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A9-0008/ 001-072

AMENDMENTS 001-072

by the Committee on Civil Liberties, Justice and Home Affairs

Report

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A9-0008/2024

The transfer of proceedings in criminal matters

Proposal for a regulation (COM(2023)0185 – C9-0128/2023 – 2023/0093(COD))

Amendment 1

Proposal for a regulation

Recital 7

Text proposed by the Commission

Amendment

(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.***

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

Amendment 2

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) This Regulation provides 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.

Amendment

(16) This Regulation provides 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 ***and the effective protection of fundamental rights of the suspect or accused persons, as well as of the victims, as enshrined in Union law,*** 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.

Amendment 3

Proposal for a regulation Recital 17

Text proposed by the Commission

(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

Amendment

(17) ***In addition to the jurisdiction which is already determined by the national law of the requested State,*** jurisdiction should be established ***based on specific grounds mentioned in this Regulation whenever that Member State is considered as being the best placed one to prosecute. The requested State should have jurisdiction*** in situations where the requested State refuses to surrender a suspect or accused person for whom a European arrest warrant has been issued and who is present in the requested State and is a national of or a resident in that State, where such refusal is based on specific grounds mentioned in this Regulation. ***For example, Article 4(7)***

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 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.

of Framework Decision 2002/584/JHA can be applied in situations where offences are committed in the territory of a requested State or in a third country by third country nationals This is particularly important as regards serious crimes violating fundamental values of the international community, such as war crimes or genocide, where a risk of impunity might arise due to a European arrest warrant being refused. 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 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.

Amendment 4

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) This Regulation does not affect procedural rights as enshrined in Union law, such as the Charter, the procedural rights directives 2010/64/EU⁵⁴,

Amendment

(20) This Regulation does not affect procedural rights as enshrined in Union law, such as the Charter, the procedural rights directives 2010/64/EU⁵⁴,

2012/13/EU⁵⁵, 2013/48/EU⁵⁶, (EU) 2016/343⁵⁷, (EU) 2016/800⁵⁸ and (EU) 2016/1919⁵⁹.

⁵⁴ 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).

⁵⁵ 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).

⁵⁶ 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).

⁵⁷ 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).

⁵⁸ 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).

⁵⁹ 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

2012/13/EU⁵⁵, 2013/48/EU⁵⁶, (EU) 2016/343⁵⁷, (EU) 2016/800⁵⁸ and (EU) 2016/1919⁵⁹. ***The requesting authority should ensure that the procedural rights under Union and national law are respected when requesting a transfer of criminal proceedings under this Regulation.***

⁵⁴ 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).

⁵⁵ 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).

⁵⁶ 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).

⁵⁷ 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).

⁵⁸ 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).

⁵⁹ 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

Amendment 5

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) This Regulation should not impose any obligation to request a transfer of criminal proceedings. When assessing whether a request for transfer of criminal proceedings should be issued, the requesting authority should examine whether such a transfer is necessary *and* appropriate. This 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.

Amendment

(23) This Regulation should not impose any obligation to request a transfer of criminal proceedings. When assessing whether a request for transfer of criminal proceedings should be issued, the requesting authority should examine whether such a transfer is necessary, appropriate, *as well as proportionate. Consequently, the requesting authority should, prior to issuing a request for a transfer, undertake an examination of the case to clarify the relevant facts and identify pertinent evidence in order to ascertain the necessity, appropriateness and proportionality of a transfer.* This 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, *taking into account all the relevant criteria specified in this Regulation on the basis of the investigative efforts undertaken in the requesting state prior to the issuance of the request for a transfer.*

Amendment 6

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) Where the *suspect* or accused *person 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*

Amendment

(25) Where the *suspects* or accused *persons are nationals* of the requested State or *residents* in that State, a transfer of criminal proceedings might be justified for the purpose of ensuring the right of the

or accused *person* to be present at trial, in accordance with Directive (EU) 2016/343. Similarly, where the *majority of* 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.

suspects or accused *persons* to be present at trial, in accordance with Directive (EU) 2016/343. Similarly, where the *victim or* 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.

Amendment 7

Proposal for a regulation Recital 26

Text proposed by the Commission

(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 be the object of consultations between the requesting and requested authorities. 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 a registration in an official residence register. Where that person is not registered in the requested State, residence could be indicated by the

Amendment

(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 be the object of consultations between the requesting and requested authorities. 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 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 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.***

Amendment 8

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) Suspects or accused persons or victims should have the possibility to request for the criminal proceedings concerning them to be transferred to

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 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.

