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**NOTE**

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From:	General Secretariat of the Council
To:	Working Party on Judicial Cooperation in Criminal Matters (COPEN)
No. prev. doc.:	9610/17
Subject:	Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties - Forms and explanatory memorandum

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At its meeting on 21 June 2017, the COPEN Working Party discussed the revised draft standard forms concerning Framework Decision 2005/214/JHA on the basis of doc. 9610/17.

Following an exchange of views, the Presidency concluded that a large majority of delegations could support the forms as set out in Annexes 1-5 to this note. On suggestion by the Presidency, it was agreed to invite practitioners to start using these forms and see in the course of such use whether any modifications should be made.

On suggestion by and in agreement with the Council Legal Service, the Commission has slightly revised the explanatory memorandum (Annex 6). New text is in ***bold/italics***.

COM pledged to provide translations of the texts.

The EJN indicated that the forms will be published on its website ([https://www.ejn-crimjust.europa.eu/ejn/EJN\\_Home.aspx](https://www.ejn-crimjust.europa.eu/ejn/EJN_Home.aspx)).

**Draft Form 1**

**Information on a decision of a financial penalty**

**based on Article 11, 12 and 15 of Framework Decision 2005/214/JHA<sup>1</sup>**

***Information from the issuing State to the executing State***

<p><b>a)</b></p> <p><b><u>Authority of the issuing State (Sender)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p> <p><b><u>Authority of the executing State (Addressee)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p>
<p><b>b)</b></p> <p><b>File reference of the issuing State:.....</b></p> <p><b>File reference of the executing State:.....</b></p>
<p><b>c)</b></p> <p><b>Name of the person concerned: .....</b></p> <p><b>Date and place of birth: .....</b></p> <p><b>Place of residence: .....</b></p> <p><b>OR</b></p>

<sup>1</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16)

**Name of the legal person concerned:** .....

**Registered seat:**  
.....

**d) Voluntary payment in the issuing State (Article 15(3)):**

— amount in euro: .....

if applicable, in other national currency of the issuing State: .....  
BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

— date: .....

In case of partial payment the financial penalty is to be enforced:

sum of money on conviction of an offence imposed in a decision -  
amount of:.....

compensation imposed in the same decision for the benefit of victims -  
amount of:.....

sum of money in respect of the costs of court or administrative  
proceedings  
leading to the decision - amount of:.....

sum of money to a public fund or victim support organisation, imposed in  
the same decision - amount of:.....

**e) (Partial)Termination of enforcement (Art. 12 (1), 11)**

**e.1) The decision:**

has ceased to be enforceable in full or hereby is withdrawn in full.

has partially ceased to be enforceable or is partially withdrawn. The following part(s) of the financial penalty still remain to be enforced:

- amount in euro: .....

if applicable, in other national currency of the issuing state: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

- type of financial penalty to be enforced:

sum of money on conviction of an offence imposed in a decision -

amount of:.....

compensation imposed in the same decision for the benefit of victims -

amount of:.....

sum of money in respect of the costs of court or administrative proceedings

leading to the decision - amount of:.....

sum of money to a public fund or victim support organisation, imposed in

the same decision - amount of:.....

**e.2)** Date of decision, measure or withdrawal:.....

**e.3)** Reasons:

Decision is no longer enforceable because of:

amnesty (Art. 11(1)).

pardon (Art. 11(1)).

review of sentence (Art. 11(2)).

other decision or measure as a result of which the decision (partially) ceases to

be enforceable or is (partially) withdrawn from enforcement of the executing

State (Article 12(1)).

Execution of the decision is statute-barred as of

(date).....

Withdrawal for other reason:

.....

**f) Other relevant additional information for the executing State:**

.....

