

# **Annex 1:**

## **Steps 2 resettlement training survey**

26 February 2015

**17**

**Survey responses**

**4**

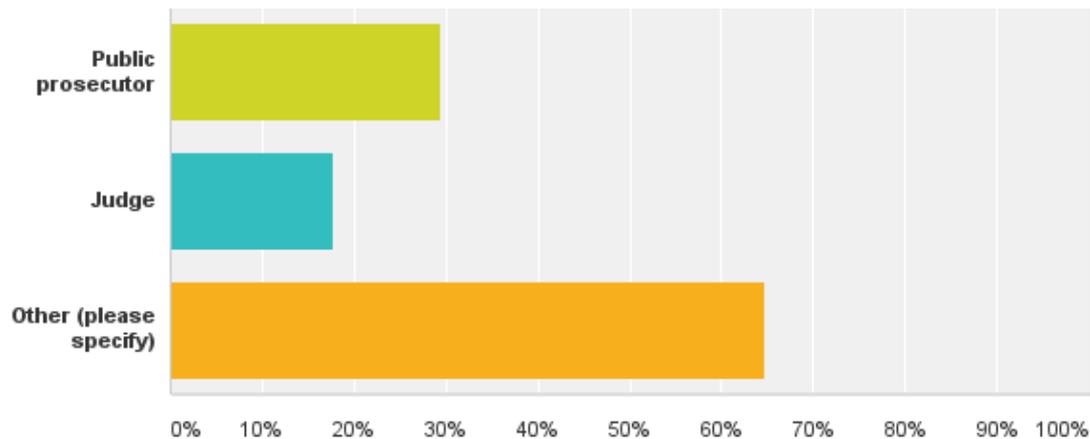
**Interviews**

Date created: Monday 19 January 2015

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## Q2: What is your position?

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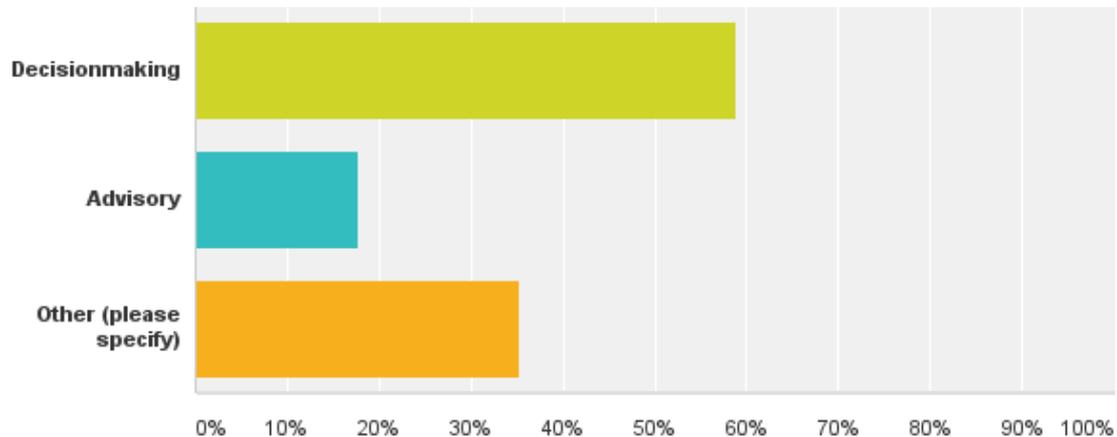


### Other:

- 1 Civil Servant - Administrator
- 2 Public Official - Head of section at MoJ
- 3 Legal advisor/public official, Ministry of Justice
- 4 Desk officer at the Federal Ministry of Justice
- 5 Judge seconded to Ministry of Justice
- 6 Legal adviser
- 7 Head of department
- 8 Civil servant
- 9 Head of Section - Criminal Enforcement Division MoJ
- 10 Judge in the Central Authority -Ministry of Justice

