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

2017/0144(COD) - 12/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 422 votes to 130 with 16 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing a centralised system for identifying Member States holding information on convictions of third-country nationals and stateless persons, which aims to complement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No 1077/2011.

The position of the European Parliament adopted at first reading under the ordinary legislative procedure has amended the Commission proposal as follows:

Purpose and scope

The regulation would establish a system to identify Member States holding information on previous convictions of third-country nationals (ECRIS-TCN). The new centralised database should improve the exchange of information on criminal records of third-country nationals throughout the EU and contribute to the EU's fight against cross-border crime and terrorism.

The regulation would apply to the processing of identification data of third-country nationals who have been convicted in Member States to enable the identification of Member States in which such convictions have been handed down.

The provisions would also apply to Union citizens who are also nationals of a third country and who have been convicted in the Member States since it is possible that these persons present themselves as one or more nationalities, and that different conviction decisions are kept in the convicting Member State or in the Member State of which the person concerned is a national.

Data entry in ECRIS-TCN

The convicting Member State should create the data file automatically, if possible, and without undue delay after the conviction has been entered in the criminal record.

The **alphanumeric data** to be entered by Member States in the central system would include the name (surname) and forenames of the convicted person and, where available to the central authority, any pseudonyms or aliases of that person. They should also include, in addition, the identity number, or the type and number of the identity documents of the person concerned, as well as the name of the authority that issued these documents, where the central authority has this information.

ECRIS-TCN would allow the processing of fingerprint data to identify Member States holding information on the criminal record of a third-country national. It would also allow the processing of facial images in order to confirm his identity if the law of the convicting Member State allows the collection and storage of facial images of convicted persons.

The recording and use of fingerprint data and facial images should not go beyond what is strictly necessary to achieve the objective pursued. They should respect fundamental rights, as well as the best interests of the child, and comply with applicable EU data protection rules.

Use of ECRIS-TCN

Central authorities could use ECRIS-TCN to identify Member States that hold information on the criminal record of a third-country national when the information is requested in the Member State concerned for the purpose of criminal proceedings against that person, or for one of the following purposes, if national law so provides and in accordance with it:

- a person's own criminal record check, at their request;

- security clearance;

- obtaining a licence or permit;

- investigations carried out in the context of professional recruitment and recruitment for voluntary activities involving direct and regular contact with children or vulnerable persons;

- visa, citizenship and migration procedures, including asylum procedures; and

- audits in relation to public contracts and public competitions.

The authority responsible for conducting criminal proceedings could decide that ECRIS-TCN should not be used when this would not be appropriate in the circumstances of the case, for example in the case of minor offences.

Any person would have the right to lodge a complaint and the right to bring an action in the convicting Member State which refused him/her the right of access to data concerning him/her or the right to have them rectified or deleted.

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The proposed new regulation also defines the conditions under which Eurojust, Europol and the European Public Prosecutor's Office use ECRIS-TCN.

The European Union Agency for the Operational Management of Large-Scale Information Systems in the Area of Freedom, Security and Justice (eu-LISA) would be responsible for the development of ECRIS-TCN in accordance with the principle of data protection from the design stage and by default. It would also be responsible for the operational management of ECRIS-TCN.