since its application requires the consent of the person concerned. Even if ESO could benefit the person, in practice they often refuse to give their consent.

The PGO's representatives consider that this mutual recognition instrument could be useful with neighbouring Member States but not with distant Member States.

From the point of view of Latvian practitioners, it is easier to end criminal proceedings rather than use an ESO. They stressed the time-consuming consequences when a person does not comply with their supervision measure - it would be necessary to issue an EAW and go through a surrender procedure.

Moreover, it appears that the ESO does not fit the Latvian criminal procedure. When a person is prosecuted and presented to the investigative judge, this judge decides on the provisional arrest. The judge does not put the person under supervision. If the prosecuted person is not in custody, they are released. The prosecutor, and the investigator with prosecutor's approval, is able to decide on supervision measures during a second stage. It is only at this second stage that an ESO can be considered and it is generally not deemed useful.

7.2.3. *Statistics*

The PGO reported that Latvia had twice used an ESO as executing Member State.

One request was received from France in 2017 and one from Lithuania in 2019. The first one was granted, but France has still not provided information on when the person would arrive in Latvia.

7.3. Conclusions

FD 2009/829/JHA is not used when Latvia is the issuing Member State and rarely used when Latvia is the executing Member State.

The reason for such rare use of this mutual recognition instrument does not lie in the way in which FD 2009/829/JHA has been implemented. Practitioners find Latvian law understandable. Moreover, the competent authority is the PGO, which is highly specialised in EU legislation and is aware of this mutual recognition instrument.

The explanation for the rare application of FD 2009/829/JHA is primarily that it does not suit the needs of Latvian criminal proceedings. Indeed, the decision to place a person under provisional detention must be taken within a few hours and it is not possible in this timeframe to issue an ESO and receive a reply from the executing Member State. Moreover, the Latvian practitioners mentioned that a criminal case is solved faster if the foreign person is briefly under provisional detention than if they are released and has to come back for further investigation or a trial.

In addition, lawyers who should be key players in this field are not aware of FD 2009/829/JHA and it is complicated for them to receive timely documentation from the executing Member State to support a request for an ESO. Therefore, the experts recommend that Latvian Council of Sworn Advocates raise awareness of FD 2009/829/JHA.

8. **TRAINING**

8.1. **Training related to FDs 2002/584/JHA, 2008/909/JHA, 2008/947/JHA and 2009/829/JHA**

8.1.1. General description of the training of the Latvian judicial authorities

8.1.1.1. At national level

At national level, issues concerning training for judges, court employees and prosecutors are mainly dealt with by the Latvian Judicial Training Centre (LJTC). Training for prosecutors is also provided by the Prosecution Office. Additional training for judges and court employees is also carried out by other training providers such as the MoJ.

The LJTC implements the annual state-funded training programme and organises other training projects co-financed by the European Commission or other partners.

The LJTC pointed out that the Law on Judicial Power enshrines the obligation for judges to continuously enhance their knowledge throughout their career as a judge. In order to do so, judges are offered the opportunity to attend annual training activities.

The Court Administration plans and provides training for judges and court employees⁵¹. In 2014, the Court Administration concluded a cooperation agreement with the LJTC, for a period of 10 years, on the training of judges, candidate judges and court employees. In accordance with the terms of the cooperation agreement, the LJTC has undertaken to provide training at a high professional level. To this end, training programmes are drawn up each year, covering not only general but also current legal issues.

⁵¹ Point 9 of Section 107¹(2) of the Law on Judicial Power.

Since 2018, the Judicial Council has approved the contents of the training programmes for judges and court employees upon a proposal of the Chief Justice of the Supreme Court or the Minister for Justice⁵². The Judicial Council is a collegial authority that helps to develop the policies and strategies of the judicial system, as well as to improve the organisation of the work of the judicial system⁵³.

Given that the legislator requires the Court Administration to plan and provide training for judges and court employees and also foresees that the contents of the training programmes for judges and court employees has to be approved by the Judicial Council upon a proposal from the Chief Justice of the Supreme Court or the Minister for Justice, the Latvian authorities consider that a quality training process adapted to the needs of judges and court employees is ensured.

The LJTC regularly includes issues related to judicial work in the field of international judicial cooperation in criminal proceedings in the training programmes of judges and court employees. Similarly, the initial training programme for candidate judges covers matters related to international judicial cooperation.

The legislator has not laid down a requirement for the quality of individual training courses to be assessed. Nevertheless, the LJTC assesses training content based on feedback from participants following each training activity. Based on participants' recommendations, a training programme is drawn up and improved for each subsequent year.

Moreover, every year the PGO provides training for prosecutors which addresses, inter alia, issues relating to developments in the EU's legal framework concerning international cooperation. The LJTC, for its part, organises sessions for judges on recent case-law of the Court of Justice of the European Union.

According to the Latvian judiciary, the training provided by the entities previously mentioned (the LJTC, the PGO, the MoJ, etc.) is sufficient.

⁵² Pursuant to Section 89¹¹(9²) of the Law on Judicial Power.

⁵³ In accordance with Section 89¹ of the Law on Judicial Power.

The State Police College is in charge of training for the State Police.

Initial training for staff of the Probation Service is between four and six months. The ongoing training is held internally; the staff occasionally also attend trainings provided by the LJTC.

