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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	15450/17
No. Cion doc.:	5438/16 + ADD 1 + ADD 2
Subject:	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 - Five column table

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Delegations will find in the Annex a five column table on the ECRIS Directive, as drafted by the EP Secretariat. The table comprises the Commission proposal (5438/16), the revised text of the Presidency (11568/17), the first reading Position of the European Parliament (5727/18) and the General Approach of the Council (15450/17).

The markings in this table are to be read as follows:

- Second column with Revised text by the Presidency: new text is marked in **bold italics**; deleted parts of the text are marked in ~~strikethrough~~.

- Third column with first reading Position of the European Parliament: new text is marked in **bold italics**; deleted parts of the text are marked in ~~strikethrough~~.
  - Fourth column with General Approach of the Council: new text is marked in **bold italics**; deleted parts of the text are marked in ~~strikethrough~~, parts of the text that have been moved up or down are marked in **bold**.
  - Fifth column: the diagonal line in the box indicates that the text is identical for all three institutions.
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COM (2016)0007	Council document 11568/17 - revised COM proposal	EP amendments 2016/0002(COD)	Council general approach document 15450/17	Comments/compromise suggestions
		<i>Amendment 1</i>		
<p>(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to the prevention and combating of crime.</p>		<p>(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to the prevention and combating of crime, <i>and providing internal security.</i></p>	<p>(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to the prevention and combating of crime.</p>	
<p>(2) This objective requires that it be possible for information on convictions handed down in the Member States to be taken into account outside the convicting Member State, both in the course of</p>			<p>(2) This objective requires that it be possible for information on convictions handed down in the Member States to be taken into account outside the convicting Member State, both in the course of</p>	

<p>new criminal proceedings, as laid down in Council Framework Decision 2008/675/JHA<sup>1</sup>, and in order to prevent new offences.</p> <p>_____</p> <p><sup>1</sup> Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings (OJ L 220, 15.8.2008, p. 32).</p>			<p>new criminal proceedings, as laid down in Council Framework Decision 2008/675/JHA<sup>1</sup>, and in order to prevent new offences.</p> <p>_____</p> <p><sup>1</sup> Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings (OJ L 220, 15.8.2008, p. 32).</p>	
<p>(3) This objective presupposes the exchange of information extracted from criminal records between the competent authorities of the Member States. Such information exchange is organised and facilitated by the rules set out in Council Framework Decision 2009/315/JHA<sup>2</sup> and by the European Criminal Record Information System (ECRIS) which has been</p>			<p>(3) This objective presupposes the exchange of information extracted from criminal records between the competent authorities of the Member States. Such information exchange is organised and facilitated by the rules set out in Council Framework Decision 2009/315/JHA<sup>2</sup> and by the European Criminal Record Information System (ECRIS) which has been</p>	

<p>established in accordance with Council Decision 2009/316/JHA<sup>3</sup>.</p> <hr/> <p><sup>2</sup> Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93, 7.4.2009, p. 23).</p> <p><sup>3</sup> Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 93, 7.4.2009, p. 33).</p>			<p>established in accordance with Council Decision 2009/316/JHA.<sup>3</sup></p> <hr/> <p><sup>2</sup> Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States (OJ L 93, 7.4.2009, p. 23).</p> <p><sup>3</sup> Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA (OJ L 93, 7.4.2009, p. 33).</p>	
<b>Amendment 2</b>				
<p>(4) The ECRIS legal framework, however, does not sufficiently cover the particularities of requests concerning third country nationals. Although it is</p>		<p>(4) The <i>existing</i> ECRIS legal framework, however, does not sufficiently <del>cover</del> <i>address</i> the particularities of requests concerning third country nationals.</p>	<p>(4) The ECRIS legal framework, however, does not sufficiently cover the particularities of requests concerning third country nationals. Although it is</p>	

now possible to exchange information on third country nationals through ECRIS, there is no procedure or mechanism in place to do so efficiently.		Although it is <del>now</del> <b>already</b> possible to exchange information on third country nationals through ECRIS, there is no <b>common European</b> procedure or mechanism in place to do so efficiently.	now possible to exchange information on third country nationals through ECRIS, there is no procedure or mechanism in place to do so efficiently.	
(5) Information on third country nationals is not gathered within the Union in the Member State of nationality as it is for nationals of Member States, but only stored in the Member States where the convictions have been handed down. A complete overview of the criminal history of a particular individual can therefore only be ascertained if information is requested from all Member States.			(5) Information on third country nationals is not gathered within the Union in the Member State of nationality as it is for nationals of Member States, but only stored in the Member States where the convictions have been handed down. A complete overview of the criminal history of a particular individual can therefore only be ascertained if information is requested from all Member States.	
		<b>Amendment 3</b>		
(6) Such blanket requests impose an administrative burden on all Member States, including those not holding information on the particular third country		(6) Such blanket requests impose <b>a disproportionate</b> administrative burden on all Member States, including those not holding information on the	(6) Such blanket requests impose an administrative burden on all Member States, including those not holding information on the	

<p>national. In practice, this negative effect deters Member States from requesting information on third country nationals and leads to Member States limiting the criminal record information on information stored in their national register.</p>		<p>particular third country national. In practice, this negative effect deters Member States from requesting information on third country nationals <del>and</del> <b>leads to from other Member States, which seriously hinders its exchange between</b> Member States, limiting the criminal record information stored in their national register. <b>As a consequence, the risk of information exchange between Member States being inefficient and incomplete is increased, which in turn affects the level of security and safety provided to citizens and persons residing within the Union.</b></p>	<p>particular third country national. In practice, this negative effect deters Member States from requesting information on third country nationals and leads to Member States limiting the criminal record information on information stored in their national register.</p>	
		<p><b>Amendment 4</b></p>		
<p>(7) The exchange of information on criminal convictions is important in any strategy to combat crime and counter terrorism. It would</p>		<p>(7) The exchange of information on criminal convictions is important in any strategy to combat crime and counter terrorism <b>and to ensure</b></p>	<p>(7) The exchange of information on criminal convictions is important in any strategy to combat crime and counter terrorism. It would</p>	

<p>contribute to the criminal justice response to radicalisation leading to terrorism and violent extremism if Member States used ECRIS to its full potential.</p>		<p><i>security within the Union.</i>  <del>It would contribute to the criminal justice response to radicalisation leading to terrorism and violent extremism</del> <i>If Member States used ECRIS to its full potential, it would bolster the criminal justice response of Member States to the radicalisation that leads to acts of terrorism and violent extremism, increase the protection offered to vulnerable persons, and help counter the persistent and serious effects of cross-border organised criminal networks.</i></p>	<p>contribute to the criminal justice response to radicalisation leading to terrorism and violent extremism if Member States used ECRIS to its full potential.</p>	
		<p><b>Amendment 5</b></p>		
<p>(8) 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.</p>		<p><i>deleted</i></p>	<p>(8) 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.</p>	
		<p><b>Amendment 6</b></p>		



