



Transfer of witnesses in custody

Under the European Convention on Mutual Assistance in Criminal Matters, a person who is being held in custody may be handed over temporarily to another country to appear as a *witness* or for identification purposes in connection with foreign criminal proceedings. The corresponding application must be submitted via the two countries' ministries of justice. The foreign state is obliged to keep these witnesses in custody and to return them once the agreed period has elapsed. The transfer of a witness may be refused if the person in custody does not give their consent, or if the period in custody would be extended or criminal proceedings in the requested state obstructed. It is rare for witnesses in custody to be transferred to another state, with only a few inbound and outbound cases each year concerning Switzerland.

As a general rule, a person who is in custody can be questioned as a *defendant* in foreign criminal proceedings only within the framework of extradition proceedings.

As an alternative to the transfer of a witness in custody, the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters makes provision for their testimony to be heard by videoconference link where appropriate.