## Q3: What is your role in the transfer process?

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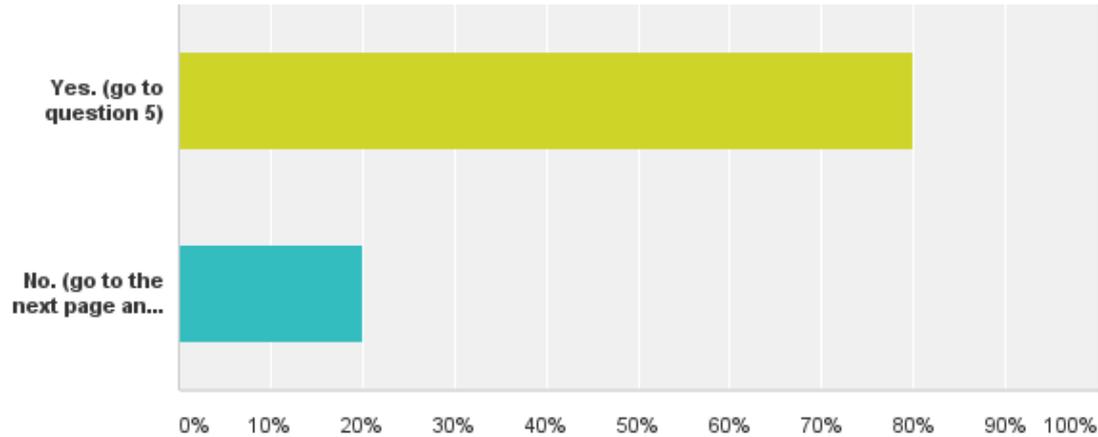


### Other:

- Administrative assistance to the Czech courts and foreign judicial authorities
- None, I am finishing the implementation process
- Evaluating the request; responsible for receiving the requests and submitting the requests
- Civil Servant
- The Minister of Justice is responsible for the administrative transmission and reception of the certificates as well as for all other official correspondence relating thereto

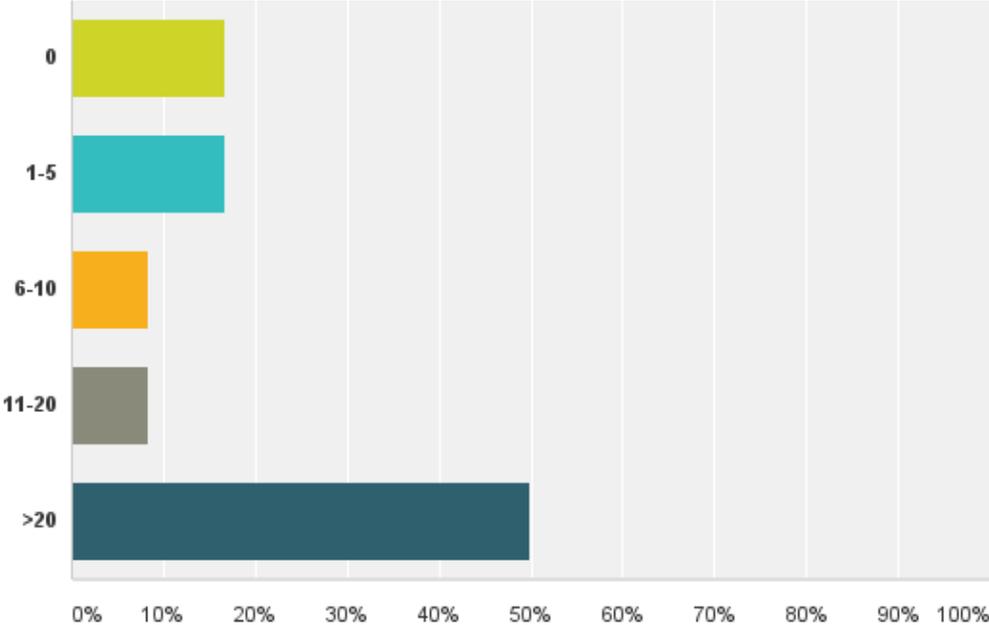
## Q4: Has Framework Decision 909 already been implemented in your country?