		<i>Recital 8 a (new)</i>		
		<p><i>(8a) In order to increase the utility of information on convictions and disqualifications arising from convictions for sexual offences against children, Directive 2011/93/EU of the European Parliament and of the Council<sup>1a</sup> established the obligation for Member States to take the necessary measures to ensure that when recruiting a person to a role involving direct and regular contact with children, employers are entitled to request information about that person's criminal convictions or any disqualifications arising from those convictions. Member States should endeavour to provide similar safeguards with regard to persons who intend to work with disabled or elderly persons. The aim is to</i></p>		

		<p><i>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.</i></p> <hr/> <p><i><sup>1a</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).</i></p>		
		<b><i>Amendment 7</i></b>		
(9) As a result, a system should be established by which the central authority of a Member State finds out quickly and efficiently in which other Member State criminal record		(9) As a result, a system should be established by which the central authority of a Member State finds out <del>quickly</del> <b><i>promptly</i></b> and efficiently <del>in</del> which other Member State <b><i>holds</i></b>		

information on a third country national is stored so that the existing ECRIS framework can then be used.		criminal record information on a third country national <del>is stored so that the existing ECRIS framework can then be used.</del>		
			<p><b><i>(9) In order to improve the situation, the Commission submitted a proposal, which led to the adoption of Regulation (EU) [XX/XXXX]<sup>4</sup> creating a centralised system at Union level, containing personal data of convicted third country nationals in order to identify the Member State(s) holding information on their previous convictions ('ECRIS-TCN system').</i></b></p> <p><sup>4</sup> <b><i>Reference to the ECRIS-TCN Regulation to be inserted.</i></b></p>	
		<b><i>Amendment 8</i></b>		
(10) The obligations of Member States as regards convictions of third		(10) The obligations of Member States as regards convictions of third		

<p>country nationals should also include fingerprints to secure identification. This obligation includes to store information, including fingerprints, to reply to requests on information from other central authorities, to ensure that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, and to make the technical changes to apply state-of-the-art technologies necessary to make the information exchange system work.</p>		<p>country nationals should also include fingerprints <b><i>when this is necessary</i></b> to secure identification. This obligation includes to store information, including fingerprints, to reply to requests on information from other central authorities, to ensure that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, and to make the technical changes to apply state-of-the-art technologies necessary to make the information exchange system work.</p>		
			<p><b><i>(10) The ECRIS-TCN system will allow the central authority of a Member State to find out quickly and efficiently in which other Member State criminal record information on a third country national is stored so that the existing ECRIS</i></b></p>	

			<i>framework can be used to request the criminal record information from that Member State or those Member States in accordance with Framework Decision 2009/315/JHA.</i>	
		<b>Amendment 9</b>		
(11) In order to compensate the lack of a single Member State where information on a particular third country national is stored, decentralised information technology should enable the central authorities of the Member States to find out in which other Member State criminal record information is stored. For this purpose, each central authority should distribute to the other Member States an index-filter which includes, in an anonymised form, the identification data of the third country nationals convicted in its Member State. The		(11) In order to compensate the lack of a <del>single Member State</del> <b>centralised Union database</b> where information on a <del>a</del> <b>each</b> particular <b>convicted</b> third country national is stored, <del>a</del> decentralised information technology <b>system</b> should enable the central authorities of the Member States to find out in which other Member State criminal record information <b>on this particular third country national</b> is stored. For this purpose, each <b>designated</b> central authority should distribute to the other Member States an index-		

<p>personal data should be rendered anonymous in such a way that the data subject is not identifiable. The receiving Member State may then match these data with their own information on a ‘hit’/‘no hit’ basis, thus finding out whether or not criminal record information is available in other Member States and, in case of a ‘hit’, in which Member States. The receiving Member State should then follow up a ‘hit’ using the ECRIS framework. With respect to third country nationals who also hold the nationality of a Member State, the information included in the index should be limited to information available as regards nationals of Member States.</p>		<p>filter which includes, in a <del>anonymised</del> <b>pseudonymised</b> form, the identification data of the third country nationals convicted in its Member State. The personal data <b>in the index-filter</b> should be <del>rendered anonymous</del> <b>pseudonymised</b> in such a way that the data subject is not <b>directly</b> identifiable. The receiving Member State may then match these data with their own information on a ‘hit’/‘no hit’ basis, thus finding out whether or not criminal record information is available in other Member States and, in case of a ‘hit’, in which Member States. The receiving Member State should then follow up a ‘hit’ using the ECRIS framework. With respect to third country nationals who also hold the nationality of a Member State, the information included in the <b>index-filter</b> should be limited to</p>		
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		information available as regards nationals of Member States.		
			<p><i>(11) This Directive aims at introducing the necessary modifications to Framework Decision 2009/315/JHA that will allow for an effective exchange of information on convictions of third country nationals via ECRIS. It sets up the obligations for Member States to take the necessary measures to ensure that convictions are accompanied by information on the nationality, or nationalities, of the convicted person, in so far as the Member States have such information at their disposal. It also regulates procedures to reply to requests for information, ensures that a criminal record extract requested by a third country national is supplemented as appropriate with</i></p>	

			<i>information from other Member States, and makes the technical changes necessary to make the information exchange system work.</i>	
		<b>Amendment 10</b>		
		<b>Recital 11 a (new)</b>		
		<i>(11a) 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. This exchange of information</i>		



		<i>should be in full respect, in particular to the principles of proportionately, necessity, and the right to a fair trial in the third country.</i>		
		<b>Amendment 11</b>		
		<b>Recital 11 b (new)</b>		
		<i>(11b) The Commission should 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.</i>		
		<b>Amendment 12</b>		
(12) Council Framework Decision 2008/977/JHA <sup>4</sup> should apply in the context of computerised exchange of information extracted from criminal records of Member States, providing for an adequate level of data protection when		(12) Council Framework Decision 2008/977/JHA <sup>22</sup> <b>and Directive (EU) 2016/680 of the European Parliament and of the Council<sup>22a</sup> should must</b> apply in the context of computerised exchange of information extracted from		

<p>information is exchanged between Member States, whilst allowing for Member States to require higher standards of protection to national data processing.</p> <hr/> <p><sup>4</sup> Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60).</p>		<p>criminal records of Member States, <i>thereby</i> providing for <del>an adequate</del> <i>a high</i> level of data protection when information is exchanged between Member States, whilst allowing for Member States to require <i>even</i> higher standards of <i>data</i> protection to national data processing.</p> <hr/> <p><sup>22</sup> Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60).</p> <p><sup>22a</sup> <i>Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for</i></p>		
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		<p><i>the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).</i></p>		
			<p><i>(12) Directive (EU) 2016/680 should apply to the processing of personal data by competent national authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including safeguarding against and the prevention of threats to public security. Regulation (EU) 2016/679 should apply to the processing of personal data by national authorities provided that national provisions transposing Directive</i></p>	

