Judicial cooperation: transfer of proceedings in criminal matters

2023/0093(COD) - 26/01/2024 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Assita KANKO (ECR, BE) on the proposal for a regulation of the European Parliament and of the Council on the transfer of proceedings in criminal matters.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Application

This Regulation should apply in all cases of transfer of criminal proceedings that are being conducted in Member States of the Union. The definition of ‘victim’ is extended to legal persons who have suffered harm or economic loss as a direct result of a criminal offence that is the object of criminal proceedings.

Transfer of criminal proceedings

A request for transfer of criminal proceedings may only be issued where the requesting authority deems that the objective of an efficient and proper administration of justice would be better served by conducting the relevant criminal proceedings in another Member State and that it is **proportionate** to do so.

The requesting authority should take into account in particular the following criteria:

- **the victim or victims** are nationals of or residents in the requested State;

- the **consultations of Member States’ competent authorities** under Framework Decision 2009/958/JHA have resulted in an agreement on the concentration of the parallel proceedings in one Member State;

- whether the transfer of proceedings would contribute to the achievement of restorative justice objectives.

The rights of the suspect or accused person

If the requesting authority decides to transfer the criminal proceedings following a request made by suspects or accused persons or victims, the decision on the request for transfer should be taken by the competent authorities of the requested State. A negative opinion of the suspect or accused person or of the victim with regards to the transfer of criminal proceedings should not prevent such transfer if the requested authority decides to accept the transfer.

Members clarified the interests of victims and the rights they are given in the process of transfer of proceedings by entitling already one victim and not only ‘majority of victims’ to suggest the transfer of a criminal proceeding.

Provided that it would not undermine the confidentiality of an investigation, or otherwise prejudice the investigation, or hamper the proper administration of justice or affect the rights of the victims the suspect or accused person, who has already been notified that they are suspected or accused of having committed an offence, should, in accordance with applicable national law, be informed of the intended transfer of criminal proceedings.

Where the suspect or accused person decides to state an opinion, it should be delivered no later than **ten days** after the suspect or accused person has been informed of the intended transfer and given the opportunity to state their opinion.

Information to be provided to the suspect, accused person as well as to victims

Where the requested authority has taken a decision to accept the transfer of proceedings, the requested authority should, provided that that transfer would not undermine the confidentiality of an investigation or otherwise prejudice the investigation, immediately inform the suspect or accused person, in a language which that suspect or accused person understands, about the acceptance of the transfer by the requested authority, unless that person cannot be located or reached despite reasonable efforts being made by the requested authority.

The requested authority should without undue delay inform the victim who receives the information on criminal proceedings in accordance with Directive 2012/29/EU, as implemented by national law, in a language he or she understands, of the acceptance of the transmission by the requested authority, unless that victim can no longer be located or reached.

Right to an effective legal remedy

The amended text stipulated that suspects, accused persons, and victims should have the right to effective legal remedies in the requested State against a decision to accept the transfer of criminal proceedings. The court should take its decision on the legal remedy within **60 days**.

Member States should ensure that suspects, accused persons, and victims receive the decision on the acceptance of transfer and also have the right of access to all documents that formed the basis for the decision to accept a transfer under this Regulation. Such access may be limited where it would undermine the confidentiality of an investigation, or otherwise prejudice the investigation.

Coordination

The report introduces a new provision calling for a coordination between the requested authority and the requesting authority after the transfer, with regard to the provisional measures that have been taken.