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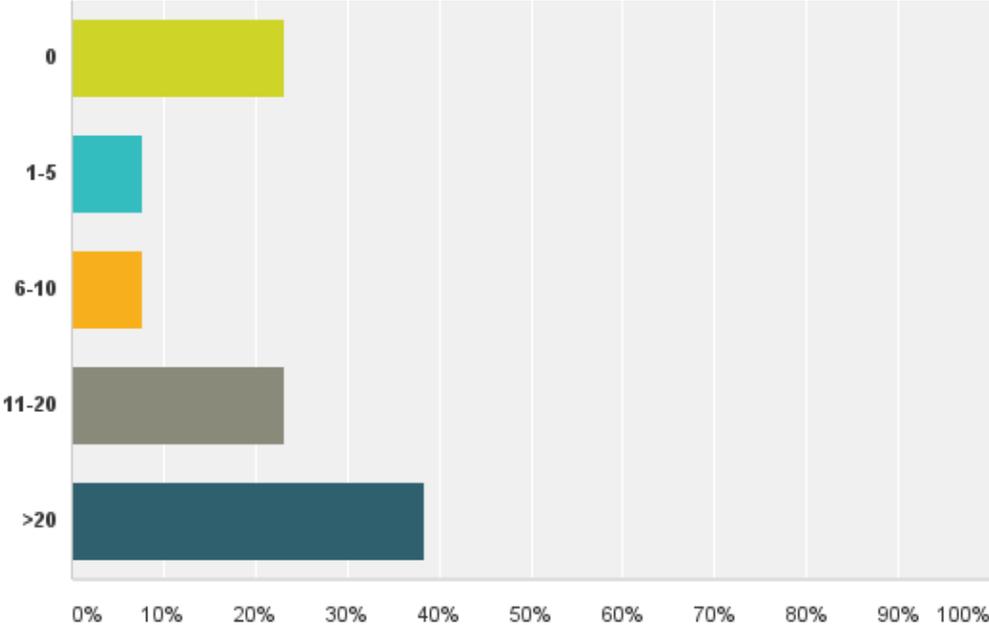
# Q5: How many certificates did you process under FD909 for incoming cases?

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# Q6: How many certificates did you process under FD909 for outgoing cases?

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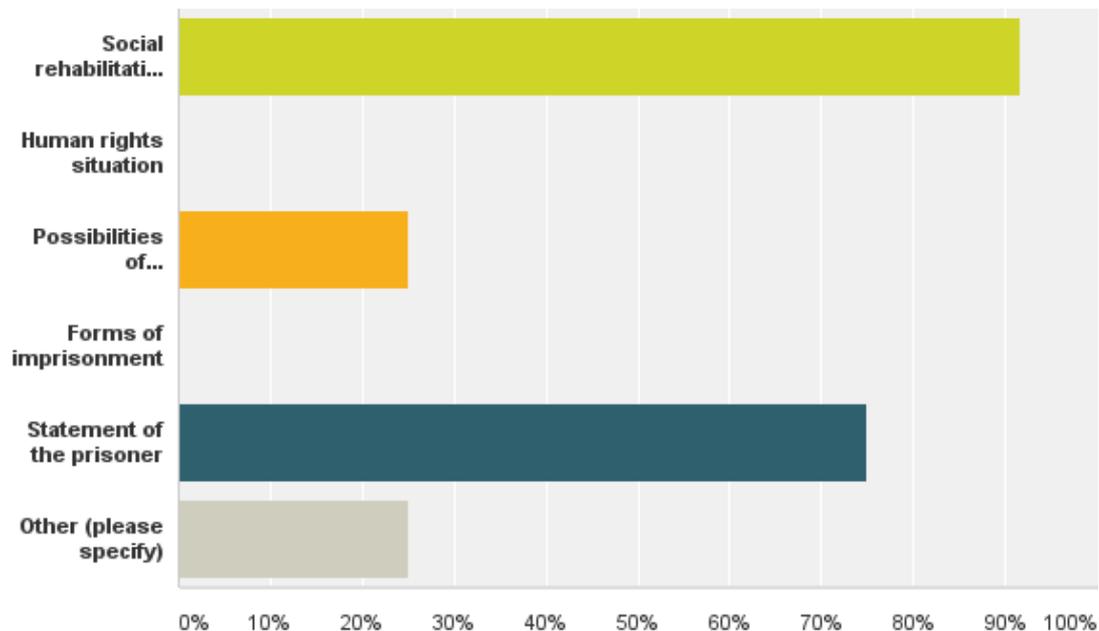
## Q7: What are the top 5 countries with whom you exchange prisoners?

