Council of the European Union

Brussels, 14 December 2023
(OR. en)

16881/23

Interinstitutional File: 2023/0093(COD)

COPEN 454
JAI 1686
CODEC 2514

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	15657/23 + ADD 1 + ADD 2 and 16637/23
No. Cion doc.:	8231/23 + ADD 1 + ADD 2 + ADD 3
Subject:	Proposal for a Regulation of the European Parliament and of the Council on the transfer of proceedings in criminal matters - General approach

Delegations will find annexed the text of the general approach on the above-mentioned proposal as approved by the Council "Justice and Home Affairs" at its meeting on 4/5 December 2023.

The text contains linguistic refinements proposed by lawyer-linguists subsequently to the Council meeting, which were agreed through an informal silence procedure (16637/23).

ANNEX

Text of the general approach (15657/23) with refinements by lawyer-linguists

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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],

Whereas:

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

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1 OJ C , , p. .

2 Position of the European Parliament of … [(OJ …)/(not yet published in the Official Journal)] and decision of the Council of ….

(2) The Hague Programme for strengthening freedom, security and justice in the European Union[3] requires Member States to consider possibilities of 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.

(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 ~~the~~ Member States regarding the transfer of criminal proceedings could help to prevent unnecessary parallel criminal proceedings in different Member States concerning the same facts and the same person, that could result in an infringement of the *ne bis in idem* principle. ~~They~~ **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. They also aim to ensure that a transfer of criminal proceedings can take place, when 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 those that parallel criminal proceedings for the same criminal offence are ongoing in the other Member State, in order to enable the person being prosecuted to avoid impunity.

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3 OJ C 53, 3.3.2005, p. 1.

4 OJ C 12, 15.1.2001, p. 10.

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 efficiently fight cross-border crime. This is especially important for crimes perpetrated 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 in the Member States across the ~~EU~~ **Union**.

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

(7) This Regulation should apply to all requests issued within the framework of criminal proceedings. ~~"Criminal proceedings" is an autonomous concept of Union law interpreted by the Court of Justice of the European Union, notwithstanding the case law of the European Court of Human Rights. starting from the time when persons are informed by the competent authorities of a Member State that they are suspected or accused of having committed a criminal offence until the conclusion of those proceedings, to be understood as the final determination of the question whether the suspect or accused person has committed the criminal offence, including, where applicable, sentencing and the resolution of any appeal.~~

(8) ~~The~~ Council Framework Decision 2009/948/JHA[6] aims **at** ~~to~~ prevent**ing** 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. It therefore establishes a procedure for direct consultations between competent authorities of the Member States concerned with the aim of achieving a consensus on any effective solution aimed at avoiding ~~the~~ adverse consequences arising from such parallel proceedings and **the loss** ~~waste~~ of time and resources of the competent authorities concerned. Whe~~n~~**re** the competent authorities of the Member States concerned decide, following consultations in accordance with that Framework Decision, to concentrate proceedings in one Member State through the transfer of criminal proceedings, this Regulation should be used for such a transfer.

(9) Other legal **acts** ~~instruments~~ in the area of criminal matters, particularly those related to specific crime types, such as the Directive (EU) 2017/541 of the European Parliament and of the Council[7] **and** Council Framework Decision**s** 2002/475/JHA[8] and ~~Council Framework Decision~~ 2008/841/JHA[9], include provisions referring to the factors to be taken into account with the aim of centralising proceedings in a single Member State when 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 ~~line~~ **accordance** with those legal acts, to centralise criminal proceedings in a single Member State through the transfer of criminal proceedings, this Regulation should be used for such a transfer.

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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).

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 in criminal matters for enforcement of sentences in other Member States, in particular Council Framework Decisions 2005/214/JHA[10], 2008/909/JHA[11] and 2008/947/JHA[12]. This Regulation should supplement the provisions of those Framework Decisions and should be interpreted as not affecting their application.

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

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

(13) For the purpose of this Regulation, Member States should designate the 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) ~~With a view to the administrative transmission and reception of requests for transfer of criminal proceedings, as well as for other official correspondence relating to such requests,~~ Member States could designate one or more central authorities where necessary due to the structure of their internal legal systems **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, thus facilitating and promoting the acceptance of requests for transfer**s** of criminal proceedings.

(15) 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.

(16) This Regulation provides **for** jurisdiction in specific cases, in order to ensure that, for criminal proceedings to be transferred in accordance with this Regulation, wherever the interests of efficient and proper administration of justice so require, the requested State can exercise jurisdiction for the criminal offences to which the law of the requesting State is applicable. The requested State should have jurisdiction to try the criminal offences for which the transfer is sought whenever that Member State is considered as being ~~the~~ best placed ~~one~~ 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 can 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).

(17) Such jurisdiction should be established 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 specific grounds mentioned in this Regulation. A requested State should also have jurisdiction when the criminal offence produces its effects or causes damages mainly in the requested State. Damage should be taken into account whenever it is one of the constituent elements of the criminal offence, in accordance with the 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 criminality of such person could be judged in one single criminal proceeding, or when criminal proceedings are ongoing in that State against other persons in respect of the same, ~~or related~~ **partially the same or related** facts, which might in particular be relevant 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.

(18) In order to fulfil the purpose of this Regulation and to prevent conflicts of jurisdiction, having specific regard to those Member States which have their legal systems – or the prosecution of certain criminal offences – based on mandatory prosecution, the requesting State, when requesting a transfer of criminal proceedings, should **be able to** waive ~~its jurisdiction in~~ **proceedings** for the prosecution of the person concerned for the criminal offence for which the transfer is sought. ~~On this basis~~ **This Regulation should therefore allow** the competent authorities of the requesting State ~~should be able~~ 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, they would be under a duty to prosecute. ~~Such a waiver of jurisdiction~~ **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.

(19) 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.

(20) This Regulation does not affect procedural rights as enshrined in **the Charter or in other** Union **legal acts** ~~law~~, such as ~~the Charter,~~ ~~the procedural rights~~ ~~d~~**D**irectives 2010/64/EU[15], 2012/13/EU[16], 2013/48/EU[17], (EU) 2016/343[18], (EU) 2016/800[19] and (EU) 2016/1919 **of the European Parliament and of the Council[20], for the Member States bound by them**. **In particular, the requesting authority should ensure that these 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).

(21) Member States should ensure that, when applying this Regulation, the needs of vulnerable persons are taken into account. According to the Commission Recommendation **of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings** ~~(2013/C 378/02)~~[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 may have.

(22) 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**,** ~~in accordance with the~~ **considering, where appropriate,** Commission Recommendation **(EU) 2023/681**~~C(2022) 8987 final~~[22].

(23) **A requesting authority should be able to request a transfer of criminal proceedings either on its own initiative, or following consultations with a requested authority, a proposal from a suspect or accused person, or a proposal from a victim.** This Regulation should not impose any obligation to request **or** transfer ~~of~~ criminal proceedings. When assessing whether a request for **the** transfer of criminal proceedings should be issued, the requesting authority should examine whether such a transfer **would serve the objective of an efficient and proper administration of justice, including whether it is proportionate and appropriate for the purpose of the proceedings concerned.** ~~is necessary and appropriate~~. Th**at**~~is~~ 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.

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21 ~~Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (2013/C 378/02)~~ ~~(~~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) When assessing whether a request for 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 interest**s** of justice. For instance, where the criminal offence has been committed ~~wholly~~ **in whole** or in part **on** ~~in~~ the territory of the requested State, or most of the effects or damage caused by the criminal offence**, when those effects or damage qualify as part of the constituent elements of the criminal offence, occurred** ~~were sustained~~ **on** ~~in~~ the territory of the requested State, that State may be considered **to be** 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 can 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 ~~the~~ criminal responsibility were also held in the same Member State. Similarly, if most of the evidence **is** ~~are~~ located in the requested State, a transfer of criminal proceeding**s** might ease the collection and subsequent admissibility of the evidence gathered in accordance with the law of the requested State.

(25) Where the suspect or accused person **or, if there are more suspects or accused persons, one or more of them,** is a national of the requested State or a resident in that 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 trial, in accordance with Directive (EU) 2016/343. Similarly, where ~~the majority of~~ **one or more** victims are nationals or residents in the requested State, a transfer can be justified to allow victims to easily participate in ~~the~~ 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 may also be justified when that person is present in the requested State while not being a national of or a resident in that State.