**g) Signature of the authority of issuing State and/or its representative.**

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available)

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Draft Form 2

Full recognition of the decision on a financial penalty

based on Framework Decision 2005/214/JHA<sup>2</sup>

*Information from the executing State to the issuing State*

<p>a)</p> <p><b><u>Authority of the executing State (Addressee)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p> <p><b><u>Authority of the issuing State (Sender)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p>
<p>b)</p> <p><b>File reference of the executing State:.....</b></p> <p><b>File reference of the issuing State:.....</b></p>
<p>c)</p> <p><b>Name of the person concerned: .....</b></p> <p><b>Date and place of birth: .....</b></p> <p><b>Place of residence: .....</b></p> <p><b>OR</b></p>

<sup>2</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16)

**Name of the legal person concerned:** .....

**Registered seat:**  
.....

**d) Recognition**

full recognition of the decision on financial penalty on  
(date):.....

- the decision has been recognized for the amount in euro: .....

if applicable, in other national currency of the executing State: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

if applicable, payment in instalments:

— date of the decision on authorizing payment in instalments:.....

— payment plan (details on the dates and amounts): .....

.....

**e) Signature of the authority of executing State and/or its representative.**

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available)



Draft Form 3

Full execution of the decision on a financial penalty

based on Article 14(d) and (e) Framework Decision 2005/214/JHA<sup>3</sup>

*Information from the executing State to the issuing State*

<p>a)</p> <p><b><u>Authority of the executing State (Addressee)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p> <p><b><u>Authority of the issuing State (Sender)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p>
<p>b)</p> <p><b>File reference of the executing State:.....</b></p> <p><b>File reference of the issuing State:.....</b></p>
<p>c)</p> <p><b>Name of the person concerned: .....</b></p> <p><b>Date and place of birth: .....</b></p> <p><b>Place of residence: .....</b></p> <p><b>OR</b></p>

<sup>3</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16)

**Name of the legal person concerned:** .....

**Registered seat:** .....

**d) Full execution**

full completion of the execution of the decision on the financial penalty by

payment (Article 14(d))

        — amount in euro: .....

        if applicable, in other national currency of the executing State: .....  
        BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

        — date: .....

and/or

application of alternative sanction (Article 14(e))

        — type of sanction:.....

        — date of termination of the alternative sanction:.....

Herewith, the executing State declares that the present case is closed.

**e) Signature of the authority of executing State and/or its representative.**

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available)

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**Draft Form 4**

**Information on partial recognition or full non-recognition of the decision on a financial penalty**

**(apart from full recognition and full execution)**

**Article 4, 7, 14 and 20 of Framework Decision 2005/214/JHA<sup>4</sup>**

***Information from the executing State to the issuing State***

<p><b>a)</b></p> <p><b><u>Authority of the executing State (Sender)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p> <p><b><u>Authority of the issuing State (Addressee)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p>
<p><b>b)</b></p> <p><b>File reference of the executing State:.....</b></p> <p><b>File reference of the issuing State:.....</b></p> <p>.....</p>
<p><b>c)</b></p> <p><b>Name of the person concerned: .....</b></p> <p><b>Date and place of birth: .....</b></p> <p><b>Place of residence: .....</b></p> <p><b>OR</b></p>

<sup>4</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16)

**Name of the legal person concerned:** .....

**Registered seat:**  
.....

**d.1) Decision about recognition and execution under Article 7**

refusal of recognition and execution.<sup>5</sup> Date:.....

partial recognition and partial refusal of execution.<sup>6</sup> Date: .....

Prior consultation on refusal and/or partial recognition between the issuing and executing States took place:

no

yes – date:.....

**d.2) Partial recognition of the decision**

- the decision has been recognized for the amount in euro: .....

if applicable, in other national currency of the executing State: .....  
BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

- type of financial penalty the recognition applies for

sum of money on conviction of an offence imposed in a decision -  
amount of:.....

compensation imposed in the same decision for the benefit of victims  
-  
amount of:.....

<sup>5</sup> If choosing this option, please fill out point d.3)  
<sup>6</sup> If choosing this option, please fill out point d.2) and d.3)

sum of money in respect of the costs of court or administrative proceedings leading to the decision - amount of:.....

sum of money to a public fund or victim support organisation, imposed in the same decision - amount of:.....

**d.3) Ground for full or partial non-recognition, refusal**

Certificate provided for by Article 4 is \* <sup>7</sup>

not available (Art. 7(1))

incomplete (Art. 7(1))

manifestly does not correspond to the decision (Art. 7(1)).

