EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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REGULATION
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
ON THE TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS

REGULATION (EU) 2024/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 November 2024

on the transfer of proceedings in criminal matters

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(1), second subparagraph, points (b) and (d), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure[2],

[1] OJ C, C/2023/869, 8.12.2023, ELI: http://data.europa.eu/eli/C/2023/869/oj.

[2] Position of the European Parliament of 23 April 2024 (not yet published in the Official Journal) and decision of the Council of 5 November 2024.

Whereas:

(1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice.

(2) The Hague Programme: strengthening freedom, security and justice in the European Union[3] requires Member States to consider possibilities for concentrating the prosecution in cross-border multilateral cases in one Member State, with a view to increasing the efficiency of prosecutions while guaranteeing the proper administration of justice.

(3) The Programme of measures to implement the principle of mutual recognition of decisions in criminal matters[4] calls for an instrument enabling criminal proceedings to be transferred to other Member States.

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[3] OJ C 53, 3.3.2005, p. 1.
[4] OJ C 12, 15.1.2001, p. 10.

(4) Further development of judicial cooperation between Member States is needed to increase the efficient and proper administration of criminal justice within the common area of freedom, security and justice and to ensure that the best-placed Member State investigates or prosecutes a criminal offence. In particular, common rules for Member States regarding the transfer of criminal proceedings could help to prevent unnecessary parallel criminal proceedings in different Member States in respect of the same facts and the same person, which could result in an infringement of the ne bis in idem principle. Such common rules could also reduce the number of multiple criminal proceedings in respect of the same facts or in respect of the same person being conducted in different Member States. Such common rules also aim to ensure that it is possible for a transfer of criminal proceedings to take place if the surrender of a person for criminal prosecution under a European arrest warrant, pursuant to Council Framework Decision 2002/584/JHA[5], is delayed or refused for reasons such as the existence of ongoing parallel criminal proceedings in another Member State for the same criminal offence, in order to avoid impunity of the person being prosecuted.

[5] Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

(5) Common rules on the transfer of criminal proceedings are also essential in order to fight cross-border crime efficiently, which is especially important in relation to crimes committed by organised criminal groups, such as drug trafficking, migrant smuggling, trafficking in human beings, firearms trafficking, environmental crime, cybercrime or money laundering. Prosecuting organised criminal groups that are active in multiple Member States can create great difficulties for the authorities involved. The transfer of criminal proceedings is an important tool which would reinforce the fight against organised criminal groups that are active across the Union.

(6) In order to ensure effective cooperation between requesting authorities and requested authorities in relation to the transfer of criminal proceedings, rules on such transfer should be established by a legally binding and directly applicable act of the Union.

(7) This Regulation should apply to all requests for transfer issued within the framework of criminal proceedings.

(8) Council Framework Decision 2009/948/JHA[6] aims to prevent situations where the same person is subject to parallel criminal proceedings in different Member States in respect of the same facts, which might lead to the final disposal of those proceedings in two or more Member States. That Framework Decision therefore establishes a procedure for direct consultations between competent authorities of the Member States concerned with the aim of reaching a consensus on any effective solution aimed at avoiding the adverse consequences arising from such parallel proceedings and the waste of time and resources of those competent authorities. Where those competent authorities decide, following consultations in accordance with that Framework Decision, to concentrate proceedings in one Member State through the transfer of criminal proceedings, such transfer should be carried out in accordance with this Regulation.

[6] Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings (OJ L 328, 15.12.2009, p. 42).

(9) Other legal acts in the area of criminal matters, particularly those related to specific types of crime such as Directive (EU) 2017/541 of the European Parliament and of the Council[7] and Council Framework Decisions 2002/475/JHA[8] and 2008/841/JHA[9], include provisions referring to the factors to be taken into account with the aim of centralising criminal proceedings in a single Member State in the event that more than one Member State can validly prosecute on the basis of the same facts. Where the competent authorities of the Member States concerned decide, following cooperation in accordance with such legal acts, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, such transfer should be carried out in accordance with this Regulation.

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7 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

8 Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

9 Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).

(10) Several Union legal acts have been adopted on the application of the principle of mutual recognition to judgments and judicial decisions in criminal matters, in particular Council Framework Decisions 2005/214/JHA[10], 2008/909/JHA[11] and 2008/947/JHA[12]. This Regulation supplements those Framework Decisions and does not affect their application.

(11) This Regulation does not affect spontaneous exchanges of information regulated by other Union legal acts.

(12) This Regulation does not apply to decisions to reallocate, merge or split cases in relation to which the European Public Prosecutor's Office has exercised its competence in accordance with Council Regulation (EU) 2017/1939[13].

(13) For the purposes of this Regulation, Member States should designate their competent authorities in a way that promotes the principle of direct contact between those authorities.

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10 Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16).

11 Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (OJ L 327, 5.12.2008, p. 27).

12 Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 16.12.2008, p. 102).

13 Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

(14) For the purposes of this Regulation and in the interest of facilitating its effective application across the Union, in the event that the structure of the internal legal systems of Member States with common law traditions does not allow for their courts and prosecutors to take measures ancillary to the decision to accept or refuse a transfer of criminal proceedings, another authority, with competence to take measures in criminal proceedings, should be able to take such ancillary measures. The involvement of such competent authority should not prejudice in any way the decision, to be taken exclusively by a judge, court, investigating judge or public prosecutor, on whether to accept or refuse a transfer of criminal proceedings, which should, by necessity, include its assessment of the grounds for refusal under this Regulation. The involvement of any other competent authority is solely intended to facilitate such judicial decision-making and the effective application of this Regulation.

(15) Where necessary due to the structure of their internal legal systems, it should be possible for Member States to designate one or more central authorities for the administrative transmission and reception of requests for the transfer of criminal proceedings, as well as for other official correspondence relating to such requests. Such central authorities could also provide administrative support and have coordinating and assisting roles, thereby facilitating and promoting the acceptance of requests for the transfer of criminal proceedings.

(16) Some Union legal acts already require Member States to take necessary measures to establish jurisdiction over specific criminal offences, such as those related to terrorist activities pursuant to Directive (EU) 2017/541 or to the counterfeiting of the euro pursuant to Directive 2014/62/EU of the European Parliament and of the Council[14], in cases where the surrender of a person is refused.

(17) In order to ensure that it is possible for criminal proceedings to be transferred in accordance with this Regulation wherever the interests of efficient and proper administration of justice and the effective protection of the fundamental rights of the suspects, accused persons and victims, as set out in Union law, so require, this Regulation should provide for jurisdiction in specific cases so that the requested State is able to exercise jurisdiction in relation to the criminal offences to which the national law of the requesting State is applicable. The requested State should have jurisdiction over criminal offences for which the transfer of criminal proceedings is sought, whenever that Member State is considered to be best placed to prosecute the criminal offence in question. The rules on jurisdiction provided for in this Regulation should not prevent Member States from adopting national measures to ensure that they are able to exercise jurisdiction in the specific cases provided for in this Regulation.

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[14] Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA (OJ L 151, 21.5.2014, p. 1).

(18) In addition to the jurisdiction already provided for by the national law of the requested State, jurisdiction should be established on the basis of the specific grounds set out in this Regulation wherever that Member State is considered as being best placed to prosecute. The requested State should have jurisdiction in situations where the requested State refuses to surrender a suspect or accused person for whom a European arrest warrant has been issued and who is present in the requested State and is a national of or a resident in that State, where such refusal is based on the specific grounds set out in this Regulation. For example, jurisdiction should be established where surrender is refused on the basis of Article 4, point (7)(b), of Framework Decision 2002/584/JHA, which applies in situations where offences have been committed outside the territory of the issuing Member State and the law of the executing Member State does not allow prosecution for the same offences when committed outside its territory. That rule could be applied in situations where an offence is committed on the territory of another Member State or of a third country by nationals of other Member States or third-country nationals, and the suspect or accused person is a resident in the requested State. This is of particular importance as regards serious crimes violating fundamental values of the international community, such as war crimes or genocide, where a risk of impunity might arise due to a European arrest warrant being refused on the basis of Article 4, point (7)(b), of Framework Decision 2002/584/JHA. The requested State should also have jurisdiction where the criminal offence produces its effects or causes damage mainly in the requested State. Damage should be taken into account provided that it is one of the constituent elements of the criminal offence, in accordance with the national law of the requested State. The requested State should also have jurisdiction when criminal proceedings are already ongoing in that State against the same suspect or accused person in respect of other facts, so that all the alleged criminal conduct of such a person could be judged in one single jurisdiction, or when criminal proceedings are ongoing in that State against other persons in respect of the same, partially the same or related facts, which might be of particular relevance for concentrating the investigation and prosecution of a criminal organisation in one Member State. In both cases, the suspect or accused person in the criminal proceedings being transferred should be a national of or a resident in the requested State.

(19) In order to fulfil the purpose of this Regulation and to prevent conflicts of jurisdiction, having specific regard to those Member States whose legal systems are based on mandatory prosecution and those where there is mandatory prosecution only for certain criminal offences, the requesting State, when requesting a transfer of criminal proceedings, should be able to waive proceedings for the prosecution of the person concerned for the criminal offence for which the transfer is sought. This Regulation should therefore allow the competent authorities of the requesting State to waive, suspend or discontinue the criminal proceedings brought before them in favour of the Member State identified as being in a better position to prosecute, even where, in accordance with national law, those authorities would be under a duty to prosecute. This should be without prejudice to the provisions on the effects of the transfer of criminal proceedings in the requesting State laid down in this Regulation.

(20) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union (the 'Charter') and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(21) This Regulation does not affect procedural rights as set out in the Charter or in other Union legal acts, such as Directives 2010/64/EU[15], 2012/13/EU[16], 2013/48/EU[17], (EU) 2016/343[18], (EU) 2016/800[19] and (EU) 2016/1919[20] of the European Parliament and of the Council, for the Member States bound by them. In particular, the requesting authority should ensure that such rights, as provided for under Union and national law, are respected when requesting a transfer of criminal proceedings under this Regulation.

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15 Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

16 Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

17 Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

18 Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

19 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

20 Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

(22) Member States should ensure that, when applying this Regulation, the needs of vulnerable persons are taken into account. In accordance with the Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings[21], vulnerable suspects or accused persons should be understood to mean all suspects or accused persons who are not able to understand or effectively participate in criminal proceedings due to their age, their mental or physical condition or any disabilities they might have.

(23) Similarly, Member States should ensure that, when applying this Regulation, the procedural rights of suspects and accused persons subject to pre-trial detention are taken into account, considering, where appropriate, Commission Recommendation (EU) 2023/681[22].

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21 OJ C 378, 24.12.2013, p. 8.

22 Commission Recommendation (EU) 2023/681 of 8 December 2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions (OJ L 86, 24.3.2023, p. 44).

(24) A requesting authority should be able to request a transfer of criminal proceedings either on its own initiative, whether or not following consultations with a requested authority, or on a proposal from a suspect or accused person, or on a proposal from a victim. This Regulation should not impose any obligation to request the transfer of or to transfer criminal proceedings. When considering whether a request for the transfer of criminal proceedings should be issued, the requesting authority should assess whether such a transfer would serve the objective of efficient and proper administration of justice, including whether it is proportionate and appropriate for the purpose of the proceedings concerned. That assessment should be carried out on a case-by-case basis in order to identify the Member State that is best placed to prosecute the criminal offence in question.

(25) When assessing whether a request for the transfer of criminal proceedings is justified, the requesting authority should have regard to several criteria, the priority and weight of which should be based on the facts and merits of each individual case. All the relevant factors should be considered in the best interests of justice. For instance, where the criminal offence has been committed in whole or in part on the territory of the requested State, or most of the effects or a substantial part of the damage caused by the criminal offence, where those effects or that damage forms part of the constituent elements of the criminal offence, occurred on the territory of the requested State, it should be possible for that State to be considered in a better position to prosecute, given that the evidence to be collected, such as testimony from witnesses and victims, or experts' opinions, are in the requested State and could thus be more easily gathered if the criminal proceedings were transferred. Additionally, the initiation of subsequent proceedings for damages in the requested State would be facilitated if the underlying proceedings establishing criminal responsibility were also held in the same Member State. Similarly, if most of the evidence is located in the requested State, a transfer of criminal proceedings might facilitate the collection and subsequent admissibility of the evidence gathered in accordance with the national law of the requested State.

(26) Where one or more suspects or accused persons are nationals of or residents in the requested State, a transfer of criminal proceedings might be justified for the purpose of ensuring the right of the suspect or accused person to be present at the trial, in accordance with Directive (EU) 2016/343. Similarly, where one or more victims are nationals of or residents in the requested State, a transfer of criminal proceedings might be justified to allow victims to more easily participate in criminal proceedings and to be effectively examined as witnesses during the proceedings. In cases where the surrender of a suspect or accused person for whom a European arrest warrant was issued is refused in the requested State on the grounds specified in this Regulation, a transfer might also be justified when that person is present in the requested State while not being a national of or a resident in that State.

