Basic information

2008/0101(CNS) CNS - Consultation procedure Decision	Procedure completed
European Criminal Records Information System (ECRIS) See also 2005/0267(CNS) Repealed by 2016/0002(COD) See also 2017/0144(COD) **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	ROMAGNOLI Luca (NI)	26/06/2008

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2887	2008-07-24
Justice and Home Affairs (JHA)	2936	2009-04-06
Justice and Home Affairs (JHA)	2899	2008-10-24

European Commission

Commission DG	Commissioner
Justice and Consumers	BARROT Jacques

Key events

Date	Event	Reference	Summary
27/05/2008	Legislative proposal published	COM(2008)0332	Summary
19/06/2008	Committee referral announced in Parliament		
24/07/2008	Debate in Council		
15/09/2008	Vote in committee		Summary
19/09/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0360/2008	
09/10/2008	Decision by Parliament	T6-0465/2008	Summary
09/10/2008	Results of vote in Parliament		
24/10/2008	Debate in Council		Summary

06/04/2009	Act adopted by Council after consultation of Parliament		
06/04/2009	End of procedure in Parliament		
07/04/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0101(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	See also 2005/0267(CNS) Repealed by 2016/0002(COD) See also 2017/0144(COD)
Legal basis	EC Treaty (after Amsterdam) EC 034-p1 EC Treaty (after Amsterdam) EC 031
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/63516

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE409.790	05/08/2008	
Amendments tabled in committee		PE412.055	02/09/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0360/2008	19/09/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0465/2008	09/10/2008	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0332	27/05/2008	Summary
Commission response to text adopted in plenary	SP(2008)6664	12/11/2008	
Follow-up document	COM(2017)0341	29/06/2017	Summary
Follow-up document	SWD(2017)0242	29/06/2017	
Follow-up document	COM(2020)0778	21/12/2020	
Follow-up document	SWD(2020)0378	21/12/2020	
	COM(2026)0284		

Follow-up document		19/06/2026	
Follow-up document	SWD(2026)0152	19/06/2026	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_CHAMBER	COM(2017)0341	11/10/2017	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	52009XX0220(01) OJ C 042 20.02.2009, p. 0001	16/09/2008	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Decision 2009/0316
OJ L 093 07.04.2009, p. 0033 Summary

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 24/10/2008

The Council has agreed on a **general approach** on the proposal for the establishment of a European Criminal Records Information System (ECRIS).

This proposal is a follow-up to the draft Framework Decision on the exchange of information extracted from criminal records between Member States of the European Union which was adopted by the Council in June 2007 (see CNS/2005/0267). The purpose of the Framework Decision is to ensure that a Member State is able to provide the judicial authorities of another Member State of the EU with information on the criminal records of its nationals.

A pilot project is currently being conducted by 14 Member States with a view to interconnecting their criminal records. The results achieved in this context will provide a valuable basis for further work on computerised exchange of information at European level.

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 16/09/2008 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Proposal for a Council Decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/…/JHA.

On 27 May 2008, the aforementioned proposal was sent by the Commission to the EDPS for consultation, in accordance with Article 28(2) of Regulation (EC) No 45/2001.

The proposal aims to implement Article 11 of the Council framework decision on the organisation and content of the exchange of information extracted from criminal records between Member States, in order to build and develop a computerised information-exchange system between Member States. Moreover, it establishes the European Criminal Records Information System (ECRIS) and sets up the elements of a standardised format for the electronic exchange of information, as well as other general and technical implementation aspects in order to organise and facilitate the exchanges of information.

First of all, the EDPS recommends that reference to this consultation be made in the recitals of the proposal. It is also suggested that the present occasion be used to fully modulate the form of the Council Framework Decision on criminal records, which distinguishes obligatory information, optional information, additional information and any other information.

The EDPS supports the present proposal to establish **ECRIS**, provided that the observations made in this opinion are taken into account, which includes:

- the responsibility of the Commission for the common communication infrastructure should be clarified in the text for reasons of legal certainty;
- a provision should be added to the decision stating that Regulation (EC) No 45/2001 shall apply to the processing of personal data under the responsibility of the Commission;
- in Article 6 (implementing measures) reference must be made to a high level of data protection as a precondition for all the implementing measures to be adopted;
- a recital should emphasise the role of the data protection authorities in relation to the implementing measures and should also encourage the data protection authorities to cooperate;
- implementing measures must be adopted ensuring the interoperability of the software;
- the Commission and the Member States should be obliged - probably by a Comitology procedure - to develop or identify a software system that meets all the requirements;
- it should be laid down in the text that the Commission will be responsible for the interconnection software.