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Austria:	Czech Republic, England, Luxembourg, Netherlands
Italy:	Romania, Austria, Belgium, Netherlands, England
Belgium:	Slovakia, England, Romania, France, Netherlands
Hungary:	Austria, Romania, Slovakia, Belgium, Bulgaria,
Latvia:	Italy, England
Croatia:	Austria, Germany, Denmark, Slovenia, Italy
Czech Republic:	Slovakia, Austria, England, Poland
Denmark:	Romania, Germany, Netherlands, Poland, Lithuania
Romania:	Italy, Germany, Spain, Austria, Portugal, Hungary, Denmark, Sweden
England:	Netherlands, Slovakia, Belgium, Romania, Latvia
Finland:	Estonia, Norway, Sweden, Denmark

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## Q8: What criteria do you use to make a decision?



### Other:

“Transfer is primarily based on immigration status. Those subject to deportation will be considered for transfer”.

“Deportation order”.

### Interviews:

(3) Ties to the country, social rehabilitation

(1) Right to an attorney

(1) All prisoners are asked for a statement

## Q9: How do you interpret the social rehabilitation criteria?

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### Answers from the survey:

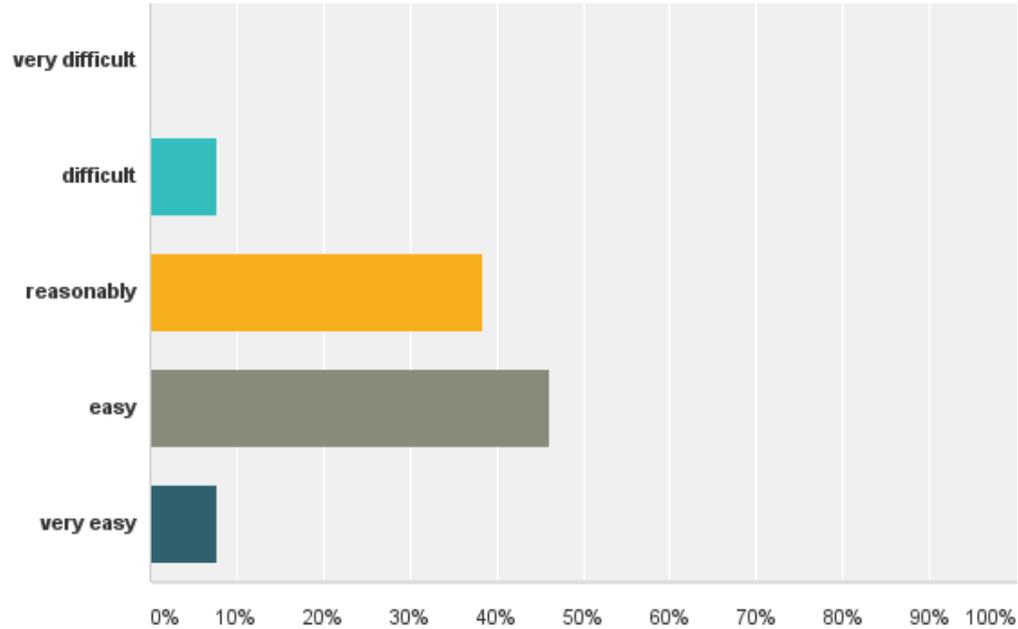
- (UK) Social rehabilitation is best served if the prisoner serves his/her sentence in the country in which he/she will live following release.
- (Romania) The prisoners have ties to the family in their own country. In connection with education, station of life (relatives, friends, wealth)
- It depends on the general social situation of the transferable person
- (Denmark) Nationality and legal residence
- (Czech Republic) family environment, linguistic, cultural, social, economic links and relationships to the Czech Republic
- (Croatia) Our citizen, family in Croatia, possibility of visits by family
- (Letland) Native language; family; citizenship; residence
- (Austria) In accordance with the case law of the European Court of Justice (see, in particular, the judgment in the Wolzenburg case)

### Answers from the interviews:

- (Netherlands) Dutch national: has lived in NL at some point in the last 5 years. Dutch residence permit: has lived in NL at least the last 5 years(3), citizenship
  - (Croatia) Family attachments
  - (Finland) Where the person lives and the information of the prisoner
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## Q10: How easy is the certificate to use?