Decision against the sentenced person in respect of the same act

was given in the executing State (Art. 7(2)(a))

was given in another state than the issuing or the executing State and has been executed (Art. 7(2)(a)).

In the case referred to in Article 5(3), the decision relates to an act which, under the law of the executing State, would not constitute an offence (Art. 7(2)(b)).

The execution of the decision is statute-barred according to the law of the executing State and the decision relates to acts which fall within the jurisdiction of that State under its own law (Art. 7(2)(c)).\*

The decision is related to acts which

under the law of the executing State were committed in whole or in part in the territory of the executing State or in a place treated as such (Art. 7(2)(d)(i)).

<sup>7</sup> \* means Prior consultation between the executing State and the issuing State is obligatory before referring to such ground of refusal.

- committed outside the territory of the issuing State, and the law of the executing State does not allow prosecution for the same offences when committed outside its territory (Art. 7(2)(d)(ii)).
- Under the law of the executing State there is immunity which makes the execution of the decision impossible (Art. 7(2)(e)).
- The decision has been imposed on a natural person who under the law of the executing State due to his or her age could not yet have been criminally liable for the acts in respect of which the decision was passed (Art. 7(2)(f)).
- In case of a written procedure the person concerned was not, in accordance with the law of the issuing State, informed personally or via a representative, competent according to national law of his right to contest the case and of time limits for such a legal remedy (Art. 7(2)(g)).\*
- The financial penalty is below EUR 70 or the equivalent to that amount (Art. 7(2)(h)).
- The person did not appear in person at the trial resulting in the decision, wasn't represented by a legal counsellor \* (Art. 7(2)(i)) and:
- was not summoned in person in due time or by other means did not receive official information of the scheduled date and place of that trial in such a manner that it was unequivocally established that he or she was aware of the scheduled trial, or
- was not informed in due time that a decision may be handed down if he or she does not appear for the trial, or
- had not been served with the decision and informed of the right to a retrial,
- or an appeal.
- Refusal of recognition on the basis of Article 20(3) because of: \*

Violation of fundamental rights.

Infringement of the fundamental legal principles as enshrined in Article 6 of the Treaty.

**d.4) Other circumstances leading to non-recognition of the decision:**

In accordance with the law of the executing State the decision cannot be recognised on any of the following grounds (Article 4 (1)) :

the person concerned has deceased (date) .....

the person concerned has moved to another (Member) State (place)..... (date) on .....

the person concerned has moved to unknown address.

the person, of whom the personal data were transmitted, cannot be determined/found.\*

\* means Prior consultation between the executing State and the issuing State is obligatory before referring to such ground of refusal.

**e) As for the recognized financial penalty**

**e.1)  Payment authorized in instalments**

— date of the decision on authorizing payment in instalments:.....

— payment plan (details on the dates and amounts):.....



.....

**e.2)  Deduction of payment (Article 14 (c))**

— amount in euro: .....

if applicable, in other national currency of the executing State: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

— date: .....

recovered in whatever manner in the issuing State or other country (Article 9(2)).\*<sup>8</sup>

**e.3)  Reduction of the amount of the financial penalty (Article 14 (c))- the decision relates to acts which were not carried out within the territory of the issuing State. The acts fall within the jurisdiction of the executing State. Therefore the executing State has decided that the maximum amount of the financial penalty is reduced in accordance with national law for acts of the same kind to the amount of (Article 8(1)):**

in euro: .....

if applicable, in other national currency of the executing State: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

**f) Closure of the file, if applicable**

**Herewith, the executing State declares that the present case is closed.**

**g) Other relevant additional information for the issuing State:**

.....  
.....

<sup>8</sup> \* Prior consultation between the executing State and the issuing State is obligatory before deducting the already paid amount.