Training for lawyers is organised by the Bar Association. Lawyers have a mandatory training of 16 hours a year. This is a legal requirement and disciplinary measures can be taken in case of non-compliance with this obligation. Mutual recognition instruments are not included in the training provided by the Bar Association or in the seminar attended by the assistants of sworn advocates. The Bar Association faces two difficulties here: finding a trainer for this specific field and a lack of interest from Latvian lawyers, who do not usually deal with the FDs that are the subject of the ninth round of mutual evaluations. Indeed, in a survey carried out by the Latvian Council of Sworn Advocates, figures showed that Latvian lawyers do not deal with mutual recognition instruments.

8.1.1.2. At international level

The PGO reported that prosecutors make use of all the possibilities offered by the Academy of European Law (ERA) and the EJTN. The LJTC is a member of the EJTN and gives judges the opportunity to participate in various international training activities. The LJTC also offers judges training activities in the context of projects carried out by ERA. Each year, the EJTN organises at least two international seminars on international judicial cooperation in criminal matters.

The prosecutors from the International Cooperation Division of the PGO explained their use of the practical online tools, provided for on the EJM website, in their daily work.

The Latvian Bar Association cooperates with ERA and informs lawyers about training opportunities at international level. In practice however, Latvian lawyers do not frequently attend seminars or workshops provided by ERA.

8.1.2. *Training related to FD 2002/584/JHA*

Within the initial training programme for candidate judges, courses on the EAW are provided.

The LJTC periodically includes the EAW in their training programme based on a decision by the Training Programmes Task Force on updates for the following year's training programme. The lecturers are prosecutors from the International Cooperation Division of the PGO.

The training on the EAW is attended by judges dealing with criminal cases, and assistant judges also have the opportunity to attend. The Latvian Judicial Training Centre regularly engages in the training of judges on the EAW.

The number of course participants depends on what is offered as part of the training programme for the year in question. It also depends on whether training is provided for candidate judges in a given year. For example, the specific training course on the EAW organised by the LJTC was attended by seven judges and six prosecutors in 2016 and by 12 candidate judges in 2018. In 2020, 17 candidate judges were expected to take part in the training course on the EAW.

Training activities organised by the LJTC:

- 14-16 September 2016: 'International judicial cooperation in criminal matters in practice. European arrest warrant and mutual legal assistance request simulations' seminar. The seminar in Riga was organised by the EJTN in cooperation with the LJTC. It took the form of a practical workshop in which participants fill in a European arrest warrant under the guidance of an expert and analyse a request for mutual legal assistance and other documents. Seven judges and six prosecutors participated in the seminar.
- 11 December 2018: 'International cooperation as a function of the Prosecutor General's Office', 90-minute session. The topic included information on Council FD 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States. The training course was attended by 12 candidate judges.

The LJTC did not organise any training on specific topics related to the impact of CJEU case-law in the area of the EAW.

Similarly, the MoJ has organised training for judges, prosecutors and police officers on the practical application of the EAW and on the principle of proportionality in criminal matters, using funding from the EJN and involving prosecutors from the International Cooperation Division as lecturers.

The State Police College's study programme does not include a separate topic on the European arrest warrant and its application, but students are given an insight into the EAW in the Level 1 professional higher education programme 'Police work' in the 'Criminal proceedings' study course as part of the topic 'International cooperation in criminal proceedings'.

The LJTC also gave judges the opportunity to participate in international training on the EAW. Between 2016 and 2019, on average, four judges from Latvia participated in these seminars each year.

Furthermore, the LJTC has offered judges the opportunity to participate in any seminars organised by ERA on the European arrest warrant. Two judges participated in these seminars in 2016.

According to the PGO, updates and developments on the EAW are distributed by the national member of Eurojust.

8.1.3. *Training related to FD 2008/909/JHA*

The application of the principle of mutual recognition to judgments imposing custodial sentences is one of the issues covered in the annual training programme for judges and court employees provided by the LJTC.

The specific training course organised by the LJTC on issues relating to FD 2008/909/JHA was attended by 29 criminal judges and 69 assistant judges in 2015; by 13 criminal judges, 30 assistant judges and 6 candidate judges in 2016; by 45 criminal judges, 20 assistant judges and 12 candidate judges in 2018; and by 27 criminal judges and 26 assistant judges in 2019.

More precisely, in the past few years the LJTC has organised the following training activities:

- 30 January 2015: ‘International judicial cooperation’, 90-minute session attended by 56 assistant judges. Topics covered: the recognition of foreign judgments; the execution of sentences; the execution by other countries of sentences imposed in Latvia; and the transmission of mutual legal assistance documents.
- 11 November 2015: ‘International cooperation in the field of criminal law’, 90-minute session attended by 29 criminal judges and 13 assistant judges. Topics covered: the recognition and execution of foreign judgments; the execution by other countries of sentences imposed in Latvia; the analysis of examples of practice; the execution in Latvia of decisions taken in Member States; and the ‘*ne bis in idem*’ principle in the context of international cooperation.
- 10 March 2016: ‘International cooperation in criminal matters’ seminar, three 90-minute sessions. In particular, the session on ‘mutual recognition instruments’ covered topics related to the recognition and execution of judgments in the European Union (sentences: deprivation of liberty, recovery of financial penalties, confiscations, probation measures). The seminar was attended by 13 criminal judges and 30 assistant judges.
- 25 November 2016: criminal law training programme for candidate judges, ‘International judicial cooperation in criminal matters’, 90-minute session attended by six candidate judges.
- 10 September 2018: ‘Recognition of foreign judgments and execution of sentences’, 90-minute session attended by 45 criminal judges and 20 assistant judges.
- 13 December 2018: criminal law training programme for candidate judges, ‘International judicial cooperation in criminal matters’, two 90-minute sessions attended by 12 candidate judges.