			<p><i>(EU) 2016/680 do not apply.</i></p>	
			<p><i>(13) In order to ensure uniform conditions for the implementation of Framework Decision 2009/315/JHA, the principles of Council Decision 2009/316/JHA should be incorporated in that Framework Decision, and implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council<sup>5</sup>.</i></p> <p>_____</p> <p><sup>5</sup> <i>Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's</i></p>	

			<i>exercise of implementing powers (OJ L 55, 28.2.2011, p.13).</i>	
(13) The common communication infrastructure used for the exchange of criminal record information should be the secure Trans European Services for Telematics between Administrations (sTESTA) or any further development thereof or any alternative secure network.			(14) The common communication infrastructure used for the exchange of criminal record information should be the secure Trans European Services for Telematics between Administrations (sTESTA) or any further development thereof or any alternative secure network.	
(14) Notwithstanding the possibility of using the Union's financial programmes in accordance with the applicable rules, each Member State should bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database, and from the implementation, administration, use and maintenance of the technical alterations needed to be able to use			(15) Notwithstanding the possibility of using the Union's financial programmes in accordance with the applicable rules, each Member State should bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database, and from the implementation, administration, use and maintenance of the technical alterations needed to be able to use	

ECRIS.			ECRIS.	
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		<i>Amendment 13</i>		
(15) This Directive respects the fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to protection of personal data, the principle of equality before the law and the general prohibition of discrimination. This Directive should be implemented in accordance with these rights and principles.		(15) This Directive respects the fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to protection of personal data, <b><i>including judicial and administrative redress</i></b> , the principle of equality before the law, <b><i>the right to a fair trial, the presumption of innocence</i></b> and the general prohibition of discrimination. This Directive should be implemented in accordance with these rights and principles <b><i>and the principles of proportionality and necessity</i></b> .	(16) This Directive respects the fundamental rights and freedoms and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the right to protection of personal data, the principle of equality before the law and the general prohibition of discrimination. This Directive should be implemented in accordance with these rights and principles.	
		<i>Amendment 14</i>		
(16) Since the objective of this Directive, namely to		(16) Since the objective of this Directive, namely to	(17) Since the objective of this Directive, namely to	

<p>enable rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by reason of the necessary synergy and interoperability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.</p>		<p>enable rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by <del>reason of the necessary synergy</del> <b>putting in place common European rules and interoperability interoperable systems</b>, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.</p>	<p>enable rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by reason of the necessary synergy and interoperability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.</p>	
<p>(17) In order to ensure uniform conditions for the implementation of Framework Decision 2009/315/JHA, the principles of Council</p>				



<p>Decision 2009/316/JHA should be incorporated in the Framework Decision, and implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council<sup>5</sup>.</p> <p>_____</p> <p><sup>5</sup> Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).</p>				
<p>(18) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the</p>			<p>(18) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the <i>TEU</i> and to the Treaty on the Functioning of the European Union, Denmark</p>	

European Union, Denmark  
is not taking part in the  
adoption of this Directive  
and is not bound by it or  
subject to its application.

is not taking part in the  
adoption of this Directive  
and is not bound by it or  
subject to its application.

(19) In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.

[or]

In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union

(19) In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to ~~the Treaty on European Union~~ **TEU** and to the Treaty on the Functioning of the European Union (**TFEU**), and without prejudice to Article 4 of that Protocol, ~~those Member States are~~ **Ireland is** not taking part in the adoption of this Directive and ~~are~~ **is** not bound by it or subject to its application.

~~for~~

(20) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the ~~the~~

<p>and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Directive.</p>			<p><del>Treaty on European Union <i>TEU</i> and the Treaty on the Functioning of the European Union <i>TFEU</i>, those Member States have</del> <b><i>the United Kingdom has</i></b> notified <del>their</del> <b><i>its</i></b> wish to take part in the adoption and application of this Directive.</p>	
<p>(20) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>6</sup> and delivered an opinion on ...<sup>7</sup>.</p> <p>_____</p> <p><sup>6</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8,</p>			<p>(21) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>6</sup> and delivered an opinion on ...<sup>7</sup>.</p> <p>_____</p> <p><sup>6</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8,</p>	

12.1.2001, p.1).			12.1.2001, p.1).	
<sup>7</sup> OJ C ...			<sup>7</sup> OJ C ...	
(21) Framework Decision 2009/315/JHA should therefore be amended accordingly,			(22) Framework Decision 2009/315/JHA should therefore be amended accordingly,	
HAVE ADOPTED THIS DIRECTIVE:			HAVE ADOPTED THIS DIRECTIVE:	
<b>Article 1</b>			<b>Article 1</b>	
Framework Decision 2009/315/JHA is amended as follows:			Framework Decision 2009/315/JHA is amended as follows:	
		<b>Amendment 15</b>		
(1) Article 1 is replaced by the following:	(1) Article 1 is replaced by the following:	(1) Article 1 is replaced by the following:	(1) Article 1 is replaced by the following:	
" <i>Article 1</i> <b>Subject Matter</b> This Framework Decision	" <i>Article 1</i> <b>Subject Matter</b> This Framework Decision	" <i>Article 1</i> Subject Matter This Framework Decision	" <i>Article 1</i> <b>Subject Matter</b> This Framework Decision	
(a) defines the ways in which a convicting Member State shares information on convictions with other Member States;	(a) defines the ways in which a convicting Member State shares information <del>on convictions</del> with other Member States <b>on convictions.</b>	(a) defines the ways in <del>h</del> <b>and conditions under</b> which a convicting Member State shares information on convictions with other Member States;	(a) defines the ways in which a convicting Member State shares information <del>on convictions</del> <b>on convictions.</b>	
(b) defines storage	(b) defines <del>storage</del>	(b) defines storage <b>and</b>	(b) defines <del>storage</del>	

obligations for the convicting Member State, and specifies the methods to be followed when replying to a request for information extracted from criminal records;	obligations <i>under this Framework Decision</i> for the convicting Member State <i>and for the Member State of nationality</i> , and specifies the methods to be followed when replying to a request for information extracted from criminal records;	<i>privacy</i> obligations for the convicting Member State, and specifies the methods to be followed when replying to a request for information extracted from criminal records;	obligations for the convicting Member State <i>and for the Member State of the person's nationality</i> , and specifies the methods to be followed when replying to a request for information extracted from criminal records;	
		<i>(ba) defines 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;</i>		
(c) establishes a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";	(c) establishes a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";	(c) establishes a <i>European</i> decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";	(c) establishes a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";	
(2) in Article 2, the	(2) in Article 2, the		(2) in Article 2, the	

