

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

2017/0144(COD) - 22/05/2019 - Final act

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

LEGISLATIVE ACT: Regulation (EU) 2019/816 of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726.

CONTENT: this Regulation establishes:

- a system to identify the Member States holding information on previous convictions of third-country nationals ('ECRIS-TCN');
- the conditions under which ECRIS-TCN shall be used by the central authorities in order to obtain information on such previous convictions through the European Criminal Records Information System (ECRIS) as well as the conditions under which Eurojust, Europol and the EPPO shall use ECRIS-TCN.

Exchange of information on criminal records

The reformed European Criminal Records Information System (ECRIS) shall include a centralised database containing information on convictions of third country nationals and stateless persons (ECRIS-TCN). The Regulation defines the rules for the creation of a centralised system. It specifies the data to be recorded and sets access rights.

The Regulation shall 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. It shall also apply to persons with dual EU/third country nationality who have been convicted in the Member States.

Information relating to the conviction itself shall always be available only from the convicting Member State.

Data entry in ECRIS-TCN

For each convicted third-country national, the central authority of the convicting Member State shall create a data record in the central system. The convicting Member State shall 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 shall 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 shall 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 shall allow the processing of fingerprint data to identify Member States holding information on the criminal record of a third-country national. It shall 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 shall 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.

Each data record shall be stored in the central system for as long as the data related to the convictions of the person concerned are stored in the criminal records.

Management

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.

ENTRY INTO FORCE: 11.6.2019.