The statistical elements to be collected should also be defined in further detail and duly take into account the need to ensure data protection supervision. Moreover, appropriate mechanisms of coordination between competent data protection authorities should be established, taking into account the supervisory competence of the EDPS with regard to the S-TESTA infrastructure. Lastly, in the recitals of the Council Decision it should be specified that the use of automatic translation should not extend to the transmission of information which has not been accurately pre-translated.

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 09/10/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 542 votes to 40 with 19 abstentions, a legislative resolution amending the proposal for a Council decision on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2008/XX/JHA. The report had been tabled for consideration by Luca **ROMAGNOLI** (NI, IT) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

The main amendments-adopted under the consultation procedure- are as follows :

Commission's role: in order to ensure efficient operation of ECRIS, the Commission shall provide general support and monitoring services and verify that the measures set out in Article 6 (Implementing Measures) are correctly implemented. Members stated that the Commission has both an overview of the situation and the relevant technical expertise, and must therefore play a coordinating and supervisory role in the implementation of the interconnection system.

Information: Parliament made the inclusion of a short description of the constitutive elements of the offence mandatory (rather than optional) in the information on national convictions, sanctions and measures. It felt that this would make the exchange of information between the respective Member States more effective.

Translation: the translation of a description of a national offence from the original language of submission shall be the task and responsibility solely of each individual Member State requesting a translation and shall not be done by ECRIS. Once a translation has been completed, ECRIS shall offer the option of adding it to the database.

Comitology: Parliament deleted the provisions on comitology and inserted a clause stating that where necessary, and in accordance with Article 34(2)(c) and Article 39 of the EU Treaty, the Commission shall propose that the Council adopt all the measures needed to ensure an optimum functioning of ECRIS and its interoperability with national systems,

Members considered that the procedure proposed by the Commission, which would operate through a committee chaired by the Commission itself, is wholly outside the scope of Title VI of the Treaty on European Union, and would give rise to the creation of secondary legal bases not provided for in the Treaty itself. The Court of Justice (Case C-133/06) has recently confirmed the principle that the rules regarding the manner in which the Community institutions arrive at their decisions are laid down in the Treaty and are not at the disposal of the Member States or of the institutions themselves. The system established in Title VI, and in particular the combined provisions of Articles 34 and 39, in fact provides that any measures implementing decisions must be adopted in accordance with the procedure indicated in Article 39.

Lastly, a recital states that the reference tables contained in Annexes A and B do not in any way aim to harmonise the types of offence or the sanctions set out therein, which will continue to be governed by national law.

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 06/04/2009 - Final act

PURPOSE: to establish a European Criminal Records Information System (ECRIS).

LEGISLATIVE ACT: Council Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA.

BACKGROUND: the Council recently adopted Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States (see 2005/0267(CNS)). The purpose of the Framework Decision is to ensure that a Member State is able to respond properly and fully to the requests made to it regarding the criminal records of its nationals and to lay the foundations for a European Criminal Records Information System.

This Decision, adopted alongside the Framework Decision, provides for the technical terms and infrastructure of the system envisaged in Framework Decision 2009/315/JHA.

CONTENT: in accordance with the principles set out in Framework Decision 2009/315/JHA, this Decision establishes a European Criminal Records Information System (ECRIS), or a standardised format for the electronic exchange of information extracted from criminal records between the Member States.

ECRIS: this information technology system shall be based on the criminal records **databases in each Member State**. It shall be composed of the following elements:

- an interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' criminal records databases;
- a common communication infrastructure that provides an encrypted network.

This Decision is not aimed at establishing any centralised criminal records database. All criminal records data shall be stored solely in databases operated by the Member States. Moreover, central authorities of the Member States shall not have direct online access to criminal records databases of other Member States. The latter shall bear the responsibility for the operation of national criminal records databases and for the efficient exchanges of information between themselves.

The common communication infrastructure of ECRIS should be initially the Trans European Services for Telematics between Administrations (S-TESTA) network, under the responsibility of the Commission.

Management and funding of ECRIS: the common communication infrastructure shall be operated under the responsibility of the Commission. The Commission shall also provide general support and technical assistance, including the collection and drawing up of statistics and the reference implementation software, in order to ensure the efficient operation of ECRIS.

All expenditure concerning the common communication infrastructure should be covered by the **general budget of the European Union**. However, each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the interconnection software. As for the Commission, it shall bear the costs arising from the implementation, administration, use, maintenance and future developments of the common communication infrastructure of ECRIS, as well as the implementation and future developments of the reference implementation software.