following points are added:	following points are added:		following points are added:	
"(d) 'convicting Member State' means the Member State where a conviction is handed down;	"(d) 'convicting Member State' means the Member State where a conviction is handed down;		"(d) 'convicting Member State' means the Member State where a conviction is handed down;	
(e) 'third country national' means a national of a country other than a Member State, or a stateless person, or a person whose nationality is unknown to the Member State where a conviction is handed down against the person.";	(e) 'third country national' means a national of a country other than a Member State, or a stateless person <b>as defined by the UN Convention relating to the Status of Stateless Persons</b> , or a person whose nationality is unknown to the <b>convicting</b> Member State where a conviction is handed down against the person.";		(e) 'third country national' means <b>a person who is not a citizen of the Union within the meaning of Article 20(1) TFEU, or a stateless person or a person whose nationality is unknown</b> ;	
	<b>(f) 'fingerprint data' means the data relating to fingerprints of plain and rolled impressions of all ten fingers. of a convicted person;</b>		<b>(f) 'fingerprint data' means the data relating to plain and rolled impressions of the fingerprints of each of a person's fingers;</b>	
	<b>(g) 'ECRIS reference implementation' means the software developed by the Commission and made available to the Member States for the exchange of criminal records</b>		<b>(g) 'ECRIS reference implementation' means the software developed by the Commission and made available to the Member States for the exchange of criminal records</b>	

	<i>information through ECRIS.</i>		<i>information through ECRIS;</i>	
			<i>(h) 'facial image' means a digital image of the face;</i>	
		<i>Amendment 16</i>		
(3) in Article 4, paragraph 1 is replaced by the following:	(3) in Article 4, paragraph 1 is replaced by the following:	(3) in Article 4, paragraph 1 is replaced by the following:	(3) in Article 4, paragraph 1 is replaced by the following:	
"1. Each Member State shall take the necessary measures to ensure that when convictions handed down within its territory are entered into its criminal records, 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.";	"1. Each <b>convicting</b> Member State shall take the necessary measures to ensure that <del>when convictions handed down within its territory are</del> <b>accompanied</b> , <del>when provided entered into its criminal records,</del> <b>by</b> information on the nationality or nationalities of the convicted person is <del>included</del> if the person is a national of another Member State or a third country national, <del>unless such information is unknown.</del> <b>In case the citizenship information is unknown or where the convicted person is a</b>	"1. Each Member State shall take <b>all</b> the necessary measures to ensure that when convictions <b>are</b> handed down within its territory, <b>they</b> are entered into its criminal records <b>database, and that</b> 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.";	"1. Each <b>convicting</b> Member State shall take the necessary measures to ensure that <del>when convictions handed down within its territory are entered into its criminal records,</del> <b>are accompanied by</b> information on the nationality or nationalities of the convicted person is <del>included</del> if the person is a national of another Member State, or a third country national. <b>In case the information on nationality is unknown or where the convicted person is a stateless person the criminal record shall reflect this.</b> ";	



	<i>stateless person the criminal record shall reflect this.</i> ";			
(4) the following article is inserted:				
<i>"Article 4a</i> <b>Obligations of the convicting Member State concerning convictions of third country nationals</b>				
		<b><i>Amendment 17</i></b>		
1. The Member State where a conviction is handed down against a third country national shall store the following information, unless, in exceptional individual cases, this is not possible:		1. The Member State where a conviction is handed down against a third country national shall <b><i>always</i></b> store the following information, unless, in exceptional individual cases, this is not possible ( <b><i>obligatory information</i></b> ):		
(a) information on the convicted person (full name, date of birth, place of birth (town and country), gender, nationality and – if applicable – previous name(s);		(a) information on the convicted person (full name, date of birth, place of birth (town and country), gender, nationality and – if applicable – previous name(s);		
(b) information on the		(b) information on the		

nature of the conviction (date of conviction, name of the court, date on which the decision became final);		nature of the conviction (date of conviction, name of the court, date on which the decision became final);		
(c) information on the offence giving rise to the conviction (date of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions);		(c) information on the offence giving rise to the conviction (date of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions);		
(d) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);		(d) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);		
		<b><i>1a. The Member State where a conviction is handed down against a third country national may store the following information, if available (optional information):</i></b>		
(e) the convicted				

person's parents' names;				
(f) the reference number of the conviction;		<b>(a)</b> the reference number of the conviction;		
(g) the place of the offence;		<b>(b)</b> the place of the offence;		
(h) if applicable, disqualifications arising from the conviction;		<b>(c)</b> if applicable, disqualifications arising from the conviction;		
(i) the convicted person's identity number, or the type and number of the person's identification document;		<b>(d)</b> the convicted person's identity number, or the type and number of the person's identification document;		
(j) fingerprints of the person;		<b>(e)</b> fingerprints of the person <i>only when the national law of a Member State where a conviction is handed down allows for collection and storage of fingerprints of a convicted person;</i>		
(k) if applicable, pseudonym and/or alias name(s).		<b>(f)</b> if applicable, pseudonym and/or alias name(s).		
		<b>Amendment 18</b>		
2. The central authority shall create an index-filter containing anonymised		2. The central authority shall create an index-filter containing <i>pseudonymised</i>		

information of the types referred to in points (a), (e), (i), (j) and (k) of paragraph 1 concerning third country nationals convicted in its Member State. The central authority shall transmit this index-filter, and any updates to it, to all Member States.		information of the types referred to in <i>point (a)</i> of paragraph 1 <i>and points (d), (e) and (f) of paragraph 1a</i> concerning third country nationals convicted in its Member State. The central authority shall transmit this index-filter and any updates to it, to all Member States.		
		<b><i>Amendment 19</i></b>		
3. Any alteration or deletion of the information referred to in paragraph 1 shall immediately entail identical alteration or deletion of the information stored in accordance with paragraph 1 and contained in the index-filter created in accordance with paragraph 2 by the central authority of the convicting Member State.		3. Any alteration or deletion of the information referred to in <i>paragraphs 1 and 1a</i> shall immediately entail identical alteration or deletion of the information stored in accordance with <i>paragraphs 1 and 1a</i> and contained in the index-filter created in accordance with paragraph 2 by the central authority of the convicting Member State <i>and shall entail updating the information contained in the index-filter stored in all other Member States.</i>		
		<b><i>Amendment 20</i></b>		

<p>4. Paragraph 2 and paragraph 3 apply with respect to the index-filter also regarding third country nationals who hold the nationality of a Member State, to the extent that the information referred to in points (a), (e), (i), (j) and (k) of paragraph 1 is stored by the central authority in respect of nationals of Member States.</p>		<p><i>deleted</i></p>		
		<p><b><i>Amendment 21</i></b></p>		
		<p><b><i>4a. Member States shall not enter information on convictions related to irregular entry or stay into the index-filter.</i></b></p>		
		<p><b><i>Amendment 22</i></b></p>		
		<p><b><i>4b. Member States shall not enter information in 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</i></b></p>		

