



ECRIS to be upgraded to allow a better exchange of criminal records relating to non-EU nationals: Frequently asked Questions

Strasbourg, 19 January 2016

The improvement of ECRIS as regards non-EU nationals is a key action of the European Agenda on Security.

The improvement of ECRIS as regards non-EU nationals is a key action of the [European Agenda on Security](#). The inclusion of non-EU citizens was called for to allow Member States to have a better overview of a person's criminal convictions, regardless of their nationality. After the attacks in Paris in November, the Commission decided to speed up work to extend ECRIS to better include non-EU nationals.

What is ECRIS?

The [European Criminal Records Information System \(ECRIS\)](#) is a computerised system established in April 2012 to create an efficient exchange of information on criminal convictions between Member States.

It is an electronic interconnection of criminal records databases to ensure that information on convictions is exchanged between Member States in a quick and user-friendly computer format.

The system provides judges and prosecutors with easy access to comprehensive information on the criminal history of persons concerned, no matter in which Member States that person has been convicted in the past. The system also serves to prevent crime by removing the possibility for offenders to escape their criminal past simply by moving from one EU country to another.

It is based on [Council Framework Decision 2009/315/JHA](#) and [Council Decision 2009/316/JHA](#).

What is the objective of ECRIS?

One of the Commission's top priorities is to work towards a common area of freedom and justice, in which EU citizens' security is guaranteed through efficient cooperation of justice and police authorities.

Studies have demonstrated that national courts frequently pass sentences on the sole basis of past convictions featuring in their national register, without any knowledge of convictions in other Member States. Consequently, criminals were often able to escape their criminal past simply by moving to another Member State.

ECRIS contributes to **security for citizens** throughout the EU, thanks to better judicial cooperation between national authorities. Through rapid, efficient and targeted exchanges of information, Member States are working together effectively to reduce and prevent crime and international terrorism.

How does ECRIS work in practice?

Criminal records data is stored solely in national databases and exchanged electronically between the central authorities of the Member States upon request, using the ECRIS system.

It allows judicial and police authorities to find all criminal record information of an individual offender from all across the EU. Without ECRIS, they would have to send 27 enquiries to the other Member States.

When a Member State's criminal court convicts an offender, the conviction is first stored in the criminal record register in this Member State, according to its national law.

Then, it is passed on to the Member State of the person's nationality which is the central repository of all convictions handed down against that person – regardless of the convicting Member State.

All Member States must therefore notify any conviction of a person of another nationality to the authorities of the Member State of nationality of the convicted person.

Each Member State is in a position to provide for its nationals exhaustive, up-to-date information from its criminal records, regardless of where in the EU those convictions were handed down. A complete overview of an individual's criminal history can therefore always be obtained from the person's Member State of nationality.

When transmitting information on a conviction, EU Member States have to indicate appropriate codes for the category of the offence and the penalty or sanction, which is automatically translated into the language of the recipients, enabling them to react immediately upon receipt of the information.

The system therefore ensures a smooth, accurate and reliable flow of information between national authorities, based on a decentralised system of exchange.

For instance, a French national is convicted for a crime in Amsterdam. The Dutch judicial authority informs immediately the French judicial authority about the conviction. The French judicial authority puts this information in the French criminal record. Subsequently, the same French person is prosecuted in Rome for committing another crime. The Italian authority can request the criminal record from the French authority where the information about the Dutch conviction has been included.

How does ECRIS facilitate the work of justice and police authorities?

Information can be exchanged via ECRIS for the following purposes.

Criminal proceedings

Council Framework Decision 2008/675/JHA stipulates that Member States' judicial authorities should, during criminal proceedings, take into account previous convictions handed down against the same person for different facts in other Member States, irrespective of the nationality of the person concerned. This concerns decisions taken at the pre-trial stage, the trial itself and at the time of execution of the conviction. Previous convictions should be considered when deciding on provisional detention, the offence committed, the type and level of sentence and the rules governing the execution of the decision.

Investigation and prosecution

Previous convictions are a source of important background information on suspects and perpetrators. If previous convictions are unknown, the context of an offence might be overlooked and links to organised crime, terrorist crime or other serious forms of crime may not be detected. This may have an impact on the choice of investigative tools (e.g. phone tapping, undercover agents), urgent decisions (e.g. to arrest or detain a person), the deployment of staff, the priority of the prosecution as well as the scope of investigation (e.g. extension to possible accomplices).

Only complete information puts the competent law-enforcement and judicial authorities in a position to react adequately, to apply the right measures and to combat such crimes.

Crime prevention

Full information on a person's previous convictions is important to prevent the same type of crime being committed again by the same person. This includes prevention of sexual crimes involving children, protection of vulnerable persons and security-sensitive areas, and administrative decisions.

A number of administrative decisions may, according to national law, require previous checking of a person's criminal history. Such administrative decisions cover a broad range and can be related to licences for firearms or other hazardous materials, residence permits, visas and naturalisation, the adoption of children or the choice of foster care parents.

