

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.