(27) It is for the requesting authority to assess, on the basis of material before it, whether there are reasonable grounds to believe that the suspect, accused person or victim resides in the requested State. Where only limited information is available, such an assessment should be the subject of consultations between the requesting authority and requested authority in order to confirm residence of the suspect, accused person or victim in the requested State. For the purposes of that assessment, various objective circumstances that could indicate that the person concerned has established the habitual centre of that person's interests in a particular Member State or has the intention to do so could be of relevance. Reasonable grounds to believe that a person resides in the requested State could exist, in particular, where a person is registered as a resident in the requested State, by holding an identity card or a residence permit, or by registration in an official residence register. Where the person in question is not registered in the requested State, residence could be indicated by the fact that that person manifested the intention to settle in that Member State or has acquired, following a stable period of presence in that Member State, certain connections with it which are of a similar degree as those resulting from establishing a formal residence in that Member State. In order to determine whether, in a specific situation, there are sufficient connections between the person concerned and the requested State giving rise to reasonable grounds to believe that the person concerned resides in that Member State, it is necessary to take into account various objective factors characterising the situation of that person, which include, in particular, the length, nature and conditions of that person's presence in the requested State or the family or economic connections which that person has with the requested State. A registered vehicle, a bank account, the fact that the person's stay in the requested State was uninterrupted or other objective factors could be of relevance for determining that there are reasonable grounds to believe that the person concerned resides in the requested State. A short visit, a holiday stay, including in a holiday home, or a similar stay in the requested State without any further substantial link is not enough to establish residence in that Member State.

(28) A transfer of criminal proceedings might also be justified when criminal proceedings are ongoing in the requested State in respect of the same, partially the same or other facts against the suspect or accused person, or when criminal proceedings are ongoing in the requested State in respect of the same, partially the same or related facts against other persons, for example in cases of prosecution of cross-border criminal organisations, where different co-accused persons might be prosecuted in different Member States. Moreover, if the suspect or accused person is serving or is to serve a sentence involving deprivation of liberty in the requested State for another criminal offence, a transfer of criminal proceedings might be justified to ensure the right of the convicted person to be present at the trial for which transfer of criminal proceedings is sought, while serving the sentence in the requested State. The requesting authorities should give due consideration to whether the transfer of criminal proceedings could improve the prospects of social rehabilitation of the person concerned if the sentence were to be enforced in the requested State. For that purpose, the person's attachment to the requested State, whether that person considers it to be the place of family, as well as linguistic, cultural, social, economic or other links, could be taken into account. Additionally, competent authorities often reach agreements on the concentration of proceedings on the basis of the identification of the best-placed jurisdiction. Such agreements could be reached in coordination meetings of the European Union Agency for Criminal Justice Cooperation (Eurojust), established by Regulation (EU) 2018/1727 of the European Parliament and of the Council[23], in bilateral or multilateral meetings without the intervention of Eurojust or following consultations under Framework Decision 2009/948/JHA.

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[23] Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

(29) Before considering whether to transfer criminal proceedings on the sole ground that most of the evidence is located in the requested State, the requesting authority is encouraged to take into account the possibility of obtaining evidence from other Member States through existing instruments of mutual recognition of judicial decisions, such as, for the Member States bound by it, Directive 2014/41/EU of the European Parliament and of the Council[24], and mutual legal assistance.

[24] Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters (OJ L 130, 1.5.2014, p. 1).

(30) Suspects, accused persons or victims should be able to propose that criminal proceedings concerning them be transferred to another Member State. Suspects, accused persons or victims should be able to make such a proposal to the competent authorities either of the requesting State or of the requested State where they consider that there are reasons for which a transfer of criminal proceedings is justified in the interests of justice. For example, such a proposal could be made in the requesting State by a suspect, accused person or victim who is aware that there are ongoing criminal proceedings in the requested State in respect of the same, partially the same or other facts against the same suspect or accused person or in respect of the same, partially the same or related facts against other persons. Such a proposal could be made in the requested State where, for example, a suspect, accused person or victim resides in or is a national of that State, or is aware of proceedings having been opened in respect of the same, partially the same, or other facts concerning the same suspects or accused persons. Although such a proposal should be considered and recorded, it should not impose any obligation on the requesting authority or requested authority to request the transfer of or to transfer criminal proceedings or to engage in consultations with the authority of another Member State for that purpose. If either of those authorities become aware of parallel criminal proceedings on the basis of a proposal for the transfer of criminal proceedings submitted by a suspect, accused person or victim, or a lawyer on their behalf, it is under an obligation to consult with the other authority in accordance with Framework Decision 2009/948/JHA.

(31) The requesting authority should inform as soon as possible the suspect or accused person of the intention to issue a request for the transfer of criminal proceedings and should provide for the possibility for such person to state an opinion, including on aspects related to restorative justice, in accordance with applicable national law, to enable the authorities to take into account that person's legitimate interests before issuing a request for transfer. It is important to provide such information in writing. It should also be possible for the information to be provided orally on condition that the fact that the information has been provided is noted in accordance with the recording procedure under national law. It should be possible for the information to be provided using standard forms. Where the requesting authority considers it necessary, for example in view of the age or the physical or mental condition of the suspect or accused person concerned, the opportunity to state an opinion should be given to that person's legal representative, where available. When assessing the legitimate interest of the suspect or accused person to be informed about the intention to issue a request for transfer, the requesting authority should take into account the need to ensure confidentiality of an investigation or the risk of prejudicing the investigation against that person, for example whenever it is necessary to safeguard an important public interest, such as in cases where such information could prejudice ongoing covert investigations or seriously harm the national security of the Member State in which the criminal proceedings are instituted. Where the requesting authority cannot locate or reach the suspect or accused person despite reasonable efforts being made, the obligation to inform such person should apply from the moment that the suspect or accused person could be located or reached.

(32) The rights of victims set out in Directive 2012/29/EU of the European Parliament and of the Council[25], including the right to information, should be taken into account when applying this Regulation. This Regulation should not be interpreted as preventing Member States from granting victims more extensive rights under national law than those laid down in Union law.

(33) When taking a decision on the request for the transfer of criminal proceedings, the requesting authority should have due regard to the legitimate interests of victims, including their protection and aspects related to restorative justice, and should assess whether the transfer of criminal proceedings might be detrimental for the ability of victims to effectively exercise their rights in the criminal proceedings concerned. That assessment could encompass, for example, consideration of the possibility and arrangements available for victims to testify during trial in the requested State if that is not the Member State where they reside. Furthermore, consideration should be given to the possibility for victims to obtain and provide evidence, for instance from witnesses and experts, to claim compensation or to benefit from witness protection or restorative justice programmes in the requested State. The victims' rights to compensation should not be prejudiced by the transfer of criminal proceedings. This Regulation does not affect rules on compensation and the restitution of property to victims in national proceedings.

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[25] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57).

(34) Where it is necessary to ensure that the protection provided to the victim in the requesting State is continued in the requested State, competent authorities in the requesting State should consider the issuance of a European protection order in accordance with Regulation (EU) No 606/2013 of the European Parliament and of the Council[26] or, for the Member States bound by it, Directive 2011/99/EU of the European Parliament and of the Council[27].

[26] Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (OJ L 181, 29.6.2013, p. 4).

[27] Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L 338, 21.12.2011, p. 2).

(35) Once the requesting authority intends to issue a request for the transfer of criminal proceedings, it should as soon as possible inform the victims who reside or, in the case of legal persons, that are established in the requesting State and who receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, as implemented in national law, or, in the case of legal persons, that receive such information in accordance with national law. The requesting authority should provide for the possibility for such persons to state their opinion, in accordance with applicable national law, to enable the authorities to take into account their legitimate interests before issuing a request for transfer. It is important to provide such information in writing. It should also be possible to provide the information orally on condition that the fact that the information has been provided is noted in accordance with the recording procedure under national law. It should be possible for the information to be provided using standard forms or, where there are exceptionally large numbers of victims to be informed, via other means of general information to the public, such as in specific online publication instruments available to judicial authorities under national law. Where the requesting authority considers it necessary, for example in view of the age or the physical or mental condition of the victim concerned, the opportunity to state their opinion should be given to their legal representative, where available. When assessing the legitimate interest of victims to be informed about the intention to issue a request for transfer, the requesting authority should take into account the need to ensure confidentiality of an investigation or the risk of prejudicing the investigation, for instance in cases where such information could prejudice ongoing covert investigations or seriously harm the national security of the requesting State.

(36) It should also be possible to use standard forms in certain situations provided for under this Regulation to make it easier for the requesting authority and the requested authority to assist each other in informing the suspect, accused person or victim and seeking their opinion on the intention to issue a request for the transfer of criminal proceedings. The possibility to use such standard forms should not preclude the possibility of direct notifications to suspects, accused persons or victims by the requesting authority or the requested authority.

(37) The proper application of this Regulation presupposes communication between the requesting authority and requested authority, which should be encouraged to consult each other whenever appropriate to facilitate the smooth and efficient application of this Regulation, either directly or, where appropriate, via Eurojust.

(38) The requesting authority should be able to consult the requested authority prior to issuing a request for the transfer of criminal proceedings when that is necessary, in particular, to determine if the transfer of criminal proceedings would serve the interests of efficient and proper administration of justice, including whether it is proportionate and appropriate for the purpose of the proceedings concerned, as well as if the requested authority is likely to invoke one of the grounds for refusal under this Regulation.

(39) When transmitting a request for the transfer of criminal proceedings, the requesting authority should provide accurate and clear information on the circumstances and conditions underlying the request, as well as any other supporting documentation, with a view to enabling the requested authority to take an informed decision on the request for the transfer of criminal proceedings. The completed request form and, with a view to reducing translation costs and time, at least the essential parts of any written supporting documentation or information should be translated by the requesting authority into an official language of the requested State or any other language accepted by that State in accordance with this Regulation. The essential parts of the documents concerned are those extracts that appear necessary for the requested authority to take an informed decision on the request for the transfer of criminal proceedings.

(40) As long as the requested authority has not taken a decision to accept or refuse a transfer of criminal proceedings, the requesting authority should be able to withdraw the request for transfer, for instance when it becomes aware of further elements due to which the transfer no longer appears justified. Information about the withdrawal of the request for the transfer of criminal proceedings should be provided immediately to the requested authority and should be communicated to the suspects or accused persons and the victims, as relevant.

(41) The requested authority should inform the requesting authority of its decision on whether to accept or refuse the transfer of criminal proceedings without undue delay and in any event no later than 60 days after the receipt of the request for the transfer of criminal proceedings. In specific cases, when it is not feasible for the requested authority to comply with that time-limit, for instance if it considers that additional information is necessary, it should be possible for the time-limit to be extended only by a maximum of 30 days to avoid excessive delays. When accepting the transfer of criminal proceedings, the requested authority should take a duly reasoned decision. In cases where the requested authority refuses the transfer of criminal proceedings, it should inform the requesting authority of the reasons for refusal. For that purpose, it is sufficient for the requested authority to provide succinct information as to the relevant ground or grounds for refusal.

(42) Where the requested authority has accepted the transfer of criminal proceedings, the requesting authority should without undue delay forward to the requested authority originals or certified copies of all documents of the case file, or at least the relevant parts thereof, accompanied by their translation. Once the national proceedings are discontinued, the requesting authority should transmit any remaining relevant parts of the case file in original or certified copy, including relevant physical evidence such as objects of offence or blood or DNA samples, to the requested authority without undue delay. Original documentation should only be transmitted if requested by the requested authority, for instance where there is a need to examine a document for forensic purposes. Provided that the original documents of the case file and the physical evidence are no longer needed in the requested State, they should be returned to the requesting State upon its request, for example if such documents or physical evidence are needed for the purposes of another criminal investigation. Where the requesting State, when asked by the requested State, indicates that it does not intend to recover the original documents of the case file or the physical evidence when it is no longer needed or at the end of the proceedings, the requested State should be able to decide, in accordance with its national law, how to deal with the remaining evidence, including whether to preserve or destroy such evidence. Once a request for the transfer of criminal proceedings has been accepted, and in order to facilitate an efficient transfer, the requesting authority and requested authority should be able to consult each other to determine the necessary documents or parts of such documents to be forwarded, as well as to be translated, where necessary. However, it is important that a decision to send only parts of the documents be balanced and based on a careful consideration of the documents in question so as not to prejudice the fairness of the proceedings.

(43) Transfer of criminal proceedings should not be refused on grounds other than those provided for in this Regulation. For the transfer of criminal proceedings to be accepted, prosecution of the facts underlying the criminal proceedings that are subject to the transfer should be possible in the requested State. The requested authority should 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, unless it exercises jurisdiction provided for under this Regulation. The requested authority should also refuse the transfer of criminal proceedings if the conditions for prosecuting the criminal offence in the requested State are not fulfilled. 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. Furthermore, the requested authority should refuse the transfer of criminal proceedings if there are other impediments to prosecution in the requested State.

The requested authority should be able to refuse a transfer of criminal proceedings if the suspect or accused person benefits from a privilege or immunity in accordance with the national law of the requested State, for example in relation to certain categories of persons, such as diplomats, or specifically protected relationships, such as lawyer-client privilege, or if the requested authority believes that such transfer is not justified by the interests of efficient and proper administration of justice, for instance because none of the criteria for requesting a transfer of criminal proceedings are met, or if the request form for the transfer of criminal proceedings is incomplete or manifestly incorrect and has not been completed or corrected by the requesting authority, thus meaning the requested authority does not have the necessary information to assess the request for the transfer of criminal proceedings. The requested authority should also be able to refuse the request if the conduct is not a criminal offence at the place where it was committed and the requested State has no original jurisdiction to investigate and prosecute such offence. That ground for refusal takes into account the principle of territoriality, meaning that the requested State should be able to refuse the transfer of criminal proceedings in cases where the alleged criminal offence, which is committed outside the territory of the requesting State, is not a criminal offence at the place where it was committed, and the national law of the requested State does not authorise the prosecution of such offences where committed outside its territory. For the purposes of this Regulation, ‘original jurisdiction’ is the jurisdiction which is already provided for by national law and does not derive from this Regulation.

