

Basic information**2016/0002(COD)**COD - Ordinary legislative procedure (ex-codecision procedure)
Directive

Procedure completed

European Criminal Records Information System (ECRIS): exchange of information on third country nationals

Repealing Decision 2009/316/JHA 2008/0101(CNS)
Amending JHA act 2009/315/JHA 2005/0267(CNS)**Subject**7.30.05 Police cooperation
7.40.04 Judicial cooperation in criminal matters**Key players**

European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs	DALTON Daniel (ECR)	03/10/2016
		Shadow rapporteur CSÁKY Pál (PPE) HEDH Anna (S&D) IN 'T VELD Sophia (ALDE) DE JONG Dennis (GUE /NGL) ALBRECHT Jan Philipp (Verts/ALE) VON STORCH Beatrix (EFDD)	
Council of the European Union	Council configuration	Meetings	Date
	General Affairs	3685	2019-04-09
	Justice and Home Affairs (JHA)	3473	2016-06-10
	Justice and Home Affairs (JHA)	3564	2017-10-13
European Commission	Commission DG	Commissioner	
	Migration and Home Affairs	AVRAMOPOULOS Dimitris	

Key events

Date	Event	Reference	Summary
19/01/2016	Legislative proposal published	COM(2016)0007 	Summary
01/02/2016	Committee referral announced in Parliament, 1st reading		
30/05/2016	Vote in committee, 1st reading		
30/05/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
10/06/2016	Debate in Council		
27/06/2016	Committee report tabled for plenary, 1st reading	A8-0219/2016	Summary
13/10/2017	Debate in Council		
23/01/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE632.980 GEDA/A/(2019)000581	
11/03/2019	Debate in Parliament		
12/03/2019	Decision by Parliament, 1st reading	T8-0148/2019	Summary
12/03/2019	Results of vote in Parliament		
09/04/2019	Act adopted by Council after Parliament's 1st reading		
17/04/2019	Final act signed		
17/04/2019	End of procedure in Parliament		
07/06/2019	Final act published in Official Journal		

Technical information	
Procedure reference	2016/0002(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing Decision 2009/316/JHA 2008/0101(CNS) Amending JHA act 2009/315/JHA 2005/0267(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 082-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/05580

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE580.424	22/03/2016	
Amendments tabled in committee		PE582.051	20/04/2016	

Committee report tabled for plenary, 1st reading/single reading	A8-0219/2016	27/06/2016	Summary
Text agreed during interinstitutional negotiations	PE632.980	17/01/2019	
Text adopted by Parliament, 1st reading/single reading	T8-0148/2019	12/03/2019	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)000581	19/12/2018	
Draft final act	00087/2018/LEX	17/04/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0007 	19/01/2016	Summary
Document attached to the procedure	SWD(2016)0004 	20/01/2016	
Document attached to the procedure	SWD(2016)0005 	20/01/2016	
Commission response to text adopted in plenary	SP(2019)393	30/04/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2016)0007	31/03/2016	
Contribution	ES_PARLIAMENT	COM(2016)0007	14/04/2016	
Contribution	PT_PARLIAMENT	COM(2016)0007	22/04/2016	
Contribution	RO_SENATE	COM(2016)0007	25/04/2016	
Contribution	IT_SENATE	COM(2016)0007	26/07/2016	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2019/0884 OJ L 151 07.06.2019, p. 0143	Summary
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European Criminal Records Information System (ECRIS): exchange of information on third country nationals

2016/0002(COD) - 07/06/2019 - Final act

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

LEGISLATIVE ACT: Directive (EU) 2019/884 of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA.

CONTENT: the purpose of this Directive is to make the necessary amendments to [Framework Decision 2009/315/JHA](#) to allow an effective exchange of information on convictions of third-country nationals through ECRIS.

ECRIS is an electronic system for the exchange of information on previous convictions handed down by criminal courts in the EU against a specific person, for the purposes of criminal proceedings against a person and, if permitted by national legislation, for other purposes.

The ECRIS package consists of a Regulation and this Directive.