Format of transmission of information: the Decision provides for a model of communication for the exchange of information on convictions. It is in a standardised format, which will allow information to be exchanged in a uniform, electronic and easily machine-translatable form.

The categories of data to be entered into the system, the purposes for which the data is to be entered, the criteria for its entry, the authorities permitted to access the data, and some specific rules on protection of personal data are defined in the Framework Decision 2009/315/JHA. This Decision only establishes the framework for the standardised format of data to be exchanged.

To this end, the Decision provides for reference tables to be used in a common way by the Member States. These tables attribute codes to each category of offences and penalties envisaged, resulting in mutual understanding of the information transmitted. Two reference tables are provided for:

- a common table of **offences** categories which are attributed specific codes (**Annex A**); where the offence does not correspond to a code specified in Annex A, the "open category" code or an "other offences" code, may be used for that particular offence;
- a common table of **penalties** and measures which categorise penalties according to the conviction - the sentence, any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence (**Annex B**); likewise, where the penalty or measure does not correspond to a code in the Annex, the "open category" code or an "other penalties and measures" code may be used for that particular penalty or measure.

The implementing measures with a view to modifying these two Annexes shall be set by the Council after consulting the European Parliament.

Note that the reference tables are not designed to set up legal equivalences between offences and penalties and measures existing at national level. They are a tool aimed at helping Member States to gain a better understanding of the fact(s) and type of penalty(ies) or measure(s) contained in the information transmitted.

Information manual: Member States shall provide a certain amount of information to the General Secretariat of the Council with a view to drawing up a non-binding manual for practitioners. This manual should address the procedures governing the exchange of information, in particular modalities of identification of offenders, common understanding of the categories of offences and penalties and measures, and explanation of problematic national offences and penalties and measures, and ensuring the coordination necessary for the development and operation of ECRIS. The information relates

to, for example, the types of national offences (sentences, security measures, etc.) and the penalties applied in the Member States with, where necessary, a short description of the penalties concerned.

Report: the Commission shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal. This report shall be published for the first time one year after submitting the report referred to in Framework Decision 2009/315/JHA.

ENTRY INTO FORCE: 07/04/2009.

IMPLEMENTATION: 07/04/2012.

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 27/05/2008 - Legislative proposal

PURPOSE: the establishment of a “European Criminal Records Information System” (ECRIS).

PROPOSED ACT: Council Decision

BACKGROUND: in June 2007 the Council reached political agreement on a proposed Framework Decision on the organisation and content of the exchange of information extracted from criminal records between Member States. (See CNS/2005/0267). Once adopted this Framework Decision will require further measures for its implementation, in particular the setting up of a computerised system of information exchange as set out in Article 11 of the said Framework Decision.

CONTENT: the purpose of this proposal, therefore, is the establishment of an electronic “European Criminal Information System” (ECRIS) in order to implement Article 11 of the Framework Decision on the organisation and content of the exchange of information extracted from criminal records between Member States. Information on convictions is currently exchanged according to the European Convention on Mutual Assistance in Criminal Matters adopted by the Council of Europe in 1959. This system has a number of important short-comings. As a result national courts frequently pass sentence on the sole basis of past convictions featuring in national registers only, without any knowledge of convictions in other EU Member States.

In short, the proposal sets up elements of a standardised format for the electronic exchange of information extracted from criminal records with the following main elements:

ECRIS: the proposal lays down the rules concerning: technical architecture, operation and use of ECRIS, as well as the various responsibilities that stem from its functioning. ECRIS will be based on a decentralised architecture. Criminal data will stored on Member States’ databases only and no direct online access to criminal records of other Member States will be possible. The S-Testa network has been chosen as a pilot project and this choice will be confirmed in the first stage of the project. Protocols determining information exchange between national databases will be adopted through comitology (regulatory procedure). Responsibility for operating national criminal records will remain the responsibility of the Member States. Any expenditure concerning infrastructure communication will be covered by the general budget of the European Union and existing EU financial programmes are available to support ECRIS.

Transmission: the proposed Decision creates a standardised European format of transmission regarding information on convictions. This allows data to be exchanged in a uniform, electronic manner that allows for machine translation. The Member States will be required to refer to various offences and sanctions according to codes set out in Annex to the Decision when notifying other Member States (Annex A: Offences categories; Annex B: Sanctions categories). Some flexibility has been built into the system to allow for offences or sanctions that can not be classified easily.

Information on national convictions, sanctions and measures: the Member States will be required to enter national offences and sanctions in each category set out in Annex A and B respectively. This should be accompanied by a brief description of national penalties and measures. A list of national criminal courts should also be provided in order to allow for the automatic translation of names. Updates will have to be posted on a regular basis. Information will be accessible to national judicial authorities through any available electronic channels.