- 15 November 2019: ‘International cooperation in criminal proceedings and developments in cross-border cooperation’ seminar, three 90-minute sessions. Specific sessions included ‘Recognition and execution by other countries of sentences imposed in Latvia’ and ‘Recognition and execution of foreign sentences in Latvia’. The seminar was attended by 27 criminal judges and 26 assistant judges.

The MoJ also holds training in this area for judges and their assistants. The courses are more practice-oriented. In 2020, the MoJ developed a practical tool: an e-learning course which includes issues related to the application of FD 2008/909/JHA. Furthermore, the MoJ creates and distributes training materials and information. Training material was circulated in the courts in 2019.

The experts noted that the MoJ and the Prison Administration is familiar with Europris and the CEP. The outcomes of the meetings are shared with the relevant practitioners.

8.1.4. *Training related to FD 2008/947/JHA*

The MoJ indicated that training on FD 2008/947/JHA is held as required, and that it organises training on practical issues. . The target audience is judges and assistant judges. The MoJ organises webinars on the current state of play of the implementation of FD 2008/947/JHA. Current problems are discussed once a year during the training organised by the LJTC. An e-course on the recognition instruments is available to the judiciary.

According to the State Probation Service, new staff are trained with an introductory session of approximately 1.5 hours on the application of FD 2008/947/JHA. Up to now, State Probation Service staff have not participated in training organised by other institutions or organisations. The State Probation Service also participates in the CEP.

The LJTC noted that specific training on FD 2008/947/JHA is not regularly included in the annual training programme for judges and court staff. Questions on the application of the principle of mutual recognition to judgments and decisions on the supervision of probation measures are handled together with FD 2008/909/JHA.

The MoJ and the State Probation Service have not participated in training at EU level. The LJTC indicated that, to date, no international training activities had been organised specifically on FD 2008/947/JHA. However, the MoJ and the State Probation Service consider that participating in training at EU level would be very useful.

The MoJ and the State Probation Service are aware of and use the tools of the EJM website. The State Probation Service generally uses the lists of countries that have implemented FD 2008/947/JHA and the information on the respective competent authorities and the probation measures which they undertake to execute, along with other information available.

8.1.5. *Training related to FD 2009/829/JHA*

The PGO underlined that there were plans to organize a training course on FD 2009/829/JHA on 11 and 12 February 2020 for practitioners as part of the Probation Observatory Training and Network (PONT) project, which is part of the European Commission's Justice Programme. The project is implemented by the University of Latvia in cooperation with universities in Spain and Romania, as well as with the CEP and the MoJ of Bremen (Germany). Unfortunately, due to exceptional circumstances, the training was postponed.

The PGO mentioned that neither it nor the LJTC had organized any training on FD 2009/829/JHA to date. The PGO added that training on the ESO is currently not considered to be a priority.

The PGO reported that it had not created any training materials on FD 2009/829/JHA. Any updates or developments on the FD would come from the Eurojust national member and be distributed to all relevant practitioners.

The PGO has not participated in training at EU level on the ESO. The LJTC indicated that, to date, no international training activities had been organised specifically on FD 2009/829/JHA.

8.2. Conclusions

The main institution providing training to the Latvian judiciary is the LJTC. The LJTC can request that other authorities provide training (e.g. the MoJ, the PGO etc.). Nevertheless, each judicial body may have its own internal training: the PGO for prosecutors, the MoJ for judges, the State Probation Service for probation staff, the State Police College for State Police Officers or the Bar Association for lawyers.

Training is mandatory for all the Latvian authorities consulted during the on-site evaluation. The experts believe that this helps to maintain a satisfactory level of knowledge. The experts also consider that language training is important and recommend that all Latvian judicial authorities participate in such training.

Except for sworn advocates, all competent authorities involved in the four FDs subject of the ninth round of mutual evaluation could benefit from training on mutual recognition instruments. The experts recommend that Latvian Council of Sworn Advocates create training courses on these mutual recognition instruments.

However, the diversity of training offered depends on the FD. Training on FDs 2002/584/JHA and 2008/909/JHA appears to be sufficient and well implemented. The experts praised the fact that the MoJ had created e-training for judges on FD 2008/909/JHA. This is a good way to swiftly spread knowledge to a large number of judges and it gives flexibility to these practitioners to follow these courses whenever they want, or can.

Training on FD 2008/947/JHA appears to be less frequent but it focuses on the right authorities: judges and probation staff. Currently these two authorities do not have a joint training. Given their difficulties in exchanging information, the experts recommend that Latvia create joint training courses on FD 2008/947/JHA for Probation Service staff and judges. This would help to share experience and solve practical issues.

