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**NOTE**

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From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	13809/18
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Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European criminal records information system (ECRIS-TCN system) and amending Regulation (EU) No. 1077/2011 - Confirmation of the final compromise text with a view to agreement

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1. On 28 June 2017, the Commission submitted a proposal for a Regulation establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No 1077/2011 (10940/17 + ADD 1).
2. The Council reached a general approach on the draft text under Estonian Presidency in December 2017 (15448/17).

3. The LIBE Committee of the European Parliament adopted its report with draft amendments on 25 January 2018 (5727/18). On this basis, the Bulgarian Presidency and subsequently the Austrian Presidency, acting on behalf of the Council, conducted trilogue negotiations with the European Parliament and the Commission with a view to reaching an agreement in first reading.
4. On 11 December 2018, a provisional agreement was reached at the fifth trilogue, which resulted in the final compromise text set out in the Annex to this note.
5. In the light of the above, the Permanent Representatives Committee is invited to:
  - a) approve the final compromise text regarding the Regulation on ECRIS-TCN as set out in the Annex to this note; and
  - b) confirm that the Presidency can indicate to the European Parliament that, should the European Parliament at first reading adopt its position concerning the Regulation as set out in the Annex to this note, subject, if necessary, to revision of this text by the lawyer-linguists of both institutions, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

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*(text as agreed 'ad referendum' during the 5th trilogue on 11 December 2018 in Strasbourg)*

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No 1077/2011**

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty of the Functioning of the European Union, and in particular Article 82(1)(d) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (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. This objective should be achieved by means, among others, of appropriate measures to prevent and combat crime, including organised crime and terrorism.

- (2) This objective requires that information on convictions handed down in the Member States be taken into account outside the convicting Member State, both in the course of new criminal proceedings, as laid down in Council Framework Decision 2008/675/JHA<sup>1</sup>, as well as in order to prevent new offences.
- (3) This objective presupposes the exchange of information extracted from criminal records between the competent authorities of the Member States. Such an exchange of information is organised and facilitated by the rules set out in Council Framework Decision 2009/315/JHA<sup>2</sup> and by the European Criminal Records Information System (ECRIS) which has been established by Council Decision 2009/316/JHA<sup>3</sup>.
- (4) The existing ECRIS legal framework, however, does not sufficiently address the particularities of requests concerning third country nationals. Although it is already possible to exchange information on third country nationals through ECRIS, there is no common Union procedure or mechanism in place to do so efficiently, rapidly and accurately.
- (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 third country national can therefore be ascertained only if such information is requested from all Member States.

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<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 L220, 15.8.2008, p. 32).

<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).

<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).

- (6) Such 'blanket requests' impose a disproportionate administrative burden on all Member States, including those not holding information on that third country national. In practice, this burden deters Member States from requesting information on third country nationals from other Member States, which seriously hinders its exchange between Member States, limiting the criminal record information to information stored in their national register. 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.
- (7) To improve the situation, a system should be established by which the central authority of a Member State can find out promptly and efficiently which other Member State or Member States hold criminal record information on a third country national. The existing ECRIS framework could then be used to request the criminal record information from that Member State or those Member States in accordance with Framework Decision 2009/315/JHA.
- (8) This Regulation should therefore lay down rules on creating a centralised system containing personal data at the level of the Union, the division of responsibilities between the Member State and the organisation responsible for its development and maintenance, as well as any specific data protection provisions needed to supplement the existing data protection arrangements and provide for an adequate overall level of data protection, data security and the protection of the fundamental rights of the persons concerned.
- (8a) The objective of offering to citizens of the Union an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured, requires that information on convictions is complete also with regard to citizens of the Union who also hold the nationality of a third country. Given the possibility that these persons present themselves with one or several nationalities, and different convictions are stored in the Member States where the convictions have been handed down or in the Member State of nationality, in order to create a reliable system it is necessary to include citizens of the Union who also hold the nationality of a third country in the scope of this Regulation. The exclusion of these persons would jeopardise the reliability of the system, making it incomplete by

definition. However, since such persons hold Union citizenship, the conditions under which fingerprint data can be included in the ECRIS-TCN system with regard to these persons should be comparable to the conditions under which fingerprint data are exchanged between Member States with respect to citizens of the Union under the ECRIS system established by Framework Decision 2009/315/JHA. Therefore, in respect of citizens of the Union who also hold the nationality of a third country, fingerprints should only be included in the ECRIS-TCN system when they have been collected in accordance with national law during criminal proceedings, it being understood that for such inclusion Member States should be able to use fingerprints collected for purposes other than criminal proceedings, where such use is permitted under national law.