(26) 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 the victim resides in the requested State. Where only limited information is available, such an assessment ~~could also~~ **should** be the object of consultations between the requesting and requested authorities~~.~~ **in order to confirm residence of the suspect, accused person or a victim in the requested State. When considering such consultations,** ~~V~~various objective circumstances that could indicate that the person concerned has established the habitual centre of his or her interests in a particular Member State or has the intention to do so, can 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, a residence permit, or **by** ~~a~~ registration in an official residence register. Where that person is not registered in the requested State, residence could be indicated by the fact that a 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 that Member State 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 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 their presence in the requested State or the family or economic connections which that person has with the requested State. A registered vehicle, ~~the registration of a telephone number,~~ a bank account, the fact that the person's stay in the requested State was uninterrupted or other objective factors may be of relevance ~~to determine~~ **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 should not be enough to establish residence in that Member State. ~~On the other hand, an uninterrupted stay of at least three months should in most cases be regarded as sufficient to establish residence.~~

(27) A transfer of criminal proceedings may also be justified when criminal proceedings are ongoing in the requested State in respect of 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, e.g. 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 may 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. Moreover, the requesting authorities should give due consideration to whether the transfer of criminal proceedings could enhance the aim of social rehabilitation of the person concerned in case the sentence were to be enforced in the requested State~~:~~**. f**For th**at**~~is~~ purpose, the person's attachment to the requested State, whether they consider it the place of family, linguistic, cultural, social or economic and any other links to the requested State should be taken into account**. Additionally, competent authorities often reach agreements on the concentration of proceedings based on 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).

(28) When requesting a transfer of criminal proceedings, the requesting authority should take into account possibilities 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,** ~~the~~ Directive 2014/41/EU of the European Parliament and of the Council[24], and mutual legal assistance, ~~where applicable,~~ before considering transfer of criminal proceedings on the sole ground that most of the evidence is located in the requested State.

(29) Suspects or accused persons or victims should have the possibility to **propose** ~~request~~ that ~~for the~~ criminal proceedings concerning them ~~to~~ be transferred to another Member State. ~~These requests~~ **Such a proposal** should not however impose any obligation on the requesting or requested authority to request or transfer criminal proceedings. If the authorities become aware of parallel criminal proceedings on the basis of a **proposal** ~~request of~~ **for** transfer submitted by the suspect or accused person, or the victim, or a lawyer on their behalf, ~~then~~ they are under the obligation to consult each other in accordance with the Framework Decision 2009/948/JHA.

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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) The requesting authority should inform as soon as possible the suspect or accused person of the intended **request for** transfer **of criminal proceedings** and should provide for the possibility for such person to express their opinion ~~orally or in writing~~, in accordance with applicable national law, to enable the authorities to take into account their legitimate interests before issuing a request for transfer. **Such information should be provided in writing. The information may also 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. The information may be provided using standard forms. Where the requesting authority considers it necessary, for example in view of the age, physical or mental condition of the suspect or accused person concerned, the opportunity to state their opinion should be given to their legal representative, where available.** When assessing the legitimate interest of the suspect or accused person to be informed about the intended transfer, the requesting authority should take into account the need to ensure confidentiality of an investigation and the risk of prejudicing criminal proceedings against that person, ~~e.g.~~ **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 ~~its~~ reasonable efforts being made, the obligation to inform such person should apply from the moment ~~thoese circumstances change~~ **that the suspect or accused person could be located or reached.**

(31) The rights of victims set out in Directive 2012/29/EU of the European Parliament and of the Council[25] should be taken into account **when** ~~in~~ 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.

(32) When taking a decision on the transfer of criminal proceedings, the requesting authority should have due regard to the legitimate interests of victims, including their protection, and assess whether the transfer of criminal proceedings might be detrimental for ~~the~~ victim**s** to effectively exercise their rights in the criminal proceeding**s** concerned. This encompasses, for example, the possibility and arrangements available for victims to testify during trial in the requested State if ~~it's~~ **that** ~~it~~ **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 witnesses' protection programmes in the requested State. The victims' rights to compensation should not be prejudiced by the transfer of criminal proceedings. This Regulation is not to affect rules on compensation and **the** restitution of property to victims in national proceedings.

(33) Whenever there is a need 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 ~~line~~ **accordance** with Regulation (EU) No 606/2013 of the European Parliament and of the Council[26] or**, for the Member States bound by it,** ~~the~~ Directive 2011/99/EU of the European Parliament and of the Council[27].

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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).

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).

(33a) Once the requesting authority intends to request a transfer of criminal proceedings, it should as soon as possible inform the victims who reside or, in case of legal persons, which are established in the requesting State and who have requested to receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU or, in case of legal persons, who requested to receive information in accordance with national law, and should provide for the possibility for such persons to express 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. Such information should be provided in writing. The information may also 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. The information may be provided using standard forms or, in case of 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, 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 intended request for transfer, the requesting authority should take into account the need to ensure confidentiality of an investigation and the risk of prejudicing the criminal proceedings, for instance 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.

(33b) **Standard forms can also be used in order to facilitate the possibility for the requesting authority to seek the assistance of the requested authority in order to inform the suspect or accused person, as well as in certain situations provided for under this Regulation where the requesting and requested authorities can assist each other in informing suspects or accused persons, or victims. 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.**

(34) **(moved to 42a)**

(35) The proper application of this Regulation presupposes communication between the requesting and requested authorities involved, which should be encouraged to consult each other whenever it is appropriate to facilitate the smooth and efficient application of this Regulation, either directly or, where appropriate, via ~~European Union Agency for Criminal Justice Cooperation (~~Eurojust~~)~~.

(36) The requesting authority should consult with the requested authority prior to issuing a request for **the** transfer of criminal proceedings when this is necessary, in particular, in order 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.

(37) 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 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 accompanying the request for the transfer of criminal proceedings, should be translated by the requesting authority into an official language of the requested State or any other accepted language in accordance with this Regulation. The essential parts of the documents concerned are meant to be those extracts that appear necessary for the requested authority to take an informed decision on the request for the transfer of criminal proceedings.**

(38) Until the requested authority has ~~not~~ taken a decision to accept a transfer of criminal proceedings, the requesting authority should be able to withdraw the request, for instance when it becomes aware of further elements due to which the transfer no longer appears justified.

(39) The requested authority should inform the requesting authority of its ~~reasoned~~ decision on whether to accept **or refuse** the transfer of criminal proceedings without delay and no later than 60 days after the receipt of the request for transfer of criminal proceedings. In specific cases, when it is not feasible for the requested authority to comply with ~~this period~~ **that time limit**, for instance if it considers that additional information is necessary, it may only be extended **by a** ~~for~~ further 30 days to avoid excessive delays.

(39a) **Where the requested authority has accepted the transfer of criminal proceedings, the requesting authority should without undue delay forward originals or certified copies of all documents of the case file, accompanied by their translation, or at least ~~of~~ the relevant parts thereof. Upon request of the requested authority, transmission of relevant physical evidence, such as objects of offence or blood or DNA samples, to the requested authority should be provided without undue delay, if not sent once the request has been accepted, once the national proceedings are discontinued. Original documentation should only be transmitted if requested by the requested authority in case there is a need to examine a document, for instance, for forensic purposes. Additionally, the originals and the physical evidence, when they are ~~it is~~ no longer needed in the requested State, should upon request of the requesting authority be returned to the requesting State, for example when such originals or physical evidence are needed for the purposes of another criminal investigation.**

(40) Transfer of ~~a~~ criminal proceeding**s** should not be refused on grounds other than those provided for in this Regulation. To be able to accept the transfer of criminal proceedings, 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 not accept the transfer of criminal proceedings when the conduct for which transfer is sought is not a criminal offence in the requested State, or when the requested State does not have jurisdiction over that criminal offence, unless it exercises jurisdiction provided under this Regulation. **The requested authority should also not accept 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 death or insanity of the suspect or accused person, prosecution has become impossible pursuant to the law of the requested State.** ~~Furthermore, the transfer of criminal proceedings should not be accepted in case of other impediments to prosecution in the requested State.~~ The requested authority should also be able to refuse a transfer of criminal proceedings, if the suspect or accused person benefits from ~~an~~ **privilege or** immunity in accordance with the law of the requested State, ~~e.g.~~ **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** ~~certificate for a request~~ for transfer is incomplete or **manifestly incorrect and has not been** ~~was incorrectly~~ completed **or corrected** by the requesting authority, thus not enabling the requested authority to have the necessary information to assess the request for transfer of criminal proceedings. **The requested authority should also be able to refuse the request if the conduct is not an offence at the place where it was committed and the requested State has no original jurisdiction to investigate and prosecute such offence. For the purposes of this Regulation, 'original jurisdiction' means jurisdiction which is already provided for by national law, and which does not derive from this Regulation.**

(41) 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 he or she 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.