Training or a handbook on FD 2009/829/JHA are not yet implemented in Latvia. The only initiative related to the PONT project was postponed in 2020.

9. FINAL REMARKS, RECOMMENDATIONS AND BEST PRACTICES

9.1. Suggestions from Latvia

9.1.1. FD 2002/584/JHA

As regards the consequences of the CJEU's *Petruhhin* case-law, the decision on the preliminary ruling entered into force on 17 December 2020. The CJEU decided that the Member State that receives an extradition request is not obliged to refuse extradition and may conduct a criminal prosecution itself if national law permits it to do so.

Meanwhile, Latvia proposed that the Presidency of the Council refer the matter to the Justice and Home Affairs Council meeting in order to discuss this point with the other Member States. This discussion took place as requested.

Moreover, Latvian practitioners would encourage the other Member States to appoint a centralised body to deal with EAW cases. They consider that it would make direct contact easier and diminish the language barrier.

9.1.2. FD 2008/947/JHA

The State Probation Service's representatives suggested holding meetings at EU level on FD 2008/947/JHA with all the relevant practitioners, at which the practical problems faced by Member States could be discussed and best practices shared. Latvian authorities underlined that these issues are not discussed in the CEP.

In addition, the State Probation Service would like to be able to directly contact the probation staff of another Member State.

9.1.3. *Training*

The PGO highlights the necessity for the Member States to continuously update the information available on the EJN website.

The State Probation Service's representatives consider that a training course on FD 2008/947/JHA for judges and probation staff could be useful. It would help to enhance awareness of this FD and improve communication between judges and probation staff.

9.2. **Recommendations**

As regards the practical implementation and operation of the Directives and the Regulation, the expert team involved in the evaluation of Latvia was able to review the system in Latvia in a satisfactory way.

Latvia should conduct an 18-month follow-up on the recommendations below after the adoption of this report in the Working Party concerned.

The evaluation team thought it fit to make a number of suggestions for the attention of the Latvian authorities. Furthermore, based on various good practices, it also put forward related recommendations to the EU and its institutions and agencies, in particular Eurojust and the EJN.

9.2.1. *Recommendations to Latvia*

9.2.1.1. Cross-cutting topics

Recommendation No 1: Latvia should create an electronic tool to collect data related to the FDs that are the subject of the ninth round of mutual evaluations (see 3.7.1, 4.10, 4.11.1, 6.2.3, 6.3, 7.2.3 and 7.3).

Recommendation No 2: Latvia is encouraged to find a way to provide information, during the hearing or the trial, to the prosecuted or sentenced person about the possibility of using FDs 2008/909/JHA, 2008/947/JHA or 2009/829/JHA (see 4.11.2).

Recommendation No 3: Latvia is encouraged to specialise judges in the field of FDs 2008/909/JHA and 2008/947/JHA. (see 4.11.1).

Recommendation No 4: Latvia is encouraged to increase the number of staff at the MoJ, the PGO and the Supreme Court, dealing with FDs 2002/584/JHA and 2008/909/JHA. (see 3.7.1, 3.7.3. and 4.11.1.)

9.2.1.2.FD 2002/584/JHA

Recommendation No 5: When translating the law related to FD 2002/584/JHA into English, Latvia is encouraged to use the word ‘surrender’ rather than ‘extradition’ (see 3.7.1).

Recommendation No 6: Latvia could further develop its IT systems dedicated to SIS - notably the possibility for police officers to check SIS alerts on their mobile device or a programme to help police officers check incoming alerts in the SIS (see 3.7.3).

9.2.1.3.FD 2008/909/JHA

Recommendation No 7: Latvia should clearly define which authority is competent to initiate and execute the transfer of a prisoner, and subsequently confer all necessary powers on this authority (see 4.11.1).

Recommendation No 8: In the field of FD 2008/909/JHA, Latvia should empower a judicial authority with the competence to order the police to detain the sentenced person for up to 72 hours (see 4.11.1).

Recommendation No 9: Latvia is encouraged to simplify the leaflet given to the sentenced person in prison on requesting a transfer and translate it into all EU languages (see 4.11.2).

Recommendation No 10: Latvia should amend its legislation to remove any ambiguity and uncertainty about the period within which a prisoner should be informed about their right to be transferred (see 4.11.2).

Recommendation No 11: When acting as executing Member State, Latvia should consider whether the district court could take a single decision for the recognition and adaptation of the custodial sentence (see 4.11.3).

Recommendation No 12: Latvia is encouraged to promote prison staff as an authority that could help starting the process of transfer and then train them specifically on FD 2008/909/JHA (see 4.11.2).

Recommendation No 13: Latvia is encouraged to develop a computer programme to identify prisoners eligible for a transfer and to calculate the number of days still to be served (see 4.11.2).

Recommendation No 14: Latvia should inform the issuing Member State in a timely manner if a delay is expected, giving reasons and the estimated length of the delay (see 4.11.1).

9.2.1.4. Links between FDs 2002/584/JHA and 2008/909/JHA

Recommendation No 15: The Latvian authorities should be more proactive in order to avoid impunity when an EAW for the enforcement of a sentence is denied and the sentence could be enforced in the executing Member State (see 5.2).

