

# Eurojust Report on Transfer of Proceedings in the EU

**Cornelia Riehle**

## News

On 18 January 2023, Eurojust published its first [report on the transfer of proceedings in the EU](#). The report examines the legal framework for the transfer of criminal proceedings in the EU, outlines the role of Eurojust in conflicts of jurisdiction and transfers of proceedings, and provides examples of recent challenges and best practices. The report is based on responses from Eurojust National Desks, the analysis of cases occurring between 2019 and 2021, and findings from previous reports.

The difficulties arising from the absence of a specific EU instrument regulating transfers of proceedings is one of the key issues identified in the report. It follows that EU Member States need to take recourse to a plurality of legal bases. Looking at the different national laws in this regard, the following obstacles exist:

- Differences regarding the notion of criminal proceedings;
- Different conditions, criteria, and grounds for not accepting a transfer of proceedings;
- Differences regarding who the competent authorities are for deciding a transfer of proceedings;
- Differences regarding the procedural safeguards granted to suspects and victims;
- Differences regarding legal remedies available to suspects and/or victims;
- The effects of the transfer of proceedings in the requesting State in which the criminal proceedings may be either closed or suspended.

Recurrent issues identified by the report include, for instance, the following:

- The (dis)agreement on which State is best placed to prosecute as well as existing limits under applicable national law;
- The involvement of central authorities, including lack of communication, the information to be transmitted with a request for transfer, translations, and practical issues regarding transfer of the case file;
- The involvement of suspects and victims;
- The coordination of provisional measures;
- The admissibility of evidence.

In its conclusions, the report makes the following recommendations:

- To hold informal preliminary consultations among the national judicial authorities involved before actually submitting a formal request for a transfer;
- To involve Eurojust during the entire life cycle of the case;

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- To use Joint Investigation Teams (JITs), given their role in preventing conflicts of jurisdiction and in streamlining transfers of proceedings;
- To follow the examples of best practice outlined in the report with regard to practicalities for the transfer.

Lastly, the report calls for a new EU legal instrument to lay down common criteria and procedures for transferring criminal proceedings to another EU Member State and includes some proposals on the content of such an instrument.

The [Commission is planning](#) to launch a legislative initiative that will put in place common rules for transferring criminal proceedings between EU countries.

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