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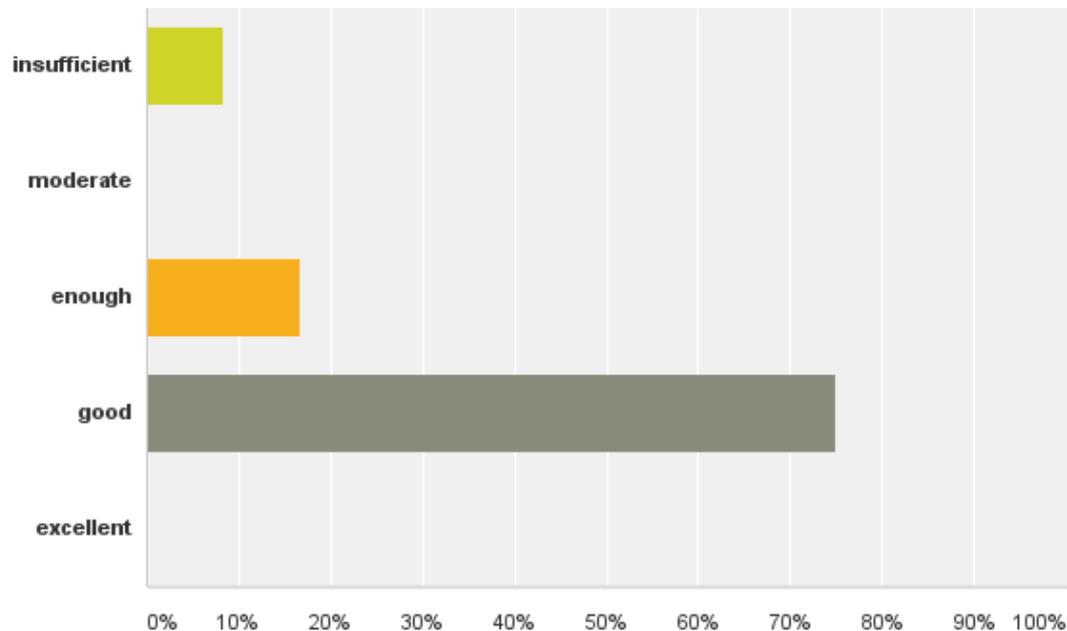
**What would make it easier for you to fill in the certificate?**

“It does not provide the information in which prison or institution the person is”.

“More practice”.

## Q11: To what extent are you involved and equipped to work with the certificate?

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### Please explain your answer:

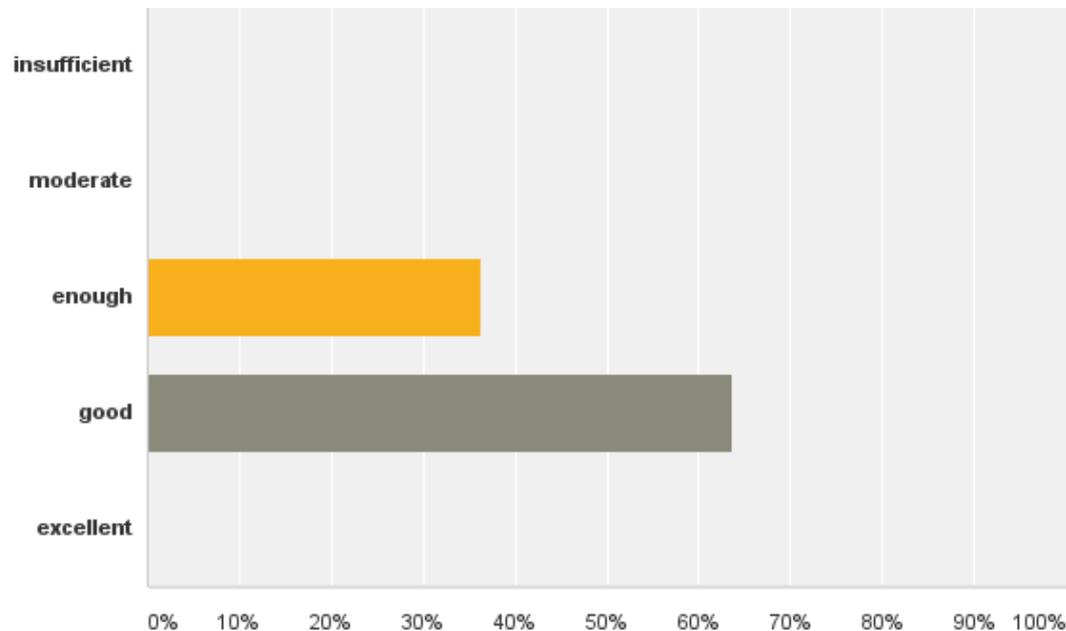
Czech Republic: "We do not work with the certificate. These are directly forwarded to/from the courts"

