

The transfer of proceedings in criminal matters

In April 2023, the European Commission proposed a regulation on the transfer of criminal proceedings between Member States. The European Parliament is due to vote on the agreement reached between the Parliament and Council during its April II session.

Background

The transfer of criminal proceedings between Member States has been unregulated at EU level. Only [13 EU Member States](#) have ratified the 1972 [Council of Europe Convention on the Transfer of Proceedings in Criminal Matters](#); 16 Member States [supported](#) a proposal for a framework decision on this issue in 2009, but no progress has been reached in negotiations since then. A 2023 Eurojust [report](#) identifies the current challenges, including disagreement on which state is best placed to prosecute, limits under applicable national laws, lack of communication, different practices on information transmitted with a request for transfer, and problems with translation. The report recommends a new EU legal instrument on transfer of proceedings, along with informal preliminary consultations before submitting a formal request for transfer, as well as involving Eurojust and joint investigation teams to smooth transfers.

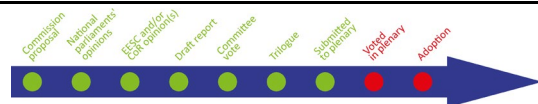
European Commission proposal

As part of the [2021-2025 EU strategy to tackle organised crime](#), and as announced in the [2022 Commission work programme](#), the Commission adopted a proposal for a [regulation on the transfer of proceedings in criminal matters](#) on 5 April 2023. The proposal establishes rules under which a Member State may take over criminal proceedings at the request of another Member State so that the best-placed Member State investigates or prosecutes a criminal offence. This will prevent duplication of proceedings and impunity where the European arrest warrant is not applied. The proposal covers grounds for jurisdiction, criteria under which a transfer can be requested, rights for suspects, accused persons and victims, a procedure for requesting a transfer, time limits for taking the decision and a list of grounds for refusing a transfer. On 22 May 2023, the European Data Protection Supervisor adopted its [opinion](#) on the proposal, welcoming it, but noting that clarification of the roles and responsibilities of central authorities pursuant to the proposal, and references to the data protection legal framework were needed.

European Parliament position

On 23 January 2024, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its [report](#). LIBE's decision to enter into interinstitutional negotiations was confirmed by plenary in February. The adopted report modified the Commission's proposal by, inter alia, extending the definition of the victim to legal persons who have suffered harm or economic loss as a direct result of the criminal offence, and giving more rights to victims. Proportionality is added to the reasons for a request for transfer of criminal proceedings; provision for coordination between the requested and the requesting authority after the transfer is also added. The Council had agreed on its [position](#) on 4 December 2023, elaborating on the rights of victims, suspects and accused persons. The Council and Parliament reached an [agreement](#) on 6 March 2024. The agreement, which needs now to be formally adopted by both co-legislators, [maintains](#) most of the Commission's proposal, and includes Parliament's position on legal persons as victims, and proportionality as a criterion for issuing a request for transfer.

First-reading report: [2023/0093\(COD\)](#); Committee responsible: LIBE; Rapporteur: Assita Kanko (ECR, Belgium).



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