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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	5 April 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 185 final (Annex)
Subject:	ANNEX to the Proposal for a Regulation of the European Parliament and of the Council on the transfer of proceedings in criminal matters

Delegations will find attached document COM(2023) 185 final (Annex).

Encl.: COM(2023) 185 final (Annex)



EUROPEAN
COMMISSION

Brussels, 5.4.2023
COM(2023) 185 final

ANNEX

ANNEX

to the Proposal for a

Regulation of the European Parliament and of the Council

on the transfer of proceedings in criminal matters

{SWD(2023) 77 final} - {SWD(2023) 78 final}

ANNEX

CERTIFICATE FOR THE TRANSFER OF CRIMINAL PROCEEDINGS

The purpose of this certificate is to:

- ☐ Consult on a possible transfer of criminal proceedings;
☐ Request a transfer of criminal proceedings.

Section A

Requesting State:
Requested authority:
Requesting State:
Requested authority:
Authority in the requested State that has been consulted prior to this request (if applicable):
.....

Section B: Identity of the suspect or accused person

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

(i) In case of natural person(s)

Name:

First name(s):

Other relevant name(s), if applicable:

Aliases, if applicable:

Sex:

Nationality:

Identity number or social security number:

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

Date of birth:

Place of birth:

Residence and/or known address; if address not known, state the last known address:
.....

Workplace (including contact details):

Other contact details (email, phone No):

Language(s) that the person understands:

Other relevant information:

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspect

☐ Accused person.

(ii) In the case of legal person(s):

Name:

Form of legal person:

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

.....

Registered seat/office:

Registration number:

Address of the legal person:

Other contact details (email, phone No):

Name of the legal person's representative:

Other relevant information:

Please describe the position the concerned person currently holds in the proceedings:

☐ Suspect

☐ Accused person.

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

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

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

☐ The suspect or accused person was not informed of the intended transfer because:

.....

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

.....

.....

Section C: Identity of the victim

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

(i) In case of natural person(s)

Name:

First name(s):

Sex:

Nationality:

Identity number or social security number:

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

.....
Date of birth:
Place of birth:
Residence and/or known address; if address not known, state the last known address:
.....
Workplace (including contact details):
Other contact details (email, phone No):
Language(s) which the person understands:
Other relevant information:
(ii) In the case of legal person(s):
Name:
Form of legal person:
Shortened name, commonly used name or trading name, if applicable:
.....
Registered seat/office:
Registration number:
Address of the legal person:
Other contact details (email, phone No):
Name of the legal person's representative:
Other relevant information:

2. Opinion of the victim(s)

- ☐ The victim requested to initiate the procedure for transferring criminal proceedings.
- ☐ The victim was informed of the intended transfer.
- ☐ The victim was not informed of the intended transfer because:
.....
- ☐ The victim presented an opinion on the intended transfer. The opinion is attached to this request. In summary, it states that:
.....
.....

Section D: Summary of the facts and their legal qualification

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

2. Stage of the proceedings has reached:

- ☐ investigation

☐ prosecution

☐ trial

3. Nature and legal classification of the criminal offence(s) for which the request is made:

.....

4. Maximum penalty, the statute of limitations and the text of the statutory provision/code including the relevant provisions relating to penalties:

.....

.....

Section E: Information on the procedure in the requesting State

1. Procedural acts taken by the requesting State:

.....

.....

2. Information on evidence collected:

.....

.....

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

.....

.....

Section F: Reasons for the request

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

.....

.....

.....

2. Criteria for requesting the transfer of criminal proceedings:

☐ the criminal offence has been committed wholly or partly in the territory of the requested State, or most of the effects or a substantial part of the damage caused by the criminal offence occurred in the territory of the requested State;

☐ the suspect or accused person is a national of or resident in the requested State;

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

- ☐ the suspect or accused person is present in the requested State and that State refuses to surrender this person for whom a European arrest warrant has been issued, if it finds that there are, in exceptional situations, substantial grounds to believe, on the basis of specific and objective evidence, that surrender would, in the particular circumstances of the case, entail a manifest breach of a relevant fundamental right as set out in Article 6 of the Treaty on European Union and the Charter;
- ☐ most of the evidence relevant to the investigation is located in or the majority of the relevant witnesses are residing in the requested State;
- ☐ there are ongoing criminal proceedings in the requested State in respect of the same or other facts against the suspect or accused person;
- ☐ there are ongoing criminal proceedings in the requested State in respect of the same or related facts against other persons;
- ☐ the suspect or accused person is serving or is to serve a sentence involving deprivation of liberty in the requested State;
- ☐ the enforcement of the sentence in the requested State is likely to improve the prospects for social rehabilitation of the person sentenced or there are other reasons for a more appropriate enforcement of the sentence in the requested State; or
- ☐ the majority of victims are nationals of or residents in the requested State.

Section G: Additional information and requests (if applicable)

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

2. Other additional information, where relevant:

3. Indicate any specific conditions of processing of the transmitted personal data with which the requested authority must comply with (Article 9(3) of Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data):

4. List of enclosures:

SECTION H: Details of the authority that issued the request

1. Name of authority that issued the request:

Name of representative/contact point:

File No:

Address:

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

E-mail address:.....

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

.....

2. If different from above, the contact details of the person(s) to contact for additional information or to make practical arrangements for the transfer of evidence:

Name/Title/Organisation:

Address:

E-mail address:

Contact Phone No:

3. Signature of the requesting authority and/or its representative certifying that:

- the content of the request as set out in this form is accurate and correct, and

- this request has been issued by a competent authority.

Name:

Post held:.....

Date:

Official stamp (if available):

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

1. Name of the validating authority:

Name of representative/contact point:

File No:

Address:

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

E-mail address:.....

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

.....

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

☐ requesting authority

☐ validating authority

3. Signature of the validating authority and/or its representative certifying that:

- the content of the request as set out in this form is accurate and correct, and

- this request has been issued by a competent authority.

Name:

Post held:.....

Date:

Official stamp (if available):