Basic information

2023/0093(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Judicial cooperation: transfer of proceedings in criminal matters **Subject** 7.40.04 Judicial cooperation in criminal matters **Legislative priorities** Joint Declaration 2023-24	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	KANKO Assita (ECR)	06/07/2023
	Shadow rapporteur BRAUNSBERGER-REINHOLD Karolin (EPP) INCIR Evin (S&D) PETERSEN Morten (Renew) BRICMONT Saskia (Greens/EFA) PELLETIER Anne-Sophie (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	BRETON Thierry

Key events

Date	Event	Reference	Summary

05/04/2023	Legislative proposal published	COM(2023)0185	Summary
08/05/2023	Committee referral announced in Parliament, 1st reading		
23/01/2024	Vote in committee, 1st reading		
23/01/2024	Committee decision to open interinstitutional negotiations with report adopted in committee		
26/01/2024	Committee report tabled for plenary, 1st reading	A9-0008/2024	Summary
05/02/2024	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
07/02/2024	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
09/04/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE760.864 GEDA/A/(2024)001677	
23/04/2024	Decision by Parliament, 1st reading	T9-0293/2024	Summary
23/04/2024	Results of vote in Parliament		
05/11/2024	Act adopted by Council after Parliament's 1st reading		
27/11/2024	Final act signed		
18/12/2024	Final act published in Official Journal		

Technical information

Procedure reference	2023/0093(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 082-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/11700

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE753.778	10/10/2023	
Amendments tabled in committee		PE756.024	08/11/2023	
Committee report tabled for plenary, 1st reading/single reading		A9-0008/2024	26/01/2024	Summary
Text agreed during interinstitutional negotiations		PE760.864	20/03/2024	
Text adopted by Parliament, 1st reading/single reading		T9-0293/2024	23/04/2024	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2024)001677	20/03/2024	
Draft final act	00072/2024/LEX	27/11/2024	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2023)0185	05/04/2023	Summary
Document attached to the procedure	SWD(2023)0077	05/04/2023	
Document attached to the procedure	SWD(2023)0078	05/04/2023	
Commission response to text adopted in plenary	SP(2024)394	08/08/2024	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_CHAMBER	COM(2023)0185	26/06/2023	
Contribution	DE_BUNDESRAT	COM(2023)0185	28/06/2023	
Contribution	CZ_CHAMBER	COM(2023)0185	29/06/2023	
Contribution	PT_PARLIAMENT	COM(2023)0185	18/09/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N9-0045/2023 OJ C 253 18.07.2023, p. 0006	22/05/2023	
EESC	Economic and Social Committee: opinion, report	CES2300/2023	20/09/2023	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency				
Name	**Role**	**Committee**	**Date**	**Interest representatives**
BRAUNSBERGER-REINHOLD Karolin	Shadow rapporteur	LIBE	26/10/2023	Eurojust

Final act	
Regulation 2024/3011 OJ OJ L 18.12.2024	Summary
Corrigendum to final act 32024R3011R(01) OJ OJ L 31.10.2025	

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.

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.

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**.

Judicial cooperation: transfer of proceedings in criminal matters

2023/0093(COD) - 05/04/2023 - Legislative proposal

PURPOSE: to lay down rules on the transfer of criminal proceedings between the Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Member States currently transfer criminal proceedings between themselves using a variety of legal instruments, with no uniform legal framework across the EU. The most comprehensive international legal framework on the transfer of criminal proceedings - the European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972 - has only been ratified and applied by 13 Member States. The majority of the Member States therefore rely on Article 21 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, under which transfer is largely unregulated and relies on national laws.

With an increase of cross-border crime, EU criminal justice is increasingly confronted with situations where several Member States have jurisdiction to prosecute the same case. Parallel or multiple prosecutions can be inefficient and ineffective, but also possibly detrimental to the rights of the individuals concerned as a person may not be prosecuted or punished for the same offence twice.

Common rules on transfer criminal proceedings from one Member State to another are necessary to ensure that the best-placed Member State investigates or prosecutes a criminal offence. Such common rules will help:

- prevent unnecessary parallel proceedings concerning the same facts and the same individual in different Member States, that could result in an infringement of the fundamental principle that a person may not be prosecuted or punished for the same offence twice (ne bis in idem principle);

- avoid cases of impunity where surrender under a European Arrest Warrant is refused.

CONTENT: therefore, in the absence of a common legal framework and due to differences among Member States' national criminal justice systems, the Commission is proposing a Regulation on the transfer of criminal proceedings between Member States.

The proposal establishes rules under which a Member State may take over criminal proceedings at the request of another Member State. It should apply in **all cases of transfer of criminal proceedings** in the Union from the time where a person has been identified as a suspect. It should cover all criminal offences.

'Criminal proceedings' are understood as covering all stages of the criminal proceedings, including pre-trial and trial stage. This proposal should not apply to requests for transfer of administrative proceedings.

The proposed Regulation does not impose any obligation to request a transfer of criminal proceedings. If the requesting authority considers that transferring a criminal proceeding is necessary and appropriate, it may request the other Member State that is better placed to prosecute the criminal offence to take over those criminal proceedings. Whether a request for transfer of criminal proceedings is justified should be carefully assessed on a case-by-case basis in order to identify the Member State that is best placed to prosecute the criminal offence in question and any request should be clearly motivated.

Under this proposal, the suspected or accused person could also request the competent authorities of the requesting of the requesting State or of the requested State to initiate a procedure for transferring criminal proceedings. Such requests do not, however, create an obligation for the requesting or the requested State to request or transfer criminal proceedings to the requested State.

The proposal also includes common rules such as:

- a list of common criteria for transfer of proceedings, as well as grounds for refusing the transfer of proceedings;

- a **time limit** for a decision on the transfer of proceedings. The requested authority should have **60 days** to decide whether to accept or refuse the transfer of criminal proceedings. If it refuses the transfer of proceedings, it must provide reasons for such refusal. However, if the transfer of proceedings is accepted, the requesting authority must transfer the case to the requested authority of another Member State;

- rules on costs for translation and on the effects of the transfer of proceedings;

- obligations with respect to the rights for the suspects and accused persons as well as legal remedies;

- rules on the use of electronic communication between the requesting and requested authorities, as well as with central authorities and with Eurojust, through a decentralised IT system.