(44) The principle of ne bis in idem, as set out in Articles 54 to 58 of the Convention implementing the Schengen Agreement of 14 June 1985[28] and in Article 50 of the Charter, and as interpreted by the Court of Justice of the European Union, is a basic fundamental principle of criminal law, according to which a defendant should not be tried or punished again in criminal proceedings for the criminal offence for which that defendant has already been finally acquitted or convicted. Therefore, the requested authority should refuse the transfer of criminal proceedings if taking them over would be contrary to that principle.

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[28] Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19).

(45) When examining whether to accept or refuse a request for the transfer of criminal proceedings, the requested authority should assess whether such a transfer would serve the objective of efficient and proper administration of justice. That assessment should be carried out on a case-by-case basis in order to identify the Member State that is best placed to prosecute the criminal offence in question. The requested authority should enjoy a broad margin of discretion for the purpose of that assessment. Such assessment should be limited to the relevant circumstances of the case, including whether there is a prima facie indication that the criminal offence has not been committed either in whole or in part on the territory of the requested State, that most of the effects or a substantial part of the damage forming part of the constituent elements of the criminal offence did not occur on the territory of that State, and that the suspect or accused person is not a national of or a resident in that State. The personal, material or family situation of a victim, witness or other individual concerned should not be decisive in itself on the assessment of whether the transfer of criminal proceedings would serve the objective of efficient and proper administration of justice.

(46) Before deciding to refuse a request for the transfer of criminal proceedings on the basis of any ground for refusal, the requested authority should, where appropriate, consult the requesting authority in order to obtain any necessary additional information.

(47) The requested State should ensure access to an effective legal remedy for suspects, accused persons and victims, against the decision to accept the transfer of criminal proceedings, in accordance with Article 47 of the Charter and the procedures applicable under national law, whenever their rights are adversely affected by the application of this Regulation. Review of the decision concerning the transfer of criminal proceedings should be based exclusively on the criteria provided for in the grounds for refusal set out in this Regulation. The assessment of whether the criminal proceedings should be transferred should involve a consideration of all circumstances which are relevant for the examination of those criteria. That assessment might often involve not only balancing the interests or rights of individuals whose rights may be affected, but also a consideration of the specificities and practical aspects of the operation of the criminal justice system. Such legal remedy should be without prejudice to other legal remedies under national law.

(48) The requested authority should have broad discretion in assessing whether the transfer of criminal proceedings is in the interests of efficient and proper administration of justice, and whether a request for transfer should be refused on any of the optional grounds for refusal set out in this Regulation. The examination of the exercise of such discretion should be limited to reviewing whether the requested authority, when taking the decision to accept the request for the transfer of criminal proceedings, has manifestly exceeded the limits of its discretion.

(49) The outcome of the legal remedy could be that the decision to accept the transfer of criminal proceedings is upheld or overturned in whole or in part. In principle, in the case of a successful remedy, the criminal proceedings will revert to the requesting State. However, in some situations the court could also decide, in accordance with its national law, that the decision to accept the transfer of criminal proceedings can be upheld provided that certain conditions or additional formalities are complied with, for example the condition that some missing elements of the request form are completed, or that additional measures are taken for the execution of the transfer, such as continuing witness protection.

(50) A legal remedy under this Regulation should not entail any review of the merits of the case, such as whether the evidence is sufficient to justify opening or continuing an investigation, whether the facts of the case or the subjective aspects, such as intention or serious negligence, are established to the applicable standards, or concerning the probative value or the probative force of already collected evidence or the credibility of statements.

(51) With a view to guaranteeing that the right to a legal remedy can be exercised effectively, the requested State should ensure that suspects, accused persons and victims have the right of access to all documents related to the transfer of criminal proceedings that formed the basis for the decision to accept a transfer under this Regulation, and that are necessary to effectively challenge that decision. The right of access to such documents should be exercised in accordance with procedures under the national law of the requested State and might be limited where it would undermine the confidentiality of an investigation, or otherwise prejudice the investigation or harm the safety of persons. Any refusal of such access should be weighed against the rights of the persons concerned, taking into account the different stages of the criminal proceedings. Restrictions on such access should be interpreted strictly and in accordance with the right to a fair trial under the Charter.

(52) The time-limit for the suspect, accused person or victim to seek an effective legal remedy should not be longer than 15 days from the date of receipt by the person concerned of the reasoned decision to accept the transfer of criminal proceedings. Situations where the suspect, accused person or victim is not identified at the time of the transfer of criminal proceedings, and where for that reason the reasoned decision could not be communicated to such person at that time, should be subject to national law.

(53) The acceptance of the transfer of criminal proceedings by the requested authority should result in the suspension or discontinuation of criminal proceedings in the requesting State to avoid duplication of measures in the requesting State and requested State. That should however be without prejudice to necessary investigative or other procedural measures, including necessary urgent measures, which the requesting State might need to undertake after the receipt of notification of the acceptance by the requested authority, where the efficient and proper administration of justice so requires. The notion of 'investigative or other procedural measures' should be interpreted broadly as including not only any measure for the purpose of gathering evidence, but also any procedural act imposing pre-trial detention or any other interim measure. To ensure that the criminal proceedings are not prolonged at length in the requesting State, once the investigative or other procedural measures undertaken are finalised or no longer necessary, the criminal proceedings in the requesting State should be suspended or discontinued. If a legal remedy with a suspensive effect has been invoked in the requested State, the criminal proceedings should not be suspended or discontinued in the requesting State until a decision on the remedy has been taken in the requested State.

(54) In cases where jurisdiction for the criminal proceedings is derived exclusively on the basis of this Regulation and where a request for transfer has been received and pending the decision on whether to accept or refuse the transfer of criminal proceedings, Member States should be able to provide under their national law a legal basis for the provisional arrest of the suspect or accused person staying in the requested State or for the adoption of other provisional measures by the competent authority of such State. Such provisional arrest or other provisional measures should only be taken in accordance with national law, and only where necessary. Such provisional arrest or other provisional measures should be subject to the same procedural safeguards applicable to the same measures under national law, including judicial oversight. Moreover, such provisional arrest or other provisional measures should be taken following a proper assessment on the basis of the information available to the requested authority. This Regulation should however not constitute a legal basis for arresting persons with a view to their physical transfer to the requested State in order for the latter to bring criminal proceedings against that person.

(55) A competent authority of the requested State should inform the requesting authority in writing of any decision taken at the end of the criminal proceedings in the requested State. Framework Decision 2009/948/JHA imposes a similar obligation where an agreement was reached on the concentration of proceedings in one Member State. Where the requested authority decides to discontinue criminal proceedings related to the facts underlying the request for transfer, it should inform the requesting authority of the reasons for such discontinuation. At least the essential parts of such information and of the final written decision taken in the requested State should be translated by the requested authority into an official language of the requesting State or any other language accepted by that State in accordance with this Regulation. The essential parts of the information and the decision are meant to be those extracts that appear necessary for the requesting authority to have knowledge of their general content.

(56) If the requested authority decides to discontinue criminal proceedings related to the facts underlying the request for transfer, the requesting authority should be able to continue or reopen criminal proceedings if that would not entail a violation of the ne bis in idem principle, as interpreted by the Court of Justice of the European Union, namely where the decision to discontinue proceedings does not definitively bar further prosecution under the national law of the requested State and was not taken after a determination had been made on the merits of the case, therefore not precluding further criminal proceedings, in respect of the same acts, in that State. Victims should have the possibility to initiate or to request the reopening of criminal proceedings in the requesting State in accordance with the national law of that State, provided that this would not entail a violation of the ne bis in idem principle.

(57) Once criminal proceedings are transferred in accordance with this Regulation, the requested authority should apply its relevant national law and procedures. Nothing in this Regulation should be interpreted as interfering with any prosecutorial discretion provided for in national law.

(58) Nothing in this Regulation should be interpreted as affecting the duration of the period of limitation in the requested State, as provided for in the national law of that State.

(59) With the aim of giving full effect to the transfer of criminal proceedings, evidence transferred by the requesting authority should not be denied admission in the corresponding criminal proceedings in the requested State on the sole basis that such evidence was gathered in another Member State. The competent court in the requested State should maintain its judicial discretion in assessing such evidence in accordance with national law, while suspects and accused persons should maintain their rights to challenge the admissibility of such evidence in accordance with their rights of defence under the Charter. In line with those principles, and respecting the different legal systems and traditions of the Member States as provided for in Article 67(1) of the Treaty on the Functioning of the European Union (TFEU), nothing in this Regulation is to be interpreted as prohibiting the courts from applying the fundamental principles of national law on fairness of the procedure that they apply in their national systems, including in common law systems.

(60) The requested State should apply its national law to determine the sentence applicable to the criminal offence in question. In cases where the criminal offence has been committed on the territory of the requesting State, the requested authorities should be able to take into consideration in the determination of the sentence the maximum sentence provided for in the national law of the requesting State, whenever this is to the benefit of the accused person, and in accordance with the national law of the requested State. This should be taken into account in situations where the transfer of criminal proceedings would lead to the application in the requested State of a higher sentence than the maximum sentence provided for in the requesting State for the same criminal offence, with a view to ensuring a degree of legal certainty and foreseeability of the applicable law for the suspects or accused persons concerned. The maximum sentence provided for in the national law of the requesting State should always be taken into account where jurisdiction of the requested State is based exclusively on this Regulation.

(61) Each Member State should bear its own costs of transfers of criminal proceedings, including those related to the exercise of procedural rights to which the suspect or the accused person is entitled in each of the Member States concerned, in accordance with the applicable Union and national law. Member States should not be able to claim from each other compensation for costs resulting from the application of this Regulation. However, if the requesting State has incurred large or exceptional costs related to the translation of the documents in the case file to be transferred to the requested State, a proposal by the requesting authority to share the costs should be considered by the requested authority. In such cases, the requesting authority and requested authority should consult each other in order to reach an agreement on the sharing of costs. Ideally such consultations should take place before the request for transfer is issued. If no agreement can be reached before the decision to accept the transfer of criminal proceedings is adopted, the requesting authority should be able to decide to withdraw the request in accordance with this Regulation or to maintain the request and bear the part of the costs deemed to be exceptionally high.

(62) The use of a standardised request form translated in all official Union languages would facilitate cooperation and the exchange of information between the requesting authority and requested authority, allowing them to take a decision on the request for the transfer of criminal proceedings more quickly and effectively. The use of such a request form would also reduce translation costs and contribute to a higher quality of requests.

(63) The request form should only include personal data necessary to facilitate the requested authority's decision on the request for the transfer of criminal proceedings. The request form should contain an indication of the categories of personal data, such as whether the person concerned is a suspect, accused person or victim, as well as the specific fields for each of those categories.

(64) In order to effectively address a possible need for improvement regarding the request form to be used to request the transfer of criminal proceedings or other forms, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the Annexes to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[29]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[29] OJ L 123, 12.5.2016, p. 1.

(65) 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 within the meaning of Regulation (EU) 2023/2844 of the European Parliament and of the Council[30]. In particular, the decentralised IT system should, as a rule, be used for the exchange of the request form, of any other relevant information and documents and of all other communication between the authorities under this Regulation. In cases where one or more of the exceptions provided for in Regulation (EU) 2023/2844 apply, in particular where the use of the decentralised IT system is not possible or appropriate, it should be possible to use other means of communication as specified in that Regulation.

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[30] Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (OJ L, 2023/2844, 27.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2844/oj).

(66) Member States should be able to use software developed by the Commission ('reference implementation software') instead of a national IT system. The reference implementation software should be based on a modular setup, meaning that the software is packaged and delivered separately from the components of the e-CODEX system, established pursuant to Regulation (EU) 2022/850 of the European Parliament and of the Council[31], which are needed to connect it to the decentralised IT system. That setup should enable Member States to reuse or enhance their existing national judicial communication infrastructure for the purpose of cross-border use.

[31] Regulation (EU) 2022/850 of the European Parliament and of the Council of 30 May 2022 on a computerised system for the cross-border electronic exchange of data in the area of judicial cooperation in civil and criminal matters (e-CODEX system), and amending Regulation (EU) 2018/1726 (OJ L 150, 1.6.2022, p. 1).

(67) The Commission should be responsible for the creation, maintenance and development of the reference implementation software. The Commission should design, develop and maintain the reference implementation software in a way that allows the controllers to ensure compliance with the data protection requirements and principles laid down in Regulation (EU) 2018/1725 of the European Parliament and of the Council[32] and Directive (EU) 2016/680 of the European Parliament and of the Council[33], in particular the obligations of data protection by design and by default as well as a high level of cybersecurity. The reference implementation software should also include appropriate technical measures and enable the organisational measures necessary for ensuring an appropriate level of security and interoperability, taking into account that special categories of data may also be exchanged. The Commission does not process personal data in the context of creation, maintenance and development of the reference implementation software.