9.2.1.5. FD 2008/947/JHA

Recommendation No 16: Latvia should take the necessary measures to effectively inform all the relevant authorities, especially the Probation Service, when a probation sentence is transferred (see 6.3).

Recommendation No 17: When acting as executing Member State, Latvia should consider whether the district court could take a single decision for the recognition and adaptation of the alternative sanction (see 6.3).

9.2.1.6.FD 2009/829/JHA

Recommendation No 18: The Council of Latvian Sworn Advocates should raise awareness of FD 2009/829/JHA (see 7.3).

9.2.1.7.Training

Recommendation No 19: The Council of Latvian Sworn Advocates should create training courses, including specialized language training on the mutual recognition instruments that are the subject of the ninth round of mutual evaluations (see 8.2).

Recommendation No 20: Latvia should create joint training for the Probation Service and judges on FD 2008/947/JHA (see 8.2).

9.2.2. Recommendations for the other Member States

Recommendation No 21: Competent authorities should reply in a timely manner after receiving a mutual recognition request or a request for additional information; if there is a delay, they should inform the issuing authority (see 3.7.3, 4.11.1 and 6.3).

9.2.3. Recommendations for the European Union and its institutions

Recommendation No 22: When translating official EU documents into Latvian, the comments made by the Latvian experts should be taken into account. (see 3.7.1).

Recommendation No 23: EU institutions should provide guidelines on how to calculate the remaining days of a sentence to be served (see 4.11.2).

Recommendation No 24: EU institutions should create a working group made up of the relevant Member State authorities in order to share experience and find common solutions when using FD 2008/947/JHA (see 6.3 and 9.1.3).

9.3. Best practices

This list includes only the best practices that are recommended to be adopted by other Member States.

The Member States should:

1. define centralised authorities that are highly specialised, can help practitioners and are able to communicate in foreign languages, as in Latvia (see 3.7.1 and 4.11.1);
2. include as many identification features as possible in the A form, such as fingerprints, photos, national identification number, as the PGO does (see 3.7.2);
3. allow the competent authority to work with interpreters in foreign languages, as in the PGO's international division (see 3.7.1);
4. create e-training such as that created by the MoJ for FD 2008/909/JHA (see 8.2).

Preparatory work, 18 May 2021

- Discussions on training for the competent authorities that deal with the instruments that are the subject of the ninth round of mutual evaluations.
- Presentation of the agenda of the on-site evaluation and comments by the experts.

On-site evaluation, 25-29 April 2022

Monday, 25 April

Arrival at Riga International Airport

Tuesday, 26 April

10.00 - 10.15 Opening of the ninth round of mutual evaluation of Latvia – words of welcome

10.15 – 12.45 Working session I on the EAW

- Presentation by the Prosecutor General's Office and presentation by the MoJ
- Q&A/discussion

13.00 – 14.00 Lunch

Venue: the canteen of the Ministry of Justice

14.00 – 15.00 Working session II on the assessment of the facilitation of social rehabilitation

- Presentation by the Latvian Prison Administration
- Q&A/discussion

Wednesday, 27 April

10.00 – 12.45 Working session I on FD 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

- Presentation of Latvia's implementation of the FD
- Presentation by the State Police on aspects of the transfer of sentenced persons
- Q&A/discussion

13.00 – 14.00 Lunch

Venue: the canteen of the Ministry of Justice

14.30 – 15.30 Working session II on the EAW, FD 2008/909/JHA and FD 2008/947/JHA

- Presentation by experts from the Latvian Council of Sworn Advocates
- Q&A/discussion

Thursday, 28 April

10.00 – 12.30 Working session I on FD 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

- Presentations by the MoJ, the State Probation Service and the competent court on the supervision of probation measures and alternative sanctions and on supervision measures as an alternative to provisional detention
- Q&A/discussion

12.30 – 13.30 Lunch

Venue: La Kanna, Tērbatas iela 5, Riga

13.35 – 16.30 Working session II on FD 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

Friday, 29 April

10.00 – 11.30 Final meeting of the evaluation team - conclusions

ANNEX B: PERSONS INTERVIEWED/MET

18 May 2021

Venue: Virtual meeting

Person interviewed/met	Organisation represented
Ms Dārta Mestere	Legal Programme Officer from the Latvian Judicial Training Centre
Ms Jūlija Muraru-Kļučica	Lawyer from the International Judicial Cooperation Department, MoJ
Ms Una Brenča	Head Prosecutor of the International Cooperation Department, Prosecutor General's Office
Mr Imants Jurevičius	Head of the Performance Analysis and Development Department, State Probation Service of Latvia
Ms Liene Jenča	Director of the EU Affairs Department, MoJ
Ms Ieva Linde	Lawyer of the EU Affairs Department, MoJ
Ms Vineta Krutko	JHA Counsellor, Permanent Representation of Latvia to the EU

26 April 2022 – morning session

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga

Person interviewed/met	Organisation represented
Mr Mihails Papsujevičs	State Secretary, Ministry of Justice
Ms Una Brenča	Head Prosecutor, Prosecutor General's Office
Mr Mārcis Viļums	Prosecutor, Prosecutor General's Office
Ms Solvita Pētersone	Prosecutor, Prosecutor General's Office
Ms Zane Ozola	Department of Criminal Justice, MoJ
Ms Jūlija Muraru-Kļučica	Department of International Cooperation, MoJ
Mr Jānis Markuns	Acting Chief of the First Unit (SIS-SIRENE Latvia and operational cross - border cooperation (24/7)) of the International Cooperation Department of the Central Criminal Police Board, State Police
Ms Aija Branta	Judge of the Supreme Court
Ms Anna Mihailova	Judge, City of Riga Vidzeme District Court