(41a) When assessing whether to accept or reject a request for the transfer of criminal proceedings, the requested authority should examine whether such a transfer would serve the objective of an 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 broad margin of discretion for the purpose of that assessment. When assessing whether the transfer of proceedings is or not in the interest of an efficient and proper administration of justice, 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, most of the effects or a substantial part of the damage, which are or is part of the constituent elements of the offence caused by the criminal offence, did not occur on the territory of that State, and the suspect or accused person is not a national of or resident in that State. 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 an efficient and proper administration of justice.

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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).

(42) Before deciding ~~not~~ to **refuse** ~~accept~~ a request for **the** transfer of criminal proceedings on the basis of any ground for refusal, the requested authority should consult the requesting authority in order to obtain any necessary additional information.

(**42a** – ex 34) The requested State should ensure access to effective legal remedies for suspects and accused persons, as well as for victims, against the decision to accept the transfer of criminal proceedings in ~~line~~ **accordance** with Article 47 of the Charter and the procedures applicable under national law, whenever their rights are adversely affected in the application of this Regulation. **Review of the decision concerning the transfer of proceedings should be based exclusively on the criteria foreseen in the grounds for refusal mentioned 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 could 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.**

(42b) The requested authority should have broad discretion in assessing whether the transfer of 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 transfer of proceedings, has manifestly exceeded the limits of its discretion.

(42c) **In any case, the 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.**

(43) 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 and requested State. This should **however** be without prejudice to **necessary/urgent** ~~investigations~~ **investigative** or other procedural measures which **the requesting State may 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**~~. may be necessary to execute decisions based on mutual recognition instruments or to comply with requests for mutual legal assistance linked to the proceedings subject to the transfer.~~ 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 avoid abusive challenges and ensure that the criminal proceedings are not ~~suspended~~ **continued/prolonged** at length **in the requesting State, once the undertaken investivative or procedural measures expire, the criminal proceedings in the requesting State** ~~shall~~ **should be discontinued**. ~~upon the expiry of i~~**I**f a legal remedy with a suspensive effect has been invoked in the requested State the criminal proceedings should not be suspended nor discontinued in the requesting State until a decision on the remedy has been taken in the requested State.

(44) This Regulation should 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. **However, Member States should be able to provide that this Regulation constitutes a legal basis for a decision on 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, when a request for transfer has been received pending the decision on the acceptance or refusal.**

(45) ~~The requested authority~~**A competent authority of the requested State** should inform the requesting authority in writing of any decision delivered 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 also include the reasons for such discontinuation. **At least the essential parts of such information and of the final written decision delivered in the requested State, should be translated by the requested authority into an official language of the requesting State or any other accepted language 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.**

(46) If the requested authority decides to discontinue criminal proceedings related to the facts underlying the request for transfer, the requesting authority may continue or reopen criminal proceedings whenever this would not entail a violation of the *ne bis in idem* principle, i.e. whenever that decision does not definitely bar further prosecution under the law of the requested State and therefore does not prevent further proceedings, in respect of the same acts, in that State. Victims should have the possibility to initiate or to request reopening of the 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.

(47) 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.

(47a) 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.

(48) 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 perpetrated **on** ~~in~~ the territory of the requesting State, the requested authorities may take into consideration in the determination of the sentence the maximum penalty envisaged in the law of the requesting State, whenever this is to the benefit of the accused person, and in accordance with the 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 ensur**ing** a degree of legal certainty and foreseeability of the applicable law for the suspects or accused persons concerned. The maximum sentence envisaged in the law of the requesting State should always be taken into account where jurisdiction of the requested State is based exclusively on this Regulation.

(49) Member States should not be able to claim from each other compensation for costs resulting from the application of this Regulation. However, when the requesting State has incurred large or exceptional costs, **in particular** 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 and requested authorities 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 proceedings is adopted, the requesting authority may decide to withdraw the request in accordance with this Regulation or maintain the request and bear the part of the costs deemed exceptionally high.**

(50) The use of a standardised **request form** ~~certificate~~ translated in all official Union languages would facilitate cooperation and the exchange of information between the requesting and requested authorities, allowing them to take a decision on the request for transfer more quickly and effectively. It **would** also reduce~~s~~ translation costs and contribute~~s~~ to **a** higher quality of requests.

(51) The **request form** ~~certificate~~ should only include personal data necessary to facilitate the requested authority's decision on the request. The **request form** ~~certificate~~ should contain an indication of the categories of personal data, such as whether the related person is **a** suspect, **an** accused **person** or **a** victim, as well as the specific fields for each of th**o**~~e~~se categories.

(52) In order to effectively address a possible need for improvement regarding the **request form** ~~certificate~~ to be used to request **the** transfer of criminal proceedings, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union **(TFEU)** should be delegated to the Commission to amend the Annex to this Regulation. It is of particular importance that the Commission carries**yies** 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.

(53) In order to ensure **the** swift, direct, interoperable, reliable and secure exchange of case-related data, communication under this Regulation between the requesting and requested authorities 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) …/…[Digitalisation Regulation][30]. In particular, the decentralised IT system should, as a rule, be used for the exchange of the **request form** ~~certificate~~ and of any other relevant information and documents, and all other communication between the authorities under this Regulation. In cases where one or more of the exceptions mentioned in the Regulation (EU) …/…. [Digitalisation Regulation] apply, in particular, where the use of the decentralised IT system is not possible or appropriate, other means of communication may be used as specified in that Regulation.

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29 OJ L 123, 12.5.2016, p. 13.

30 Regulation (EU) […] of the European Parliament and of the Council 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 …).

(54) Member States could use a software developed by the Commission (**'**reference implementation software**'**) instead of a national IT system. The**c**~~is~~ reference implementation software should be based on a modular setup, meaning that the software is packaged and delivered separately from the e-CODEX components needed to connect it to the decentralised IT system. Th**at**~~is~~ setup should enable Member States to reuse or enhance their existing national judicial communication infrastructures for the purpose of cross-border use.

(55) The Commission should be responsible for the creation, maintenance and development of th~~eis~~ 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 Regulations (EU) 2018/1725[31] and (EU) 2016/679[32] of the European Parliament and of the Council 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 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 **should** ~~does~~ not process personal data in the context of creation, maintenance and development of th**e** ~~is~~ reference implementation software.

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31 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).

32 Regulation (EU) 2016/679 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 and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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).

(56) 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 programmatically collect those data 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.

(57) 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(58) This Regulation should create the legal basis for the exchange of the personal data between the Member States for the purposes of the transfer of criminal proceedings in ~~line~~ **accordance** with Article 8 and Article 10**, point** (a)**,** of ~~the~~ Directive (EU) 2016/680. However, as regards any other aspect, such as the time period for the retention of personal data received by the requesting authority, the processing of personal data by the requesting and requested authorities should be subject to the national laws of Member States adopted pursuant to the Directive (EU) 2016/680. The requesting and requested authority should be considered as controllers with respect ~~of~~ **to** the processing of ~~the~~ personal data under that Directive. The central authorities **could** provide administrative support to the requesting and requested authorities 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 ~~of the European Parliament and of the Council~~ should apply in the context of this Regulation without prejudice to the specific data protection rules of ~~the~~ Regulation (EU) 2018/1727 ~~of the European Parliament and of the Council~~[35].

(59) 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.