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[32] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

[33] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

(68) The reference implementation software developed by the Commission as a back-end system should programmatically collect the statistical data necessary for monitoring purposes and such data should be transmitted to the Commission. Where Member States choose to use a national IT system instead of the reference implementation software developed by the Commission, such a system could be equipped to collect those data programmatically and, in that case, those data should be transmitted to the Commission. The e-CODEX connector could also be equipped with a feature allowing retrieval of relevant statistical data.

(69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to establish a decentralised IT system. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[34].

[34] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(70) This Regulation should create the legal basis for the exchange of personal data between Member States for the purposes of the transfer of criminal proceedings in accordance with Article 8 and Article 10, point (a), of Directive (EU) 2016/680. However, as regards any other aspects related to personal data, such as the period for the retention of personal data received by the requesting authority, the processing of personal data by the requesting authority and the requested authority should be subject to the national law of Member States adopted pursuant to Directive (EU) 2016/680. The requesting authority and the requested authority should be considered as controllers with respect to the processing of personal data under that Directive. The central authorities could provide administrative support to the requesting authority and requested authority and, to the extent they are processing personal data on behalf of those controllers, they should be considered as processors of the respective controller. As regards the processing of personal data by Eurojust, Regulation (EU) 2018/1725 should apply in the context of this Regulation without prejudice to the specific data protection rules laid down in Regulation (EU) 2018/1727. Nothing in this Regulation should be interpreted as further extending access rights to other Union information systems under the Union legal acts establishing those systems.

(71) Since the objective of this Regulation, namely the transfer of criminal proceedings, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and its effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(72) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified, by letter of 13 July 2023, its wish to take part in the adoption and application of this Regulation.

(73) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(74) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 22 May 2023[35],

HAVE ADOPTED THIS REGULATION:

[35] OJ C 253, 18.7.2023, p. 6.

Chapter 1
General provisions

Article 1

Subject matter

1. This 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.

2. This Regulation applies in all cases of transfer of criminal proceedings conducted in Member States.

3. This Regulation shall not have the effect of modifying the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 of the Treaty on European Union (TEU).

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘requesting State’ means a Member State in which criminal proceedings are being conducted and in which a request for the transfer of those proceedings to another Member State is issued, or which has initiated or received a request for consultations concerning a possible transfer of criminal proceedings;

(2) ‘requested State’ means a Member State to which a request for the transfer of criminal proceedings is transmitted for the purpose of taking over those proceedings, or which has received a request for or has initiated consultations concerning a possible transfer of criminal proceedings;

(3) ‘requesting authority’ means:

(a) a judge, court, investigating judge or public prosecutor in the requesting State competent in the case concerned; or

(b) any other competent authority which is designated as such by the requesting State and which, in the case concerned, is acting in its capacity as an investigating authority in criminal proceedings with competence to request the transfer of criminal proceedings in accordance with national law. In addition, before the request for the transfer of criminal proceedings is transmitted to the requested authority, it shall be validated by a judge, court, investigating judge or public prosecutor in the requesting State after examining its conformity with the conditions for issuing such a request under this Regulation. Where the request for the transfer of criminal proceedings has been validated by a judge, court, investigating judge or public prosecutor in the requesting State, that authority may also be regarded as a requesting authority for the purposes of transmitting the request;

(4) 'requested authority' means a judge, court, investigating judge or public prosecutor competent to take a decision on whether to accept or refuse the transfer of criminal proceedings in accordance with Article 11(1) and to take, where the legal system of the requested State so allows, subsequent measures in accordance with this Regulation or any measure as provided for in its national law.

Without prejudice to the requirement that a decision on whether to accept or refuse a transfer of criminal proceedings in accordance with Article 11(1) must be taken exclusively by a judge, court, investigating judge or public prosecutor, on the basis of its assessment of the grounds for refusal under Article 12, the requested State may, due to the structure of its internal legal system stemming from a common law legal tradition, where its national legal system does not allow for its courts or public prosecutors to take measures other than the decision on whether to accept or refuse the transfer of criminal proceedings in accordance with Article 11(1), provide that another authority, competent to take measures in criminal proceedings under its national law, take measures for the sole purpose of facilitating such judicial decision-making. Such other competent authority may also take subsequent measures for the purposes of this Regulation;

(5) 'decentralised IT system' means a decentralised IT system as defined in Article 2, point (3), of Regulation (EU) 2023/2844;

(6) 'victim' means a victim as defined in Article 2(1), point (a), of Directive 2012/29/EU, or a legal person, as defined by national law, that has suffered harm or economic loss as a direct result of a criminal offence that is the subject of criminal proceedings to which this Regulation applies.

Article 3

Jurisdiction

1. To the extent that jurisdiction is not already provided for by the national law of the requested State, for the purposes of this Regulation the requested State shall have jurisdiction over any criminal offence to which the national law of the requesting State is applicable in situations where:

(a) the requested State refuses to surrender a suspect or accused person who is present in and is a national of or a resident in the requested State, on the basis of Article 4, point (7)(b), of Framework Decision 2002/584/JHA;

(b) the requested State refuses to surrender a suspect or accused person for whom a European arrest warrant has been issued and who is present in and is a national of or a resident in the requested State, if, in exceptional situations, it finds that there are substantial grounds to believe, on the basis of specific and objective evidence, that the surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as enshrined in Article 6 TEU and the Charter of Fundamental Rights of the European Union (the 'Charter');

(c) most of the effects of the criminal offence or a substantial part of the damage forming part of the constituent elements of the criminal offence occurred on the territory of the requested State;

(d) there are ongoing criminal proceedings in the requested State against the suspect or accused person in respect of other facts and the suspect or accused person is a national of or a resident in the requested State; or

(e) there are ongoing criminal proceedings in the requested State in respect of the same, partially the same or related facts against other persons and the suspect or accused person in the criminal proceedings to be transferred is a national of or a resident in the requested State.

2. Where jurisdiction is established by the requested State exclusively on the basis of paragraph 1, that jurisdiction shall only be exercised pursuant to a request for the transfer of criminal proceedings under this Regulation.

Article 4

Waiver, suspension or discontinuation of criminal proceedings by the requesting State

Any Member State having jurisdiction under its national law to prosecute a criminal offence may, for the purposes of applying this Regulation, waive, suspend or discontinue criminal proceedings in order to allow for the transfer of criminal proceedings in respect of that criminal offence to the requested State.

Chapter 2
Transfer of criminal proceedings

Article 5

Criteria for requesting the transfer of criminal proceedings

1. 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.

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

   (a) the criminal offence has been committed in whole or in part on the territory of the requested State, or most of the effects of the criminal offence or a substantial part of the damage forming part of the constituent elements of the criminal offence occurred on the territory of the requested State;

   (b) one or more suspects or accused persons are nationals of or residents in the requested State;

(c) 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 on the basis of:

(i) Article 4, point (2), of Framework Decision 2002/584/JHA;

(ii) Article 4, point (3), of Framework Decision 2002/584/JHA where such refusal is not based on a final judgment passed upon that person in respect of the same criminal offence which prevents further criminal proceedings; or

(iii) Article 4, point (7), of Framework Decision 2002/584/JHA;

(d) one or more suspects or accused persons for whom a European arrest warrant has been issued are present in the requested State and that State refuses to surrender those persons, if it finds that, in exceptional situations, there are substantial grounds to believe, on the basis of specific and objective evidence, that the surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as enshrined in Article 6 TEU and the Charter;

(e) most of the evidence relevant to the investigation is located in, or the majority of the relevant witnesses are residents in, the requested State;

(f) 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;

(g) there are ongoing criminal proceedings in the requested State in respect of the same, partially the same or related facts against other persons;

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

(i) the enforcement of the sentence in the requested State is likely to improve the prospects of social rehabilitation of the person sentenced or there are other reasons why enforcement of the sentence in the requested State would be more appropriate;

(j) one or more victims are nationals of or residents in the requested State;

(k) the competent authorities of the Member States have reached consensus, under Framework Decision 2009/948/JHA or otherwise, on the concentration of the criminal proceedings in one Member State.

For the purposes of the first subparagraph, point (j), the requesting authority shall take due account of child victims and other vulnerable persons.

3. A suspect, accused person or victim may, in accordance with procedures under national law, propose to the competent authorities of the requesting State or of the requested State that criminal proceedings be transferred in accordance with this Regulation. Such proposals shall be considered and recorded in accordance with the recording procedure under the national law of the Member State concerned. If the proposal is made to the competent authority of the requested State, the requested authority may consult the requesting authority. Proposals made under this paragraph shall not create an obligation for the requesting State to request the transfer of or to transfer criminal proceedings to the requested State, or for the requesting authority or requested authority to consult each other.

Article 6

The rights of the suspect or accused person

1. Before a request for the transfer of criminal proceedings is issued, the requesting authority shall, in accordance with applicable national law, give due consideration to the legitimate interests of the suspect or accused person, including aspects related to restorative justice.

2. The rights set out in paragraphs 3, 4 and 6 of this Article and in Articles 15 and 17 shall apply to suspects or accused persons in criminal proceedings from the time they are made aware by the competent authorities of a Member State, by official notification or otherwise, that they are suspected or accused of having committed a criminal offence, and irrespective of whether they are deprived of liberty.

3. The requesting authority shall, prior to issuing a request for the transfer of criminal proceedings:

(a) inform the suspect or accused person, in accordance with applicable national law and in a language which the suspect or accused person understands, of its intention to issue a request for the transfer of criminal proceedings; and

(b) provide the suspect or accused person with an opportunity to state an opinion on such transfer, including on aspects related to restorative justice.

The requesting authority shall not be required to fulfil the obligations laid down in the first subparagraph of this paragraph where:

(a) the fulfilment of those obligations would undermine the confidentiality of an investigation or otherwise prejudice the investigation;

(b) the suspect or accused person cannot be located or reached despite reasonable efforts being made by the requesting authority; or

(c) the request for the transfer of criminal proceedings follows a proposal from the suspect or accused person under Article 5(3).

4. Where the suspect or accused person decides to state an opinion as referred to in paragraph 3, first subparagraph, point (b), the suspect or accused person shall deliver that opinion no later than ten days after having been informed of the intention to issue a request for transfer and provided with the opportunity to state an opinion under paragraph 3. That opinion shall be recorded and shall be taken into account by the requesting authority when deciding whether to request the transfer of criminal proceedings. Such recording shall be carried out in accordance with the recording procedure under the national law of the requesting State.

5. In cases where the suspect or accused person is present in the requested State, the requesting authority may, for the purposes of paragraph 3, transmit the completed version of the form set out in Annex II to the requested authority. In such cases, the obligations under paragraphs 3 and 4 shall apply *mutatis mutandis* to the requested authority, who shall inform the requesting authority accordingly. If that suspect or accused person states an opinion, the requested authority shall transmit it to the requesting authority.

6. Where the requesting authority issues a request for the transfer of criminal proceedings and the suspect or accused person has been informed in accordance with paragraph 3, it shall inform the suspect or accused person, without undue delay in a language which the suspect or accused person understands, that the request has been issued.

7. In cases where the suspect or accused person is present in the requested State, the requesting authority may, for the purposes of paragraph 6, transmit the completed version of the form set out in Annex III to the requested authority. In such cases, the obligations under paragraph 6 shall apply *mutatis mutandis* to the requested authority, which shall inform the requesting authority accordingly.

Article 7

The rights of the victim

1. Before a request for the transfer of criminal proceedings is issued, the requesting authority shall, in accordance with applicable national law, give due consideration to the legitimate interests of the victim, including aspects related to restorative justice.

2. Where the victim is a natural person who resides in the requesting State and receives the information about the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, as implemented in national law, or is a legal person that is established in the requesting State and receives such information in accordance with national law, the requesting authority shall, prior to issuing a request for the transfer of criminal proceedings:

   (a) inform the victim, in accordance with applicable national law and in a language which the victim understands, of its intention to issue a request for the transfer of criminal proceedings; and

(b) provide the victim with an opportunity to state an opinion on such transfer, including on aspects related to restorative justice.

The requesting authority shall not be required to fulfil the obligations laid down in the first subparagraph of this paragraph where:

(a) the fulfilment of those obligations would undermine the confidentiality of an investigation or otherwise prejudice the investigation; or

(b) the request for the transfer of criminal proceedings follows a proposal from the victim under Article 5(3).

3. Where the victim decides to state an opinion as referred to in paragraph 2, first subparagraph, point (b), the victim shall deliver that opinion no later than ten days after having been informed of the intention to issue a request for transfer and provided with the opportunity to state an opinion under paragraph 2. That opinion shall be recorded and shall be taken into account by the requesting authority when deciding whether to request the transfer of criminal proceedings. Such recording shall be carried out in accordance with the recording procedure under the national law of the requesting State.

4. Where the requesting authority issues a request for the transfer of criminal proceedings and the victim has been informed in accordance with paragraph 2, it shall inform the victim, without undue delay in a language which the victim understands, that the request has been issued.

Article 8

Procedure for requesting the transfer of criminal proceedings

1. The request for the transfer of criminal proceedings shall be drawn up by the requesting authority using the request form set out in Annex I. The requesting authority shall sign the request form and shall certify its content as being accurate and correct.

