

Judicial cooperation: transfer of proceedings in criminal matters

2023/0093(COD) - 23/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 604 votes to 2, with 6 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the transfer of proceedings in criminal matters.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

Subject matter

The proposed Regulation lays down rules on the **transfer of criminal proceedings between the Member States** with a view to improving the efficient and proper administration of justice within the common area of freedom, security and justice. It 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 broadened to include a **legal person** that has suffered **harm or economic loss** as a direct result of a criminal offence.

Criteria for requesting a 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, including proportionality, would be better served by conducting the relevant criminal proceedings in another Member State.

The requesting authority should take into account in particular the following **criteria** when considering whether to request the transfer of criminal proceedings:

- the criminal offence has been committed in whole or in part on the territory of the requested State;
- one or more suspects or accused persons are nationals of or residents in the requested State;
- one or more suspects or accused persons are present in the requested State and that State refuses to surrender those persons to the requesting State;
- one or more suspects or accused persons are present in the requested State and that State refuses to surrender those persons for whom a European arrest warrant has been issued, if it finds that there are, in exceptional situations, substantial grounds to believe, on the basis of specific and objective evidence, that surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as set out in Article 6 TEU and the Charter;
- most of the evidence relevant to the investigation is located in, or the majority of the relevant witnesses are resident in, the requested State;
- there are ongoing criminal proceedings in the requested State in respect of the same, partially the same or other facts against the suspect or accused person;

- there are ongoing criminal proceedings in the requested State in respect of the same, partially the same or related facts against other persons;
- one or more suspects or accused persons are serving or are to serve a sentence involving deprivation of liberty in the requested State;
- one or more victims are nationals of or residents in the requested State. Due account should be taken of child victims and other vulnerable groups.

Rights of the suspect or accused person and rights of victims

The suspected or accused person, or a victim, may, in accordance with the procedures laid down in national law, **propose to the competent authorities of the requesting or requested State** that criminal proceedings be transferred under the conditions set out in this Regulation.

Before issuing a request for transfer of criminal proceedings, the requesting authority should take into account the **legitimate interests** of the suspected or accused person, including restorative justice aspects. Insofar as it is not harmful to the investigation, the requesting authority will have to **inform the suspected or accused person or the victim** of the intention to request the transfer of criminal proceedings, in accordance with the applicable national law and in a language that that person understands, and offer him or her the opportunity to give his or her views on the transfer in advance of the request, unless he or she cannot be located or contacted despite the efforts of the requesting authority.

The amended text also lays down an obligation to inform **victims** of the intention to transfer proceedings and to offer them the opportunity to give their views on the transfer.

Suspects or accused persons as well as victims should also be kept informed during the other relevant phases of the proceedings.

Time limits

The requested authority should communicate on whether to accept or refuse the transfer of criminal proceedings without undue delay and in any case **no later than 60 days** after the receipt of the request for the transfer of criminal proceedings. In specific cases, the time limit set may be extended by a maximum of 30 days.

When accepting the transfer of criminal proceedings, the requested authority should take a duly reasoned decision. In cases where the requested authority **refuses** a transfer request it should inform the requesting authority of the reasons of refusal. For this purpose, it is sufficient that the requested authority provides succinct information as to the relevant ground or grounds for refusal.

Right to an effective legal remedy

Suspects, accused persons and victims should have the right to an effective legal remedy in the requested State against a decision to accept the transfer of criminal proceedings. The right should be exercised before a court or tribunal in the requested State. The time limit for seeking an effective legal remedy should be no longer than **15 days** from the date of receipt of the reasoned decision to accept the transfer of criminal proceedings. The final decision on the legal remedy should be taken without undue delay and, where possible, within **60 days**.