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[35] ~~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).~~

(60) 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** ~~Treaty on European Union~~ and **to** the ~~**TFEU** Treaty on the Functioning of the European Union~~, Ireland has notified, **by letter received on 19 July 2023**, of its wish to take part in the adoption and application of this Regulation.[36] ~~OR [In accordance with Articles 1 and 2 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** Treaty on European Union and to the **TFEU** Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]~~

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

(62) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) ~~No~~ 2018/1725 ~~of the European Parliament and of the Council~~[37] and delivered an opinion on ~~[…]~~ **22 May 2023**,

HAVE ADOPTED THIS REGULATION:

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[36] 12049/23.

[37] ~~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).~~

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 shall apply in all cases of transfer of criminal proceedings **that are being conducted in Member States of** ~~in~~ the Union ~~from the time where a person has been identified as a suspect~~.

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 **TEU** ~~of the Treaty of the European Union~~.

Article 2

Definitions

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

(1) 'requesting State' means a Member State in which **criminal proceedings are being conducted and in which** a request for transfer of **these** ~~criminal~~ proceedings **to another Member State** is issued**, or which has initiated consultations concerning a possible transfer or which has received a consultation request under Articles 5(3) or 15(2);**

(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 of criminal proceedings **or which has received a request for consultations concerning a possible transfer or has initiated consultations pursuant to Articles 5(3) or 15(2);**

(3) 'requesting authority' means:

(a) a judge, court, investigating judge or public prosecutor 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, a court, an investigating judge or a 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 transfer of criminal proceedings has been validated by a judge, a court, an investigating judge or a public prosecutor, that authority may also be regarded as a requesting authority for the purposes of transmitting the request;

(4) 'requested authority' means a judge, a court, an investigating judge or a public prosecutor having **the** competence to take a decision on whether to accept or refuse transfer of criminal proceedings in accordance with Article 12**(1)** and to take, **where the legal system of the requested State allows,** subsequent measures in accordance with this Regulation or ~~any measure as provided for~~ ~~in~~ its national law;

Notwithstanding that a decision on whether to accept or refuse a transfer of criminal proceedings under Article 12(1) must be taken exclusively by a judge, a court, an investigating judge or a public prosecutor, the requested State may provide that for the purposes of this Regulation 'requested authority' may be understood as another competent authority, which in the case concerned is acting in its capacity as an investigating or prosecuting authority in criminal proceedings, with competence to take preparatory or subsequent measures.

(5) 'decentralised IT system' means an IT system as defined in Article 2, point (4), of Regulation (EU)…/... [Digitalisation Regulation];

(6) 'victim' means a victim as defined in Article 2(1), point (a), of Directive 2012/29/EU **or a legal person, as defined in national law, that has suffered harm or economic loss as a direct result of a criminal offence that is the object 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,** ~~F~~**f**or the purpose**s** of this Regulation**,** the requested State shall have jurisdiction over any criminal offence to which the law of the requesting State is applicable in situations where:

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

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

(c) most of the effects of the criminal offence or a substantial part of the damage, which **are or** is part of the constituent elements of the criminal offence, occurred **on** ~~in~~ 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 resident **in** the requested State;

(e) there are ongoing criminal proceedings in the requested State in respect of the same, ~~or~~ 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 resident **in** the requested State.

2. The jurisdiction established by the requested State exclusively by virtue of paragraph 1 may be exercised only pursuant to a request for transfer of criminal proceedings **under this Regulation**.

Article 4

Waiver, suspension or discontinuation of criminal proceedings

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 ~~against a suspect or accused person~~, 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 a transfer of criminal proceedings

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

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 ~~wholly~~ **in whole** or **in** part~~ly~~ **on** ~~in~~ the territory of the requested State, or most of the effects **of the criminal offence** or a substantial part of the damage, **which are or is part of the constituent elements of the criminal offence** ~~caused by the criminal offence~~ occurred **on** ~~in~~ the territory of the requested State;

(b) **one or more** t~~he~~ suspect**s** or accused person**s are** ~~is a~~ national**s** of or resident**s** in the requested State;

(c) **one** ~~the~~ **or more** suspects or accused person**s are**~~is~~ present in the requested State and that State refuses to surrender th**atose**~~is~~ person**s** to the requesting State ~~either~~ on the basis of**:**

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

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

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

(d) **one or more** suspect**s** or accused person**s are**~~is~~ present in the requested State and that State refuses to surrender th**atose**~~is~~ person for whom a European arrest warrant has been issued, if it finds that there are, in exceptional situations, substantial grounds to believe, on the basis of specific and objective evidence, that surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as set out in Article 6 **TEU** ~~of the Treaty on European Union~~ and the Charter;

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

(f) there are ongoing criminal proceedings in the requested State in respect of 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** ~~the~~ suspect**s** or accused person**s are** ~~is~~ serving or **are** ~~is~~ 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** ~~for~~ social rehabilitation of the person sentenced or there are other reasons for a more appropriate enforcement of the sentence in the requested State;

(j) ~~the majority of~~ **one or more** victims are nationals of or residents in the requested State. **Due account shall be taken of child victims;**

(k) the competent authorities of Member States have reached consensus on the concentration of the proceedings in one Member State.

3. ~~T~~**T**he suspect or accused person ~~the majority of~~, or a **victim,** ~~or a lawyer on their behalf,~~ may, **in accordance with procedures in national law, propose** ~~request,~~ the competent authorities of the requesting State or of the requested State ~~to initiate a procedure for transferring~~ **that** criminal proceedings **be transferred** under **the conditions of this** Regulation. **If the proposal is made to the competent authority in the requested State, that authority may consult the competent authority in the requesting State in accordance with Article 15(2). Proposals** ~~Requests~~ made under this paragraph shall not create an obligation for the requesting ~~or the requested~~ State to request or transfer criminal proceedings to the requested State.

Article 6

The rights of the suspect or accused person

1. Before a request for transfer of criminal proceedings is issued, the requesting authority shall, in accordance with **the** applicable national law, give due consideration to the legitimate interests of the suspect or accused person ~~and ensure that their procedural rights under Union and national law are respected~~.

1a. **The rights set out in paragraphs 2 and 3 of this Article and in Articles 15a and 15c apply to suspects or accused persons in criminal proceedings from the time when 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.**

2. Provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation**, the requesting authority **shall inform** the suspect or accused person ~~shall be informed~~ of the intended **request for** transfer of criminal proceedings, **in accordance with the applicable national law** and in a language which they understand, and shall ~~be given~~ **provide them with** an opportunity to state their opinion ~~orally or in writing,~~ unless that person cannot be located **or reached** despite reasonable efforts being made by the requesting authority**.** ~~Such opinion should be duly recorded. Where the requesting authority considers it necessary in view of the suspect's or accused person's age or their physical or mental condition, the opportunity to state their opinion shall be given to their legal representative.~~ Where the request for **the** transfer of criminal proceedings follows a **proposal** ~~request~~ from the suspect or accused person under Article 5(3), such ~~a consultation with~~ **information to** the suspect or accused person who made the **proposal** ~~request~~ is not required.

2a. **If the suspect or accused person is in the requested State, the requesting authority may, when applying paragraph 2 of this Article, transmit a completed standardised form to be adopted under Article 28(2) to the requested authority. In such cases, the requested authority shall seek the opinion of the suspect or accused person and send the form back to the requesting authority.** The opinion **of the suspects or accused persons** referred to in paragraph 2 **of this Article** ~~of the suspect or accused person~~ shall be taken into account by the requesting authority when deciding whether to request the transfer of criminal proceedings.

3. [moved to Article 15a]

Article 7

The rights of the victim

1. Before a request for **the** transfer of criminal proceedings is **issued** ~~made~~, the requesting authority shall, in accordance with applicable national law, give due consideration to the legitimate interests of the victim ~~and ensure that their rights under Union and national law are respected~~.

2. Provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation,** ~~and where~~ the **requesting authority shall inform the** victim **who** resides **or, in case of a legal person, is established** in the requesting State **and who has requested to receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU or, in case of a legal person, in accordance with national law, of the intended request for transfer of criminal proceedings,** in accordance with the applicable national law, ~~be informed of the intended transfer of criminal proceedings~~, in a language which they understand, and shall **provide them with** ~~be given~~ an opportunity to state their opinion. ~~Where the requesting authority considers it necessary in view of the victim's age or his or her physical or mental condition, that opportunity shall be given to victim's legal representative~~**. Where the request for the transfer of criminal proceedings follows a proposal from a victim in accordance with Article 5(3) of this Regulation, the requesting authority is not required to provide the above information to such victim.**

3. The opinion **of the victim** referred to in paragraph 2 ~~of the victim~~ shall be taken into account by the requesting authority when deciding whether to request the transfer of criminal proceedings.

