



Taking into account previous convictions

ECRIS (European Criminal Records Information Exchange System) was created in April 2012 to facilitate the exchange of information on criminal records throughout the EU. It establishes electronic interconnections between Member States and puts rules into place to ensure that information on convictions as contained in the criminal records system of the Member States can be exchanged through standardised electronic formats, in a uniform and speedy way, and within short legal deadlines.

Background

The **Fourniret case** of 2004 and numerous subsequent studies have demonstrated that national courts frequently passed sentences without any knowledge of possible previous convictions in other Member States. Lack of information led to inadequate judgments not taking into account the criminal history of a person and prevented that measures were taken to avoid that the same sort of crime was committed again.

Since 2008, criminal records information must be exchanged for the purposes of new criminal proceedings against a person, in implementation of [Council Framework Decision 2008/675 on taking account of previous convictions in new criminal proceedings against the same person](#).

ECRIS

ECRIS was created in response to the need to improve and facilitate the exchange of information on criminal records at European level. Information contained in national criminal records registers can be electronically exchanged through a secure information infrastructure, speedily, in a uniform and easy way. It provides judges, prosecutors and relevant administrative authorities with easy access (through a designated "central authority" in each Member State) to comprehensive information on the criminal history of any EU citizen, no matter in which Member State that person has been convicted in the past.

Information can be exchanged for a wide range of purposes according to the Framework Decision and national law:

- Information must be exchanged for the purposes of new criminal proceedings against a person, in implementation of [Council Framework Decision 2008/675 on taking account of previous convictions in new criminal proceedings against the same person](#).
- Information must be exchanged if requested for recruitment procedures with regard to posts involving direct and regular contact with children, as required by Art. 10 of [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography](#).
- Information through ECRIS may also be exchanged for any other purpose according to national law (such as recruitment procedures, naturalisation procedures, asylum procedures, fire arm licence procedures, child adoption procedures etc.).

General principles

- ECRIS is based on a **decentralised IT architecture**, where criminal records data are stored solely in national databases of the Member States and are exchanged electronically between the Central Authorities of Member States, upon request.
- **The Member State of nationality** of a person becomes the central **repository of all convictions** handed down against that person. It is obliged to store and update all information received, and to transmit this information to other Member States when requested. As a result, each Member State should be in the position to provide complete and up-to-date information on its own nationals' convictions, regardless of where those convictions were handed down.
- **A Member State convicting** a non-national is obliged to **send as soon as possible information**, including updates, on this conviction to the Member State(s) of nationality of the convicted person.
- The transmission of information on convictions is done **electronically**, through a **standardised European format**, using two reference tables of categories of offences and categories of penalties. These tables facilitate automatic translation and mutual understanding of the information transmitted. When transmitting information on a conviction, Member States have to

use the crime category of the offence and the penalty or sanction. The codes enable automated translation into the language of the recipient, putting him/her in a position to react immediately upon receipt of the information.

Legislative instruments

The principles governing the exchange of information and the functioning of the system are regulated in the [Framework Decision](#) on exchange of information on criminal records and in the [ECRIS Council Decision](#).

Implementation

A number of technical and financial measures have been taken in order to help Member States to prepare the technical infrastructure to connect their criminal records systems by April 2012 (the legal implementation deadline) and beyond. The Commission has put special software ('reference implementation' software) at the disposal of the Member States to facilitate interconnection between them. Member States have also been able to request financial support from the EU in the form of grants to modernise their national criminal records systems under the [Criminal Justice Programme](#).

In 2017, all Member States were connected to ECRIS. However, not all Member States are connected to all other Member States. For more details, please see the [Commission's first statistical report](#) on the use of ECRIS, which was published on 29 June 2017.

Extract of criminal record for other purposes than criminal proceedings

In line with provisions laid down in the European Framework Decision 2009/315/JHA, European Council Decision 2009/316/JHA and national provisions, the exchange of criminal record information can take place for other purposes than criminal proceedings. Further information on how to get an extract of a criminal record for such other purposes can be found on the Member State page by **clicking on the respective flag elsewhere on this page**.

Commission proposal to improve the exchange of information on third country nationals and stateless persons (TCN)

ECRIS works efficiently with regard to EU-nationals based on the principle of the Member State of nationality as the single repository of all conviction information. However, ECRIS does not equally support the exchange of conviction information on TCN, since a single repository for information TCN does not exist. It is therefore currently not possible to determine whether and in which Member State a particular TCN was convicted without consulting them all.

To remedy the situation, on 19 January 2016, the Commission adopted a [proposal for a Directive amending Framework Decision 2009/315/JHA on ECRIS](#) and – on 29 June 2017 – a complementing [proposal for a Regulation](#), to establish a centralised ECRIS TCN-system in order to efficiently identify the Member State(s) that have convicted a particular TCN.

In the proposed Regulation, the establishment of a centralised ECRIS TCN system at eu-LISA is regulated. The system consists of identity data (alphanumeric data and fingerprints) of all TCN convicted in the Member States. A search mechanism allows Member States to search the index on-line. A "hit" identifies the Member State(s) that have convicted a particular TCN. The identified Member State(s) can then be requested to provide full criminal records information through the established ECRIS.

The proposed Directive regulates the obligations of the Member States with regard to ECRIS TCN at national level as well as the exchanges between Member States of full conviction information.

The proposed Directive and Regulation are currently being negotiated, adapted and finalised during the legislative process by the European legislator – the Council and the Parliament.

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