

Centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (ECRIS-TCN system)

2017/0144(COD) - 29/06/2017 - Legislative proposal

PURPOSE: to allow the rapid and efficient exchange of information on the criminal records of third-country nationals.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the objective of providing EU citizens with an area of freedom, security and justice without internal borders presupposes **exchanging information extracted from criminal records** between the competent authorities of the Member States.

These exchanges of information are organised and facilitated by the rules laid down in [Council Framework Decision 2009/315/JHA](#) on the organisation and content of the exchange of information extracted from the criminal record between Member States, a new criminal procedure and the European Criminal Records Information System (ECRIS) established by [Council Decision 2009/316/JHA](#).

Although it is possible to exchange information on convictions concerning third-country nationals (TCNs) through ECRIS, there is no procedure or mechanism to do so in an efficient manner.

Information on third country nationals is not gathered within the Union in the Member State of nationality as it is for nationals of Member States, but only stored in the Member States where the convictions have been handed down. A complete overview of the criminal history of a third country national can therefore be ascertained only if such information is **requested** from all Member States.

Such 'blanket requests' impose an **administrative burden** on all Member States, including those not holding information on that third country national. In practice, this burden deters Member States from requesting information on third country nationals, and leads to Member States limiting the criminal record information to information stored in their national register.

To improve the situation, it is proposed to establish a system by which the central authority of a Member State can find out quickly and efficiently in which other Member State(s) criminal record information on a third country national is stored.

As a result of the terrorist attacks in many European cities, exchange of information on criminal records is crucial to combat cross-border crime. The initiative follows the requests of the European Council and the Justice and Home Affairs Council to improve the existing ECRIS. It also reflects the [Commission's new approach](#) to the management of data for borders and security.

IMPACT ASSESSMENT: the creation of a centralised ECRIS-TCN system containing both alphanumeric data and fingerprints is the preferred solution. It would be the most cost efficient, and technically less

complex and easier to maintain compared to the others. This option also offers the additional advantages of making the ECRIS-TCN system suitable for participating in a future shared biometric matching service and a common identity repository, facilitating direct access for Eurojust, Europol, [and the European Public Prosecutor's Office] and creating a central contact point at Eurojust for third States requiring information on convicted TCN.

If Member States were to systematically send 'blanket' requests, the administrative burden in responding to them has been identified as the most costly element (estimated up to EUR 78 million) of the ECRIS-workflow; the proposed solution saves such costs.

CONTENT: this proposal supplements the [Commission's 2016 proposal for a Directive](#) to amend the ECRIS Framework Decision and to repeal the ECRIS Council Decision:

- creating a **centralised system** to efficiently identify which Member State(s) hold conviction information on TCN;
- establishing **rules under which the ECRIS-TCN system is used** by competent authorities to obtain information on such previous convictions through the European Criminal Records Information System.

The proposed hit/no hit search system, based on **alphanumeric data and fingerprints** of TCN convicted in the Member States, will allow Member States to quickly identify other Member State(s) having convicted a particular TCN.

The requesting Member State should then request those identified Member States to provide the actual conviction information through the existing ECRIS system as improved by January 2016 proposal.

As soon as this becomes technically possible, **facial images** may also be used to identify a third country national on the basis of this biometric identifier

The proposal sets an obligation for the convicting Member State:

- to create a **data record** in the Central ECRIS-TCN System for each convicted TCN as soon as possible after the conviction was entered into the national criminal records register;
- to create records in the ECRIS-TCN system of 'historical' convictions of third country nationals, i.e. convictions handed down prior to the entry into force of the Regulation.

Member States would be required to **use the ECRIS-TCN system in all cases where they receive a request for information** on previous convictions of third country nationals in accordance with national law, and to follow up on any hits with the Member States identified through the ECRIS system. They would also be required to verify the accuracy of the data sent to the Central System and to correct them, as well as to amend the data sent to the Central System in case of any subsequent amendment in national criminal records.

The proposal entrusts eu-LISA with the task of developing and operationally managing the ECRIS-TCN system. It nominates Eurojust as the contact point for third countries and international organisations which wish to request conviction information on a TCN.

BUDGETARY IMPLICATIONS: the impact on the EU and national budgets would be as follows: (i) one-off costs for the EU of around EUR 13 002 000; (ii) for the Member States approximately EUR 13 344 000 (a total of approximately EUR 26 346 000). Total on-going costs are expected to increase gradually over the years, starting at EUR 8 220 000 and increasing up to a maximum of EUR 17 520 000.