Latvia: "I have to prepare the certificate for submitting it to EU countries"

Italy: "As a judge, I have studied the FD and the Italian implementation law"

## Q12: To what extent are stakeholders around you involved and equipped to work with the certificate?

Replied: 9 Skipped: 6



### What do you need from stakeholders in order to work with the certificate?

“There is no stakeholder involvement in completing the certificate”.

“Obtaining supporting documentation from prisons is difficult”.

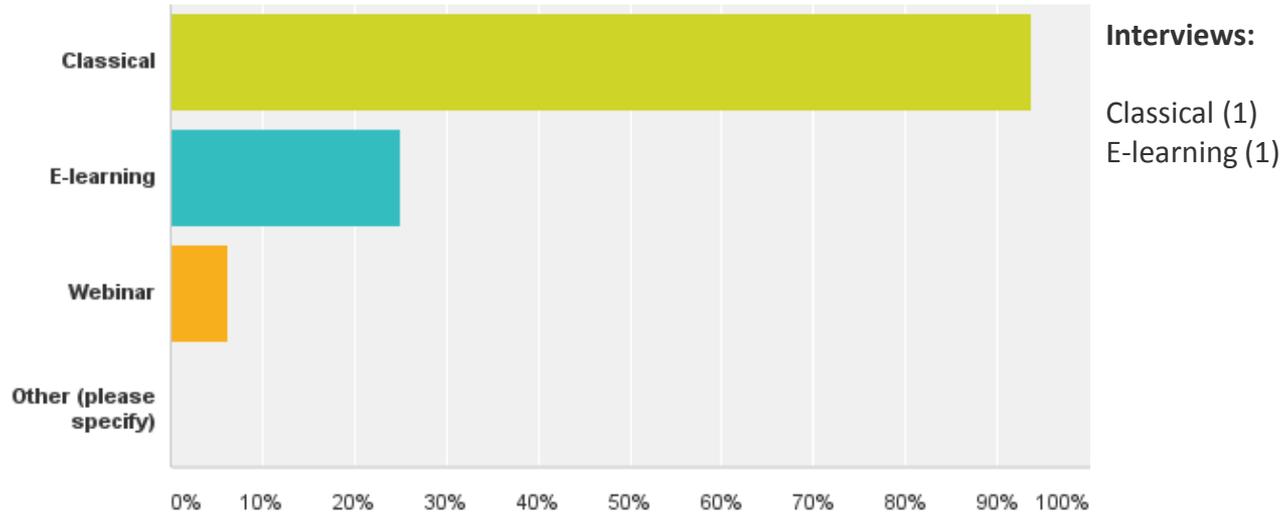
“Receiving the certificates judges have to evaluate them”.

“Understand their role, task and act upon it”.

“To provide complete and sufficient information, to be aware of the statements, reservations and requirements of our authorities in the transfer process”.

## Q14: What form of training appeals to you ?

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## Q13 (1/3) What do you expect / consider to be cumbersome?

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### Survey answers:

- Those involved in transfers need a clear understanding of the FD and its provisions. They should know what information is required to complete a certificate. In particular they should be able to clearly set out applicable release arrangements.
  - There is nothing too difficult
  - Language skills of the court staff for direct communication between judicial authorities
  - Days of imprisonment (it is not always clear)
  - Communication with local competent authorities and necessary translations of judgements
  - It is not anticipated that that there will be any additional burden.
  - Though the FD does not contain an obligation to provide an existing expulsion or deportation order, frequently the competent authorities of the Executing States request not only a transmission of the certificate, the judgement and the statement of the sentenced person, but also of the expulsion or deportation order.
  - Though the certificate contains on a regular basis already all required relevant information for a decision on the enforcement, a translation also of the judgment is requested in most cases.
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## Q13 (2/3) What do you expect / consider to be cumbersome?