		<i>least four years.</i>		
<p>5. Paragraph 1 shall apply to convictions handed down after [12 months after adoption].</p> <p>Paragraph 2 shall apply to information already included in the criminal record on [12 months after adoption] and to information on convictions handed down after [12 months after adoption].";</p>				
(5) the following article is inserted:				
<i>"Article 4b</i>				
<b>Use of the index-filters</b>				
<p>1. For the purpose of identifying those Member States holding criminal record information on a third country national, the central authorities of the Member States may search the index-filters transmitted in accordance with Article 4a in order to match any information in these index-filters with</p>				

their own information of the types referred to in Article 4a(2). The index-filters shall not be used for other purposes than those referred to in Article 6.				
		<b>Amendment 23</b>		
2. This Article applies also regarding a third country national who holds the nationality of a Member State.";		2. This Article <del>applies</del> <b>shall not apply</b> regarding a third country national who holds the nationality of a Member State. <b>Any third country national also holding the nationality of a Member State shall be treated as a national of that Member State in accordance with Article 4.</b>		
(6) Article 6 is amended as follows:	(4) Article 6 is amended as follows:		(4) <b>In</b> Article 6, paragraph 3 is replaced by the following:	
(a) paragraph 2 is deleted;				
(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:			
"3. Whenever a national of a Member State asks the central authority of a Member State other than	"3. Whenever a national of a Member State asks the central authority of a Member State other than		"3. Whenever a national of a Member State asks the central authority of a Member State other	

<p>the Member State of the person's nationality for information on his own criminal record, that central authority shall, provided that the person concerned is or was a resident or a national of the requesting or requested Member State, submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include such information and related data in the extract to be provided to the person concerned.</p>	<p>the Member State of the person's nationality for information on his own criminal record, that central authority shall, <del>provided that the person concerned is or was a resident or a national of the requesting or requested Member State,</del> submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order <del>to be able</del> to include such information and related data in the extract to be provided to the person concerned.</p>		<p>than the Member State of the person's nationality for information on his own criminal record, that central authority shall submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to include such information and related data in the extract to be provided to the person concerned.</p>	
<p>Where a third country national who does not hold the nationality of a Member State asks the central authority of a Member State for information on his own criminal record, that central authority shall submit a request only to those central authorities of</p>	<p>3a. Where a third country national <del>who does not hold the nationality of a Member State</del> asks the central authority of a Member State for information on his own criminal record, that central authority shall submit a request only to those central authorities of</p>		<p>3a. Where a third country national asks the central authority of a Member State for information on his own criminal record, that central authority shall submit a request only to those central authorities of the Member States which hold information on the</p>	



the Member States which hold information on the criminal record of this person for information and related data to be extracted from the criminal record in order to be able to include such information and related data in the extract to be provided to the person concerned.";	the Member States which hold information on the criminal record of this person for information and related data to be extracted from the criminal record in order to be able to include <del>such information and related data</del> <b>it</b> in the extract to be provided to the person concerned.";		criminal record of this person for information and related data to be extracted from the criminal record in order to be able to include it in the extract to be provided to the person concerned.";	
		<b><i>Amendment 24</i></b>		
		<b><i>Where applicable, if a search on the index-filters returns no hits, the third country national asking for information on his own criminal record shall receive a statement certifying that the search on the index-filters returned no hits."</i></b>		
		<b><i>Amendment 25</i></b>		
		<b><i>(6a) in Article 7(2) the first subparagraph is replaced by the following:</i></b>		
		"2. When information extracted from the criminal record is requested under Article 6 from the central		

		authority of the Member State of the person's nationality for any purposes other than that of criminal proceedings, that central authority shall in respect of convictions handed down in the Member State of the person's nationality and of convictions handed down in third countries, which have been subsequently transmitted to it and entered in its criminal record, reply, <i>if so provided in the national law of the Member State of the person's nationality or of the requesting Member State.</i> ";		
(7) in Article 7, paragraph 4 is replaced by the following:	(5) in Article 7, paragraph 4 is replaced by the following:		(7) in Article 7, paragraph 4 is replaced by the following:	
"4. When information extracted from the criminal record on convictions handed down against a national of a Member State is requested under Article 6 from the central authority	"4. When information extracted from the criminal record on convictions handed down against a national of a Member State is requested under Article 6 from the central authority		"4. When information extracted from the criminal record on convictions handed down against a national of a Member State is requested under Article 6 from the	

<p>of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit information on convictions handed down in the requested Member State to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.</p>	<p>of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit <i>such</i> information <del>on convictions handed down in the requested Member State</del> to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.</p>		<p>central authority of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit <i>such</i> information <del>on convictions handed down in the requested Member State</del> to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.</p>	
<p>4a. When information extracted from the criminal record on convictions handed down against third country nationals is requested under Article 6 for purposes of criminal proceedings, the requested Member State shall transmit information to the central authority of the requesting Member State on any conviction handed down in the requested Member State and on any conviction handed down in third countries and</p>	<p>4a. When information extracted from the criminal record on convictions handed down against third country nationals is requested under Article 6 for the purposes of criminal proceedings, the requested Member State shall transmit information <del>to the central authority of the requesting Member State</del> [...] on any conviction handed down in the requested Member State and on any conviction handed down in</p>		<p>4a. When information extracted from the criminal record on convictions handed down against a third country national is requested under Article 6 for the purposes of criminal proceedings, the requested Member State shall transmit information <del>to the central authority of the requesting Member State</del> on any conviction handed down in the requested Member State <i>and entered in the criminal record</i> and on any</p>	

subsequently transmitted to it and entered in the criminal record.	third countries and subsequently transmitted to it and entered into the criminal record.		conviction handed down in third countries and subsequently transmitted to it and entered into the criminal record.	
If such information is requested for any purpose other than that of criminal proceedings, paragraph 2 of this Article shall apply accordingly.";	If such information is requested for any purpose other than that of criminal proceedings, paragraph 2 of this Article shall apply accordingly.";		If such information is requested for any purpose other than that of criminal proceedings, paragraph 2 of this Article shall apply accordingly.";	
			<b><i>(5a) in Article 8, paragraph 2, the words "Article 6(2)" are replaced by "Article 6(2), (3) and (3a)"</i></b>	
(8) Article 9 is amended as follows:	(6) Article 9 is amended as follows:		(6) Article 9 is amended as follows:	
(a) in paragraph 1, the phrase "Article 7(1) and (4)" is replaced by "Article 7(1), (4) and (4a)";	(a) [in paragraph 1, the phrase "Article 7(1) and (4)" is replaced by "Article 7(1), (4) and (4a)";		(a) in paragraph 1, the <del>words phrase</del> "Article 7(1) and (4)" <del>are</del> is replaced by "Article 7(1), (4) and (4a)";	
(b) in paragraph 2, the phrase "Article 7(2) and (4)" is replaced by "Article 7(2), (4) and (4a)";	(b) in paragraph 2, the phrase "Article 7(2) and (4)" is replaced by "Article 7(2), (4) and (4a)";		(b) in paragraph 2, the <del>words phrase</del> "Article 7(2) and (4)" <del>are</del> is-replaced by "Article 7(2), (4) and (4a)";	
(c) in paragraph 3, the phrase "Article 7(1), (2) and (4) is replaced by "Article 7(1), (2), (4) and	(c) in paragraph 3, the phrase "Article 7(1), (2) and (4) is replaced by "Article 7(1), (2), (4) and		(c) in paragraph 3, the <del>words phrase</del> "Article 7(1), (2) and (4) <del>are</del> is-replaced by "Article 7(1), (2), (4)	