26 April 2022 – afternoon session

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga

Person interviewed/met	Organisation represented
Ms Kristīne Ķipēna	Head of the Sentence Execution Policy Unit, Ministry of Justice
Ms Svetlana Trubačova	Director of the Resocialisation Unit, Latvian Prison Administration
Ms Daina Ruso	International Cooperation, Latvian Prison Administration
Mr Imants Jurevičius	Head of the State Probation Service
Mr Jānis Klūga	Head of the Community Supervision and Community Works Service Division of the Resocialisation Department, State Probation Service

27 April 2022 – morning session

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga

Person interviewed/met	Organisation represented
Ms Zane Ozola	Department of Criminal Justice, MoJ
Ms Jūlija Muraru-Kļučica	Department of International Judicial Cooperation, MoJ
Ms Una Brenča	Head Prosecutor, Prosecutor General's Office
Mr Mārcis Viļums	Prosecutor, Prosecutor General's Office
Ms Solvita Pētersone	Prosecutor, Prosecutor General's Office
Ms Olga Trocka	Acting Chief of the International Cooperation Department of the Central Criminal Police Board, State Police
Mr Jānis Markuns	Acting Chief of the First Unit (SIS-SIRENE Latvia and operational cross-border cooperation (24/7)) of the International Cooperation Department of the Central Criminal Police Board, State Police

27 April 2022 – afternoon session

Venue: Elizabetes iela 63 - 1, Riga

Person interviewed/met	Organisation represented
Mr Jānis Rozenbergs	President of The Latvian Collegium of Sworn Advocates
Ms Jeļena Kvjatkovska	Sworn Advocate
Mr Pāvels Jašņiks	Assistant of Sworn Advocate

28 April 2022 – morning session

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga

Person interviewed/met	Organisation represented
Ms Dace Sauša	Department of International Judicial Cooperation, MoJ
Ms Jūlija Muraru-Kļučica	Department of International Judicial Cooperation, MoJ
Ms Zane Ozola	Department of Criminal Justice, MoJ
Ms Kristīne Ķipēna	Head of the Sentence Execution Policy Unit, Sectoral Policy Department, MoJ
Mr Imants Jurevičius	Head of the State Probation Service
Mr Jānis Klūga	Head of the Community Supervision and Community Works Service Division of the Resocialisation Department, State Probation Service
Ms Jana Mituza	Lead Expert of the Community Supervision and Community Works Service Division of the Resocialisation Department, State Probation Service

28 April 2022 – afternoon session

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga

Person interviewed/met	Organisation represented
Ms Una Brenča	Head Prosecutor, Prosecutor General's Office
Mr Kaspars Kalniņš	Prosecutor, Prosecutor General's Office
Mr Mārcis Viļums	Prosecutor, Prosecutor General's Office
Ms Olga Trocka	Acting Chief of the International Cooperation Department of the Central Criminal Police Board, State Police
Mr Jānis Markuns	Acting Chief of the First Unit (SIS-SIRENE Latvia and operational cross-border cooperation (24/7)) of the International Cooperation Department of the Central Criminal Police Board, State Police

29 April 2022

Venue: Ministry of Justice, Brīvības bulvāris 36, Riga


Person interviewed/met	Organisation represented
Ms Una Brenča	Head Prosecutor, Prosecutor General's Office
Ms Zane Ozola	Department of Criminal Justice, MoJ
Mr Mārcis Viļums	Prosecutor, Prosecutor General's Office
Ms Olga Trocka	Acting Chief of the International Cooperation Department of the Central Criminal Police Board, State Police
Ms Liene Jenča	Department of Criminal Justice, MoJ

ANNEX C: LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	LATVIAN OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
CATS		Coordinating Committee in the area of police and judicial cooperation in criminal matters
CEP		Confederation of European Probation
CJEU		Court of Justice of the European Union
CPT		European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
EAW		European arrest warrant
ECHR		European Court of Human Rights
ECJ		European Court of Justice (Court of Justice of the European Union)
EJN		European Judicial Network
EJTN		European Judicial Training Network
ERA		Academy of European Law
ESO		European Supervision Order
EU		European Union
FD		Framework Decision
GSC		General Secretariat of the Council
JHA		Justice and Home Affairs
LJTC		Latvian Judicial Training Centre
MoJ		Ministry of Justice

LIST OF ACRONYMS, ABBREVIATIONS AND TERMS	LATVIAN OR ACRONYM IN ORIGINAL LANGUAGE	ENGLISH
MS		Member State
PONT		Probation Observatory. Training and Network
SIRENE		Supplementary Information Request at the National Entries
SIS		Schengen Information System