4. *[moved to Article 15b]*

Article 8

Right to a legal remedy

[Moved to Article 15c]

Article 9

*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 ~~certificate~~ **request form** set out in the Annex. The requesting authority shall sign the **request form** ~~certificate~~ 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** ~~data~~ 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 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 suspect or accused person and 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(2) or 7(2), or the presentation of proposals 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 measure and the time limit for the application of such measure(s)**;

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

3. Where the suspect or accused person has given their opinion under Article 6(2) or **where** the victim has given their opinion under Article 7(2), that opinion shall be forwarded to the requested authority together with the request for transfer of criminal proceedings. If the opinion of the suspect~~, or~~ accused person or ~~the~~ 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** ~~certificate~~ referred to in paragraph 1, **as well as the essential parts of** ~~and, where so agreed with the requested authority,~~ 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 that the requested State will accept in accordance with Article 30(1), point (c).

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 18. The requesting and requested authorities shall carry out all other official communication directly or, where applicable, with the involvement of a central authority referred to in Article 18.

7. Where the requested authority is not known to the requesting authority, the latter shall make all necessary inquiries, including through the contact points of the European Judicial Network **as provided for by Council Decision 2008/976/JHA**[38], in order to determine which authority is competent for taking the decision under Article 12.

7a. Without undue delay after receipt of a request form, the requested authority shall send to the requesting authority an acknowledgement of receipt as soon as possible and in any event within seven days of receipt. Where a central authority has been designated in accordance with Article 18, this obligation applies both to the central authority and to the requested authority which receives the request for transfer of criminal proceedings from the central authority.

8. Where the authority in the requested State which received the request has no competence to take a decision under Article 12, 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.

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

Article 10

Information to be given by the requesting authority ***after the transmission of the request***

The requesting authority shall inform the requested authority of any procedural acts or measures with a bearing on the criminal proceedings that **were** ~~have been~~ undertaken in the requesting State after the transmission of the request without undue delay. **When communicating that ~~this~~ information to the requested authority, the requesting authority shall include all relevant documents.** ~~This communication shall be accompanied by all relevant documents.~~

The essential parts of t~~T~~he information and ~~the~~ relevant documents, referred to in the first paragraph shall be translated by the requesting authority into an official language of the requested State or any other language that the requested State will accept in accordance with Article 30(1), point (c).

Article 11

Withdrawal of the request

1. The requesting authority may withdraw the request for **the** transfer of criminal proceedings at any time before receiving the **reasoned** decision **of the** requested authority~~'s decision~~ to accept the transfer of criminal proceedings in accordance with Article 12. **In such an event, the requesting authority shall immediately inform the requested authority thereof.**

2. 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 12

Decision of the requested authority

1. The requested authority shall take a ~~reasoned~~ 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** ~~what~~ measures to **be** take**n** ~~thereon~~**. A decision to accept the transfer shall be duly reasoned.**

2. 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 ~~the~~ additional information **as** it deems necessary. **The requesting authority shall provide the requested additional information without undue delay, if available, together with a translation into an official language of the requested State or any other language that the requested State will accept in accordance with Article 30(1) point (c).**

2a. The requested authority shall communicate the decision referred to in paragraph 1 to the requesting authority, in accordance with the time-limits under Article 14.

3. If the requested authority decides to refuse the transfer of criminal proceedings in accordance with Article 13, ~~it~~ **the requested authority** shall, **upon request of the requesting authority,** inform **the latter** ~~the requesting authority~~ of the reasons for such refusal. ~~Information to the suspect or accused person and to the victim will take place in accordance with Articles 6(4) and 7(4) respectively.~~

~~4. If the requested authority has accepted the transfer of criminal proceedings, it shall inform the requesting authority about the legal remedies available to challenge the decision to accept the transfer of criminal proceedings, including the requirements and time limits to exercise these remedies. Information to the suspect or accused person and to the victim will take place in accordance with Articles 6(4) and 7(4) respectively.~~

5. **Where the requesting authority has received the reasoned decision to accept the transfer pursuant to paragraph 2a of this Article** ~~Wheren the requested authority has accepted the transfer of criminal proceedings~~, the requesting authority shall without **undue** delay forward 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 that the requested State will accept in accordance with Article 30(1), point (c).

5a. Upon request of the requested authority, the requesting authority shall transmit the original case file, including relevant physical evidence, to the requested authority without undue delay once the national proceedings are discontinued in accordance with Article 19. In case a certified copy of the file has been provided, only the relevant physical evidence shall be transmitted, unless the requested authority needs to examine original documents. The requesting State may require that the file or physical evidence be returned to the requesting State once it is no longer required in the requested State or at the end of the proceedings in the requested State at the latest.

5b. For the purposes of applying paragraphs 2, 5 and 5a, ~~Where necessary,~~ the requesting and requested authorities may consult each other in order to determine the necessary documents or parts of such documents to be forwarded, as well as to be translated.

Article 13

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** ~~against the suspect or accused person~~ in relation to the facts underlying the request for **the** transfer of criminal proceedings in one or more of the following situations:

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

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

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

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

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

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

   (f) if the requested State **has** ~~does~~ **neither** ~~have~~ jurisdiction over the criminal offence **in accordance with national law, nor jurisdiction on the basis of Article 3** ~~Such jurisdiction could also derive from 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 exist:

(a) there is ~~a~~ privilege or immunity under the law of the requested State which makes it impossible to take action;

(b) the requested authority considers that the transfer of criminal proceedings is not in the interest**s** of **the** ~~an~~ efficient and proper administration of justice;

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

(d) the request form ~~certificate~~ referred to in Article 9(1) is incomplete or manifestly incorrect and has not been completed or corrected following the 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 offence.

3. In any of the situations referred to in paragraphs 1 and 2, before deciding to refuse the transfer of criminal proceedings, either in whole or in part, the requested authority **may** ~~shall~~ consult the requesting authority and, where necessary, shall request **that it** ~~it to~~ provide**s** any necessary information without **undue** delay.

4. In the situation referred to in paragraph 2, point (a), 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** ~~it to~~ exercise that power **without undue delay.** ~~forthwith~~ 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 ~~to~~ exercise that power.

Article 14

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 case no later than 60 days after the receipt of the request for **the** transfer of criminal proceedings by the competent requested authority.

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

3. Where there is ~~an~~ privilege or immunity under the law of the requested State, the time limit referred to in paragraph 1 shall not **commence** ~~start running~~ unless, and ~~counting~~ from the day **on which** ~~when,~~ the requested authority is informed of the fact that the ~~the~~ privilege or immunity has been waived.

Article 15

Consultations between the requesting and requested authorities

1. Where necessary and without prejudice to Article~~s~~ 12(2), **(5), (5a) and (5b), Article** 13(3) and **Article** 17(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 and requested authorities** 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 **the** efficient and proper administration of justice. In order to propose **that** ~~the transfer of~~ criminal proceedings from the requesting State **be transferred**, the requested authority may also consult ~~with~~ the requesting authority **as to whether it would be** ~~about the possibility~~ possib**le to** ~~of~~ **issue** ~~issuing~~ a request for **the** transfer of criminal proceedings.

3. Whe**re**~~n~~ the requesting authority consults the requested authority prior to making a request for **the** transfer of criminal proceedings, it shall make ~~the~~ information regarding the criminal proceedings available to the requested authority, **unless it would undermine the confidentiality of an investigation or otherwise prejudice the investigation** ~~and may provide it to the requested authority using a certificate set out in the Annex~~.