- (8b) The ECRIS-TCN system allows processing of fingerprint data with the aim of identifying the Member State or Member States in possession of criminal records information on a third country national and of facial images in order to confirm their identity. The introduction and use of fingerprint data and facial images must never exceed what is strictly necessary to achieve the aim, must respect fundamental rights, as well as the best interests of children, and must be in conformity with applicable Union data protection rules.
- (9) The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA) established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council<sup>4</sup> should be entrusted with the task of developing and operating the new centralised ECRIS-TCN system to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system'), given its experience with managing other large scale systems in the area of justice and home affairs. Its mandate should be amended to reflect these new tasks.
- (9a) eu-LISA should be equipped with the appropriate funding and staffing to exercise the responsibilities provided for under this Regulation.

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<sup>4</sup> Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286 1.11.2011, p. 1).

- (10) Given the need to create close technical links between the ECRIS-TCN system and the current ECRIS system, eu-LISA should also be entrusted with the task of further developing and maintaining the ECRIS reference implementation, and its mandate should be amended to reflect this.
- (10a) Four Member States have developed their own ECRIS national implementation software in accordance with Art. 3 of Council Decision 2009/316/JHA, and have been using it instead of the ECRIS reference implementation to exchange criminal records information. In this light, and given the particular features that these Member States have introduced in their systems for national use and the investments that they have made, they should be allowed to continue using their national implementation software also for the purposes of the ECRIS-TCN system, provided that the conditions set out in this Regulation are respected.
- (11) The ECRIS-TCN system should contain only the identity information of third country nationals convicted by a criminal court within the Union. Such identity information should include alphanumeric and fingerprint data. Facial images could also be included in as far as the national law of the Member State where a conviction is handed down allows for the collection and storage of facial images of a convicted person.
- (11a) The alphanumeric data to be included by the Member States in the Central System should inter alia comprise the surname (family name) and the first name(s) (given names) of the person concerned, as well as, where available to the central authority, the pseudonym and/or alias name(s) of that person. If other deviating personal data, such as a different spelling of a name in another alphabet, are known to the Member State concerned, such data could be included in the Central System as additional information.
- (11b) The alphanumeric data should also include, as additional information, the identity number, or the type and number of the person's identification document(s), as well as the name of the issuing authority thereof, where such information is available to the central authority. The Member State should seek to verify the authenticity of identification documents before entering the relevant information in the central system. In any case, given that such information could be unreliable, it should be used cautiously.

(11<sup>c1</sup>) The central authorities of the Member States should use the ECRIS-TCN system to identify the Member State(s) holding criminal record information on a third country national when criminal records information on that person is requested in the Member State concerned for the purposes of criminal proceedings against that person or for the purposes referred to in this Regulation if provided under and in accordance with national law. While the ECRIS-TCN system should in principle be used in all such cases, the authority responsible for conducting the criminal proceedings may decide that the ECRIS-TCN system should not be used when this would not be appropriate in the circumstances of the case, e.g. in certain types of urgent criminal proceedings, in cases of transit, when criminal record information was obtained via the ECRIS system recently, or in respect of minor offences, in particular minor traffic offences, minor offences in relation to general municipal regulations and minor public order offences.

(11<sup>c2</sup>) Member States should also be able to use the ECRIS-TCN system for any purposes other than those set out in this Regulation, if provided under and in accordance with national law. However, in order to enhance the transparency of the use of the ECRIS-TCN system, Member States should notify such other purposes to the European Commission, which should ensure publication of all the notifications in the Official Journal of the European Union.

(11d) Also other authorities requesting criminal record information may decide that the ECRIS-TCN system should not be used when this would not be appropriate in the circumstances of the case, e.g. when certain standard administrative checks need to be carried out regarding the professional qualifications of a person, especially if it is known that criminal records information will not be requested from other Member States, irrespective of the result of the search in ECRIS-TCN. However, the ECRIS-TCN system should always be used when the request for criminal records has been initiated by a person who asks for information on his own criminal record, in application of Article 6(3a) of Framework Decision 2009/315/JHA, or when it is made in order to obtain criminal record information in application of Article 10(2) of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.<sup>5</sup>

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<sup>5</sup> OJ L 335, 17.12.2011, p. 1.