**h) Signature of the authority of executing State and/or its representative.**

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available)

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**Draft Form 5**

**Information on the enforcement of the decision on a financial penalty**

**(apart from full recognition and full execution)**

**Article 9, 11, 12 and 14 of Framework Decision 2005/214/JHA<sup>9</sup>**

*Information from the executing State to the issuing State*

<p>a)</p> <p><b><u>Authority of the executing State (Sender)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p> <p><b><u>Authority of the issuing State (Addressee)</u></b></p> <p>Official name:.....</p> <p>Contact information:.....</p>
<p>b)</p> <p><b>File reference of the executing State:.....</b></p> <p><b>File reference of the issuing State:.....</b></p>
<p>c)</p> <p><b>Name of the person concerned: .....</b></p> <p><b>Date and place of birth: .....</b></p> <p><b>Place of residence: .....</b></p> <p><b>OR</b></p>

<sup>9</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16)

**Name of the legal person concerned:** .....

**Registered seat:**  
.....

**d) Information about the ongoing enforcement of the case**

**Payment authorized in instalments of the recognized financial penalty**

— date of the decision on authorizing payment in instalments:.....

— payment plan (details on the dates and amounts):.....

**e) Information about the outcome of the enforcement of the case**

**e.1) Date of termination:**.....

**e.2) Result of the enforcement:**

The enforcement was not successful.

The financial penalty has been partially enforced:

- amount in euro: .....

if applicable, in other national currency of the executing State: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

- the amount is enforced for :

sum of money on conviction of an offence imposed in a decision

- amount of:

compensation imposed in the same decision for the benefit of victims - amount of:.....

sum of money in respect of the costs of court or administrative proceedings leading to the decision - amount of:.....

sum of money to a public fund or victim support organisation, imposed in the same decision - amount of:.....

- application of alternative sanction

— type of sanction:.....

— date of termination of the alternative sanction:.....

**e.3)  Deduction of payment (Article 14 (c))**

— amount in euro: .....

if applicable, in other national currency of the executing state: .....

BGN/HRK/CZK/GBP/HUF/PLN/RON/SEK

— date: .....

recovered in whatever manner in the issuing State or other country (Article 9(2)).\*<sup>10</sup>

**e.4) Reason for termination of the enforcement:**

Termination of the enforcement based on the decision of withdrawal by the issuing State (Article 12(2)).

Termination of enforcement, for the reason of granting in the issuing or the executing State (Article 11(1)) of:

amnesty.

pardon.

Termination of enforcement, in accordance with the law of the executing State on the following ground (Article 9(1)):

no assets.

insolvency.

all national possibilities for execution have been exhausted.

the person concerned has deceased (date).....

the person concerned has moved to another (Member) State

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<sup>10</sup> \* Prior consultation between the executing State and the issuing State is obligatory before deducting the already paid amount.

(place)..... on (date) .....

the person concerned has moved to unknown address.

the person, of whom the personal data were transmitted, cannot be determined/found.

other reasons: .....

**f) Closure of the file, if applicable**

Herewith, the executing State declares that the present case is closed.

**g) Other relevant additional information for the issuing State:**

.....  
.....

**h) Signature of the authority of executing State and/or its representative.**

Name: .....

Post held (title/grade): .....

Date: .....

Official stamp (if available)

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**EXPLANATORY MEMORANDUM**

to the

**FIVE STANDARDISED FORMS FOR ACCOMPANYING THE PROCEDURE FOR ENFORCEMENT OF CROSS-BORDER FINANCIAL PENALTIES AS LAID DOWN BY FRAMEWORK DECISION 2005/214/JHA**

Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties<sup>11</sup> (FD) dates from 24 February 2005. The instrument enables a judicial or administrative authority to transmit a financial penalty directly to an authority in another EU country and to have that penalty recognized and executed without any further formality. The procedure applies mainly to situations where a fine is imposed on a person who is not a resident of the EU country where the offence was committed, fails to pay the fine and then leaves the territory of that country. The prescribed date of implementation of the FD was 22 March 2007. As of 2017, almost all Member States have implemented the FD and hundreds of thousand cases on a yearly basis are being transferred between the different Member States.

When transmitting the decision imposing the financial penalty, the issuing State must transmit a Certificate (in Annex to the Framework Decision) in the language of the Member State executing the decision. The Certificate should contain all relevant information enabling the executing State to recognize and execute the decision. One of the principles of the FD is that cases are being transferred directly from a competent authority in one Member State to the competent authority in another Member State. The FD prescribes in several cases that these competent authorities need to consult or inform each other during the process (e.g. Art. 7, 9, 11, 12 and 15 of the FD). However, the FD does not provide rules for the language regime in which this contact should take place.

