

## **Strengthening criminal justice and transfer of prisoners within the EU**

The Alliance of Liberals and Democrats for Europe Party convening in Budapest, Hungary on 19-21 November 2015:

### **Notes that:**

- the EU is an area of justice based on corporation and mutual trust – for citizens as well as for authorities;
- the freedom of movement within the EU is a universal good, and the principle of freedom of movement needs to be protected;
- each year tens of thousands of EU-citizens are convicted in another Member State of the EU;

### **Is concerned that:**

- while the vast majority of crimes in the EU are not committed by foreigners, relatively higher rates of criminality among EU citizens in countries other than their own as compared to the rates of native population could, in case they are substantiated, undermine popular support for the principle of freedom of movement;
- despite a Council Framework Decision (2008/909/JHA) on the application of the principle of mutual recognition to judgements imposing custodial sentences or measures involving deprivation of liberty (transfer of prisoners) which should have been implemented by December 5th 2011, some Member States have still not implemented the decision or it has only been partially implemented;
- the requirement of a residual imprisonment of six months results in less transfers of prisoners than could be transferred, and adversely affects family relationship;
- this may be justified by the aim of social rehabilitation. Therefore, in line with Framework Decision (2008/909/JHA), executing states should consider whether enforcement in the executing state would enhance the aim of social rehabilitation better than enforcement in the third country;
- the diversity of national implementation of Council Framework Decision (2008/909/JHA) can hamper the effectiveness of the legislation and the successful implementation of the decision at union level;
- partial and incomplete transposition of Council Framework Decisions hampers the application of mutual recognition in the area of criminal justice and it breaches the legitimate expectations of EU-citizens in the area of criminal justice;

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### **Calls on:**

- the Commission to keep in mind its power to start infringement proceedings as of 1 December 2014 insofar as Member States have not fulfilled their obligations regarding the Council Framework Decision (2008/909/JHA) in due time;
- the Commission to do a thorough impact assessment of whether a requirement of a residual imprisonment of one month would result in an increase in the number of transfers of prisoners and thereby strengthening criminal justice in the EU while fully taking into account the aim of the social rehabilitation;
- Member States – as a matter of urgency – to take swift measures to implement the Council Framework Decision (2008/909/JHA) to the fullest extent;
- Member States that have transposed the Council Framework Decision (2008/909/JHA) incorrectly into national law, to align their national implementation legislation with the provisions of the Framework decision.

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