ANNEX D: THE IMPACT OF COVID-19 ON JUDICIAL COOPERATION IN CRIMINAL MATTERS

<div style="text-align: center;"> LATVIA  </div>	
<p>EAW</p> <p>-issuing of EAWs (<i>suspension; impact on already issued EAWs; prioritisation in issuing new EAWs + criteria</i>)</p> <p>- execution and postponement of the actual surrender (<i>legal basis, adequacy, release of surrendered persons, measures to prevent released persons from absconding</i>)</p> <p>-expected resumption of surrenders</p> <p>-transit</p>	<p>Impact on the issuing of EAWs</p> <p>Currently there are no problems in issuing an EAW to declare an international search for a person.</p> <p>Impact on the execution of EAWs and postponement of the actual surrender</p> <p>Recently, according to the Order of the Cabinet of Ministers No 720, 'Regarding the declaration of an emergency situation', adopted on 9 October 2021, Latvia declared a state of emergency until 11 January 2022</p> <p>The transfer and reception of persons under arrest is carried out in accordance with the provisions of the Law on the Management of the Spread of COVID-19 Infection in Latvia. Section 12 of that law states that the transfer and reception of persons convicted and detained in foreign countries for the further execution of a custodial sentence or arrest within the territory of the Republic of Latvia may be suspended, except when the foreign country has refused to extend the time limit for the transfer of the person or the detention period of the person cannot be extended and the person to be transferred or received has been tested for COVID-19 72 hours before entry, and the test is negative.</p> <p>In fact, the transfer and reception of persons detained in foreign countries takes place, taking into account the COVID-19 safety measures of the state and the foreign country.</p> <p>Legal basis for postponing the actual surrender</p> <p>We would use the legal basis of force majeure.</p> <p>Adequacy of these provisions</p> <p>We consider them sufficient if they do not exceed the maximum detention time for extradition. If the detention time were likely to be exceeded, we would need to decide whether to apply other security measures.</p> <p>Release of requested persons following the postponement of the surrender</p> <p>N/A</p> <p>Expected resumption of the surrender</p> <p>We are able to perform surrenders according to Section 12 of the Law on the Management of the Spread of COVID-19 Infection in Latvia. The dates for the surrenders are negotiated via the SIRENE or INTERPOL channels</p>

	<p>and are agreed on a case-by-case basis. Surrenders might take more time in some countries due to restrictions.</p> <p>Transit</p> <p>Each case will be analysed individually, depending on the airline's requirements, the length of stay in the transit area, etc. The basic conditions are: a PCR test done 72 hours or less before boarding the aircraft to Latvia; an antigen test done 48 hours or less before boarding the aircraft to Latvia; EU-recognised digital COVID-19 certificate attesting to vaccination or recovery from COVID-19.</p>
<p>Precautionary measures for surrender, extradition and transfer</p> <ul style="list-style-type: none"> - COVID-19 test - health certificate - quarantine - face masks 	<p>Precautionary measures</p> <p>Basic health and safety principles must still be strictly observed. The use of personal protective equipment - face masks covering mouth and nose are mandatory on public transport. General recommendations for personal hygiene and keeping a distance of 2 m between persons wherever possible are still important. People without an EU-recognised digital COVID-19 certificate attesting to vaccination or recovery from COVID-19 have limited access to public services.</p> <p><i>Additional information:</i></p> <p>A person who has an EU-recognised digital COVID-19 certificate attesting to vaccination or recovery from COVID-19 is required to complete the confirmation form covidpass.lv, to take a COVID-19 test and to self-isolate when returning from very high-risk countries.</p> <p>Persons who have not been vaccinated or have not had COVID-19 and recovered from it should self-isolate for ten days when returning from high-risk countries (EU, EEA, Switzerland, United Kingdom and other countries).</p> <p><i>Travellers to Latvia can find more detailed information on the provisions for preventing the spread of COVID-19 on the website of the Ministry of Foreign Affairs at:</i></p> <p>https://www.mfa.gov.lv/en/information-travellers-latvia-provisions-preventing-spread-covid-19.</p> <p>Specific measures for the person to be transferred</p> <p>In accordance with current legislation, an imprisoned person transferred to Latvia from any foreign country will be placed in isolation (10 days) in prison. The law provides for limitations of the prisoner's rights during this period. A negative COVID-19 test (validity of the certificate – 72 hours) for the escorted person is necessary.</p> <p>Specific measures for escorting police officers</p> <p>No special conditions are specified for escorting police officers.</p> <p>Need (or not) for further guidance on precautionary measures</p> <p>The establishment of supportive guidance would be useful.</p>