Amendment

(29) Suspects or accused persons or victims should have the possibility to request for the criminal proceedings concerning them to be transferred to

another Member State. These requests 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 request of 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.

another Member State. These requests should not however impose any obligation on the requesting or requested authority to request or transfer criminal proceedings; ***thus, if the requesting authority decides to transfer the criminal proceedings following a request made by suspects or accused persons or victims, the decision on the request for transfer should be taken by the competent authorities of the requested State. A negative opinion of the suspect or accused person or of the victim with regards to the transfer of criminal proceedings should not prevent such transfer if the requested authority decides to accept the transfer in accordance with Article 12.*** If the authorities become aware of parallel criminal proceedings on the basis of a request of 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.

Amendment 9

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) The requesting authority should inform as soon as possible the suspect or accused person of the intended transfer 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. 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.

Amendment

(30) The requesting authority should inform as soon as possible the suspect or accused person of the intended transfer 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 ***and register*** their legitimate interests before issuing a request for transfer. 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

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 the suspect or accused person despite its reasonable efforts being made, the obligation to inform such person should apply from the moment these circumstances change.

that person, e.g. 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. ***Based on those elements and where appropriate, there might be situations where the suspect or accused person is not informed about the intended transfer, for example where there is the need to protect a witness or a victim before protection measures are adopted in the requesting State, or where it would prejudice another investigation that is intrinsically linked to the criminal proceeding being transferred. The suspect or accused person or the lawyer acting on behalf of that person should also be kept informed of substantial developments in relation to such request for transfer, provided that it would not undermine the confidentiality of the investigation or otherwise prejudice the investigation.*** Where the requesting authority cannot locate ***or reach*** the suspect or accused person despite its reasonable efforts being made, ***the requesting authority should be able to seek the assistance of the requested authority to carry out this task. Where the requesting authority cannot locate the suspect or accused person despite its reasonable efforts being made,*** the obligation to inform such person should apply from the moment these circumstances change.

Amendment 10

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) The rights of victims set out in Directive 2012/29/EU of the European Parliament and of the Council⁶³ should be

Amendment

(31) The rights of victims set out in Directive 2012/29/EU of the European Parliament and of the Council⁶³ ***including***

taken into account 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.

the right to information, should be taken into account in applying this Regulation. ***In exceptional cases, for example due to the high number of victims involved in a case, it should be possible to provide information to victims through the press, through an official website of the competent authority or through a similar communication channel, in line with Directive 2012/29/EU.*** 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.

⁶³ 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).

⁶³ 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).

Amendment 11

Proposal for a regulation Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Member States should provide that suspects, accused persons and victims have the right of access to the file as well as any other procedural rights which are necessary to exercise their right to an effective remedy. Access to the file should be limited to the documents related to the transfer of criminal proceedings and in order to exercise their right to an effective remedy.

Amendment 12

Proposal for a regulation Recital 38

Text proposed by the Commission

(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.

Amendment

(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. ***The decision to withdraw the request should be justified in writing and be shared with the suspect or accused persons and the victims.***

Amendment 13

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) Transfer of a criminal proceeding 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. 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 immunity or privilege in accordance with the law of the requested State, e.g. in relation to certain categories of persons (such as diplomats) or specifically

Amendment

(40) Transfer of a criminal proceeding 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. 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 immunity or privilege in accordance with the law of the requested State, e.g. 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 *certificate for a* request for transfer is incomplete or was incorrectly completed by the requesting authority, thus not enabling the requested authority to have the necessary information to assess the request for transfer of criminal proceedings.

protected relationships (such as lawyer-client privilege), or if the requested authority believes that such transfer is not justified by the interests of efficient and proper administration of justice, for instance because none of the criteria for requesting a transfer of criminal proceedings are met, or if the request *form* for transfer is incomplete or was incorrectly completed by the requesting authority, thus not enabling the requested authority to have the necessary information to assess the request for transfer of criminal proceedings. ***It is possible that the grounds for refusal provided for in this Regulation serve as an additional basis for assessment in order to ascertain whether a legal remedy should be pursued. Where discretion is granted under the optional grounds for refusal provided for in this Regulation, the court competent for the legal remedy in the requested State should be empowered to verify whether the authority in the requested State has made manifest errors in the exercise of that discretion.***

Amendment 14

Proposal for a regulation Recital 43

Text proposed by the Commission

(43) The acceptance of 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 be without prejudice to investigations or other procedural measures which 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

Amendment

(43) The acceptance of 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 be without prejudice to investigations or other procedural measures which 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 at length, if 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.

