Judicial cooperation: transfer of proceedings in criminal matters

2023/0093(COD) - 18/12/2024 - Final act

PURPOSE: to establish rules laying down the conditions under which criminal proceedings brought in one Member State may be transferred to another Member State.

LEGISLATIVE ACT: Regulation (EU) 2024/3011 of the European Parliament and of the Council on the transfer of proceedings in criminal matters.

CONTENT: the 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 will be critical in ensuring that the **best-placed country** investigates or prosecutes a criminal offence and in preventing unnecessary parallel proceedings (of the same suspect) in different EU Member States.

In addition, the regulation will help prevent impunity in cases when the surrender of a person to another member state under a **European Arrest Warrant** is refused. Transfer of proceedings rules (to the country where the accused is present) would guarantee that the person would still face justice.

Transfer of criminal proceedings

A request for the transfer of criminal proceedings may be issued only where the requesting authority considers that the objective of 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 will take into account the following **criteria** when considering whether to request the transfer of criminal proceedings:

- the criminal offence has been committed on the territory of the Member State to which the proceedings are to be transferred or most of the effects of the offence or a substantial part of the damage occurred in that Member State;

- one or more suspects or accused persons are present in the Member State to which the proceedings are to be transferred;

- 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 or the majority of the relevant witnesses are located /reside in that Member State;

- that there are ongoing criminal proceedings in respect of the same or other facts against the suspect or accused person in the Member State which would become responsible for the proceedings;

- one or more suspects or accused persons are serving or are to serve a sentence involving deprivation of liberty in the requested State;

- the enforcement of the sentence in the requested State is likely to improve the prospects of social rehabilitation of the person sentenced;

- one or more victims are nationals of or residents in the requested State.

Time limits

The requested authority will 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. The time limit set may be extended by a maximum of 30 days.

Refusal of transfer

The requested authority may refuse the transfer of criminal proceedings if the conduct for which transfer is sought is not a criminal offence in the requested State, or if the requested State does not have jurisdiction over that criminal offence. This could be the case, for example, if a complaint by the victim, which is necessary for prosecuting the criminal offence in the requested State, has not been filed in time, or where, because of the death or insanity of the suspect or accused person, prosecution has become impossible pursuant to the national law of the requested State.

Rights of the victim and accused/suspect

The country in which the criminal investigation is taking place and which wishes to transfer the proceedings to another country must for instance give due consideration to the **legitimate interests** of the suspect or accused person as well as the victim. The new law also foresees an obligation that the accused or suspect and the victim must be **informed** about the intention to transfer proceedings and should be given the opportunity to provide an **opinion** about this transfer. They are furthermore informed during other relevant phases of the procedure.

Right to an effective legal remedy

Suspects, accused persons and victims will have the right to an effective legal remedy in the requested State against a decision to accept the transfer of criminal proceedings. The right will be exercised before a court or tribunal in the requested State. The time limit for seeking an effective legal remedy will 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 will be taken without undue delay and, where possible, within 60 days.

Cooperation and communication

The requesting authority and the requested authority may, at any stage of the procedure for the transfer of criminal proceedings, request the assistance of Eurojust or the European Judicial Network in accordance with their respective competences. In order to ensure swift, direct, interoperable, reliable and secure exchange of case-related data, communication under this regulation between the requesting authority and requested authority and with the involvement of central authorities, where a Member State has designated a central authority, as well as with Eurojust, should as a rule be carried out through the decentralised IT system.

ENTRY INTO FORCE: 7.1.2025.

APPLICATION: from 1.2.2027.