On a final point, the implementation and operation of ECRIS will have budgetary implications. These costs, however, will be covered to a large extent by the specific program “criminal justice” as part of the “Fundamental Rights and Justice” programme.

European Criminal Records Information System (ECRIS)

2008/0101(CNS) - 29/06/2017 - Follow-up document

This report from the Commission to the European Parliament and the Council concerns the exchange through the European Criminal Records Information System (ECRIS) of information extracted from criminal records between the Member States.

Purpose of the report: ECRIS aims to improve the security of citizens within the European Area of Freedom, Security and Justice, by enabling an efficient exchange between the Member States of information on previous criminal convictions handed down by criminal courts in the EU. It became operational in **April 2012**.

This report is the Commission’s first statistical report on the exchange through ECRIS of information extracted from the criminal records between the Member States, as foreseen in Article 7 of Council Decision 2009/316/JHA.

It gives an overview on the use and practical implementation of ECRIS since its 'go live' from April 2012 to 31 December 2016, with an emphasis on the year 2016. Its purpose is to present the compliance of the Member States' exchanges with the ECRIS legal framework and to identify any issues regarding the efficiency of the system, with a view to remedying the situation.

It includes conviction data received from 24 Member States. The Commission did not receive data from Bulgaria, Cyprus, Denmark and Slovenia.

General principles of the ECRIS system: overall, ECRIS is based on a decentralised architecture, interconnecting the Member States and enabling them to exchange efficiently criminal records information.

Information is **exchanged electronically between the Central Authorities of Member States**, using a standardised format allowing for an efficient and immediately understandable communication in all EU languages and within short deadlines of **10 or 20 days**.

For example, a Member State having convicted a citizen of another Member State is legally obliged to notify as soon as possible through ECRIS information related to the conviction to the Member State(s) of that person's nationality, including subsequent updates (notifications on new convictions and updates).

The conviction information must be exchanged for the purpose of **criminal proceedings** and, if so permitted by national law, can be exchanged for other purposes, such as administrative procedures, employment, licences, etc.

It should be noted that although ECRIS is designed mostly to exchange information concerning EU nationals, it is also possible to exchange information on **third country nationals** and stateless persons. The Commission proposed to supplement legislation creating a **central ECRIS-TCN system** to support efficient exchanges through ECRIS.

Main observations: the main observations of the report may be summarised as follows:

- after five years of ECRIS operation, all 28 Member States are currently connected to ECRIS, with Slovenia and Portugal joining in January 2017. However, **none of the Member States are exchanging information through ECRIS with all 27 other Member States**. **The ultimate goal** - that each Member State is connected to and exchanges information through ECRIS with all the other Member States – is therefore **yet to be achieved**;

- the number of messages exchanged reached nearly 2 million in 2016. The most active Member States in terms of total volume of these three types of messages sent in 2016 were: DE (24.9%), followed by UK (13.7%), IT (7.7%), PL (6.6%) and RO (5.5%);

- since the first year of ECRIS operation, 31% of requests for information on previous convictions of a person were replied to with information on **previous criminal convictions**;

- the number of requests for information and replies to these requests has increased rapidly during the last five years, reaching 364 000 requests and 350 000 replies in 2016. It is a positive sign of rising awareness in the Member States of the need to use ECRIS to request information for criminal proceedings;

- some Member States send considerably more requests for information than they receive (e.g. in 2016, DE, UK, AT and CZ);

- some Member States **do not send notifications on new convictions at all** (EL) or send only few notifications in relation to their EU non-national population7 (BG, EE, HR, LT, LV, MT, RO in 2016; BG, EE, LV, HR, LT in 2015; BG, EE, HR, LT, LV, RO, SK in 2014). Failure to systematically and reliably notify convictions may result in offenders being able to escape their criminal past or to commit the same criminal offences again;

- **ECRIS is not always used to request information on previous convictions**. This leads to the situation where criminal courts might pass judgements without knowlegde of previous convictions in other Member States, contrary to the requirements set out in Framework Decision 2008/675/JHA;

- ECRIS is **increasingly used for other purposes than criminal proceedings**. Requests from individual persons for information on **their own criminal records** account for the highest volume of requests for other purposes than criminal proceedings – 68% of all requests for other purposes and 15% of all requests made;

- ECRIS is **rarely used for third country nationals (TCNs).**

Lastly, the report gives an accurate picture of the use of ECRIS in statistical terms. As an indication, during the ECRIS operation period, on average 81% of all requests were made for the purpose of criminal proceedings and 19% for other purposes than criminal proceedings.