Experience in recent years has shown the need for other types of standardized forms in order to facilitate the exchange of information on individual cases between the responsible authorities. Every cross-border financial penalty request leads normally to at least two follow-up letters from the executing State to the issuing State, namely a message that the case has been received/accepted and a message with the final result of the enforcement. Some cases require more exchange of information between the concerned States.

The language differences within the EU make the extensive communication under the FD a costly and time-consuming procedure. Firstly because of translation costs and secondly because it often takes a lot of time to determine what is meant by certain communications and the time that might be needed for the translation of documents.

On the initiative of Germany a group of experts has been created to draft certain standardized forms that could be used in cases of cross-border financial penalties in order to facilitate the recognition and enforcement process, without the need for further translation.

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<sup>11</sup> OJ L 76, 22.3.2005, p. 16



*The five standardised forms do not have any impact on the substantive content of the FD, and they have no legislative effect. The use of the forms by the respective national authorities is on a strict voluntary basis. Nevertheless, Member States are encouraged to promote the use of the forms as they would facilitate the mechanism for the execution of cross-border financial penalties as laid down by the FD and would lead to reduce the financial and administrative burden linked to the procedure.*

The future electronic exchange of the information contained in the forms could also be envisaged at a later stage.

## THE METHODOLOGY OF THE EXPERT GROUP

### The Approach

The European Council Working Group COPEN at its meeting of 13 April 2016 on the basis of the initiative of Germany suggested that some Member States form an expert group to discuss and draft standardized form(s) to facilitate the procedure for cross-border enforcement of financial penalties. The European Commission has agreed to get involved in the drafting work and to coordinate the process.

Experts from Poland, Finland, Germany and the Netherlands have volunteered to participate in the drafting group. Two meetings of the experts took place - 16 October 2016 and 22 November 2016 - at DG JUST premises. These meetings served to discuss ideas and draft different forms. The result of the expert group was presented to all Member States at the COPEN meeting of 16 December 2016<sup>12</sup>. On the basis of the written comments of Member States the experts re-drafted the texts of 5 forms accompanying them with the present *Memorandum that aims at explaining the reasoning behind the creation of the forms and at describing each form in detail. It should allow practitioners to apply the forms correctly in their day-to-day work. The 21 June 2017 COPEN meeting discussed and adopted the text of the forms*<sup>13</sup>.

The approach the expert group chose is based on the inner logic/the scheme of the FD and their experience gained in five or more years of practical work on the basis of the FD. The starting point for drafting the forms was the procedure for enforcing a cross-border financial penalty with particular attention to the information needed for a successful execution, the required exchange of information between the issuing and the executing States.

### Why are there five forms?

The five forms were created to meet the different needs for information that emerges during the enforcement process. Although some Member States invited the experts to consider lowering the number of forms, merging some of the aspects of the different forms, after reconsideration given by the experts it was decided to maintain 5 different forms. The argument is that the 5 forms targets different aspects of the procedure. Form 1-3 are intended to be the most commonly used forms. Not putting all related information, in particular on the payment procedure, in one form will simplify the daily work of the competent authorities. In addition, as the use of the forms is not mandatory, Member States are free to refer to the forms as they wish, as need arise.

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<sup>12</sup> Doc. 14898/16 JAI 1007 COPEN 361 EJM 83

<sup>13</sup> Doc. 9610/17 JAI 540 COPEN 177 EJM 39

In order to further facilitate the daily work of case-handlers and the use of the forms, it was decided to have the forms available in all 24 EU languages. In order to ensure easy identification of the message contained in the form, all forms contain the English version of the text next to the authentic national language.

## **DESCRIPTION OF THE FORMS**

### **Draft Form 1**

According to Articles 11, 12 and 15 of the FD, the competent authority of the issuing State has to give certain information to the competent authority in the executing State. To make this communication easier the expert group suggests to use Form 1. The two main points are voluntary payment (part d) and full or partial termination of enforcement (part e).