4. Requests for consultations**, which are made under this Article,** shall be answered without **undue** delay.

Article 15a

Information to be provided to the suspect and accused person

1. Where the requested authority has taken a **reasoned** decision in accordance with Article 12(1) **to accept the transfer of proceedings**, the ~~requesting~~ **requested** authority shall, provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation**, ~~immediately~~ inform the suspect or accused person **without undue delay**, in a language which they understand, about the issuing of the request for **the** transfer of criminal proceedings and the subsequent acceptance **of the transfer by the requested authority, unless that person cannot be located or reached despite reasonable** efforts being made **by the requested authority**. ~~A competent authority of the requested State~~ **The requested authority shall provide the suspect or accused person with a copy of the reasoned decision accepting the transfer of proceedings and inform the suspect or accused person about their right to an effective legal remedy in the requested State, including the time limits for such a remedy.**

1a. If the suspect or accused person is in the requesting State, the requested authority may, when applying paragraph 1 of this Article, transmit the completed form to be adopted under Article 28(2) to the requesting authority. In such cases, the requesting authority shall provide the information to the suspect or accused person and inform the requested authority accordingly.

2. Where the requested authority has taken a decision in accordance with Article 12(1) **to refuse the transfer of proceedings**, the requesting authority shall, provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation**, ~~immediately~~ inform the suspect or accused person **without undue delay**, in a language which they understand, about the issuing of the request for transfer of criminal proceedings and the subsequent ~~acceptance or~~ refusal of the transfer by the requested authority, unless that person cannot be located **or reached** despite reasonable efforts being made by the **requesting** authority.

2a. If the suspect or accused person is in the requested State, the requesting authority may, when applying paragraph 2 of this Article, transmit the completed form to be adopted under Article 28(2) to the requested authority. In such cases, the requested authority shall provide the information to the suspect or accused person and inform the requesting authority accordingly.

Article 15b

Information to be provided to the victim

1. Where the requested authority has taken a **reasoned** decision in accordance with Article 12(1) **to accept the transfer of proceedings**, the requested authority shall, provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation**, ~~immediately~~ inform **without undue delay** the victim **who resides or, in the case of a legal person, is established in the requesting State and who has requested to 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, in accordance with national law,** in a language which they understand, about the issuing of the request for **the** transfer of criminal proceedings and the subsequent acceptance ~~or refusal~~ of the transfer by the requested authority, unless that person cannot be located **or reached** despite reasonable efforts being made by the **requested** authority. **The requested authority shall provide the victim with a copy of the reasoned decision accepting the transfer of proceedings and inform the victim about their right to an effective legal remedy in the requested State, including regarding the time limits for such a remedy.**

1a. If the victim is in the requesting State, the requested authority may, when applying paragraph 1 of this Article, transmit the completed form to be adopted under Article 28(2) to the requesting authority. In such cases, the requesting authority shall provide the information to the victim and inform the requested authority accordingly.

2. Where the requested authority has taken a decision in accordance with Article 12(1) **to refuse the transfer of proceedings**, the requesting authority shall, provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation**, ~~immediately~~ inform **without undue delay** the victim **who resides or, in case of a legal person, is established in the requesting Member State and who has requested to receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU or, in case of a legal person, in accordance with national law,** in a language which they understand, about the issuing of the request for transfer of criminal proceedings and the subsequent ~~acceptance or~~ refusal of the transfer by the requested authority unless that person cannot be located **or reached** despite reasonable efforts being made by the **requesting** authority. **Where appropriate, the requesting authority may seek the assistance of the** ~~competent authority of the requested State~~ **requested authority in order to carry out the tasks referred to in this paragraph.**

Article 15c

Right to an effective legal remedy

1. Suspects, accused persons and victims shall have the right to **an** effective legal remed**y**~~ies~~ in the requested State against a decision to accept the transfer of criminal proceedings.

2. The right to an **effective** legal remedy shall be exercised ~~before a court~~ in the requested State in accordance with its **national** law.

2a. The decision to accept the transfer of criminal proceedings shall be examined in accordance with national law on the basis of the criteria provided for in Article 13(1) and (2). In so far as discretion was exercised, the review shall be limited to assessing whether the requested authority has manifestly exceeded the limits of its discretion.

3. The time limit for seeking an effective legal remedy shall be no longer than 20 days from the date of receipt of ~~information about~~ the **reasoned** decision **to accept the transfer of criminal proceedings** ~~referred to in Article 12(1)~~. **Nevertheless, where the suspect, accused person or victim is not identified at the time of transfer, and the reasoned decision could therefore not be communicated to such persons at that time, the time limit shall run from the date of acceptance of the transfer by the requested authority. The final decision on the legal remedy shall be taken without undue delay and, where possible, within 60 days.**

4. **Any suspensive effect of a legal remedy against a decision to accept the transfer of criminal proceedings shall be governed by national law.**

~~Where the request for the transfer of criminal proceedings is issued after the suspect's or accused person's indictment, the invocation of an effective legal remedy against a decision to accept the transfer of criminal proceedings shall have suspensive effect.~~

5. The requested authority shall inform the requesting authority about the **effective** legal remedies sought under this Article**, and about their final outcome**.

Article 16

Cooperation with Eurojust and the European Judicial Network

The requesting and requested authorities may, at any stage of the procedure, request the assistance of Eurojust or the European Judicial Network in accordance with their respective competences. In particular, where appropriate, Eurojust may facilitate **the application of** ~~consultations referred to in~~ Article~~s~~ 12(2), **Article** 13(3), **Article** 15, **Article** 17(2) **and Article 19(2).**

Article 17

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 12**(2) and** (5) 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 with each other. ~~Where appropriate, Eurojust may facilitate such consultations.~~

Article 18

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 19

Effects in the requesting State

1. ~~At the latest~~ **U**pon receipt of the **reasoned decision** ~~notification of the acceptance by the requested authority of a~~ **to accept the** transfer of criminal proceedings **in accordance with Article 12(2a)**, **or of the final decision on a legal remedy invoked under Article 15c,** those 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 must revert to the requesting State, or the requesting authority has already done so under Article 4**. ~~, unless a legal remedy under Article 8 has been invoked with suspensive effect and until such time when the final decision on the legal remedy is taken.~~

2. Notwithstanding paragraph 1**, the criminal proceedings in the requesting State may remain open in order to allow the requesting authority to:** ~~the requesting authority may in accordance with its national law:~~

   (a) undertake necessary **urgent i**nvestigative or other procedural measures, including measures to prevent the suspect or accused person from absconding, **or freezing orders;**~~.~~, ~~in order to execute a decision based on Framework Decision 2002/584/JHA or another mutual recognition instrument or to reply to a request for mutual legal assistance;~~

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

2a. **Following a decision by the requested authority to accept a transfer of criminal proceedings, the requesting authority and the requested authority shall cooperate, to the greatest extent possible and in accordance with their national laws, in particular where the law of the requested State requires observation of certain formalities and procedures, notably concerning the admissibility of evidence.**

2b. **Where the execution of any mutual recognition or mutual legal assistance procedure 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.**

3. 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 request for **the** transfer of criminal proceedings, unless that decision, under the national law of the requested State, definitively bars further prosecution and therefore prevents further criminal proceedings, in respect of the same acts, in the requested State.

4. Paragraph 3 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, whe**re**~~n~~ 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 therefore prevents further criminal proceedings, in respect of the same acts, in th**e** ~~at~~ **requested** State.

Article 20

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 ~~or any act interrupting or suspending the period of limitation~~ shall have the same validity in the requested State as if it had been validly performed by its own authorities. **Without prejudice to Article 13(1), point (d), any act that interrupts or suspends the period of limitation when it has been validly performed in the requesting State shall have the same effects in the requested State if such act also interrupts or suspends the period of limitations under the law of the requested State.**

2a. 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 in that State, the requested State may, at the request of the requesting State, once it has received the transfer request and the related file, and before the decision to accept the transfer is made, arrest the suspect or accused person, or take any other measure to ensure that the suspect or accused person remains in its territory, or take any other provisional measures such as freezing, pending a decision to accept the transfer of criminal proceedings, in accordance with national law.

3. Evidence transferred by the requesting authority shall not be denied admission in criminal proceedings in the requested State on the mere 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 ~~fundamental principles of~~ **national** law of the requested State. **The power of the trial court to freely assess the evidence shall not be affected by this Regulation.**

4. Provided that a custodial sentence or detention order is issued in the requested State, the latter shall deduct all periods of detention spent in the requesting State, which were imposed in the context of the transferred criminal proceedings, from the total period of detention to be served in the requested State as a result of a custodial sentence or detention order being issued. 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.