(4a)";	(4a)]";		and (4a)";	
		<b><i>Amendment 26</i></b>		
		<b><i>(7a) the following article is inserted:</i></b>		
		<b><i>"Article 7a</i></b>		
		<b><i>Access to ECRIS database by Europol</i></b>		
		<b><i>1. Europol shall be entitled to access the ECRIS database for the performance of its tasks.</i></b>		
		<b><i>2. Europol may submit, on a case-by-case basis, an electronic and duly reasoned request to the central authority of any Member State through the Europol National Unit for the transmission of information from the criminal record of a Member State using the form set out in the annex.</i></b>		
		<b><i>3. Europol may submit a request referred to in paragraph 2 when this is necessary to support and strengthen action by the competent authorities of</i></b>		

		<i>the Member States and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.</i>		
		<i>4. Exchange of information under this Article shall take place through Secure Information Exchange Network Application.";</i>		
		<i>Amendment 27</i>		
		<i>(7b) the following article is inserted:</i>		
		<i>"Article 7b</i>		
		<i>1. Frontex shall be entitled to access the ECRIS database for the performance of its tasks.</i>		
		<i>2. Frontex may submit, on a case-by-case basis, an electronic and duly reasoned request to the central authority of any Member State for the</i>		

		<i>transmission of information from the criminal record of a Member State using the form set out in the annex."</i>		
(9) in Article 11, paragraphs 3 to 7 are replaced by the following:	(7) <i>Article 11 is amended as follows:</i> (a) <i>in point c of paragraph 1, point (iv) is added:</i> <i>"(iv) facial image."</i> (b) paragraphs 3 to 7 are replaced by the following:		(7) <i>Article 11 is amended as follows:</i> (a) <i>in point c of paragraph 1, point (iv) is added:</i> <i>"(iv) facial image."</i> (b) paragraphs 3 to 7 are replaced by the following:	
"3. Central authorities of Member States shall transmit the information referred to in Article 4, the index-filter referred to in Article 4a, requests referred to in Article 6, replies referred to in Article 7 and other relevant information electronically using ECRIS and a standardised format in accordance with the standards laid down in implementing acts.	"3. Central authorities of Member States shall transmit the information referred to in Articles 4 <del>and 4a</del> , the index-filter referred to in Article 4a, requests referred to in Article 6, replies referred to in Article 7 and other relevant information electronically using ECRIS and a standardised format in accordance with the standards laid down in implementing acts.		"3. Central authorities of Member States shall transmit the information referred to in Article 4, <del>the index-filter referred to in Article 4a</del> , requests referred to in Article 6, replies referred to in Article 7 and other relevant information electronically using ECRIS and a standardised format in accordance with the standards laid down in implementing acts.	
		<b>Amendment 28</b>		

<p>4. If the mode of transmission referred to in paragraph 3 is not available and for as long as it is not available, central authorities of Member States shall transmit all information referred to in paragraph 3, with the exception of the index-filter referred to in Article 4a, by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.</p>	<p>4. If the mode of transmission referred to in paragraph 3 is not available and for as long as it is not available, central authorities of Member States shall transmit all information referred to in paragraph 3, <del>with the exception of the index-filter transmission of data to the Central System referred to in Article 4a,</del> by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.</p>	<p>4. If the mode of transmission referred to in paragraph 3 is not available and for as long as it is not available, central authorities of Member States shall transmit all information referred to in paragraph 3, with the exception of the index-filter referred to in Article 4a, by any <i>secure</i> means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof, <b><i>shall inform the Commission of this and shall make all attempts to rectify the situation as soon as possible.</i></b></p>	<p>4. If the mode of transmission referred to in paragraph 3 is not available <del>and for as long as it is not available,</del> central authorities of Member States shall transmit all information referred to in paragraph 3, <del>with the exception of the index-filter referred to in Article 4a,</del> by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.</p>	
<p>5. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format referred to in paragraph 3 and the index-filter referred to in Articles 4a and 4b and to electronically transmit</p>	<p>5. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format, referred to in paragraph 3, <del>and the index-filter to transmit the data to the Central [Index] System</del></p>		<p>5. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format, referred to in paragraph 3, <del>and the index-filter referred to in Articles 4a and 4b and</del> to electronically transmit</p>	



all information referred to in paragraph 3 to other Member States via ECRIS. It shall notify the Commission of the date from which it will be able to carry out such transmissions and use the index-filter referred to in Articles 4a and 4b.";	<del>referred to in Articles 4a and to search the Central [Index] System as referred to in Article 4b, and to electronically transmit all information referred to in paragraph 3 to other Member States via ECRIS. It shall notify the Commission of the date from which it will be able to carry out such transmissions and searches use the index filter referred to in Articles 4a and 4b."</del>		all information referred to in paragraph 3 to other Member States via ECRIS. It shall notify the Commission of the date from which it will be able to carry out such transmissions <del>and use the index filter referred to in</del> Articles 4a and 4b.";	
(10) the following article is inserted:	(8) the following articles <del>are</del> inserted:		(8) the following article is inserted:	
<i>"Article 11a</i> <b>European Criminal Records Information System (ECRIS)</b>	<i>"Article 11a</i> <b>European Criminal Records Information System (ECRIS)</b>		<i>"Article 11a</i> <b>European Criminal Records Information System (ECRIS)</b>	
1. In order to exchange information extracted from criminal records in accordance with this Framework Decision electronically, a decentralised information technology system based on the criminal records databases in each Member	1. In order to exchange information extracted from criminal records in accordance with this Framework Decision electronically, <del>the</del> a decentralised information technology system based on the criminal records databases in each Member		1. In order to exchange information extracted from criminal records in accordance with this Framework Decision electronically, a decentralised information technology system based on the criminal records databases in each Member	