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 at length, if a legal remedy with a suspensive effect ***granted under national law*** 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.

Amendment 15

Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

Amendment

(43a) Once a transfer of proceedings has been granted and in order to facilitate an efficient process of the transfer the requesting and requested authorities should be able to consult each other to determine the necessary documents or parts of such documents to be forwarded, as well as to be translated, where necessary. However, the decision to only send parts of the documents should be balanced and based on a careful consideration of the documents in question so as to not prejudice the fairness of the proceedings.

Amendment 16

Proposal for a regulation Recital 49

Text proposed by the Commission

Amendment

(49) Member States should not be able to claim from each other compensation for

(49) Each Member State should bear its own costs of transfers of criminal

costs resulting from the application of this Regulation. However, when the requesting State has incurred large or exceptional costs, related to the translation of the documents in the case file to be transferred to the requested State, a proposal by the requesting authority to share the costs should be considered by the requested authority.

proceedings, including those related to the exercise of procedural rights to which the suspect or the accused person is entitled to in each of the Member States concerned, in accordance with the applicable Union and national law. Member States should not be able to claim from each other compensation for costs resulting from the application of this Regulation. However, when the requesting State has incurred large or exceptional costs, related to the translation of the documents in the case file to be transferred to the requested State, a proposal by the requesting authority to share the costs should be considered by the requested authority.

Amendment 17

Proposal for a regulation

Recital 50

Text proposed by the Commission

(50) The use of a standardised *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 also reduces translation costs and contributes to higher quality of requests.

Amendment

(50) The use of a standardised *request form* translated in all official Union languages *should* 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 also reduces translation costs and contributes to higher quality of requests.

Amendment 18

Proposal for a regulation

Recital 51

Text proposed by the Commission

(51) The *certificate* should only include personal data necessary to facilitate the requested authority's decision on the request. The *certificate* should contain an indication of the categories of personal

Amendment

(51) The *request form* should only include personal data necessary to facilitate the requested authority's decision on the request. The *request form* should contain an indication of the categories of personal

data, such as whether the related person is suspect, accused or victim, as well as the specific fields for each of these categories.

data, such as whether the related person is suspect, accused or victim, as well as the specific fields for each of these categories.

Amendment 19

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) In order to effectively address a possible need for improvement regarding the *certificate* to be used to request transfer of criminal proceedings, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the Annex to this Regulation. It is of particular importance that the Commission carries 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-Making⁶⁷. 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.

⁶⁷ OJ L 123, 12.5.2016, p. 13.

Amendment

(52) In order to effectively address a possible need for improvement regarding the *request form* to be used to request transfer of criminal proceedings, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the Annex to this Regulation. It is of particular importance that the Commission carries 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-Making⁶⁷. 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.

⁶⁷ OJ L 123, 12.5.2016, p. 13.

Amendment 20

Proposal for a regulation Recital 53

Text proposed by the Commission

(53) In order to ensure swift, direct,

Amendment

(53) In order to ensure 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**]⁶⁸. In particular, the decentralised IT system should, as a rule, be used for the exchange of the *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.

⁶⁸ **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 ...*).

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) **2023/2844 of the European Parliament and of the Council**⁶⁸. In particular, the decentralised IT system should, as a rule, be used for the exchange of the *request form* 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 2023/2844**) 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.

⁶⁸ **Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023** on the digitalisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain acts in the field of judicial cooperation (*OJ L, 2023/2844, 27.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2844/oj>*).

Amendment 21

Proposal for a regulation Recital 55

Text proposed by the Commission

(55) The Commission should be responsible for the creation, maintenance and development of this reference implementation software. The Commission

Amendment

(55) The Commission should be responsible for the creation, maintenance and development of this 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) 2018/1725⁶⁹ and (EU) 2016/679⁷⁰** of the European Parliament and of the Council and Directive (EU) 2016/680 of the European Parliament and of the **Council⁷¹**, 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 does not process personal data in the context of creation, maintenance and development of this reference implementation software.

⁶⁹ 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).

⁷⁰ **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).**

⁷¹ 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

should design, develop and maintain the reference implementation software in a way that allows the controllers to ensure compliance with the data protection requirements and principles laid down in **Regulation (EU) 2018/1725 of the European Parliament and of the Council⁶⁹** and Directive (EU) 2016/680 of the European Parliament and of the **Council⁷¹**, 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 does not process personal data in the context of creation, maintenance and development of this reference implementation software.