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

6. The sentence applicable to the criminal offence shall be the one prescribed by the law of the requested State unless that law provides otherwise. The requested authority may take into consideration, in accordance with the applicable national law, the maximum sentence set out in the law of the requesting State, **where** ~~when~~ the criminal offence **was** ~~has been~~ perpetrated **on**~~in~~ the territory of the requesting State, and **where this is to the benefit of the accused person**. Where ~~the~~ jurisdiction is exclusively based on Article 3, the sentence imposed in the requested State shall not be more severe than the maximum sentence set out in the law of the requesting State.

Article 21

*Information to be ~~given~~ **provided** by the requested authority*

1. The requested authority **or, where applicable, other competent authority,** shall **provide** ~~inform~~ the requesting authority **with information on** ~~of~~ the discontinuation of criminal proceedings or ~~of~~ any decision delivered at the end of the criminal proceedings, including whether that decision, under the national law of the requested State, definitively bars further prosecution and therefore prevents further criminal proceedings, in respect of the same acts, in that State**, information on the final execution of the sentence imposed** or ~~of~~ other information of substantial value. It shall forward a copy of the **final** written decision delivered at the end of the criminal proceedings to the requesting authority.

2. The information and the final decision shall be provided, together with a translation of at least the essential parts thereof, into an official language of the requesting State or any other language that the requesting State will accept in accordance with Article 30(1), point (c).

CHAPTER 4
MEANS OF COMMUNICATION

Article 22

Means of communication

1. Communication under this Regulation, including the exchange of ~~certificate~~ **the request form** set out in the Annex, the decision referred to in Article 12(1) and other documents referred to in Article 12(5), between the requesting and requested authorities and with the involvement of central authorities, where a Member State has designated a central authority in accordance with Article 18, as well as with Eurojust, shall be carried out in accordance with Article 3 of Regulation (EU) …/…[Digitalisation Regulation].

2. Article **7**~~9~~(1) and (2)~~,~~ **and** Articles ~~10~~**8** and ~~15~~**14** of Regulation (EU) …/…[Digitalisation Regulation] 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 12(**5b**) and Article 15 between the requesting authority and the requested authority and with the involvement of the central authority(ies), where a Member State has designated a central authority in accordance with Article 18, as well as with Eurojust may be carried out using any appropriate means of communication, including through the decentralised IT system.

Article 23

Establishment of a decentralised IT system

1. The Commission shall **adopt implementing acts on** ~~, by means of implementing acts, establish~~ the decentralised IT system **referred to in Article 3(1) of Regulation (EU)[Digitalisation Regulation]** ~~for the purposes of this Regulation~~, setting out the following:

   (a) the technical specifications ~~defining~~ **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) ~~the~~ digital procedural standards as defined in Article 3, point (9), of Regulation (EU) 2022/850 **of the European Parliament and of the Council**[39].

2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 2~~6~~**9a**(2).

3. The implementing acts referred to in paragraph 1 shall be adopted by [*two years after the entry into force of this Regulation*].

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39 **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).**

Article 24

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 also 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 ~~the reference implementation software~~.

3a. The reference implementation software shall offer a common interface for communication with other national IT systems.

Article 25

Costs of the decentralised IT system

1. Each Member State **or entity operating an authorised e-CODEX access point as defined in Article 3(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~~'s access points~~ for which they are responsible.

2. Each Member State **or entity operating an authorised e-CODEX access point as defined in Article 3(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 ~~comprising~~ **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 th**at**~~is~~ system.

Article 26

(moved to Article 29a)

CHAPTER 5
FINAL PROVISIONS

Article 27

Monitoring ~~Statistics~~

1. Member States shall regularly collect comprehensive **information** ~~statistics~~ **in order for** ~~for the purpose of~~ **the Commission to** monitor~~ing~~ the application of this Regulation ~~by the Commission~~. **The competent a**uthorities **of the Member States** shall maintain **that information** ~~those statistics~~ and shall send **it** ~~them~~ to the Commission each year. They may process personal data necessary for the production of **that information** ~~the statistics~~.

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

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

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

(c) [transferred to paragraph 1b under a]

(d) the length of time to transmit information on the decision whether to accept **or refuse** the transfer of criminal proceedings;

(e) [transferred to paragraph 1b under b]

(f) [transferred to paragraph 1b under c]

1b. The information referred to in paragraph 1 may 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 legal remedies sought against the decisions to accept the transfer of criminal proceedings, including whether by a suspect, accused person or a victim, and the number of successfully challenged decisions;

(c) as of four years after the date of entry into force of the implementing acts referred to in Article 23(1), the costs incurred under Article 25(2).

2. The reference implementation software and, where equipped to do so, the national back-end system shall programmatically collect the data referred to in paragraph 1**a**, points (a), (b) and (d), and transmit them to the Commission on an annual basis.

2a. The information referred to in paragraph 1a of this Article shall be transmitted as of two years after the date of entry into force of the implementing acts referred to in Article 23(2).

Article 28

*Amendments to the ~~certificate~~ **request form and adoption of new forms***

1. The Commission is empowered to adopt delegated acts in accordance with Article 29 concerning the amendment of the Annex in order to update or make technical changes to th~~e~~**is** Annex. **Such amendments shall be in accordance with this Regulation and shall not affect it.**

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 in order to produce standard forms to be used for the purpose of seeking the opinion or providing information to suspects and accused persons and victims under Articles 6(2a), 15a(1a) and (2a) and 15b(1a).

3. The delegated acts referred to in paragraph 2 shall be adopted within 2 years after the entry into force of this Regulation.

Article 29

Exercise of delegation

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

2. The ~~delegation of~~ power **to adopt delegated acts** referred to in Article 28 shall be conferred **on the Commission** for an indeterminate period of time from [*date of application of this Regulation*].

3. The delegation of powers referred to in Article 28 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 ~~the~~ power specified in that decision. It shall take effect **on** 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 ~~of 13 April 2016~~.

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 28 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ~~2~~**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 ~~2~~ **two** months at the initiative of the European Parliament or of the Council.

*Article **29a** (ex Article 26)*
Committee procedure

1. **For the purpose of Article 23, ~~T~~t**he 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.

2a. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 30

Notifications

1. By [*date of application of this Regulation*] each Member State shall notify the Commission of the following:

   (a) the authorities which, in accordance with **their** ~~its~~ national law, are competent in accordance with Article 2, points (3) and (4), to issue and/or validate and execute requests for transfer of criminal proceedings;

   (b) the information regarding the designated central authority or authorities, if the Member State wishes to make use of the possibility provided under Article 18;

   (c) languages accepted for requests to transfer criminal proceedings, ~~and other~~ **for the submission of** supporting information **and for any communication between authorities, when acting as requesting and requested States**.

2. The Commission shall **ensure that** ~~make~~ the information received under paragraph 1 **is made** publicly available~~, either on a dedicated website or~~ on the website of the European Judicial Network ~~created by the Council Decision 2008/976/JHA~~.

Article 31

Relationship with international agreements and arrangements

1. Without prejudice to their application between Member States and third States, this Regulation replaces, **within its scope of application,** as from [*date of application 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 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 [*date of application of this Regulation*] of the agreements and arrangements referred to in paragraph 2 which they wish to continue **to** apply~~ing~~. 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 32

Reporting

By [*five years from the date of application 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 27(1) and collected by the Commission.

Article 33

Transitional provisions

1. This Regulation shall apply to request forms transmitted on or after [date of application of this Regulation]. Requests for the transfer of criminal proceedings received before [date of application of this Regulation] shall continue to be governed by existing instruments relating to the transfer of criminal proceedings.

2. Before the obligation referred to in Article 22(1) becomes applicable, communication between requesting 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 34

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 after the date of entry into force of this Regulation*].

The obligation for competent authorities to use the decentralised IT system for communication under this Regulation shall apply from the first day of the month following the period of two years after adoption of the implementing acts referred to in Article 23.

Done at Brussels,

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

ANNEX

~~CERTIFICATE~~ REQUEST FORM FOR THE TRANSFER OF CRIMINAL PROCEEDINGS

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

Section A
Requesting State: .....
Request~~ed~~ **ing** authority:
.....
Request~~ing~~ **ed** State:
.....
Requested authority: .....
Authority in the requested State that has been consulted prior to this request (if applicable):
……

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**

In case 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. [40]

(i) In case of natural person(s)
Last n~~N~~ame:.....
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) (ID card, passport), if available:
.....
Date of birth: .....
Place of birth:.....