State, the European Criminal Records Information System (ECRIS), is established. It is composed of the following elements:	State, the European Criminal Records Information System (ECRIS), is established. It is composed of the following elements:		State, the European Criminal Records Information System (ECRIS), is established. It is composed of the following elements:	
(a) interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' criminal record databases;	(a) ECRIS reference implementation <del>interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' central authorities criminal record databases;</del>		<b>(a) ECRIS reference implementation;</b>	
(b) index-filter software built in compliance with a common set of protocols enabling the central authorities to match their data pursuant to Articles 4a and 4b with that of other central authorities while ensuring full protection of personal data;	<del>(b) index filter software built in compliance with a common set of protocols enabling the central authorities to match their data pursuant to Articles 4a and 4b with that of other central authorities while ensuring full protection of personal data;</del>			
(c) a common communication infrastructure between central authorities that provides an encrypted	(b) a common communication infrastructure between central authorities that provides an encrypted		(b) a common communication infrastructure between central authorities that provides an encrypted	

network.	network. (Communication network)		network.	
		<b>Amendment 29</b>		
ECRIS shall ensure the confidentiality and integrity of criminal record information transmitted to other Member States.	(ac) <b>The best available techniques</b> ECRIS shall <b>be used to</b> ensure the confidentiality and integrity of criminal record information transmitted to other Member States and the Central [Index] System.	ECRIS shall ensure the confidentiality, <b>protection, privacy</b> and integrity of criminal record information transmitted to other Member States.	ECRIS shall <b>To</b> ensure the confidentiality and integrity of criminal record information transmitted to other Member States, <b>appropriate technical and organisational measures should be used, taking into account the state of the art, the cost of implementation and the risks posed by the processing of information.</b>	
		<b>Amendment 30</b>		
2. All criminal records data shall be stored solely in databases operated by the Member States.	2. <del>Without prejudice to the provisions related to the storage of data in the Central [Index] System,</del> All criminal records data shall be stored solely in databases operated by the Member States.	2. All criminal records data shall be stored solely in databases operated by the Member States <b>within the territory of the Union.</b>	<b>deleted</b>	
3. Central authorities of the Member States shall not have direct online access to criminal records databases of other Member	3. Central authorities of the Member States shall not have direct online access to criminal records databases of other Member		3. Central authorities of the Member States shall not have direct <del>online</del> access to criminal records databases of other Member	

States.	States.		States.	
		<b><i>Amendment 31</i></b>		
4. The software and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned.	4. The software <b><i>ECRIS reference implementation</i></b> and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned. <b><i>eu-LISA shall support the Member States in accordance with its tasks as laid down in [Regulation XX/XXX]</i></b>	4. The software and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State <b><i>and the competent authorities</i></b> concerned.	4. The software <b><i>ECRIS reference implementation</i></b> and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned. <b><i>The European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall support the Member States in accordance with its tasks as laid down in [Regulation XXX/XXX].<sup>8</sup></i></b>  <b><i><sup>8</sup> Reference to the ECRIS-TCN Regulation to be inserted.</i></b>	
5. The common communication infrastructure shall be operated under the responsibility of the	5. The common communication infrastructure shall be operated under the responsibility of the		5. The common communication infrastructure shall be operated under the responsibility of the	

Commission. It shall fulfil the necessary security requirements and fully meet the needs of ECRIS.	Commission. It shall fulfil the necessary security requirements and fully meet the needs of ECRIS.		Commission. It shall fulfil the necessary security requirements and fully meet the needs of ECRIS.	
		<b>Amendment 32</b>		
6. The Commission shall provide the software referred to in paragraph 1, general support and technical assistance, including the collection and drawing up of statistics.	6. <del>Commission</del> <i>eu-LISA</i> The Commission shall provide, <b>further develop and maintain the ECRIS reference implementation</b> software referred to in paragraph 1, <del>general support and technical assistance, including the collection and drawing up of statistics.</del>	"6. The Commission shall provide the <b>appropriate and most effective</b> software referred to in paragraph 1, general support and technical assistance, including the collection and drawing up of statistics."	6. <del>The Commission</del> <i>eu-LISA</i> shall provide, <b>further develop and maintain the ECRIS reference implementation</b> referred to in paragraph 1; <del>general support and technical assistance, including the collection and drawing up of statistics.</del>	
7. Each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the software referred to in paragraph 1.	7. Each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the <b>installation and use of the</b> software referred to in paragraph 1.		7. Each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the installation and use of the software referred to in paragraph 1.	
The Commission shall bear the costs arising from the implementation,	The Commission shall bear the costs arising from the implementation,		The Commission shall bear the costs arising from the implementation,	

<p>administration, use, maintenance and future development of the common communication infrastructure of ECRIS, together with the implementation and future development of the interconnection software and the software referred to in paragraph 1.";</p>	<p>administration, use, maintenance and future development of the common communication infrastructure of ECRIS, <del>together with the implementation and future development of the interconnection software and the software referred to in paragraph 1."</del>;</p>		<p>administration, use, maintenance and future development of the common communication infrastructure of ECRIS, <del>together with the implementation and future development of the interconnection software and the software referred to in paragraph 1."</del>;</p>	
			<p><b>8. The Member States which use their national ECRIS implementation software in accordance with paragraphs 4-8 of Article 4 of Regulation [XXX/XXXX]<sup>9</sup> may continue to use their national ECRIS implementation software instead of the ECRIS reference implementation, provided that they fulfil all the conditions set out in paragraphs 4-8 of Article 4 of Regulation [XXX/XXXX].<sup>10</sup>";</b></p> <p><sup>9</sup> <b>Reference to the ECRIS-TCN Regulation</b></p>	

			<i>to be inserted.</i> <i><sup>10.</sup> Reference to the ECRIS-TCN Regulation to be inserted.</i>	
(11) the following article is inserted:	(9) the following article is inserted:		(9) the following article is inserted:	
<i>"Article 11b</i> <b>Implementing Acts</b>	<i>"Article 11b</i> <b>Implementing Acts</b>		<i>"Article 11b</i> <b>Implementing Acts</b>	
1. The Commission shall lay down the following in implementing acts:	1. The Commission shall lay down the following in implementing acts:		1. The Commission shall lay down the following in implementing acts:	
(a) the standardised format referred to in Article 11(3), including as regards information on the offence giving rise to the conviction and information on the content of the conviction;	(a) the standardised format referred to in Article 11(3), including as regards information on the offence giving rise to the conviction and information on the content of the conviction;		(a) the standardised format referred to in Article 11(3), including as regards information on the offence giving rise to the conviction and information on the content of the conviction;	
(b) the rules concerning the technical implementation of ECRIS, the index-filter referred to in Articles 4a and 4b and the exchange of fingerprints;	(b) the rules concerning the technical implementation of ECRIS, <del>the index-filter referred to in Articles 4a and 4b</del> and the exchange of fingerprints [...];		(b) the rules concerning the technical implementation of ECRIS; <del>the index-filter referred to in Articles 4a and 4b</del> and the exchange of fingerprints;	
		<i>Amendment 33</i>		