⁶⁹ 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).

⁷¹ 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).

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).

Amendment 22

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

2. This Regulation shall apply in all cases of transfer of criminal proceedings *in the Union from the time where a person has been identified as a suspect.*

Amendment

2. This Regulation shall apply in all cases of transfer of criminal proceedings ***that are being conducted in Member States of the Union.***

Amendment 23

Proposal for a regulation Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) ‘victim’ means a victim as defined in Article 2(1), point (a), of Directive 2012/29/EU.

Amendment

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

Amendment 24

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. The jurisdiction established by the requested State exclusively by virtue of paragraph 1 may be exercised only

Amendment

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.

pursuant to a request for transfer of criminal proceedings ***under this Regulation.***

Amendment 25

Proposal for a regulation Article 4 – title

Text proposed by the Commission

Waiver, suspension or discontinuation of criminal proceedings.

Amendment

Waiver, suspension or discontinuation of criminal proceedings ***by the requested State***

Amendment 26

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

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.

Amendment

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 ***and that it is proportionate to do so.***

Amendment 27

Proposal for a regulation Article 5 – paragraph 2 – point j

Text proposed by the Commission

(j) the ***majority of*** victims are nationals of or residents in the requested State.

Amendment

(j) the ***victim or*** victims are nationals of or residents in the requested State.

Amendment 28

Proposal for a regulation
Article 5 – paragraph 2 – point j a (new)

Text proposed by the Commission

Amendment

(ja) the consultations of Member States' competent authorities under Framework Decision 2009/958/JHA have resulted in an agreement on the concentration of the parallel proceedings in one Member State.

Amendment 29

Proposal for a regulation
Article 5 – paragraph 2 – point j b (new)

Text proposed by the Commission

Amendment

(jb) whether the transfer of proceedings would contribute to the achievement of restorative justice objectives.

Amendment 30

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The suspect or accused person, or the ***majority of*** victims, or a lawyer on their behalf, may ***also request*** the competent authorities of the requesting State ***or of the requested State to initiate a procedure for transferring*** criminal proceedings under this Regulation. 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.

3. The suspect or accused person, ***the victim*** or the victims, or a lawyer on their behalf, may request the competent authorities of the requesting State ***to transfer*** criminal proceedings under ***the conditions of*** this Regulation. ***If such request of the suspect or accused person, or of the victim or victims, or of an acting lawyer on their behalf is made to the competent authority in the requesting State, that authority may decide to consult the competent authority in the requested State in accordance with Article 15(2).*** 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.

Amendment 31

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

2. Provided that it would not undermine the confidentiality of an investigation, the suspect or accused person shall, in accordance with applicable national law, be informed of the intended transfer of criminal proceedings, in a language which they understand, and shall be given an opportunity to state their opinion orally or in writing, unless that person cannot be located despite reasonable efforts being made by the requesting authority. 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 transfer of criminal proceedings follows a request from the suspect or accused person under Article 5(3), such a consultation with the suspect or accused person who made the request is not required.

Amendment

2. Provided that it would not undermine the confidentiality of an investigation, ***or otherwise prejudice the investigation, or hamper the proper administration of justice or affect the rights of the victims*** the suspect or accused person, ***who has already been notified that they are suspected or accused of having committed an offence***, shall, in accordance with applicable national law, be informed of the intended transfer of criminal proceedings, in a language which they understand, and shall be given an opportunity to state their opinion orally or in writing ***prior to the intended transfer***, unless that person cannot be located ***or reached*** despite reasonable efforts being made by the requesting authority. 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 ***prior to the intended transfer***. Where the request for transfer of criminal proceedings follows a request from the suspect or accused person under Article 5(3), such a consultation with the suspect or accused person who made the request is not required.

Amendment 32

Proposal for a regulation Article 6 – paragraph 3

Text proposed by the Commission

3. ***The opinion referred to in***

Amendment

3. ***Where*** the suspect or accused person

paragraph 2 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.

decides to state an opinion as referred to in paragraph 2, it shall be delivered no later than ten days after the suspect or accused person has been informed of the intended transfer and given the opportunity to state their opinion. Such opinion shall be taken into account and be registered by the requesting authority when deciding whether to request the transfer of criminal proceedings.

