

Finnish Council Presidency: Alternatives to Detention as Partial Solution for More Effective Mutual Recognition

Thomas Wahl

The Finnish Council Presidency, which began on 1 July 2019, continued discussions initiated by previous Presidencies on how more effective judicial cooperation in criminal matters can be ensured and how current obstacles to the implementation of the principle of mutual recognition can be overcome. One particular focus is on alternatives to detention, which could solve the problem of poor prison conditions and prison overcrowding – a persisting problem that undermines mutual trust and hampers mutual recognition.

The Finnish Council Presidency tabled the [discussion paper “Future of Justice. Detention and its Alternatives”](#), which aims at launching a debate on how decisive steps can be taken at the EU level in order to eliminate the problem of prison conditions. The paper emphasises that detention should be used as a last resort and that criminal sanctions must be both effective and proportionate. Legal acts, e.g., Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions, EU policy programmes, resolutions by the European Parliament, and Council conclusions acknowledge the importance of alternatives to detention, but shortcomings still exist. The paper further stresses that a sustainable solution must be found, and synergies should be strived for with the Council of Europe and other organisations.

The Justice Ministers of the EU Member States held a first policy debate on the issues mentioned in the paper of the Finnish Presidency at their [informal meeting in Helsinki on 19 July 2019](#). Points of discussion were as follows:

- Role of alternative sanctions in the countries’ criminal policy;
- Best practices worth being shared among the EU Member States;
- Potential policy agreement on a long-term commitment by the EU Member States, the Commission, and the Council of Europe to tackle all obstacles to judicial cooperation in criminal matters;
- Potential policy agreement on the use of alternative sanctions as a partial solution to the problems of mutual recognition and prison overcrowding;
- Role of the EU in supporting efforts by the Member States to reduce prison overcrowding.

The discussions will continue at subsequent JHA Council meetings.

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