### **Draft Form 2 (full recognition) and Draft Form 3 (full execution)**

Draft Form 2 and 3 cover the two most used messages under the FD, namely full recognition and full execution. This is also why these two forms come before the other two forms (Draft Forms 4 and 5) which cover all other possible scenarios.

#### **Draft Form 2 (full recognition)**

Form 2 and 4 deal with the information that is to be given by the executing State to the issuing State about the decision to recognize and enforce the decision. According to practical experience in most of the cases decisions are fully recognized (in the Netherlands, for example, about 97% of the cases are fully recognized.). Therefore a separate and above all short form was created. In those cases the competent/central authority in the executing State can just take one form, tick one box, note the relevant amount and send the form to the issuing State. That is easily done and the person in charge doesn't have to deal with all the other possible outcomes of the procedure. Also the competent authority of the issuing State can see in one blink of an eye what the message is it has received, even if it is in the language of the executing State.

#### **Draft Form 3 (full execution)**

Form 3 and 5 deal with the information the executing State has to give to the issuing State about (the outcome of) the enforcement procedure. After recognition, as experience show, the majority of the cases are fully paid. Therefore to cover this high number of cases a separate and short form was drafted. Just like in the case of full recognition, the competent authority in the executing State can just take one form, tick one box, note the relevant amount and send the form to the issuing State.

### **Draft Form 4 (partial recognition and full non-recognition) and Draft Form 5 (outcome of the execution of the decision):**

As full recognition and full payment are covered by Form 2 and 3 there is a need to cover all other possible outcomes. Therefore the expert group created two other forms, clearly distinguishing between the recognition phase (Form 4) and the execution process (Form 5).

## Draft Form 4

Draft Form is linked to the recognition phase and covers all other outcomes except full recognition.

The first information (part d.1 and d.2) given is the most important: What was the outcome of the recognition procedure - full refusal of recognition or partial recognition? - and in the case of partial recognition: for which amount has the decision been recognized.

The next question is why has the decision not been fully recognized. Therefore Form 4 enumerates the different grounds for full or partial non-recognition:

- Form 4 starts with the grounds for refusal listed in Article 7 and Article 20 (3) of the FD (part d.3).
- Other reasons for refusal outside the grounds listed in Article 7 and Article 20 (3) of the FD, such as the death of the person concerned, are listed in part d.4. When one of these reasons apply there formally is no ground (residence or income in the executing State) to transfer the case to the executing State (Article 4 (1) of the FD).

Going beyond the information that the decision has only been partially recognized there might be further information about the financial penalty which has been recognized. Such information can be provided if already available at the time of the decision (part e):

- Some executing States decide on the recognition of a foreign decision and the authorization of payment in installments in one act. The information that payment in installments has been authorized can be highly valuable information for those issuing States where the authorization of payment in instalments has an impact on the limitation period. Part e.1 serves this purpose.
- In part e.2 and e.3 there are other aspects taken into account why the amount to be executed is smaller than the total amount of the financial penalty stated in the certificate.

## **Draft Form 5 (outcome of the execution of the decision)**

As there are special forms for full recognition, full execution and full/partial non-recognition there is a need for one form that covers all the other possible outcomes of the enforcement – to be included in Form 5.

There are some executing States where the payment in installments is not authorized in the same decision as the recognition is pronounced but is dealt with at a later stage of the execution process. The information that payment in installments has been authorized can be a highly valuable information for those issuing States where the authorization of payment in instalments has an impact on the limitation period. Therefore this information is also included in Form 5 but under a different angle (part d).

Once the execution has been terminated the first information given concerns the date of the termination of enforcement and the outcome of the enforcement. This information is given in part e.1. and e.2.

If an amount has been deduced after the recognition of the decision there is room to give that information in part e.3.

Part e.4 states the reasons for the termination of enforcement (other than full execution). Part e.4 deals with the grounds for termination listed in Articles 12(2), 11(1) and 9(1) of the FD. As Article 9 (1) of the FD refers to the grounds for termination of enforcement based on the law of the executing State this part of the form contains next to the most common reasons for termination also the possibility to name ‘other reasons’.

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