Speaking to the European Law Academy in March 2010, the European Commission Vice President, Viviane Reding, highlighted a range of concerns relating to prison conditions in European Union Member States. Citing the European Convention on Human Rights and the EU Charter of Fundamental Human Rights, the Commissioner warned that inhuman or degrading prison conditions have the potential to seriously undermine new EU rules on prisoner transfer due to be implemented by the end of 2011. The EU prisoner transfer regulations allow for the compulsory transfer of prisoners incarcerated in one EU Member State back to the Member State of the prisoner’s origin. This system replaces existing European prisoner transfer processes which were largely voluntary in nature.

In partnership with the European Commission, the Institute for International Research on Criminal Policy has undertaken a large scale research project assessing the compliance of EU Member States with the range of international legal instruments and jurisprudence concerning material detention conditions. This work has been supplemented by parallel exercises to map out the differences in Member States’ early release provisions and sentence execution modalities and, to ascertain the views of key legal practitioners across Europe as to what is required to make the EU prisoner transfer process work effectively.

The research demonstrates that compliance with international legal instruments concerning material detention conditions is highly inconsistent across the EU. The existence of an international legal framework on material detention conditions has not, moreover, eliminated problems concerning detention conditions in practice. We will also highlight that the significant differences which exist in Member State’s early release provisions and sentence execution modalities may present barriers to Member States looking to make use of the EU prisoner transfer regulations.

We will conclude by discussing the possible courses of action open to the EU to address these problems.