(c) any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:	(c) any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:	(c) any other <i>technical</i> means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:	(c) any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:	
(i) the means of facilitating the understanding and automatic translation of transmitted information;	(i) the means of facilitating the understanding and automatic translation of transmitted information;		(i) the means of facilitating the understanding and automatic translation of transmitted information;	
(ii) the means by which information may be exchanged electronically, particularly as regards the technical specifications to be used and, if need be, any applicable exchange procedures.	(ii) the means by which information may be exchanged electronically, particularly as regards the technical specifications to be used and, if need be, any applicable exchange procedures.		(ii) the means by which information may be exchanged electronically, particularly as regards the technical specifications to be used and, if need be, any applicable exchange procedures.	
2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 12a(2).";	2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 12a(2).";		2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 12a(2).";	
(12) the following article is inserted:	(10) the following article is inserted:		(10) the following article is inserted:	
"Article 12a	"Article 12a		"Article 12a	



Committee procedure	Committee procedure		Committee procedure	
<p>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>8</sup>.</p> <p>_____</p> <p><sup>8</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council.</p>		<p>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 <del>of the European Parliament and of the Council</del><sup>8</sup>.</p> <p>_____</p> <p><sup>8</sup> <del>Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</del></p>	
<p>2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.";</p>	<p>2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.";</p>		<p>2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.</p>	
			<p><b>3. <i>Where no opinion is delivered by the committee the draft</i></b></p>	

			<i>implementing act shall not be adopted.</i> ";	
(13) the following article is inserted:	(11) the following article is inserted:		(11) the following article is inserted:	
		<b>Amendment 34</b>		
<i>"Article 13a</i> <b>Reporting by the Commission and review</b>	<i>"Article 13a</i> <b>Reporting by the Commission and review</b>	<i>"Article 13a</i> Reporting by the Commission and review	<i>"Article 13a</i> <b>Reporting by the Commission and review</b>	
1. By [24 months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.	1. By [24 ... months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council <b>and make the report available as well as to the national parliaments</b> . The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.	1. By [ <b>18 months</b> after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.	1. By [ <b>12 months after implementation the date mentioned in Article 3(1) of this Directive</b> ], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.	
2. The report shall be accompanied, where appropriate, by relevant legislative proposals.	2. The report shall be accompanied, where appropriate, by relevant legislative proposals.	2. The report shall be accompanied, where appropriate, by relevant legislative proposals.	2. The report shall be accompanied, where appropriate, by relevant legislative proposals.	

<p>3. The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 11a(6). This report shall be published for the first time one year after the report referred to in paragraph 1 is submitted."</p>	<p>3. The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 11a(6) <del>and</del> <b>on ECRIS requests</b>. This report shall be published for the first time one year after the report referred to in paragraph 1 is submitted."</p>	<p>3. The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 11a(6). This report shall be published for the first time one year after the report referred to in paragraph 1 is submitted.</p>	<p>3. The Commission services shall regularly publish a report concerning the exchange, <del>through ECRIS,</del> of information extracted from the criminal record through ECRIS <b>and concerning the use of the ECRIS-TCN system</b> based in particular on the statistics <del>referred to in Article 11a(6)</del> <b>provided by eu-LISA and the Member States in accordance with [Regulation XX/XXXX]<sup>11</sup></b>. This report shall be published for the first time one year after the report referred to in paragraph 1 is submitted."</p> <p style="text-align: center;">_____</p> <p><sup>11</sup> <b>Reference to the ECRIS-TCN Regulation to be inserted.</b></p>	
		<p><b>3a. The Commission report referred to in paragraph 3 shall cover in particular the level of exchange between Member States, including that of third country</b></p>		

		<p><i>nationals; the purpose of requests and their respective number, including requests for purposes other than criminal proceedings such as background checks and requests for information of the concerned person on his own criminal record; and issues relating to protection of personal data and an assessment of the impact of this Framework Decision on fundamental rights.</i></p>		
		<p><i>3b. The report referred to in paragraph 3, second sentence, shall also examine the feasibility of creating a centralised European Criminal Records Information System (ECRIS) for third country nationals.</i></p>		

<i>Article 2</i>	<i>Article 2</i>		<i>Article 2</i>	
<b>Replacement of Decision 2009/316/JHA</b>	<b>Replacement of Decision 2009/316/JHA</b>		<b>Replacement of Decision 2009/316/JHA</b>	
Decision 2009/316/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for implementation of that Decision into national law.	Decision 2009/316/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for implementation of that Decision into national law.		Decision 2009/316/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for implementation of that Decision into national law.	
<i>Article 3</i>	<i>Article 3</i>		<i>Article 3</i>	
<b>Transposition</b>	<b>Transposition</b>		<b>Transposition</b>	
1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [12 months after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [ <del>12</del> ... months after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.		1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [ <b>36 months after its adoption</b> ] at the latest. They shall <del>forthwith</del> <b>immediately</b> communicate the text of those provisions <b>measures</b> to the Commission.	
When Member States	When Member States		When Member States	

<p>adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p>	<p>adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.</p>		<p>adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. <b><i>They shall also include a statement that references in existing laws, regulations and administrative provisions to the Decision repealed by this Directive shall be construed as references to this Directive.</i></b> Member States shall determine how such reference is to be made.</p>	
<p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>		<p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	
<p>3. Member States shall carry out the technical alterations referred to in Article 11(5) by [12 months after adoption].</p>	<p>3. Member States shall carry out the technical alterations referred to in Article 11(5) by [<del>12</del> ... months after adoption].</p>		<p>3. Member States shall carry out the technical alterations referred to in Article 11(5) by [<b>36 months after adoption of this Directive</b>].</p>	

<b>Article 4</b>	<b>Article 4</b>		<b>Article 4</b>	
<b>Entry into force</b>	<b>Entry into force</b>		Entry into force <i>and application</i>	
This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.		This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
Article 2 shall apply from [the date for transposition of this Directive]	Article 2 shall apply from [the date for transposition of this Directive]		Article 2 shall apply from .... [date for transposition of this Directive]	
<b>Article 5</b>	<b>Article 5</b>		<b>Article 5</b>	
<b>Addressees</b>	<b>Addressees</b>		<b>Addressees</b>	
This Directive is addressed to the Member States in accordance with the Treaties.	This Directive is addressed to the Member States in accordance with the Treaties.		This Directive is addressed to the Member States in accordance with the Treaties.	

Done at Strasbourg,	Done at Strasbourg,		Done at Strasbourg,	
<i>For the European Parliament The President</i>	<i>For the European Parliament The President</i>		<i>For the European Parliament The President</i>	
<i>For the Council The President</i>	<i>For the Council The President</i>		<i>For the Council The President</i>	

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