[Regulation \(EU\) 2019/816](#) of the European Parliament and of the Council establishes a centralised system at EU level to identify Member States holding information on previous convictions of third-country nationals ("ECRIS-TCN").

ECRIS-TCN shall enable the central authority of a Member State to determine rapidly and efficiently in which other Member States information on the criminal record of a third-country national is stored, so that the current ECRIS framework may be used to request information on the criminal record in question from these Member States in accordance with Framework Decision 2009/315/JHA.

The Directive:

- requires Member States to take the necessary measures to ensure that convictions are accompanied by information on the nationality, or nationalities, of the convicted person, to the extent that they have such information;
- introduces procedures to respond to requests for information,
- ensures that a criminal record extract requested by a third-country national is supplemented by information from other Member States, and
- provides for the technical modifications required to ensure the proper functioning of the information exchange system.

The Directive respects the fundamental rights and freedoms enshrined, in particular, in the Charter of Fundamental Rights of the European Union, such as the right to the protection of personal data, the right to judicial and administrative redress, the principle of equality before the law, the right to a fair trial, the presumption of innocence and the general prohibition of all discrimination.

All data from criminal records shall be stored exclusively in databases managed by the Member States. The central authorities of the Member States will not have direct access to the criminal records databases of the other Member States.

The European Union Agency for the Operational Management of Large-Scale Information Systems in the Area of Freedom, Security and Justice (eu-LISA) is responsible for providing, developing and managing ECRIS' reference application.

The Commission shall regularly publish a report on the exchange of information extracted from criminal records through ECRIS as well as on the use of ECRIS-TCN, based in particular on statistics provided by eu-LISA and Member States.

ENTRY INTO FORCE: 27.6.2019.

TRANSPOSITION: from 28.6.2022.

European Criminal Records Information System (ECRIS): exchange of information on third country nationals

2016/0002(COD) - 12/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 379 votes to 170 with 118 abstentions a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Framework Decision 2009/315/JHA as regards the exchange of information relating to third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA.

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

Objectives

This directive would amend [Framework Decision 2009/315/JHA](#) to allow for an effective exchange of information on convictions of third-country nationals through ECRIS.

The amending directive:

- would require Member States to take the necessary measures to ensure that convictions are accompanied by information on the nationality, or nationalities, of the convicted person, to the extent that they have such information;
- would introduce procedures to respond to requests for information,
- would ensure that a criminal record extract requested by a third-country national is supplemented by information from other Member States, and
- would provide for the technical modifications required to ensure the proper functioning of the information exchange system.

The amendments introduced should, among other things, ensure that a person convicted of a sexual offence committed against children cannot conceal that conviction or prohibition in order to exercise a professional activity involving direct and regular contact with children in another Member State.

European Criminal Records Information System (ECRIS)

The European Union Agency for the Operational Management of Large-Scale Information Systems in the Area of Freedom, Security and Justice (eu-LISA) would develop and manage the ECRIS reference application.

Each Member State would bear its own costs resulting from the implementation, management, use and maintenance of its criminal records database and the installation and use of the ECRIS reference application.

[Directive \(EU\) 2016/680](#) of the European Parliament and of the Council should apply to the processing of personal data by competent national authorities for the purposes of the prevention, investigation, detection, prosecution or enforcement of criminal offences, including the protection against and prevention of threats to public security.

Reporting and review

No later than one year after the date of transposition of the amending directive, the Commission should report on the application of the Framework Decision. It should regularly publish a report on the exchange of information extracted from criminal records through ECRIS as well as on the use of ECRIS-TCN, based in particular on statistics provided by eu-LISA and Member States.

European Criminal Records Information System (ECRIS): exchange of information on third country nationals

2016/0002(COD) - 27/06/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Timothy KIRKHOPE (ECR, UK) on the proposal for a directive of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA.

The committee recommended that the European Parliament's position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Subject Matter: the Framework Decision shall:

- define the **ways and conditions** under which a convicting Member State shares information on convictions with other Member State;
- define **storage and privacy obligations** for the convicting Member State, and specifies the methods to be followed when replying to a request for information extracted from criminal records;
- define **storage obligations for the Member States of the person's nationality** and specifies the methods to be followed when replying to a request for information extracted from criminal records.