2. The request for the transfer of criminal proceedings shall be duly substantiated and shall, in particular, contain the following information:

   (a) information about the requesting authority;

   (b) a description of the criminal offence which is the subject of the criminal proceedings, and the applicable provisions of the criminal law of the requesting State;

   (c) the reasons why the transfer of criminal proceedings is necessary and appropriate and in particular which of the criteria under Article 5(2) are applicable;

   (d) the necessary information available on the suspect or accused person and the victim;

   (e) an assessment of the impact of the transfer of criminal proceedings on the rights of the suspect or accused person and the victim, on the basis of information available to the requesting authority including, where applicable, the opinion of the persons concerned, obtained in accordance with Article 6(3) and (4) or Article 7(2) and (3), or the proposals made under Article 5(3);

(f) information on procedural acts or measures with a bearing on the criminal proceedings that have been undertaken in the requesting State, including any ongoing temporary coercive measures and the time-limit for the application of such measures;

(g) any applicable specific conditions for the processing of personal data pursuant to Article 9(3) of Directive (EU) 2016/680.

3. Where the suspect or accused person has stated an opinion under Article 6(3) and (4) or where the victim has stated an opinion under Article 7(2) and (3), that opinion shall be forwarded to the requested authority together with the request for the transfer of criminal proceedings. If the opinion of the suspect, accused person or victim was stated orally, the requesting authority shall ensure that the written record of such statement is available to the requested authority.

4. Where necessary, the request for the transfer of criminal proceedings shall be accompanied by any additional relevant information and documents.

5. The completed request form as referred to in paragraph 1 of this Article, as well as the essential parts of any other written information accompanying the request for the transfer of criminal proceedings, shall be translated into an official language of the requested State or any other language accepted by the requested State in accordance with Article 32(1), point (d).

6. The requesting authority shall transmit the request for the transfer of criminal proceedings directly to the requested authority or, where applicable, with the involvement of the central authority referred to in Article 20. The requesting authority and requested authority shall carry out all other official communication directly or, where applicable, with the involvement of the central authority referred to in Article 20.

7. Where the requested authority is not known to the requesting authority, the requesting authority shall make all necessary inquiries, including through the contact points of the European Judicial Network as provided for by Council Decision 2008/976/JHA[36], in order to determine which authority is competent in the requested State for taking the decision under Article 11(1).

8. Without undue delay and in any event within 7 days of receipt of a request form as referred to in paragraph 1 of this Article, the requested authority shall send to the requesting authority an acknowledgement of receipt. That obligation applies both to the central authority referred to in Article 20, where applicable, and to the requested authority which receives the request for the transfer of criminal proceedings from the central authority.

9. Where the authority in the requested State which received the request for the transfer of criminal proceedings has no competence to take a decision under Article 11(1), it shall without undue delay transmit the request to the competent requested authority in the same Member State and shall inform the requesting authority accordingly.

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[36] Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130).

Article 9

Information to be provided by the requesting authority after the transmission of the request

1. The requesting authority shall inform the requested authority without undue delay of any procedural acts or measures with a bearing on the criminal proceedings that have been undertaken in the requesting State after the transmission of the request for the transfer of criminal proceedings, and shall provide all relevant documents.

2. The information referred to in paragraph 1 and the essential parts of the relevant documents provided in accordance with that paragraph shall be translated by the requesting authority into an official language of the requested State or any other language accepted by the requested State in accordance with Article 32(1), point (d).

Article 10

Withdrawal of the request

1. The requesting authority may withdraw the request for the transfer of criminal proceedings at any time before receiving the decision of the requested authority to accept or refuse the transfer of criminal proceedings in accordance with Article 11(1). In such cases, the requesting authority shall immediately inform the requested authority accordingly.

2. The requesting authority shall inform the suspect or accused person that has been informed in accordance with Article 6(3) and the victim that has been informed in accordance with Article 7(2) about the withdrawal of the request for the transfer of criminal proceedings, and shall do so in a language which they understand.

3. In cases where the suspect or accused person is present in the requested State, the requesting authority may, for the purpose of providing the information referred to in paragraph 2, transmit the completed version of the form set out in Annex VI to the requested authority. In such cases, the requested authority shall provide that information to the suspect or accused person and inform the requesting authority accordingly.

4. Where the requesting authority has informed the requested authority, in accordance with paragraph 1, of the withdrawal of the request for the transfer of criminal proceedings, the criminal proceedings shall remain with the requesting authority.

Article 11

Decision of the requested authority

1. The requested authority shall take a decision on whether to accept or refuse the transfer of criminal proceedings in whole or in part, and shall decide, in accordance with its national law, on the measures to be taken. A decision to accept the transfer of criminal proceedings shall be duly reasoned.

2. The requested authority shall communicate the decision referred to in paragraph 1 of this Article to the requesting authority, in accordance with the time-limits set out in Article 13.

3. If the requested authority considers the information communicated by the requesting authority to be insufficient to allow it to decide whether to accept or refuse the transfer of criminal proceedings, it may request additional information as it deems necessary. The requesting authority shall provide the requested additional information without undue delay, if available, accompanied by a translation into an official language of the requested State or any other language accepted by the requested State in accordance with Article 32(1), point (d).

4. If the requested authority decides to refuse the transfer of criminal proceedings in accordance with Article 12, it shall inform the requesting authority of the reasons for such refusal.

5. Where the requesting authority has received the reasoned decision to accept the transfer of criminal proceedings pursuant to paragraph 1 of this Article, the requesting authority shall without undue delay forward to the requested authority the original or a certified copy of the case file or relevant parts thereof, accompanied by their translation into an official language of the requested State or any other language accepted by the requested State in accordance with Article 32(1), point (d).

6. If the criminal proceedings are discontinued in accordance with Article 21, the requesting authority shall without undue delay transmit any remaining relevant parts of the case file, in original or certified copy, including relevant physical evidence, to the requested authority. In the event that a certified copy of the case file has already been provided to the requested authority, the requesting authority shall, upon request of the requested authority, transmit the original documents of the case file. The requesting State may require that the original documents of the case file or physical evidence be returned to it when those documents or that evidence is no longer required in the requested State or at the end of the proceedings in the requested State. Where the requesting State, if asked to do so by the requested State, has indicated that it does not intend to recover the original documents of the case file or the physical evidence when it is no longer required or at the end of the proceedings, the requested State may determine, in accordance with its national law, how to deal with the remaining evidence, including whether to preserve or destroy such evidence.

7. For the purposes of paragraphs 5 and 6, the requesting authority and requested authority may consult each other in order to determine the relevant parts of the case file to be forwarded and translated.

Article 12

Grounds for refusal

1. The requested authority shall refuse the transfer of criminal proceedings, in whole or in part, where criminal proceedings under the national law of the requested State cannot be brought or pursued in relation to the facts underlying the request for the transfer of criminal proceedings if one or more of the following grounds apply:

   (a) the conduct in connection with which the request was made does not constitute a criminal offence under the national law of the requested State;

   (b) taking over criminal proceedings would be contrary to the principle of ne bis in idem;

   (c) the suspect or accused person cannot be held criminally liable for the criminal offence due to that suspect or accused person's age;

   (d) the criminal prosecution is statute-barred in accordance with the national law of the requested State;

   (e) the conditions for prosecuting the criminal offence in the requested State are not fulfilled;

(f) the criminal offence is covered by amnesty in accordance with the national law of the requested State;

(g) the requested State does not have jurisdiction over the criminal offence in accordance with national law or jurisdiction on the basis of Article 3.

2. The requested authority may refuse the transfer of criminal proceedings, in whole or in part, if one or more of the following grounds apply:

(a) privilege or immunity under the national law of the requested State makes it impossible to take action;

(b) the requested authority considers that the transfer of criminal proceedings is not in the interests of efficient and proper administration of justice;

(c) the criminal offence has not been committed either in whole or in part on the territory of the requested State, most of the effects or a substantial part of the damage forming part of the constituent elements of the criminal offence did not occur on the territory of that State, and the suspect or accused person is not a national of or a resident in that State;

(d) the request form as referred to in Article 8(1) is incomplete or manifestly incorrect and has not been completed or corrected following consultation referred to in paragraph 3 of this Article;

(e) the conduct in connection with which the request was made is not a criminal offence at the place where it was committed, and the requested State has no original jurisdiction under its national law to prosecute the criminal offence.

3. Where any of the grounds referred to in paragraphs 1 and 2 apply, before deciding to refuse the transfer of criminal proceedings, either in whole or in part, the requested authority shall, where appropriate, consult the requesting authority and, where necessary, request that the requesting authority provide any necessary information without undue delay.

4. Where the ground referred to in paragraph 2, point (a), applies, and where the power to waive the privilege or immunity lies with an authority of the requested State, the requested authority shall request that that authority exercise that power without undue delay. Where power to waive the privilege or immunity lies with an authority of another State or international organisation, the requesting authority shall request that that authority or international organisation exercise that power.

Article 13

Time-limits

1. The requested authority shall communicate to the requesting authority its decision on whether to accept or refuse the transfer of criminal proceedings without undue delay and in any event no later than 60 days after the receipt of the request for the transfer of criminal proceedings by the competent requested authority.

2. If in a specific case the requested authority cannot meet the time-limit set out in paragraph 1, it shall without undue delay inform the requesting authority accordingly, giving reasons for the delay. In such cases, the time-limit set out in paragraph 1 may be extended by a maximum of 30 days.

3. Where there is privilege or immunity under the national law of the requested State, the time-limit set out in paragraph 1 shall commence only from the day on which the requested authority is informed of the fact that the privilege or immunity has been waived.

Article 14

Consultations between the requesting authority and requested authority

1. Where necessary and without prejudice to Article 11(3), (5), (6) and (7), Article 13(3) and Article 19(2), the requesting authority and requested authority shall consult each other without undue delay to ensure the efficient application of this Regulation.

2. Consultations between the requesting authority and requested authority may also take place before the request for the transfer of criminal proceedings is issued, in particular with a view to determining whether the transfer would serve the interests of efficient and proper administration of justice, including whether it is proportionate. In order to propose that criminal proceedings from the requesting State be transferred, the requested authority may also consult the requesting authority as to whether it would be possible to issue a request for the transfer of criminal proceedings.

3. Where the requesting authority consults the requested authority prior to making a request for the transfer of criminal proceedings, it shall make information regarding the criminal proceedings available to the requested authority, unless to do so would undermine the confidentiality of an investigation or otherwise prejudice the investigation.

4. Where authorities receive requests for consultations under this Article, they shall answer them without undue delay.

Article 15

Information to be provided to the suspect and accused person about the decision to accept or refuse the transfer

1. Where the requested authority has taken a decision in accordance with Article 11(1) to accept the transfer of criminal proceedings, the requested authority shall, without undue delay, in a language which the suspect or accused person understands:

   (a) inform the suspect or accused person about the decision to accept the transfer of criminal proceedings;

   (b) provide the suspect or accused person with a copy of the reasoned decision to accept the transfer of criminal proceedings; and

   (c) inform the suspect or accused person about the right to an effective legal remedy in the requested State, including the time-limits for such a remedy.

Where appropriate, the requested authority may seek the assistance of the requesting authority in order to carry out the tasks referred to in this paragraph.

2. In cases where the suspect or accused person is present in the requesting State, the requested authority may, for the purposes of paragraph 1, transmit the completed version of the form set out in Annex IV to the requesting authority. In such cases, the obligations under paragraph 1 shall apply *mutatis mutandis* to the requesting authority, which shall inform the requested authority accordingly.

3. Where the requested authority has taken a decision in accordance with Article 11(1) to refuse the transfer of criminal proceedings, the requesting authority shall inform the suspect or accused person, without undue delay in a language which the suspect or accused person understands, about the decision to refuse the transfer.

Where appropriate, the requesting authority may seek the assistance of the requested authority in order to carry out the tasks referred to in this paragraph.

4. In cases where the suspect or accused person is present in the requested State, the requesting authority may, for the purposes of paragraph 3, transmit the completed version of the form set out in Annex IV to the requested authority. In such cases, the obligation under paragraph 3 shall apply *mutatis mutandis* to the requested authority, which shall inform the requesting authority accordingly.

5. The requested authority shall not be required to fulfil the obligations laid down in paragraph 1 and the requesting authority shall not be required to fulfil the obligations laid down in paragraph 3 where:

(a) the fulfilment of those obligations would undermine the confidentiality of an investigation or otherwise prejudice the investigation; or

(b) the suspect or accused person cannot be located or reached despite reasonable efforts being made by the requested authority or the requesting authority, respectively.

Article 16

Information to be provided to the victim about the decision to accept or refuse the transfer

1. Where the requested authority has taken a decision in accordance with Article 11(1) of this Regulation to accept the transfer of criminal proceedings, and the victim is a natural person who resides in the requesting State and receives the information about the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, as implemented in national law, or is a legal person that is established in the requesting State and receives such information in accordance with national law, the requested authority shall, without undue delay, inform the victim in a language which the victim understands about:

(a) the decision to accept the transfer by the requested authority; and

(b) the victim's right to an effective legal remedy in the requested State, including the time-limits for such a remedy.

Where appropriate, the requested authority may seek the assistance of the requesting authority in order to carry out the tasks referred to in this paragraph.

2. In cases where the victim is present in the requesting State, the requested authority may, for the purposes of paragraph 1, transmit the completed version of the form set out in Annex V to the requesting authority. In such cases, the obligations under paragraph 1 shall apply *mutatis mutandis* to the requesting authority, which shall inform the requested authority accordingly.