Own criminal record

In accordance with national legal provisions, citizens may ask for an extract from their criminal record, for example when seeking employment in another EU Member State. They benefit from being able to demonstrate a clean criminal record if they have not been convicted in any of the Member States.

How does this system work currently for non-EU nationals?

ECRIS works efficiently with regard to EU citizens. However, it is currently not possible to determine whether third country nationals were previously convicted in other Member States without consulting them all.

When a criminal court in the EU convicts a **non-EU citizen**, the information is stored only in the convicting Member State. This means there is no central reference point for a non-EU national's criminal record. It is therefore not possible at the moment to determine whether a non-EU national was previously convicted in other Member States without consulting them all. A complete overview of an individual's convictions can only be obtained by sending a 'blanket' request for information to all Member States. Because this causes significant administrative burdens for the authorities of the Member States, this possibility is rarely used at the moment.

How does the Commission intend to remedy the deficiencies as regards non-EU citizens?

The Commission proposes to upgrade ECRIS to help Member States find out easily and quickly in which other Member State criminal record information on a third country national is stored, thus significantly reducing the administrative burden. Once a national authority identified such Member State(s),

criminal record information will be exchanged as usual via the existing ECRIS.

When a Member States convicts a **non-EU national**, it will first of all store information on the person and on the conviction in its national criminal record register. Each Member State will then feed the identity data of all non-EU nationals convicted on its territory into a separate file. Specific software will irreversibly convert the identity data into computer codes, the so-called index-filter. This index-filter will then be made available to other Member States. With a simple 'hit/no-hit' search mechanism, Member States will be able to search this index to identify which Member State(s) hold criminal records of the individual. This mechanism means that when the name of the offender is entered in the database, his criminal record will appear if available – this doesn't allow authorities to browse the information that might be available on other offenders.

For instance, if an Italian judge is looking for the previous convictions of a non-EU national, he first enters the information he has on this person (e.g. name, date of birth, fingerprints...) in the ECRIS search index. If there is a match with information available in one or several Member States, the Italian judge is informed in which country it is; in this case the Netherlands. He then contacts his Dutch counterparts to obtain the criminal record of this non-EU national.

Will the extended ECRIS system contain fingerprints of non-EU nationals?

Yes. The new tool foresees the inclusion of fingerprints of non-EU citizens in the index-filter, in full accordance with data protection requirements. This is deemed necessary to ensure a more secure identification of non-EU nationals. Establishing the identity of non-EU citizens can prove difficult, for example because reliable identity documents are not always available, or they may be registered under different names or use false documents.

What benefits will the system bring for EU citizens?

The fundamental purpose of ECRIS is to ensure the **safety of citizens** by preventing crime through effective judicial cooperation. This safety is heightened when tools are provided that allow an efficient exchange of criminal record information regardless of nationality and regardless of where in the European Union a person was convicted.

What benefits will the system bring for non-EU citizens?

Non-EU citizens will also benefit by being able to demonstrate a clean criminal record, for example when seeking employment in an EU Member State. The proposal is in line with the EU Charter of Fundamental Rights, including the protection of personal data, equality before the law, the right to effective legal remedy, and the right to presumption of innocence. The Commission will be carefully monitoring the process to ensure that fundamental rights of both EU and non-EU citizens are equally upheld.

How will the system ensure personal data is protected?

ECRIS is a decentralised system, meaning that the software and databases which store, send and receive the information extracted from criminal records operate under the responsibility of individual Member States. The existing data protection requirements within each Member State will therefore apply.

As indicated above, concerning the new tool for non-EU nationals, and the index-filter which contains their identity data, data protection is ensured in a further way: specific software will irreversibly convert identity data into computer codes. The index-filter will thus not contain personal data, but it will allow the receiving Member States to match their own data against it and to find out whether further entries in criminal records exist in other Member States through a 'hit/no-hit' mechanism.

Will minors be included in the extended ECRIS system?

As with the current system, each Member State decides whether and what kind of convictions of children it includes in its national criminal records and thus share information on these convictions with the other Member States via the ECRIS system.

Children's rights are protected through ECRIS as well, since the sharing of criminal records allows national authorities and employers to verify that individuals have no previous convictions which would make them ineligible to work with children. As with all other citizens, an area of common security will be boosted with increased availability of criminal records.

Will irregular entry be included in the ECRIS system?

As with the current ECRIS, it is up to each Member State to decide whether and how convictions for certain offences such as irregular entry or stay are included in the national criminal records, and thus become available to the other Member States via the ECRIS system. Unless required by EU or international law, certain behaviour might be criminalised in one Member State, but not in another.

The Commission will ensure that the current guarantees within the EU's asylum and migration acquis including the principles of *non-refoulement*, are upheld. The proposal aims to ensure a more comprehensive overview of all criminal convictions to ensure better EU-wide security, and the Commission will monitor carefully any disproportionate impact on non-EU nationals.

For further information:

See [IP/16/87](#)

MEMO/16/91

Press contacts:

[Christian WIGAND](#) (+ 32 2 296 22 53)

[Melanie VOIN](#) (+ 32 2 295 86 59)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)