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

Residence and/or known address; if address not known, state the last known address:
.....
Workplace (including contact details):……
Other contact details (email, phone No): …….
Language(s) that the person understands:…….
Other relevant information: ……
Please describe the position the concerned person currently holds in the proceedings:

☐ Suspect

☐ Accused person

☐ **The suspect or accused person has been made aware by the competent authorities that they are suspected or accused of having committed a criminal offence;**

☐ **The suspect or accused person has not been made aware by the competent authorities that they are suspected or accused of having committed a criminal offence;**

☐ **An indictment was 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 these criminal proceedings in the following period: …….. until …….(dd-mm-yyyy)**

(ii) In the case of legal person(s):
Name: .....
Form of legal person: .....
Shortened name, commonly used name or trading name, if applicable:
.....
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 position the concerned person currently holds in the proceedings:

☐ Suspect

☐ Accused person

☐ **The concerned person has been made aware by the competent authorities that they are suspected or accused of having committed a criminal offence;**

☐ **The concerned person has not been made aware by the competent authorities that they are suspected or accused of having committed a criminal offence;**

☐ **An indictment was issued against the concerned person in the relevant criminal proceedings.**

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

☐ The suspect or accused person ~~requested~~ **proposed** to initiate the procedure for transferring criminal proceedings.

☐ The suspect or accused person was informed of the intended transfer.

☐ The suspect or accused person was not informed of the intended transfer**/the opinion of the suspect or accused person was not sought** because:

☐ **it would have undermined the confidentiality or otherwise prejudiced the investigation;**

☐ **the person could not be located or reached despite reasonable efforts;**

☐ The suspect or accused person presented an opinion on the intended transfer. The opinion is attached to this request. ~~In summary, it states that:~~ **Please, see attachment.**

……

……..

☐ **The suspect or accused person did not present an opinion on the intended transfer.**

Section C: Identity of the victim**(s)** [41]

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) In case of natural person(s)
Last n~~N~~ame:.....
First name(s): .....
Sex:.....
Nationality:.....
Identity number or social security number**, if available**: .....
Type and number of the identity document(s) (ID card, passport), if available:
.....
Date of birth: .....
Place of birth: .....
Residence and/or known address; if address 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: ……

(ii) In the case of legal person(s):
Name: .....
Form of legal person: .....
Shortened name, commonly used name or trading name, if applicable:
.....
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)
☐ ~~The~~**One or more of the** victim**s proposed** ~~requested~~ to initiate the procedure for transferring criminal proceedings.
☐ ~~The~~**One or more of the** victim**s, who reside or are established in the requesting State and who requested to receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, or in case of a legal person, in accordance national law,** were ~~as~~ informed of the intended transfer.

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

☐ **One or more of the**~~The~~ victim**s, who reside or are established in the requesting State and who requested to receive information on the criminal proceedings in accordance with Article 6(1) of Directive 2012/29/EU, or, in case of a legal person, in accordance with national law, were** ~~was~~ not informed of the intended transfer because~~:~~

☐ **it would have undermined the confidentiality or otherwise prejudiced the investigation**

☐ **one or more of the** ~~The~~ victim**s** presented an opinion on the intended transfer. The opinion is attached to this request. **Please see attachment:**

……

……

☐ **None of the victims presented an opinion on the intended transfer.**

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 has reached:

☐ investigation**/prosecution**

~~☐ prosecution~~

☐ trial

2.1. Please provide further specifications as to the advancement of the investigation/prosecution or trial:

….....

3. Nature and legal classification of the criminal offence(s) for which the request is made~~:~~**, including** ~~4.~~ **I**~~i~~**nformation about the** ~~M~~**m**aximum penalty **for the relevant criminal offence(s) in the requesting State and the relevant provisions relating to penalties:**

:.....

5. Information about any act interrupting or suspending the period of limitation:

….....

…….

~~, the statute of limitations and the text of the statutory provision/code including the relevant provisions relating to penalties:~~

Section E: Information on the procedure in the requesting State

1. **All** ~~I~~**investigative measures or other** ~~P~~**p**rocedural acts **under**taken by the requesting State, :

A) measures to prevent the suspect or accused person from absconding or other preventive measures (please describe):.....

.....

B) freezing orders: ……..

.....

.....

C) investigative measures (please describe): ……

……

……

2.-Information on evidence collected

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

……..
……
……
~~3. List of documents available in the case file:……~~
……
……

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 impacts of the transfer on the rights of suspect(s) or accused person(s) and victim(s): ……...…
……
……
……

2. Criteria for requesting the transfer of criminal proceedings:

☐ the criminal offence has been committed ~~wholly or partly~~**in whole or in part on**~~in~~ the territory of the requested State, or most of the effects **of the criminal offence** or a substantial part of the damage**, which are or is part of the constituent elements of the criminal offence,** ~~caused by the criminal offence~~ occurred **on**~~in~~ the territory of the requested State;

☐ **one or more**~~the~~ suspect**s** or accused person**s are**~~is~~ ~~a~~ national**s** of or resident**s** in the requested State;

☐ **one or more**~~the~~ suspect**s** or accused person**s are**~~is~~ present in the requested State and that State refuses to surrender th**ose**~~is~~ person**s** to the requesting State ~~either~~ on the basis **of either** ~~of~~ **1)** Article 4**, point** (2) of ~~the~~ Framework Decision 2002/584/JHA, ~~or of~~ **2)** Article 4**, point** (3) **of Framework Decision 2002/584/JHA** ~~thereof~~ where such refusal is not based on a final judgement passed upon this person in respect of the same criminal offence which prevents further criminal proceedings, or **3)** ~~on the basis of~~ Article 4**, point** (7) of ~~that~~ Framework Decision **2002/584/JHA**;

☐ **one or more**~~the~~ suspect**s** or accused person**s are**~~is~~ present in the requested State and that State refuses to surrender th**ose**~~is~~ person**s** for whom a European arrest warrant has been issued, if it finds that there are, in exceptional situations, substantial grounds to believe, on the basis of specific and objective evidence, that surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as set out in Article 6 **TEU** ~~of the Treaty on European Union~~ and the Charter;

☐ most of the evidence relevant to the investigation is located in**,** or the majority of the relevant witnesses are ~~residing~~ **resident** in the requested State;

☐ there are ongoing criminal proceedings in the requested State in respect of 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**~~the~~ suspect**s** or accused person**s are**~~is~~ serving or **are**~~is~~ 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 ~~for~~ **of** social rehabilitation of the person sentenced or there are other reasons for a more appropriate enforcement of the sentence in the requested State; ~~or~~

☐ ~~the majority of~~**one or more** victims are nationals of or residents in the requested State. **Due account shall be taken of child victims.**

☐ **the competent authorities of Member States have reached consensus on the concentration of the 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, where relevant: ……..
……
……
3. Indicate any specific conditions of processing of the transmitted personal data with which the requested authority must comply with (Article 9(3) of Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data): …….
……
……
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: .....
Tel. No: (country code) (area/city code).....
E-mail address:.....
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: .....
E-mail address: .....
Contact Phone No: ……

3. Central authority, if applicable
Name/Title/Organisation:.....
Address: .....
E-mail address: .....
Contact Phone No: ……
4. Language(s) in which it is possible to communicate with the requesting authority:
.....

Electronic signature: [42]

~~3. Signature of the requesting authority and/or its representative certifying that:~~
~~- the content of the request as set out in this form is accurate and correct, and~~
~~- this request has been issued by a competent authority.~~

~~Name:~~ ……..
~~Post held:~~.....
~~Date:~~
~~Official stamp (if available):~~

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: .....
Tel. No: (country code) (area/city code) .....
E-mail address:.....
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:

~~3. Signature of the validating authority and/or its representative certifying that:~~
~~- the content of the request as set out in this form is accurate and correct, and~~
~~- this request has been issued by a competent authority.~~

~~Name:~~ .....
~~Post held:~~.....
~~Date:~~.....
~~Official stamp (if available):~~

[42] In accordance with Article 7 of the soon to be adopted Digitalisation Regulation.