Amendment 33

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

4. Where the *requested authority has taken a decision* in accordance with *Article 12(1)*, the requesting authority shall, *provided that it would not undermine the confidentiality of an investigation*, immediately *inform the suspect or accused person*, 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 despite reasonable efforts being made by the requesting authority. If the requested authority has taken a decision to accept the transfer of criminal proceedings, the suspect or accused person shall also be informed about their right to a legal remedy in the requested State, including about the time limits for such a remedy.*

Amendment

4. Where the *suspect or accused person has been informed about the intended transfer* in accordance with *paragraph 2*, the requesting authority shall *also inform them* immediately, in a language which they understand, about the issuing of the request for transfer of criminal proceedings.

Amendment 34

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. Provided that it would not undermine the confidentiality of an investigation, **and where the victim resides** in the requesting State, **they** shall, in accordance with applicable national law, be informed of the intended transfer of criminal proceedings, in a language which they understand, and shall be given an opportunity to state their opinion orally or in writing. 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.

Amendment

2. Provided that it would not undermine the confidentiality of an investigation **or otherwise prejudice the investigation, or hamper the proper administration of justice or affect the rights of other victims, victims who reside** in the requesting State, **and who receive the information specified in Article 6(1), point (a), of Directive 2012/29/EU, as implemented by national law**, shall in accordance with applicable national law, be informed of the intended transfer of criminal proceedings, in a language which they understand, and shall be given an opportunity to state their opinion orally or in writing. 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.

Amendment 35

Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. The opinion 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.

Amendment

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

Amendment 36

Proposal for a regulation
Article 7 – paragraph 4

Text proposed by the Commission

4. Where the **requested authority has taken a decision** in accordance with **Article 12(1)**, the requesting authority

Amendment

4. Where the **victim has been informed about the intended transfer** in accordance with **paragraph 2**, the requesting authority

shall, *provided that it would not undermine the confidentiality of an investigation*, immediately inform *the* victim residing in the requesting State, 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*. *If the requested authority has accepted the transfer of criminal proceedings, the victim shall also be informed about their right to a legal remedy available in the requested State, including about the time limits for such a remedy.*

shall immediately inform *that* victim residing in the requesting State, in a language which they understand, about the issuing of the request for transfer of criminal proceedings.

Amendment 37

Proposal for a regulation Article 8

Text proposed by the Commission

Amendment

Article 8

deleted

Right to a legal remedy

- 1. Suspects, accused persons, and victims shall have the right to effective legal remedies in the requested State against a decision to accept the transfer of criminal proceedings.*
- 2. The right to a legal remedy shall be exercised before a court in the requested State in accordance with its law.*
- 3. The time limit for seeking a legal remedy shall be no longer than 20 days from the date of receipt of information about the decision referred to in Article 12(1).*
- 4. Where the request for transfer of criminal proceedings is issued after the suspect's or accused person's indictment, the invocation of a 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 legal remedies sought under this Article.

(Article 8 becomes Article 15c)

Amendment 38

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 39

Proposal for a regulation Article 9 – paragraph 2 – point f

Text proposed by the Commission

(f) information on procedural acts or measures with a bearing on the criminal proceedings that have been undertaken in the requesting State;

Amendment

(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**;

Amendment 40

Proposal for a regulation Article 9 – paragraph 5

Text proposed by the Commission

5. The completed **certificate** referred to in paragraph 1 and, where so agreed with the requested authority, any other written information accompanying the request for

Amendment

5. The completed **request form** referred to in paragraph 1 and, where so agreed with the requested authority, any other written information accompanying 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).

request for 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).

Amendment 41

Proposal for a regulation Article 9 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The requested authority shall as soon as possible acknowledge the receipt of the request.

Amendment 42

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

Amendment

1. The requesting authority may withdraw the request for transfer of criminal proceedings at any time before receiving the requested authority's decision to accept the transfer of criminal proceedings in accordance with Article 12.

1. The requesting authority may withdraw the request for transfer of criminal proceedings at any time before receiving the requested authority's decision to accept the transfer of criminal proceedings in accordance with Article 12. ***The requesting authority shall inform the suspect and accused person that has been informed in accordance with Article 6(2) and the victim that has been informed in accordance with Article 7(2) about the withdrawal decision in a language which they understand,***

Amendment 43

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

1. The requested authority shall take a reasoned decision on whether to accept the transfer of criminal proceedings and shall decide, in accordance with its national law, what measures to take thereon.

Amendment

1. The requested authority shall take a reasoned decision on whether to accept the transfer of criminal proceedings and shall decide, in accordance with its national law, what measures to take thereon. ***The requested authority shall inform the requesting authority of its reasoned decision in accordance with the time limits of Article 14.***

Amendment 44

**Proposal for a regulation
Article 12 – paragraph 3**

Text proposed by the Commission

3. If the requested authority decides to refuse the transfer of criminal proceedings in accordance with Article 13, it shall inform 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.