3. Where the requested authority has taken a decision in accordance with Article 11(1) of this Regulation to refuse the transfer of criminal proceedings, and the victim is a natural person who resides in the requesting State and receives the information about the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, as implemented in national law, or is a legal person that is established in the requesting State and receives such information in accordance with national law, the requesting authority shall, without undue delay, inform the victim in a language which the victim understands, about the decision to refuse the transfer.

4. The requested authority shall not be required to fulfil the obligations laid down in paragraph 1 and the requesting authority shall not be required to fulfil the obligations laid down in paragraph 3 where:

(a) the fulfilment of those obligations would undermine the confidentiality of an investigation or otherwise prejudice the investigation; or

(b) the victim cannot be located or reached despite reasonable efforts being made by the requested authority or the requesting authority, respectively.

Article 17

Right to an effective legal remedy

1. Suspects, accused persons and victims shall have the right to an effective legal remedy in the requested State against a decision to accept the transfer of criminal proceedings. That right shall be exercised before a court or tribunal in the requested State in accordance with its national law.

2. If a legal remedy is sought against a decision to accept the transfer of criminal proceedings, the decision shall be examined in accordance with national law on the basis of the criteria provided for in Article 12(1) and (2). Insofar as discretion was exercised, the review shall be limited to assessing whether the requested authority has manifestly exceeded the limits of its discretion.

The time-limit for seeking an effective legal remedy shall be no longer than 15 days from the date of receipt of the reasoned decision to accept the transfer of criminal proceedings.

Where the request for the transfer of criminal proceedings is issued after the criminal investigation has been completed, and the suspect or accused person has been charged or indicted, the invocation of a legal remedy against a decision to accept the transfer of criminal proceedings shall have suspensive effect. Such suspensive effect shall not affect the possibility for the requested State to maintain provisional measures necessary to prevent the suspect or accused person from absconding, or to preserve evidence, instrumentalities of a criminal offence or the proceeds of crime.

The final decision on the legal remedy shall be taken without undue delay and, where possible, within 60 days.

The requested authority shall inform the requesting authority about the final outcome of the legal remedy sought. Where the final outcome of the legal remedy is that the decision to accept the transfer of criminal proceedings is overturned, the criminal proceedings shall revert to the requesting authority.

This paragraph shall be without prejudice to any further legal remedies that are available in accordance with national law.

3. The requested State shall ensure that suspects, accused persons and victims have the right of access to all documents related to the transfer of criminal proceedings that formed the basis for the decision to accept a transfer of criminal proceedings under this Regulation and that are necessary to effectively exercise their right to a legal remedy. The right of access to such documents shall be exercised in accordance with procedures under the national law of the requested State. Such access may be limited, subject to national law, where it would undermine the confidentiality of an investigation or otherwise prejudice the investigation or harm the safety of persons.

Article 18

Cooperation with Eurojust and the European Judicial Network

The requesting authority and requested authority may, at any stage of the procedure for a transfer of criminal proceedings, request the assistance of Eurojust or the European Judicial Network in accordance with their respective competences. In particular Eurojust may, where appropriate, facilitate consultations referred to in Article 11(3), (5), (6) and (7), Article 12(3), Article 14, Article 19(2) and Article 21(3).

Article 19

Costs of transfers of criminal proceedings

1. Each Member State shall bear its own costs of transfers of criminal proceedings resulting from the application of this Regulation.

2. Where the translation of the case file and other relevant documents under Article 11(3), (5), (6) and (7) would entail large or exceptional costs, the requesting authority may submit a proposal to the requested authority that the costs be shared. Such proposal shall be accompanied by a detailed breakdown of the costs incurred by the requesting authority. Following such a proposal, the requesting authority and the requested authority shall consult each other.

Article 20

Designation of central authorities

Each Member State may designate one or more central authorities responsible for the administrative transmission and receipt of requests for the transfer of criminal proceedings, as well as for other official correspondence relating to such requests.

Chapter 3
Effects of the transfer of criminal proceedings

Article 21

Effects in the requesting State

1. Upon receipt of the reasoned decision to accept the transfer of criminal proceedings in accordance with Article 11(1), or of the final decision on a legal remedy under Article 17, the criminal proceedings shall be suspended or discontinued in the requesting State in accordance with national law, unless the outcome of the legal remedy is that the case is to revert to the requesting State, or the requesting authority has already suspended or discontinued those criminal proceedings under Article 4.

2. Notwithstanding paragraph 1, the criminal proceedings in the requesting State may remain open in order to allow the requesting authority to:

   (a) undertake necessary urgent investigative or other procedural measures, including measures to prevent the suspect or accused person from absconding or freezing measures;

(b) maintain previously adopted investigative or other procedural measures, including measures to prevent the suspect or accused person from absconding, that are necessary in order to execute a decision on the basis of Framework Decision 2002/584/JHA, another mutual recognition instrument or a request for mutual legal assistance.

3. Following a decision by the requested authority to accept the transfer of criminal proceedings, the requesting authority and the requested authority shall cooperate, to the greatest extent possible and in accordance with their national law, especially where the national law of the requested State requires certain formalities and procedures to be observed, in particular concerning the admissibility of evidence. The requesting authority and the requested authority shall also cooperate on provisional measures taken before transfer and under paragraph 2.

4. Where the execution of the measures taken under paragraph 2 has been finalised, or where the requested authority has taken the necessary investigative or other procedural measures, and the measures undertaken by the requesting authority under paragraph 2 are no longer necessary, the criminal proceedings in the requesting state shall be suspended or discontinued.

5. The requesting authority may continue or reopen criminal proceedings if the requested authority informs it of its decision to discontinue criminal proceedings related to the facts underlying the criminal proceedings for which the transfer was accepted, unless that decision, under the national law of the requested State, definitively bars further prosecution and was taken after a determination had been made on the merits of the case, therefore precluding further criminal proceedings, in respect of the same acts, in the requested State.

6. Paragraph 5 shall not affect the right of victims to initiate or to request the reopening of criminal proceedings against the suspect or accused person in the requesting State, where the national law of that State so provides, unless the decision by the requested authority to discontinue criminal proceedings, under the national law of the requested State, definitively bars further prosecution and was taken after a determination had been made on the merits of the case, therefore precluding further criminal proceedings, in respect of the same acts, in the requested State.

Article 22

Effects in the requested State

1. The transferred criminal proceedings shall be governed by the national law of the requested State.

2. Provided that it is not contrary to the fundamental principles of law of the requested State, any act carried out for the purposes of the criminal proceedings or preparatory inquiries performed by competent authorities in the requesting State shall have the same validity in the requested State as if it had been validly performed by competent authorities in the requested State.

Without prejudice to Article 12(1), point (d), any act validly performed in the requesting State that interrupts or suspends the period of limitation shall have the same effect of interruption or suspension of the period of limitation in the requested State provided that such act would have that effect under its national law.

3. Member States may provide in their national law that, in cases where jurisdiction is based on Article 3, and where they act as requested State and the suspect or accused person is present in that State, a competent authority in the requested State may, once it has received the request for the transfer of criminal proceedings and any additional information in accordance with this Regulation, and before the decision to accept the transfer is made, take, upon assessment, the necessary measures, in accordance with its national law, to arrest the suspect or accused person, or to ensure that the suspect or accused person remains on its territory, or take other necessary provisional measures such as freezing measures.

4. The decision to place the suspect or accused person in detention in accordance with paragraph 3 shall be taken by the same authority that would be competent to take such measures in a similar domestic case, and shall be subject to safeguards applicable to such measures under national law, including judicial oversight and the time-limits for pre-trial detention.

5. Evidence transferred by the requesting authority shall not be denied admission in criminal proceedings in the requested State only on the ground that the evidence was gathered in another Member State. The evidence gathered in the requesting State may be used in criminal proceedings in the requested State, provided that the admissibility of such evidence is in accordance with the national law of the requested State, including its fundamental principles of law. The power of the trial court to freely assess the evidence shall not be affected by this Regulation.

6. Where a custodial sentence or detention order is issued in the requested State, that State shall deduct from the total period of detention to be served all periods of detention spent in the requesting State that were imposed in the context of the transferred criminal proceedings. To that end, the requesting authority shall transmit to the requested authority all information concerning the period of detention spent by the suspect or accused person in the requesting State.

7. Where in both the requesting State and the requested State, criminal proceedings can only be initiated following a complaint, a complaint brought in the requesting State shall also have validity in the requested State.

8. The sentence applicable to the criminal offence shall be that provided for in the national law of the requested State unless that law provides otherwise. Where the criminal offence was committed on the territory of the requesting State, the requested authority may take into consideration, in accordance with applicable national law, the maximum sentence under the national law of the requesting State, where to do so would be to the benefit of the accused person. Where jurisdiction is exclusively based on Article 3, the sentence imposed in the requested State shall not be more severe than the maximum sentence under the national law of the requesting State.

Article 23

Information to be provided by the requested authority

The requested authority or, where applicable, another competent authority shall provide the requesting authority with information on the discontinuation of criminal proceedings or on any decision taken at the end of the criminal proceedings, including information as to whether that decision, under the national law of the requested State, definitively bars further prosecution and was taken after a determination had been made on the merits of the case thereby precluding further criminal proceedings, in respect of the same acts, in that State. That authority shall also provide information on the final execution of the sentence imposed or other information of substantial value. It shall forward a copy of the final written decision taken at the end of the criminal proceedings to the requesting authority.

At least the essential parts of the information and of the final decision referred to in the first paragraph of this Article shall be translated into an official language of the requesting State or any other language accepted by the requesting State in accordance with Article 32(1), point (d).

Chapter 4
Means of communication

Article 24

Means of communication

1. Communication under this Regulation, including the exchange of the request form and other forms set out in the Annexes to this Regulation, the decision referred to in Article 11(1) of this Regulation and other documents referred to in Article 11(5) thereof, between the requesting authority and requested authority and with the involvement of central authorities, where a Member State has designated a central authority in accordance with Article 20 of this Regulation, as well as with Eurojust, shall be carried out in accordance with Article 3 of Regulation (EU) 2023/2844.

2. Article 7(1) and (2) and Articles 8 and 14 of Regulation (EU) 2023/2844 setting out rules on electronic signatures and electronic seals, legal effects of electronic documents and the protection of information transmitted shall apply to the communication transmitted through the decentralised IT system.

3. Consultations under Article 11(7) and Article 14 between the requesting authority and the requested authority and with the involvement of central authorities, where a Member State has designated a central authority in accordance with Article 20, as well as with Eurojust, may be carried out using any appropriate means of communication, including through the decentralised IT system.

Article 25

Establishment of a decentralised IT system

1. By … [two years from the date of entry into force of this Regulation], the Commission shall adopt implementing acts to establish the decentralised IT system for the purposes of this Regulation, setting out the following:

   (a) the technical specifications for the methods of communication by electronic means for the purposes of the decentralised IT system;

   (b) the technical specifications for communication protocols;

   (c) the information security objectives and relevant technical measures ensuring minimum information security standards and a high level of cybersecurity for the processing and communication of information within the decentralised IT system;

   (d) the minimum availability objectives and possible related technical requirements for the services provided by the decentralised IT system;

(e) digital procedural standards as defined in Article 3, point (9), of Regulation (EU) 2022/850.

2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 26

Reference implementation software

1. The Commission shall be responsible for the creation, accessibility, maintenance and development of reference implementation software which Member States may choose to apply as their back-end system instead of a national IT system. The creation, maintenance and development of the reference implementation software shall be financed from the general budget of the Union.

2. Eurojust shall be able to make use of the reference implementation software referred to in paragraph 1.

3. The Commission shall provide, maintain and support the reference implementation software on a free-of-charge basis.

4. The reference implementation software shall offer a common interface for communication with other national IT systems.

Article 27

Costs of the decentralised IT system

1. Each Member State or entity operating an authorised e-CODEX access point as defined in Article 3, point (4), of Regulation (EU) 2022/850 shall bear the costs of the installation, operation and maintenance of the access points of the decentralised IT system for which they are responsible.

2. Each Member State or entity operating an authorised e-CODEX access point as defined in Article 3, point (4), of Regulation (EU) 2022/850 shall bear the costs of establishing and adjusting its relevant national or, where applicable, other IT systems to make them interoperable with the access points, and shall bear the costs of administering, operating and maintaining those systems.

3. Eurojust shall bear the costs of the installation, operation and maintenance of the components of the decentralised IT system under its responsibility.

4. Eurojust shall bear the costs of establishing and adjusting its case-management system to make it interoperable with the access points, and shall bear the costs of administering, operating and maintaining that system.

Article 28

Statistics

1. Member States shall regularly collect comprehensive statistics in order for the Commission to monitor the application of this Regulation. The competent authorities of the Member States shall maintain those statistics and shall transmit them to the Commission on an annual basis. The competent authorities of the Member States may process personal data necessary for the production of those statistics.

2. The statistics referred to in paragraph 1 shall include:

   (a) the number of requests for the transfer of criminal proceedings issued, including the criteria for requesting the transfer, by the requesting State;

   (b) the number of accepted and refused transfers of criminal proceedings, including the grounds for refusal, by the requested State;

   (c) the length of time taken by the requested State to transmit information on the decision whether to accept or refuse the transfer of criminal proceedings.

