

## Transfer of criminal proceedings

**A transfer of proceedings may be performed between a public prosecutor from a Member State to a prosecutor from another Member State, when it is in the interest of a good administration of justice that the case is further investigated and prosecuted in the second Member State. Constituting an important tool within the framework for judicial cooperation in the EU the questions inter alia raised by policy makers was whether the current system functions satisfactorily and whether it needs to be improved. These were questions addressed in the research project ‘Transfer of criminal proceedings in the EU’ (TROP).**

In the project ‘TROP’ researchers from the Erasmus University Rotterdam conducted an EU granted research project (2020-2022) into the transfer of criminal proceedings between Member States. In doing so they act as lead in a research consortium including Bielefeld University, the Amsterdam public prosecution office and the Belgian federal prosecution office. They took up a demand for research emanating both from a practitioner’s perspective and a policy making perspective on a topic that has not been addressed by academia in the past decades. In the course of this project, the European Commission announced that it would prepare a proposal for new legislation to be introduced by the end of 2022. In the Council of the European Union, it was decided that the Commission should await the conclusions of the TROP-research project.

The project is built on the assumption that a thorough qualitative and quantitative analysis of current practice (WP1 and WP2), followed up by further qualitative research in a broader perspective (WP3 and WP4), can produce building blocks for improvement of EU-practice or a possible new EU-legal instrument.

From the start, the project has been met with much enthusiasm from the Member States. Authorities of 9 Member States have agreed to fully participate in the project, while another 14 Member States as well as EU institutions and organizations (European Commission, Council Secretariat of the EU, Eurojust, and the European Judicial Network) have also gotten involved and have taken part in the two Working Conferences organized throughout the project.

The research has been conducted in three working packages (WPs). In WP1 desk research and a written questionnaire have provided a basis for the analysis of the current practice. This analysis has been subsequently verified and elaborated by conducting empirical research consisting of site visits and in-dept interviews with experts in the 9 participating Member States (WP2). Based on this analysis, the main challenges for a well-functioning practice of transferring criminal proceedings were identified. These challenges were verified and discussed in a first (due to the Covid-measures in place) online Working Conference (WP3) with experts from 23 Member States and representatives of EU institutions. In the final stage of the project (WP4), the research team drafted solutions for the identified challenges. These draft solutions were submitted to and discussed (cross checked) in a second physical Working Conference, in Rotterdam, this time not only including experts from the Member States but also policy makers, legislative lawyers and eminent EU Criminal law scholars. The project was concluded with a final report (authors Prof. Pieter Verrest, Prof. Paul Mevis and Ms. Sanne Salverda (Erasmus School of Law) and Prof. Michael Lindemann (Bielefeld University).

The TROP research project succeeded in sketching a reliable image of the current practice of the transfer of criminal proceedings in the EU, identifying the main challenges for a good functioning system, finding possible solutions for those challenges, and, finally, converting these solutions into

building blocks for a possible new EU legal instrument on the transfer of criminal proceedings (which will indeed be proposed by the European Commission at the beginning of 2023 (Q1)). As such, the TROP-project is a good example of how academic research (in this specific example comparative criminal law and empirical research) can have a major impact by playing an important role in the development of EU cooperation and EU legislation. The project builds a bridge between the needs for improvement experienced by public prosecutors, judges, and lawyers in the practice of judicial cooperation on the one hand and the EU legislator on the other hand.

### **Researchers**

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### **Output**

TROP research project has resulted in a (draft) final report, which was made available for the European Commission in May 2022. This report was discussed with the European Commission on 21 June 2022 (online) and 7 July 2022 (in Brussels) highlighting its policy relevance. Prof. Verrest also presented some results of the research project to the Presidency of the EU, the European Commission, and representatives of the Member States on the occasion of the meeting of directors of criminal affairs of the EU Ministries of Justice on 31 May 2022 in Paris.

The final report will be published by Boom Eleven publishers in October 2022. In the same month it will also be made available digitally. Further scientific publications about the results of the TROP-project will follow, also on the occasion of the upcoming discussion about the European Commission's proposal for a new legal instrument.