Amendment

3. If the requested authority decides to refuse the transfer of criminal proceedings in accordance with Article 13, it shall inform 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 **15a and 15b** respectively.

Amendment 45

**Proposal for a regulation
Article 12 – paragraph 5**

Text proposed by the Commission

5. When the requested authority has accepted the transfer of criminal proceedings, the requesting authority shall without 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). Where necessary, the requesting and

Amendment

5. When the requested authority has accepted the transfer of criminal proceedings, ***and only after the decision on the legal remedy has been taken***, the requesting authority shall without 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

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.

30(1), point (c). 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.

Amendment 46

Proposal for a regulation

Article 13 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

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

Amendment 47

Proposal for a regulation

Article 13 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) if the requested State ***does not have*** jurisdiction over the criminal offence. ***Such*** jurisdiction ***could also derive from*** Article 3.

(f) if the requested State ***has neither*** jurisdiction over the criminal offence ***in accordance with national law, nor*** jurisdiction ***on the basis of*** Article 3.

Amendment 48

Proposal for a regulation

Article 13 – paragraph 2 – point a

Text proposed by the Commission

Amendment

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

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

Amendment 49

Proposal for a regulation
Article 13 – paragraph 2 – point d

Text proposed by the Commission

(d) the *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.

Amendment

(d) the *request form* 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.

Amendment 50

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. Consultations *may* also take place before the request for transfer of criminal proceedings is issued, in particular with a view to determining whether the transfer would serve the interests of efficient and proper administration of justice. In order to propose the transfer of criminal proceedings from the requesting State, the requested authority *may* also consult with the requesting authority about the possibility of issuing a request for transfer of criminal proceedings.

Amendment

2. Consultations *shall* also take place before the request for transfer of criminal proceedings is issued, in particular with a view to determining whether the transfer would serve the interests of efficient and proper administration of justice *and be proportionate*. In order to propose the transfer of criminal proceedings from the requesting State, the requested authority *shall* also consult with the requesting authority about the possibility of issuing a request for transfer of criminal proceedings.

Amendment 51

Proposal for a regulation
Article 15 – paragraph 3

Text proposed by the Commission

3. When the requesting authority consults the requested authority prior to making a request for transfer of criminal proceedings, it shall make the information regarding the criminal proceedings available to the requested authority and may provide it to the requested authority using a *certificate* set out in the Annex.

Amendment

3. When the requesting authority consults the requested authority prior to making a request for transfer of criminal proceedings, it shall make the information regarding the criminal proceedings available to the requested authority and may provide it to the requested authority using a *request form* set out in the Annex.

Amendment 52

Proposal for a regulation Article 15 – paragraph 4

Text proposed by the Commission

4. Requests for consultations shall be answered without delay.

Amendment

4. Requests for consultations shall be answered without **undue** delay.

Amendment 53

Proposal for a regulation Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Information to be provided to the suspect and accused person

1. Where the requested authority has taken a decision in accordance with Article 12(1) to accept the transfer of proceedings, the requested authority shall, provided that that transfer would not undermine the confidentiality of an investigation or otherwise prejudice the investigation, immediately inform the suspect or accused person, in a language which that suspect or accused person understands, about the acceptance of the transfer by the requested authority, unless that person cannot be located or reached despite reasonable efforts being made by the requested authority. The requested authority shall provide the suspect or accused person with a copy of the reasoned decision accepting the transfer of proceedings. The requested authority shall also inform the suspect or accused person, unless that suspect or accused person cannot be located or reached, despite reasonable efforts being made by the requested authority about their right to an effective legal remedy in the

requested State, including about the time limits for such a remedy. Where appropriate, the requested authority may seek the assistance of the requesting authority in order to carry out the tasks referred to in this paragraph.

2. Where the requested authority has taken a decision in accordance with Article 12(3) to refuse the transfer of proceedings, the requesting authority shall, provided that that transfer would not undermine the confidentiality of an investigation or otherwise prejudice the investigation, inform the suspect or accused person who has already been notified that they are suspected or accused of having committed an offence, without undue delay, in a language which that suspect or accused person they understands, about the decision for 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 requested authority in order to carry out the tasks referred to in this paragraph.