Database: each Member State shall take all the necessary measures to ensure that when convictions are handed down within its territory, they are entered into its criminal records database, and that information on the nationality or nationalities of the convicted person is included if the person is a national of another Member State or a third country national.

Obligations of the convicting Member State as regards convictions against third country nationals: Members introduced an amending seeking to ensure that the data stored at the national level regarding convicted third-country nationals is **categorised in the same way as for convicted EU nationals**, with "obligatory information" and "optional information" in order to avoid any unnecessary discrimination.

Bilateral agreements: where, in the context of criminal proceedings, a Member State receives, on the basis of bilateral agreements compliant with Union law, information on a conviction relating to terrorist offences or serious criminal offences handed down by a judicial authority in a third country to a third country national residing on the territory of the Union, that Member State should be able to create and transmit to other Member States an index-filter with this information, within the limitations of the bilateral agreements.

Use of index-filters: each designated central authority should distribute to the other Member States an index-filter which includes, in a **pseudonymised** form, the identification data of the third country nationals convicted in its Member State.

Member States shall not enter information in the index-filter:

- on convictions related to irregular entry or stay into the index-filter;
- on convictions of third country national minors other than those relating to serious crime, punishable by a maximum deprivation of liberty of at least four years.

While the Commission proposes that the Directive should apply also to a third country national who holds the nationality of a Member State, Members introduced an amendment which seeks to **eliminate the risk of discrimination** by making sure that citizens with two nationalities (one EU, one third-country national) are considered as EU citizens.

Another amendment ensures that third-country nationals requesting a criminal records extract shall receive, if they have committed no offences, a certificate that there was no hit on ECRIS, which proves that they have no criminal records in the 28 Member States.

Background checks: Members consider that the scope for background checks should be extended beyond just those persons working with children, but also include those individuals working with **vulnerable persons, including those with disabilities**, and those working more generally in the healthcare and education sectors.

The aim is to ensure that a person convicted of a sexual or violent offence against a child or vulnerable person can no longer conceal this conviction or disqualification with a view to carrying out such work in another Member State.

Access to the ECRIS database: Members introduced new provisions to enable **Europol and Frontex** to access the ECRIS database for the performance of its tasks.

The Commission shall take all the necessary measures to achieve **interoperability and interconnection** of the common communication infrastructure of ECRIS with all the other relevant Union databases for law enforcement, border control and judicial cooperation purposes.

Protection of data and procedural rights: ECRIS shall ensure the confidentiality, protection, privacy and integrity of criminal record information transmitted to other Member States. All criminal records data shall be stored solely in databases operated by the Member States within the territory of the Union.

Lastly, Members also called for clear references to the need for **data protection provisions, and the presumption of innocence and a fair trial**, as well as a clear list of provisions which should form part of a detailed review of the system.

European Criminal Records Information System (ECRIS): exchange of information on third country nationals

2016/0002(COD) - 19/01/2016 - Legislative proposal

PURPOSE: to improve the existing European Criminal Records Information System (ECRIS) to enable rapid and efficient exchange of criminal record information on third country nationals.

PROPOSED ACT: Directive 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: ECRIS is an electronic system for exchanging information on previous convictions handed down against a specific person by criminal courts in the EU for the purposes of criminal proceedings against a person and, if so permitted by national law, for other purposes. The system is based on [Council Framework Decision 2009/315/JHA](#) and [Council Decision 2009/316/JH](#).

The ECRIS legal framework, however, **does not sufficiently cover the particularities of requests concerning third country nationals**. Although it is now possible to exchange information on third country nationals (TCN) through ECRIS, there is no procedure or mechanism in place to do so efficiently. The recent terrorist attacks demonstrated in particular the **urgency of enhancing relevant information-sharing**, notably as regards the extension of ECRIS to third country nationals.

The Commission recalls that efficient cooperation between Member States and exchange of information extracted from criminal records of convicted persons is a **necessary cornerstone of a properly functioning common area of justice and security**.