3. The statistics referred to in paragraph 1 shall also include, if available at a central level in the Member State concerned:

   (a) the number of investigations and prosecutions that were not pursued following the acceptance of a transfer of criminal proceedings;

(b) the number of cases in which legal remedies were sought against decisions to accept the transfer of criminal proceedings, specifying whether each case was brought by a suspect, accused person or victim, and the number of successfully challenged decisions;

(c) as of four years from the date of entry into force of the implementing acts referred to in Article 25(1), the costs incurred under Article 27(2).

4. The reference implementation software referred to in Article 26 and, where equipped to do so, the national back-end systems shall programmatically collect the data referred to in paragraph 2 of this Article, and transmit them to the Commission on an annual basis.

5. The statistics referred to in paragraphs 2 and 3 shall be transmitted from … [the first day of the month following the period of three years from the date of entry into force of this Regulation].

6. The statistics referred to in paragraph 2 of this Article shall be collected through the decentralised IT system established in accordance with Article 25, within two years from the date of entry into force of the implementing acts referred to in that Article. For as long as the decentralised IT system is not operational and for that reason the statistics referred to in paragraph 2 of this Article are not collected automatically, those statistics shall only be transmitted if they are available at a central level in the Member State concerned.

Article 29

Amendments to the request form and other forms

The Commission is empowered to adopt delegated acts in accordance with Article 30 to amend the Annexes by updating or making technical changes to the request form and other forms. Such amendments shall be in accordance with this Regulation and shall not affect it.

Article 30

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 29 shall be conferred on the Commission for an indeterminate period of time from … [the first day of the month following the period of two years from the date of entry into force of this Regulation].

3. The delegation of power referred to in Article 29 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 29 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 31

Committee procedure

1. For the purposes of Article 25 of this Regulation, the Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 32

Notifications

1. By … [the first day of the month following the period of two years from the date of entry into force of this Regulation] each Member State shall notify the Commission of the following:

   (a) the authorities which, in accordance with its national law, are competent in accordance with Article 2, point (3), to issue or validate requests for the transfer of criminal proceedings, and those competent in accordance with Article 2, point (4), to take decisions regarding such requests;

   (b) information regarding the other authorities referred to in Article 2, point (4), second paragraph, if the Member State makes use of the possibility provided for under that paragraph;

   (c) information regarding the designated central authority or authorities, if the Member State makes use of the possibility provided for under Article 20;

   (d) languages accepted for requests for the transfer of criminal proceedings, for the submission of supporting information and for any communication between authorities, when acting as requesting State and when acting as requested State.

2. Each Member State shall communicate to the Commission any updates to the information notified under paragraph 1.

The Commission shall ensure that the information received under paragraph 1 is kept up-to-date and made publicly available on the unrestricted area of the website of the European Judicial Network.

Article 33

Relationship with international agreements and arrangements

1. Without prejudice to their application between Member States and third countries, this Regulation replaces, within its scope of application, as from … [the first day of the month following the period of two years from the date of entry into force of this Regulation], the corresponding provisions of the European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972 and the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959, applicable between the Member States bound by this Regulation.

2. In addition to this Regulation, Member States may conclude or continue to apply bilateral or multilateral agreements or arrangements with other Member States after … [the date of entry into force of this Regulation] only insofar as such agreements or arrangements make it possible to further strengthen the aims of this Regulation and contribute to simplifying or further facilitating the procedures for transferring criminal proceedings and provided that the level of safeguards set out in this Regulation is respected.

3. Member States shall notify the Council and the Commission by … [the first day of the month following the period of two years from the date of entry into force of this Regulation] of the agreements and arrangements referred to in paragraph 2 which they intend to continue to apply. Member States shall also notify the Commission within three months of the signing of any new agreement or arrangement referred to in paragraph 2.

Article 34

Reporting

By … [the first day of the month following the period of eight years from the date of entry into force of this Regulation], the Commission shall submit a report to the European Parliament, to the Council and to the European Economic and Social Committee on the application of this Regulation, supported by information supplied by the Member States in accordance with Article 28(1) and collected by the Commission.

Article 35

Transitional provisions

This Regulation shall apply to requests for the transfer of criminal proceedings transmitted from … [the first day of the month following the period of two years from the date of entry into force of this Regulation]. Requests for the transfer of criminal proceedings received before … [the first day of the month following the period of two years from the date of entry into force] shall continue to be governed by existing instruments relating to the transfer of criminal proceedings.

Until such time as Article 24 becomes applicable pursuant to Article 36, third paragraph, communication between requesting authorities and requested authorities and, where applicable, with the involvement of central authorities, as well as with Eurojust, under this Regulation shall take place by any appropriate alternative means, taking into account the need to ensure a swift, secure and reliable exchange of information.

Article 36

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from … [the first day of the month following the period of two years from the date of entry into force of this Regulation].

However, Article 24 shall apply from the first day of the month following the period of two years from the date of entry into force of the implementing acts referred to in Article 25.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

REQUEST FORM FOR THE TRANSFER OF CRIMINAL PROCEEDINGS

As referred to in Article 8(1) of Regulation (EU) 2024/…[+]

The purpose of this request form is to: ☐ Consult on a possible transfer of criminal proceedings ☐ Request a transfer of criminal proceedings

Section A: Authorities involved Requesting State: …… Requesting authority: …… Requested State: …… Requested authority: …… Authority in the requested State that has been consulted prior to this request (if applicable): ……

[+] OJ: Please insert in the text the number of this Regulation.

Section B: Identity of the suspect or accused person

1. Identification of the suspect or accused person

☐ The suspect or accused person is not yet identified

☐ The suspect or accused person is identified

If the suspect or accused person has already been identified:

State all information, as far as known, regarding the identity of the suspect or accused person. If more than one person is concerned, please provide the information for each person[1].

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details):

Other contact details (email, phone No): .....

Language(s) which the person understands: .....

Other relevant information: .....

Please describe the current position of the person concerned as regards the proceedings:

☐ Suspect

☐ Accused person

☐ The suspect or accused person has been made aware by the competent authorities that that person is suspected or accused of having committed a criminal offence.

☐ The suspect or accused person has not been made aware by the competent authorities that that person is suspected or accused of having committed a criminal offence.

☐ An indictment has been issued against the suspect or accused person in the relevant criminal proceedings.

☐ The suspect or accused person has been deprived of personal liberty for the purpose of the relevant criminal proceedings for the following period: from …… to …… (format: dd-mm-yyyy).

[1] A drop-down menu allowing different entries for each of the suspects/accused persons could be envisaged in the electronic request form.

(ii) For legal person(s):

Name: .....
Form of legal person: .....
Shortened name, commonly used name or trading name, if applicable:
.....
Address of the registered seat/office: .....
Registration number: .....
Address of the legal person: .....
Other contact details (email, phone No): .....
Name of the legal person's representative: .....
Other relevant information: .....
Please describe the current position of the legal person concerned as regards the proceedings:

☐ Suspect

☐ Accused person

☐ The legal person concerned has been made aware by the competent authorities that it is suspected or accused of having committed a criminal offence.

☐ The legal person concerned has not been made aware by the competent authorities that it is suspected or accused of having committed a criminal offence.

☐ An indictment has been issued against the legal person concerned in the relevant criminal proceedings.

2. Opinion of the suspect(s) or accused person(s):

☐ The suspect or accused person proposed initiating the procedure for transferring criminal proceedings.

☐ The suspect or accused person was informed of the intention to issue a request for transfer.

☐ The suspect or accused person was not informed of the intention to issue a request for transfer/the opinion of the suspect or accused person was not sought because:

- ☐ it would have undermined the confidentiality of an investigation or otherwise prejudiced the investigation;
- ☐ the person could not be located or reached despite reasonable efforts.

☐ The suspect or accused person stated an opinion on the intention to issue a request for transfer. The opinion is attached to this request. Please see attachment.

.....
.....

☐ The suspect or accused person did not state an opinion on the intention to issue a request for transfer.

Section C: Identity of the victim(s)[2]

1. State all information, as far as known, regarding the identity of the victim. If more than one person is concerned, please provide the information for each person.

(i) For natural person(s)

Last name: .....
First name(s): .....
Sex: .....
Nationality: .....
Identity number or social security number, if available: .....
Type and number of the identity document(s) (e.g. ID card, passport), if available:
.....
Date of birth: .....
Place of birth: .....
Residence and/or known address (if address is not known, state the last known address):
.....
Other contact details (email, phone No): .....
Language(s) which the person understands: .....
Other relevant information: .....

(ii) For legal person(s):

Name: .....
Form of legal person: .....
Shortened name, commonly used name or trading name, if applicable:
.....
Address of the registered seat/office: .....
Registration number: .....
Address of the legal person: .....
Other contact details (email, phone No): .....
Name of the legal person's representative: .....
Other relevant information: .....

2. Opinion of the victim(s)

☐ One or more of the victims proposed initiating the procedure for transferring criminal proceedings.

☐ One or more of the victims who reside or that are established in the requesting State and who receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU or, in the case of a legal person, that receive such information in accordance with national law, were informed of the intention to issue a request for transfer.

☐ One or more of the victims who reside or that are established in the requesting State and who receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU or, in the case of a legal person, that receive such information in accordance with national law, were not informed of the intention to issue a request for transfer because it would have undermined the confidentiality of an investigation or otherwise prejudiced the investigation.

☐ One or more of the victims stated an opinion on the intention to issue a request for transfer. The opinion is attached to this request. Please see attachment.

.....
.....

☐ None of the victims stated an opinion on the intention to issue a request for transfer.

[2] A drop-down menu could be envisaged in case more than one victim is concerned.

Section D: Summary of the facts and their legal qualification

1. Description of the conduct giving rise to the criminal offence(s) for which the request is made and a summary of underlying facts:

.....

.....

2. Stage of the proceedings reached:

☐ investigation/prosecution;

☐ trial.

2.1. Please provide further details on the current status of the investigation/prosecution or trial:

.....

.....

3. Nature and legal classification of the criminal offence(s) for which the request is made, including information about the maximum sentence for the relevant criminal offence(s) and the relevant legal provisions relating to penalties:

.....

.....

4. Information about any act interrupting or suspending the period of limitation regarding the criminal offence(s) for which the request is made:

.....

.....

Section E: Information on the procedure in the requesting State

1. All investigative or other procedural measures undertaken by the requesting State (please describe):

(i) measures to prevent the suspect or accused person from absconding or other preventive measures:

.....

.....

(ii) freezing measures:

.....

.....

(iii) investigative measures:

.....

.....

2. Information on evidence collected

The following materials and documents have been collected in the course of the criminal proceedings in the requesting State (please describe):

.....

.....

Section F: Reasons for the request

1. Reasons for the request, including a justification as to why the transfer is necessary and appropriate, and an assessment of the impact of the transfer on the rights of the suspect(s) or accused person(s) and victim(s):

.....
.....
.....
.....

2. Criteria for requesting the transfer of criminal proceedings:

☐ the criminal offence has been committed in whole or in part on the territory of the requested State, or most of the effects of the criminal offence or a substantial part of the damage forming part of the constituent elements of the criminal offence occurred 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 on the basis of: (i) Article 4, point (2), of Framework Decision 2002/584/JHA; (ii) Article 4, point (3), of Framework Decision 2002/584/JHA where such refusal is not based on a final judgment passed upon that person in respect of the same criminal offence which prevents further criminal proceedings; or (iii) Article 4, point (7), of Framework Decision 2002/584/JHA;

☐ one or more suspects or accused persons for whom a European arrest warrant has been issued are present in the requested State and that State refuses to surrender those persons, if it finds that, in exceptional situations, there are substantial grounds to believe, on the basis of specific and objective evidence, that the surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as enshrined in Article 6 of the Treaty on European Union and the Charter of Fundamental Rights of the European Union;

☐ most of the evidence relevant to the investigation is located in, or the majority of the relevant witnesses are residents 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;

☐ the enforcement of the sentence in the requested State is likely to improve the prospects of social rehabilitation of the person sentenced or there are other reasons why enforcement of the sentence in the requested State would be more appropriate;

☐ one or more victims are nationals of or residents in the requested State;

☐ the competent authorities of Member States have reached consensus, under Framework Decision 2009/948/JHA or otherwise, on the concentration of the criminal proceedings in one Member State;

☐ other reasons (please specify):

.....
.....

Section G: Additional information and requests (if applicable)

1. If relevant, provide information related to an earlier European arrest warrant, European Investigation Order or another request for assistance:.....
.....

2. Other additional information, if relevant:.....
.....
.....

3. Indicate any specific conditions for the processing of the transmitted personal data with which the requested authority must comply (Article 9(3) of Directive (EU) 2016/680 of the European Parliament and of the Council[3]):.....
.....
.....

4. List of enclosures:.....
.....
.....

SECTION H: Details of the authority that issued the request and, where applicable, the designated central authority

1. Name of authority that issued the request: .....
Name of representative/contact point:.....
File No:.....
Address:.....
Phone No: (country code) (area/city code).....
Email: .....
Language(s) in which it is possible to communicate with the requesting authority:
.....

2. If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:
Name/Title/Organisation: .....
Address:.....
Email: .....
Phone No:.....