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- Though the FD does not contain such a ground for non-recognition and non-enforcement, a request according to Article 4 para 1b of the FD to the Member State of nationality, to which, while not being the Member State where the sentenced person lives, but he or she will be deported once released from the enforcement of the sentence on the basis of an expulsion or deportation order, is very often refused due to considerations that such a transfer would not serve the purpose of social rehabilitation of the sentenced person.
- The time limits in Article 12 para.2 and Article 15 para.1 of the FD are not respected in most cases.
- An adjusted Atlas at the website of the EJM should be provided in order to allow an immediate identification of the competent authority in the respective Executing State.

### **Interviews:**

- Translations only for certificates
  - Communication with other member states, especially when several or all courts are 'central authority' and there is no central contact point (e.g. France).
  - Filling in the certificate (some questions are not specific enough)
  - Understanding the actual release date in the other country (Dutch law enables to take over the foreign release date if this date is earlier and 'certain').
  - Interpretation of the remainder of the sentence (counting the days).
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## Q13 (3/3) What do you expect / consider to be cumbersome?

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- Problems with delivering decisions to sentenced persons, long term of returning delivery notices, discovering the place where the sentenced person serves the sentence (that is not mentioned in the certificate), problem with the communication with the Issuing State, contact points are not informed on the cases, days of imprisonment (sentence, detention, arrest), mental health issues or those with learning disabilities
  - It is complicated to find the right contact points. Only Europris provides information (but not updated often enough). Maybe they will try Eurojust.
  - They do not know yet how to deal with the transfer of judgement when the person has already left Finland: how to obtain their opinion.
  - They have quite some Estonians (65 detainees) but not enough people to process these transfer cases. This will hopefully start in May.
  - Appeal: there is always a right to appeal, even after consent. That requires quite some time. And the appeal procedures for the three systems (FD, 1983 Convention, treaties with Nordic states) differ.
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# V15: Which issues should be addressed in the training?

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## Survey:

- Completion of the Certificate. Minimum standards of information. What information should be given to the prisoner and when.
- Decision-making process - differences among the Member States (particularly in respect to the Criminal procedure, imposing of sentences, recognition proceedings)
- Double criminality, mental health issues or those with learning disabilities
- Relations between FD 909 and EAW and implementation modalities in Member States persons transfer
- Exchange of experience
- Translation issues
- The legal and practical differences between the current TOSP legislation and the new Framework Decision.
- The entire procedure
- The content of FD 909 and the obligations following from it
- The time applied by each country, what institutions are in each country involved in direct appliance of the FD

## Interviews:

- Basics of the FD
  - (definition of) permanent living place
  - How the procedure is developed
  - Relationship with EAW
  - Practical: what papers are produced, the certificate.
  - Time of parole
  - How to calculate the sentence time
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## V16: To whom should the training be offered?

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- Decision makers and those involved in processing applications. I don't think those involved in the physical transfer of the prisoner need training.
  - The practitioners
  - Officials who work with the FD
  - Judicial authorities directly involved in the procedure, (judges, public prosecutors, court-clerks)
  - Judges (to the ones that bring the decisions and the ones that issue the certificate), two groups
  - Judges, court clerks
  - To the Central authority officials and judges; police officers who are responsible for the persons transfer
  - Judges, central authorities
  - To all persons involved with the decision making and magistrate's
  - To decision makers and those who process applications.
  - All the people involved in the procedure
  - Judges, prosecutors and prison staff involved in the transfer proceedings
  - The persons involved in direct application of the FD
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## V17: When is the training successful for you?

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### **Interviews:**

- Public Prosecutor knows what to do in incoming and outgoing cases.
- The IT-system at the Public Prosecutor and Fines Agency works correctly for incoming cases (after release the prisoner is summoned to go to prison for completion of the foreign sentence).
- There is clarity on what to do if the judgement combines a prison sentence with an order for payment of damages.
- Improvement of the communication with other central authorities. Sometimes they do not respond to e-mail and letters needs to be sent. This slows down the procedure.

### **Survey:**

- When knowledge of 909 is improved
  - When I solve my doubts
  - When as many people as possible are aware of the existence of the Council Framework Decision
  - As soon as Ireland has enacted the Framework Decision.
  - After spring
  - As soon as possible
  - With a proper application of the training
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