The European Council and the Justice and Home Affairs Council of Ministers have stated on several occasions the importance of improving ECRIS. The Riga Statement of 29 January 2015 issued by the Justice and Home Affairs Ministers stressed that exchanging information on criminal convictions is important in any strategy to combat crime and counter terrorism.

Improving ECRIS is also part of the [European Agenda on Security](#).

IMPACT ASSESSMENT: three policy alternatives were examined. **The preferred option** is legislation on a search mechanism to identify Member States holding criminal record information on TCN consisting of identity data of convicted TCN (index-filter) that can be searched by a hit/no-hit search mechanism.

- **The decentralised index-filter** that would be anonymised and distributed to all other Member States enabling them to search at their own premises is the preferred option because it offers a mechanism to identify efficiently which Member States hold criminal record information on a particular TCN.
- **As regards fingerprints**, the sub-options preferred is that fingerprints should be included in the identification data to be stored in the person's criminal record and in the index-filter.

CONTENT: the proposal aims to amend Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA. The objectives are:

- to **improve information exchange** in criminal matters with regard to TCN;
- to **reduce crime** and foster crime prevention (also with regard to terrorism);
- to **ensure equal treatment of TCN and EU nationals** with regard to an efficient exchange of criminal record information.

The main amendments proposed are as follows:

Purpose: to improve the exchange of information on convictions of TCN, the purpose of the instrument now includes an obligation of the convicting Member State to store criminal record information on a TCN, including fingerprints.

The definition of 'convicting Member State': this now covers convictions, irrespective of whether they were handed down against a national of another Member State or a TCN.

Obligations of the convicting Member State: the Framework Decision is amended to ensure that Member States' obligation to add the nationality (or nationalities) of a convicted person to the criminal record now also applies to the nationality or nationalities of TCN.

The proposal imposes **the following obligations of a Member State as regards convictions on TCN handed down in its territory:**

- an obligation to store criminal record information;
- an obligation to distribute to the other Member States an anonymised index-filter with identity information on the TCN convicted in its territory for the purpose of identifying the Member States holding criminal record information on a TCN; and
- the obligation to update the index-filter in line with any deletion or alteration of the data included in it.

A Member State complies with **the storage obligation** even if the information is stored in another database than the criminal record database, as long as the central authority has access to the database in which the information is stored.

Furthermore, the obligation applies **regardless of whether a person also holds an EU nationality** in order to ensure that the information can be found whether or not the additional nationality is known.

Request for information on convictions: a Member State is obliged to supplement an extract of a criminal record for which a TCN has asked (his/her own record) **with information from the other Member States** in the same way that it would for EU nationals.

Response to a request for information on convictions: a request for information on a TCN is treated similarly to a request for information on EU nationals. Accordingly, the requested central authority has to transmit information on a conviction handed down in its Member State against the TCN plus any convictions handed down in third countries that have been entered in its criminal record.

Personal data: the references to personal data are extended to the new provisions on TCN.

Format and organisational arrangements: the proposal:

- provides that central authorities of Member States shall transmit the information, the index-filter, requests, replies and other relevant information electronically using ECRIS and a standardised format in accordance with the standards laid down in implementing acts;
- sets out the technical obligations of Member States in relation to the tasks to be fulfilled by the Directive. This concerns both the current information exchange system and the new 'hit'/no hit' system based on an anonymised index-filter. The technical and administrative arrangements for facilitating the exchange of information will be set out in implementing acts;
- governs the transmission of information if ECRIS is not available;
- requires Member States to notify the Commission instead of the Council in future when they are able to use ECRIS and the new index-filter.

European Criminal Records Information System (ECRIS): a new Article incorporates the main points contained in Council Decision 2009/316/JHA, which established ECRIS, in order to organise the exchange of information from criminal records between the Member States.

Comitology: a comitology procedure has been introduced to give the Commission the necessary tools in order to implement the technical aspects of the exchange of information so it will work in practice.

BUDGETARY IMPLICATIONS: the financial envelope for the implementation of the Directive for the period January 2017 to December 2020 is **EUR 10 760 000**. It is compatible with the current Multi-annual Financial Framework and costs will be met through [the Justice programme](#).