

CJEU Rules on Recognition of Probation Decisions

Thomas Wahl



News

The recognition of a judgment suspending the execution of a custodial sentence, only under the condition that the accused does not commit new offences during a probation period, may fall within the scope of [Framework Decision 2008/947/JHA](#). This was decided by the CJEU on 26 March 2020 in its [judgment in case C-2/19](#) in the context of a preliminary ruling procedure brought forward by the Supreme Court of Estonia. The Framework Decision applicable in this regard regulates the mutual recognition of judgments. It also regulates probation decisions on the basis of which probation measures or alternative sanctions are imposed. Accordingly, the supervision of sanctions can be imposed on the Member State in which the sentenced person is a resident.

In the case at issue, A.P. was sentenced to a suspended term of three years' imprisonment by judgment of the Riga City Court, Latvia. The only obligation for A.P., as regards the suspension of the sentence, was seemingly not to commit a new criminal offence. The Estonian court pointed out that both the FD in its Art. 4 and Estonian law authorises recognition of a judgment only in so far as it imposes at least one of the listed probation measures.

The referring court is uncertain whether the FD also provides for recognition of a judgment such as that delivered by the Latvian court.

The CJEU stated that the obligation not to commit a new offence may constitute a probation measure within the meaning of the FD if this obligation constitutes the precondition for suspending the sentence. The wording and structure of Art. 1(2) in conjunction with Art. 4(1)(d) ("instructions relating to behavior") of the FD support such an interpretation. To interpret the list set out in Art. 4(1) of FD 2008/947 as not including the obligation not to commit a new criminal offence would lead to a paradoxical result: such an interpretation would mean that the Member State of residence loses the power to adopt subsequent measures if the sentenced person commits a new offence; this would be counter to the context and spirit of the FD.

It is also a precondition, however, that the legal obligation arises from the judgment itself or from a probation decision taken on the basis of that judgment, which the referring court must review.

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

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