Extradition -suspension -legal basis -third countries involved -expected duration of suspension	Impact on extradition procedures Since extradition detention time with third States is longer than for the EAW, we currently have no issues. Need (or not) for further exchange of information We would very much welcome any additional information.
Transfer of sentenced persons -prioritisation in issuing/execution	Impact on the transfer of sentenced persons In cases under FD 2008/909, we do not 'prioritise' cases. The speed of the execution of the requests depends on the COVID-19 safety measures in each country. The transfer and reception of surrendered convicted persons is carried out in accordance with the provisions of the Law on the Management of the Spread of COVID-19 Infection in Latvia. Section 12 of the Law states that the transfer and reception of persons convicted and detained in foreign countries for the further execution of a custodial sentence or arrest within the territory of the Republic of Latvia may be suspended, except when the foreign country has refused to extend the time limit for the transfer of the person or the detention period of the person cannot be extended and the person to be transferred or received has been tested for COVID-19 72 hours before entry, and the test is negative. In fact, the transfer and reception of persons convicted in foreign countries takes place as usual, taking into account the COVID-19 safety measures of the foreign country.
SIRENE Bureaux -working of the SIS bureau -exchange of information with other SIS Bureaux	Impact on the working of the SIRENE Bureau The SIRENE Bureau has been working at full capacity since the end of the state of emergency declared in Latvia. Impact on the exchange of information with other SIRENE Bureaux The SIRENE Bureau Latvia has not faced problems in exchanging information with other Member States.
EIO and MLA -prioritisation in issuing/execution -electronic transmission -whom to contact	Impact on the issuing and/or execution of EIOs and MLA requests In pre-trial cases there is a certain prioritisation of EIOs based on the necessity for contact with the person. Exceptions are possible, taking into account the seriousness of the offence (as for the EAW). Foreigners may not participate in proceedings concerning the execution of investigative activities. The assessment is made on a case-by-case basis taking into consideration the needs of the investigation. At the trial stage, there is no 'prioritisation' of EIOs. (...) Primarily, requests that do not require contact with the person are fulfilled, for example requests to provide documents from criminal cases. If contact with the person is needed, such request may be executed insofar as a safe distance is kept between the persons (2 m).

	<p>In urgent cases, solutions must be communicated electronically to the central authorities mentioned below.</p> <p>Electronic transmission and contact details</p> <p>In order to minimise delays and to continue with the cross-border cooperation ensuring the most efficient response, all the Latvian central authorities have agreed that incoming requests on mutual legal assistance should be sent in PDF format by email to:</p> <p>Pre-trial stage - pasts@vp.gov.lv (State Police) and dkssd@lrp.gov.lv (Prosecutor General's Office);</p> <p>Trial stage – central.authority@tm.gov.lv (Ministry of Justice).</p> <p>A hardcopy of the request must still be posted to the Latvian central authorities.</p> <p>Outgoing mutual legal assistance requests from Latvia will be sent electronically and/or in hardcopy.</p>
<p>Freezing and confiscation orders</p> <p>-prioritisation in issuing/execution</p>	<p>Impact on freezing and confiscation orders</p> <p>N/A</p>
<p>JITs</p> <p>-prioritisation and alternative telecommunication solutions</p>	<p>N/A</p>
<p>Recommended channels for transmission of</p> <p>-urgent requests</p> <p>-information exchange</p>	<p>The best channels are SIRENE, direct contact, if necessary Eurojust. For the transmission of EIOs and MLA requests, see 'EIO and MLA' above.</p>
<p>Any other relevant information</p>	<p>The court has been given more rights to examine cases in a written procedure. In accordance with paragraphs 1 and 2 of Section 12 of the Law on the Management of the Spread of COVID-19 Infection in Latvia, a criminal case may be tried by written procedure in accordance with appellate procedures, including in cases not referred to in the Criminal Procedure Law. Criminal cases transferred to a court in accordance with urgent procedures or for examination without the examination of evidence may also be examined before a court of first instance by written procedure.</p> <p>According to Section 5.49.27. of the Order of the Cabinet of Ministers No 720, adopted on 9 October 2021 'Regarding the declaration of an emergency situation', the court makes maximum use of the written procedure or hears cases via videoconference; the hearing of the case in oral procedure shall take place if the hearing of the case cannot be ensured via written procedure or via videoconference and the hearing of the case is related to a significant violation of the rights of a person and objective</p>

	<p>urgency; if the hearing of the case cannot be ensured via written procedure or via videoconference and the matter is not related to a significant violation of the rights of a person and objective urgency, the hearing of the case shall be postponed.</p> <p>In order to achieve the epidemiological safety objectives, the participation in the court proceedings of a person who is in a prison shall be primarily ensured by videoconference, except in cases that involve official secrets.</p> <p>Therefore, a Latvian competent institution may request persons to appear before a court, Latvia continue to ensure judicial cooperation, for example executing the requests regarding document service or hearing the person via videoconference. There might be short delays in executing the MLA/EIO requests as during the state of emergency employees (officials) work remotely.</p> <p>When executing procedural measures requested by other countries via EIO/MLA, the State Police operate in a normal manner, taking into account the security measures set out by the government.</p> <p>There might be delays in execution, as some persons may refuse direct contact, which creates additional difficulties in performing e.g. interrogation or relevant investigative activities.</p> <p>The English language version of the Order of the Cabinet of Ministers No 720, adopted on 9 October 2021 'Regarding the declaration of an emergency situation' can be found here: https://likumi.lv/ta/en/en/id/326729-regarding-declaration-of-the-emergency-situation.</p> <p>The English language version of the Law on the Management of the Spread of COVID-19 Infection in Latvia can be found here: https://likumi.lv/ta/en/en/id/315278-law-on-the-management-of-the-spread-of-covid-19-infection.</p> <p>The English language version of the Epidemiological Safety Measures for the Containment of the Spread of the COVID-19 Infection in Latvia can be found here: https://likumi.lv/ta/en/en/id/315304.</p> <p>All relevant information in relation to the COVID-19 situation in Latvia and the restrictions applied are summarised on webpage: https://covid19.gov.lv/en, which is in English and administered by the government.</p>
--	---