Amendment 54

Proposal for a regulation Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Information to be provided to the victim

1. Where the requested authority has taken a decision in accordance with Article 12(1) to accept the transfer of proceedings and provided that that transfer would not undermine the confidentiality of an investigation or otherwise prejudice the investigation, the requested authority shall, without undue

delay, inform the victim who receives the information on the criminal proceedings in accordance with Directive 2012/29/EU, as implemented by national law in a language which that victim understands, about the acceptance of the transfer by the requested authority, unless that victim cannot be located or reached anymore, despite reasonable efforts being made by the requested authority. The requested authority shall also inform the victim about his or her right to an effective legal remedy in the requested State, including regarding the time limits for such a remedy. Where appropriate, the requested authority may seek the assistance of the requesting authority in order to carry out the tasks referred to in this paragraph.

2. Where the requested authority has taken a decision in accordance with Article 12(3) to refuse the transfer of proceedings, the requesting authority shall, provided that that transfer would not undermine the confidentiality of an investigation or otherwise prejudice the investigation, inform without undue delay the victim who has requested to receive information on the criminal proceedings in accordance with Directive 2012/29/EU, in a language which that victim understands, about the refusal of the transfer by the requested authority, unless that person cannot be located or reached anymore. Where appropriate, the requesting authority may seek the assistance of the requested authority in order to carry out the tasks referred to in this paragraph.

Amendment 55

Proposal for a regulation Article 15 c (new)

Text proposed by the Commission

Amendment

Article 15c

Right to an effective legal remedy

- 1. Suspects, accused persons, and victims shall have the right to effective legal remedies 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 applicable national law. The court shall examine the validity of the decision to accept the transfer of criminal proceedings in the light of the relevant provisions of this Regulation and, where possible, shall take its decision on the legal remedy within 60 days.***
- 3. Member States shall ensure that suspects, accused persons, and victims receive the decision on the acceptance of transfer and also have the right of access to all documents that formed the basis for the decision to accept a transfer under this Regulation. Such access may be limited where it would undermine the confidentiality of an investigation, or otherwise prejudice the investigation. Member States shall also comply with any other procedural obligations which are necessary to effectively exercise right of the suspects, accused persons and victims to an effective remedy.***
- 4. The time limit for seeking an effective legal remedy shall be no longer than 14 days from the date of receipt of information about the decision on accepting the transfer of criminal proceedings referred to in Article 12. The court in the requested State shall take its decision on the legal remedy without undue delay and, where possible, within 60 days.***
- 5. Where the request for transfer of criminal proceedings is issued after the suspect's or accused person's indictment, the invocation of a legal remedy against a decision to accept the transfer of criminal proceedings, shall have suspensive effect.***

6. *The requested authority shall inform the requesting authority about the effective legal remedies sought under this Article and about the final outcome of such legal remedies within five days from the moment the decision on the legal remedies is taken.*

Amendment 56

Proposal for a regulation Article 16 – paragraph 1

Text proposed by the Commission

1. 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 consultations referred to in Articles **12(2)**, 13(3), 15 and 17(2).

Amendment

1. 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 consultations referred to in Articles **9(7)**, **12(2) and 12(5)**, 13(3), 15 and 17(2) **and Article 19**.

Amendment 57

Proposal for a regulation Article 19 – paragraph 2 – point b

Text proposed by the Commission

(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 Framework Decision 2002/584/JHA or another mutual recognition instrument or a request for mutual legal assistance.

Amendment

(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 Framework Decision 2002/584/JHA or another mutual recognition instrument or a request for mutual legal assistance; ***those measures may also be maintained if the mutual recognition request has not yet been issued, provided that it is likely to be issued without undue delay once the request for transfer has been accepted.***

Amendment 58

Proposal for a regulation Article 19 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) coordinate, after the transfer of criminal proceedings, with the requested authority, and with the early involvement of Eurojust, on provisional measures taken before transfer.

Amendment 59

Proposal for a regulation Article 19 – paragraph 3

Text proposed by the Commission

Amendment

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 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.

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 transfer of criminal proceedings, unless that decision, under the national law of the requested State, definitively bars further prosecution **has been given following a determination of the merits of the case**, therefore **preventing** further criminal proceedings, in respect of the same acts, in the requested State. **Any decision on the continuation or reopening of a suspended or discontinued proceeding in the requesting State, shall be subject to judicial review. The judicial review and the procedure shall be determined according to the national law of the requesting State and shall ensure an independent assessment on the respect of the ne bis in idem principle .**

Amendment 60

Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. Paragraph 3 shall not affect to the right of victims to initiate or to request reopening of criminal proceedings against the suspect or accused person in the requesting State, when 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 that State.

