Exchange of information extracted from the criminal record between Member States. Framework Decision

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The Commission presented a report on the implementation of Council Framework Decision 2009/315 /JHA on the organisation and content of the exchange of information extracted from criminal record between Member States.

Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States stipulates that information on any EU citizen's previous convictions by any criminal court in the EU is available to all Member State courts and law-enforcement authorities for criminal proceedings in the pre-trial and trial stages and the execution of the conviction.

This Framework Decision provided a foundation for a computerised system allowing faster and easier transmission of information on criminal convictions. The European Criminal Records Information System (ECRIS) was established by Council Decision 2009/316/JHA and has been operational since April 2012.

Currently, 25 Member States exchange information via ECRIS. The annual volume exchange has reached over 1.8 million messages (including notifications, requests and responses to requests) by the end of 2015. On average, over 24 000 requests are made each per month, with over 30 % leading to a 'positive hit'.

More specifically, the report covered the followed issues:

Implementation: the Member States have taken **various approaches** to transpose the Framework Decision into their national legislation. AT, BG, CZ, DE, FR, HU, SE and SK have amended multiple national acts; EE, NL, PL and PT have amended their national criminal records act. In addition to these amendments, FI and BE adopted or proposed separate implementing acts. ES and LU only adopted a separate implementing act. HR, LT and LV adopted new legislation regulating matters concerning criminal records in general, and some specific secondary acts. Two Member States adopted new legislation that was wider in scope (SI: a law on international cooperation in criminal matters; UK: a law on criminal law and data protection). In CY, the text of the Framework Decision was directly integrated into national law.

As of 1 December 2014, the Commission is therefore in a position to launch **infringement proceedings** against Member States that have not or not correctly transposed a Framework Decision.

Conditions for the use of personal data: the Framework Decision contains several provisions designed to ensure a high level of protection of personal data. Almost all Member States (AT, BE, BG, CY, CZ, DE, EE, ES, FI, HR, HU, LT, LV, NL, PL, PT, SE, SI, SK and UK) implemented personal data safeguards.

Storage of information for the purpose of retransmission: almost all Member States (AT, BE, BG, CZ, CY, DE, EE, ES, FI, FR, HR, HU, LT, LU, LV, NL, PL, PT, SE, SK and UK) introduced an explicit provision on the storage obligation into their legislation. While the vast majority of the Member States

(AT, BE, BG, CY, DE, EE, FI, FR, HR, HU, LT, LU, NL, PL, SK and UK) store all the required information, three (CZ, LV and SE) have adopted implementing provisions that do not specify what information needs to be stored, but are more general or include specific conditions.

Requests for purposes other than criminal proceedings: the majority (BE, BG, CZ, CY, DE, EE, ES, FR, HR, LT, NL, SE, SI and UK) would reply to requests for other purposes in accordance with their national rules.

Requests for information: almost all Member States (AT, BE, BG, CY, CZ, DE, EE, ES, FI, HR, HU, LU, LV, NL, PL, PT, SE, SI, SK and UK) adopted a provision allowing a central authority to request information where needed for domestic authorities .

Adoption of electronic standardised format of transmission: the majority of Member States (BE, BG, CY, CZ, EE, ES, FR, FI, HR, LT, LV, NL, PL, PT, SI and SK) introduced an obligation in their national law to exchange information electronically using a standardised format.

In conclusion, the transposition of the Framework Decision by 22 Member States has led to **significant progress** in improving the exchange of criminal records information within the Union. It has proved to be an indispensable tool used on a daily basis in 25 Member States which has provided a **real added-value** in practice to judicial authorities.

On the other hand, the report identified areas where transposition of particular provisions is incomplete. Therefore, the Commission considered that it is important that Member States fully **transpose this Framework Decision and as a matter of urgency** take all necessary measures.