3. Central authority, if applicable
Name/Title/Organisation: .....
Address:.....
Email: .....
Phone No:.....

4. Language(s) in which it is possible to communicate with the central authority:
.....

Electronic signature:[4]

[3] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

[4] In accordance with Article 7 of Regulation (EU) 2023/2844.

SECTION I: Details of the judicial authority of the requesting State which validated the request (if applicable)

1. Name of the validating authority: .....

Name of representative/contact point: .....

File No: .....

Address: .....

Phone No: (country code) (area/city code) .....

Email: .....

Language(s) in which it is possible to communicate with the validating authority:

.....

2. Please indicate if the main contact point for the requested State should be the:

☐ requesting authority

☐ validating authority

Electronic signature:

ANNEX II

Form referred to in Article 6(5) of Regulation (EU) 2024/…[+]

The purpose of this form is to seek your assistance in providing information to and seeking the opinion of the suspect/accused person as regards the intention to issue a request for the transfer of criminal proceedings. Please return Part B of this form when completed.

Part A

I. Competent authorities

Requesting State:

.....

Requesting authority:

.....

Case number in the requesting State:

.....

Requested State:

.....

Requested authority:

.....

Information on corresponding/parallel criminal proceedings in the requested State, if available:

.....

Authority in the requested State that has been consulted prior to the receipt of this request for assistance (if applicable):

.....

[+] OJ: Please insert in the text the number of this Regulation.

II. Identity of the suspect/accused person(s)

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details), if available: .....

Other contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(ii) For a legal representative (if applicable; where it is considered necessary in view of the age or the physical or mental condition of the suspect or accused person):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(iii) For legal person(s):

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Address of the registered seat/office:

.....

Registration number: .....

Address of the legal person:

.....

Other contact details (email, phone No), if available:

.....

Name of the legal person's representative:

.....

Other relevant information, if available:

.....

Electronic signature:

Part B

Form for the provision of information to, and for seeking the opinion of, the suspect/accused person on the intention to issue a request for the transfer of criminal proceedings[1]

A) Information to be provided to the suspect/accused person (to be completed by the requesting authority)

The …….. [requesting authority] of …….. [requesting State][2] hereby informs you, ……. [suspect/accused person], of the intention to issue a request for the transfer of criminal proceedings initiated against you, with reference number …….., to …… [requested State], in accordance with Article 6 of Regulation (EU) 2024/…[+] of the European Parliament and of the Council on the transfer of proceedings in criminal matters.

Information on the criminal proceedings to be transferred

Description of the conduct and facts underlying the criminal offence(s) for which it is intended to issue the request for the transfer of criminal proceedings and their legal classification:

……
……
……
……
……

---

1 To be provided to the suspect/accused person in a language which the person understands.

2 A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

+ OJ: Please insert in the text the number of this Regulation.

B) Opinion of the suspect/accused person on the intention to issue a request for the transfer of criminal proceedings (to be completed by the requested authority)

1. You are hereby invited, if you so wish, to state your opinion on the intention of the …….. [requesting authority] of……. [requesting State][3] to issue a request for the transfer of criminal proceedings initiated against you to …… [requested State][4].

My opinion on the transfer of criminal proceedings is:

☐ **Positive**

☐ **Negative**

Add reasons, if you so wish:

……
……

2. If applicable: The information on the intention to issue a request for the transfer of criminal proceedings and the opinion of the suspect/accused person may also be provided orally and noted in accordance with the recording procedure of the national law of the requested State.

☐ The suspect/accused person provided his/her opinion orally. The transcript of the recording is attached and forwarded to the requesting authority together with this form.

Your opinion will be taken into consideration by ……..…….. (requesting authority) when deciding on whether to request the transfer of criminal proceedings.

Signature of the suspect/accused person:

Signature of the requested authority:

---

[3] A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

[4] Idem.

ANNEX III

Form referred to in Article 6(7) of Regulation (EU) 2024/…[+]

The purpose of this form is to seek your assistance in providing information to the suspect/accused person on the issuance of the request for the transfer of criminal proceedings.

Part A

I. Competent authorities

Requesting State:

.....

Requesting authority:

.....

Case number in the requesting State:

.....

Requested State:

.....

Requested authority:

.....

Information on corresponding/parallel criminal proceedings in the requested State, if available:

.....

Authority in the requested State that has been consulted prior to the receipt of this request for assistance (if applicable):

.....

[+] OJ: Please insert in the text the number of this Regulation.

II. Identity of the suspect/accused person(s)

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details), if available: .....

Other contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(ii) For a legal representative (if applicable; where it is considered necessary in view of the age or the physical or mental condition of the suspect or accused person):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(iii) For legal person(s):

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Address of the registered seat/office:

.....

Registration number: .....

Address of the legal person:

.....

Other contact details (email, phone No), if available:

.....

Name of the legal person's representative:

.....

Other relevant information, if available:

.....

Electronic signature:

Part B

Form for the provision of information to the suspect/accused person

on the issuance of the request for the transfer of criminal proceedings[1]

Information to be provided to the suspect/accused person (to be completed by the requesting authority)

In accordance with Article 6(7) of Regulation (EU) 2024/…[+] of the European Parliament and of the Council on the transfer of proceedings in criminal matters, the …….. [requesting authority] of …….. [requesting State][2] hereby informs you, ……. [suspect/accused person], that a request for the transfer of criminal proceedings initiated against you, with reference number ……, to …… [requested State][3] was issued on…… [date].

Information on the criminal proceedings to be transferred

Description of the conduct and facts underlying the criminal offence(s) for which it is intended to issue the request for the transfer of criminal proceedings and their legal classification:

……
……
……
……
……

---

1 To be provided to the suspect/accused person in a language which the person understands.

+ OJ: Please insert in the text the number of this Regulation.

2 A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

3 Idem.

ANNEX IV

Form referred to in Article 15(2) and (4) of Regulation (EU) 2024/…[+]

The purpose of this form is to seek your assistance in providing information to the suspect/accused person after a decision on the request for the transfer of criminal proceedings has been taken.

Part A

I. Competent authorities

Requesting State:

.....

Requesting authority:

.....

Case number in the requesting State:

.....

Requested State:

.....

Requested authority:

.....

Case number in the requested State, if available:

.....

[+] OJ: Please insert in the text the number of this Regulation.

II. Identity of the suspect/accused person(s)

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details), if available: .....

Other contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(ii) For legal person(s):

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Address of the registered seat/office:

.....

Registration number: .....

Address of the legal person:

.....

Other contact details (email, phone No), if available:

.....

Name of the legal person's representative:

.....

Other relevant information, if available:

.....

Electronic signature:

Part B

Form for the provision of information to the suspect/accused person after a decision on the request for the transfer of criminal proceedings has been taken[1]

A request for the transfer of criminal proceedings initiated against you, ……. [suspect/accused person], with reference number ……, to …… [requested State][2] was issued on …… [date] by ……. [requesting authority] of …… [requesting State].

1. Information on the criminal proceedings to be transferred

Description of the conduct and facts underlying the criminal offence(s) for which the request for the transfer of criminal proceedings was issued and their legal classification:

.....

.....

2. Information about the acceptance/refusal of the transfer of criminal proceedings

You are hereby informed that, in accordance with Article 11(1) of Regulation (EU) 2024/…[+] of the European Parliament and of the Council on the transfer of proceedings in criminal matters, the ……. [requested authority] of ……. [requested State][3] on …….. [date] has:

☐ **accepted** such a transfer of criminal proceedings by way of the reasoned decision attached to this form;

☐ **refused** such a transfer of criminal proceedings.

You are hereby also informed that, in the case of acceptance of the transfer of criminal proceedings, you have the right to an effective legal remedy in …….. [requested State][4] against that decision. You can exercise this right within…… [number of] days from receipt of the reasoned decision to accept the transfer of criminal proceedings attached to this form, by applying for a legal remedy before…….. [competent authority in the requested State].

Details of the competent authority in the requested State to which you can apply for a legal remedy to challenge the decision to accept the transfer of criminal proceedings, if applicable:

Name of the authority: .....

File No: .....

Address: .....

Phone No: (country code) (area/city code) .....

Email: .....

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1 To be provided to the suspect/accused person in a language which the person understands.

2 A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

+ OJ: Please insert in the text the number of this Regulation.

3 Idem.

4 Idem.

ANNEX V

Form referred to in Article 16(2) of Regulation (EU) 2024/…[+]

The purpose of this form is to seek your assistance in providing information to the victim(s) after a decision on the request for the transfer of criminal proceedings has been taken.

Part A

I. Competent authorities

Requesting State:

.....

Requesting authority:

.....

Case number in the requesting State:

.....

Requested State:

.....

Requested authority:

.....

Case number in the requested State, if available:

.....

[+] OJ: Please insert in the text the number of this Regulation.

II. Identity of the victim(s)

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details), if available: .....

Other contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(ii) For legal person(s):

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Address of the registered seat/office:

.....

Registration number: .....

Address of the legal person:

.....

Other contact details (email, phone No), if available:

.....

Name of the legal person's representative:

.....

Other relevant information, if available:

.....

Electronic signature:

Part B

Form for the provision of information to the victim(s) after a decision on the request for the transfer of criminal proceedings has been taken[1]

A request for the transfer of criminal proceedings against ……. [suspect/accused person], with reference number ……, to …… [requested State][2] was issued on…… [date] by ……. [requesting authority] of …… [requesting State].

1. Information on the criminal proceedings to be transferred

Description of the conduct and facts underlying the criminal offence(s) for which the request for the transfer of criminal proceedings was issued and their legal classification:

.....

.....

2. Information about the acceptance/refusal of the transfer of criminal proceedings

You are hereby informed that, in accordance with Article 11(1) of Regulation (EU) 2024/…[+] of the European Parliament and of the Council on the transfer of proceedings in criminal matters, the……. [requested authority] of ……. [requested State][3] on…….. [date] has:

☐ **accepted** such a transfer of criminal proceedings, by way of the reasoned decision attached to this form;

☐ **refused** such a transfer of criminal proceedings.

You are hereby also informed that, in the case of acceptance of the transfer of criminal proceedings, you have the right to an effective legal remedy in…….. [requested State][4] against that decision. You can exercise this right within…… [number of] days from receipt of the reasoned decision to accept the transfer of criminal proceedings attached to this form, by applying for a legal remedy before…….. [competent authority in the requested State].

Details of the competent authority in the requested State to which you can apply for a legal remedy to challenge the decision to accept the transfer of criminal proceedings, if applicable:

Name of the authority: .....

File No: .....

Address: .....

Phone No: (country code) (area/city code) .....

Email: .....

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1 To be provided to the victim(s) in a language which the person understands.

2 A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

+ OJ: Please insert in the text the number of this Regulation.

3 Idem.

4 Idem.

ANNEX VI

Form referred to in Article 10(3) of Regulation (EU) 2024/…[+]

The purpose of this form is to seek your assistance in providing information to the suspect/accused person on the withdrawal of the request for the transfer of criminal proceedings.

Part A

I. Competent authorities

Requesting State:

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Requesting authority:

.....

Case number in the requesting State:

.....

Requested State:

.....

Requested authority:

.....

Information on corresponding/parallel criminal proceedings in the requested State, if available:

.....

Authority in the requested State that has been consulted prior to the receipt of this request for assistance (if applicable):

.....

[+] OJ: Please insert in the text the number of this Regulation.

II. Identity of the suspect/accused person(s)

(i) For natural person(s):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Aliases, if applicable: .....

Sex: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Workplace (including contact details), if available: .....

Other contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(ii) For a legal representative (if applicable; where it is considered necessary in view of the age or the *physical* or mental condition of the suspect or accused person):

Last name: .....

First name(s): .....

Other relevant name(s), if applicable: .....

Nationality: .....

Identity number or social security number, if available: .....

Type and number of the identity document(s) (e.g. ID card, passport), if available:

.....

Date of birth: .....

Place of birth: .....

Residence and/or known address (if address is not known, state the last known address):

.....

Contact details (email, phone No), if available: .....

Language(s) which the person understands, if available: .....

Other relevant information, if available: .....

(iii) For legal person(s):

Name: .....

Form of legal person: .....

Shortened name, commonly used name or trading name, if applicable:

.....

Address of the registered seat/office:

.....

Registration number: .....

Address of the legal person:

.....

Other contact details (email, phone No), if available:

.....

Name of the legal person's representative:

.....

Other relevant information, if available:

.....

Electronic signature:

Part B

Form for the provision of information to the suspect/accused person

on the withdrawal of the request for the transfer of criminal proceedings[1]

Information to be provided to the suspect/accused person (to be completed by the requesting authority)

The …….. [requesting authority] of …….. [requesting State][2] hereby informs you, ……. [suspect/accused person], that the request for the transfer of criminal proceedings initiated against you, with reference number ……, to …… [requested State][3], issued on…… [date] was withdrawn in accordance with Article 10 of Regulation (EU) 2024/…[+] of the European Parliament and of the Council on the transfer of proceedings in criminal matters.

Information on the relevant criminal proceedings

Description of the conduct and facts underlying the criminal offence(s) for which criminal proceedings have been initiated against you and their legal classification:

……
……
……
……
……

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1 To be provided to the suspect/accused person in a language which the person understands.

2 A drop-down menu allowing for the selection of the relevant Member State could be envisaged in the electronic form.

3 Idem.

+ OJ: Please insert in the text the number of this Regulation.