Amendment

4. Paragraph 3 shall not affect to the right of victims to initiate or to request reopening of criminal proceedings against the suspect or accused person in the requesting State, when 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 **has been given following a determination of the merits of the case**, therefore **preventing** further criminal proceedings, in respect of the same acts, in that State. **Any decision on the continuation or reopening of a suspended or discontinued proceeding in the requesting State, shall be subject to judicial review. The judicial review and the procedure shall be determined according to the national law of the requesting State.**

Amendment 61

Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

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.

Amendment

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

Amendment 62

Proposal for a regulation Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any act interrupting or suspending the period of limitation shall have the same validity in the requested State only if such act qualifies as an act interrupting or suspending the period of limitation under national law.

Amendment 63

Proposal for a regulation Article 20 – paragraph 3

Text proposed by the Commission

Amendment

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 not contrary to the fundamental principles of law of the requested State.

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 **and admissible** in the requesting State may be used in criminal proceedings in the requested State, provided that the admissibility of such evidence is not contrary to the fundamental principles of law of the requested State. **The judicial discretion to assess such evidence by the court in requested State shall be maintained.**

Amendment 64

Proposal for a regulation Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that there are effective remedies in place in the requested State to assess the admissibility

of evidence. Without prejudice to paragraph 3, the requested State shall take into account a successful remedy in respect of the gathering, admissibility or transmission of the evidence in the State where the evidence was gathered.

Amendment 65

Proposal for a regulation Article 20 – paragraph 4

Text proposed by the Commission

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.

Amendment

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. ***Equally, where the person is detained pending proceedings in the requested State, all periods of detention spent in the requesting State shall be taken into account in order to determine any maximum periods of detention applicable to such detention, in order to assess the proportionality of that measure in the requested State, unless the competent authority in the requested State decides that all or part of that detention period shall be omitted, according to the national law, if it is not justified in the light of the conduct of the convicted person following the offence.***

Amendment 66

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

1. The requested **authority** shall inform the requesting authority 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 or of other information of substantial value. It shall forward a copy of the written decision delivered at the end of the criminal proceedings to the requesting authority.

Amendment

1. **The competent authority issuing the final decision in** the requested **Member State** shall inform the requesting authority 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 or of other information of substantial value. It shall forward a copy of the written decision delivered at the end of the criminal proceedings to the requesting authority.

Amendment 67

Proposal for a regulation
Article 22 – paragraph 1

Text proposed by the Commission

1. Communication under this Regulation, including the exchange of **certificate** 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**].

Amendment

1. Communication under this Regulation, including the exchange of **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) 2023/2844.

Amendment 68

Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. Article 9(1) and (2), Articles 10 and 15 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.

Amendment

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

Amendment 69

Proposal for a regulation

Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***The Commission shall, by means of implementing acts, establish the decentralised IT system*** for the purposes of this Regulation, setting out the following:

Amendment

1. For the purposes of this Regulation, ***the Commission shall adopt implementing acts as regards the decentralised IT system referred to in Article 3(1) of Regulation (EU) 2023/2844***, setting out the following:

Amendment 70

Proposal for a regulation

Article 27 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***Member States shall regularly collect comprehensive*** statistics for the purpose of monitoring the application of this Regulation by the Commission. ***Authorities shall maintain those statistics and shall send them to the Commission each year. They may process personal data necessary for the production of the statistics. Those statistics shall include:***

Amendment

1. Statistics for the purpose of monitoring the application of this Regulation by the Commission shall ***be collected at regular intervals by the Member States. Such statistics shall be collected through the decentralised IT system established by Regulation (EU) 2023/2844 and only if they are available at a central level in the Member State concerned. Personal data necessary for the production of the statistics may be processed.*** Those statistics are:

Amendment 71

Proposal for a regulation Article 28 – title

Text proposed by the Commission

Amendments to the *certificate*

Amendment

Amendments to the *request form*

Amendment 72

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

2. The Commission shall make the information received under paragraph 1 publicly available, either on a dedicated website or on the website of the European Judicial Network created by the Council Decision 2008/976/JHA⁷⁶.

⁷⁶ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130).

Amendment

2. The Commission shall make the information received under paragraph 1 publicly available ***and up-to-date***, either on a dedicated website or on ***the unrestricted area of*** the website of the European Judicial Network created by the Council Decision 2008/976/JHA⁷⁶.

⁷⁶ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130).