- (11e) Third country nationals should have the right to obtain information in writing concerning their own criminal record in accordance with the law of the Member State where they request such information to be provided, and taking into account Council Framework Decision 2009/315/JHA. Before providing such information to a third country national, the Member State concerned should make a search in the ECRIS-TCN system.
- (11f) Citizens of the Union who also hold the nationality of a third country will only be included in the ECRIS-TCN system if the competent authorities are aware that such persons have the nationality of a third country. Where the competent authorities are not aware that citizens of the Union also have the nationality of a third country, it may nevertheless be that such persons have prior convictions as a third country national. In order to ensure that the competent authorities have a complete overview of criminal records, it should be possible to query the ECRIS-TCN system to verify whether, in respect of a citizen of the Union, any Member State holds criminal record information concerning this person as a third country national.
- (12) In the event that there is a match between data recorded in the Central System and those used for search by a Member State (hit), the identity information against which a 'hit' was recorded is provided together with the hit. The result of a search should only be used, as regards the central authorities, for the purpose of making a request through the ECRIS System or, as regards the Union bodies mentioned in this Regulation, for the purpose of making a request for conviction information as referred to in this Regulation.
- (13) In the first instance, facial images included in the ECRIS-TCN system should only be used for the purpose of confirming the identity of a third country national in order to determine the Member State(s) holding information on previous convictions of that third country national. In the future, facial images might be used for automated biometric matching, provided that the technical and policy requirements to do so have been met. The Commission, taking into account the necessity and proportionality as well as the technical developments in the field of facial recognition software, should assess the availability and readiness of the technology before adopting the delegated act concerning the possibility to use facial images for the purpose of identifying third country nationals, in order to determine the Member State(s) holding information on previous convictions concerning such persons.

- (14) The use of biometrics is necessary as it is the most reliable method of identifying third country nationals within the territory of the Member States, who are often not in possession of documents or any other means of identification, as well as for more reliable matching of third country nationals data.
- (14a) Member States should enter in the central system fingerprints of convicted third country nationals that have been collected in accordance with national law during criminal proceedings. In order to have as complete identity information as possible available in the central system, Member States could also insert into the central system fingerprints that have been collected for other purposes than criminal proceedings, where those fingerprints are available for use in criminal proceedings in compliance with national law.
- (14b) This Regulation should establish minimum criteria as regards the fingerprints that Member States should include in the central system. Member States should have a choice: either to insert fingerprints of third country nationals who have received a custodial sentence of at least 6 months, or fingerprints of third country nationals who have been convicted of a criminal offence which is punishable by a custodial sentence of a maximum period of at least 12 months.
- (15) Member States should create records in the ECRIS-TCN system regarding convicted third country nationals. This should be done automatically, where possible, and without undue delay after their conviction was entered into the national criminal record. As from the date of start of entry of data in accordance with this Regulation, Member States should insert alphanumeric data and fingerprints in the central system relating to convictions rendered after that date. As from the same date, and any time thereafter, Member States could insert facial images in the central system.

- (16) Member States should also create records in the ECRIS-TCN system regarding third country nationals convicted prior to the date of start of entry of data, in accordance with this Regulation, in order to ensure the maximum effectiveness of the system. However, for this purpose Member States should not be obliged to collect information which was not already entered into their criminal records prior to the date of start of entry of data in accordance with this Regulation. The fingerprints of third country nationals relating to such prior convictions should be included only where they were collected during criminal proceedings, and where the Member State concerned considers that they can be clearly matched with other identity information in criminal records.
- (17) Improving the circulation of information on convictions should assist Member States in their implementation of Framework Decision 2008/675/JHA, which obliges the Member States to take account of previous convictions in other Member States in the course of new criminal proceedings, to the extent previous national convictions are taken into account in accordance with national law.
- (18) [See recitals 11c1 and 11c2].
- (19) A hit indicated by the ECRIS-TCN system should not automatically mean that the third country national concerned was convicted in the indicated Member State(s). The existence of previous convictions should only be confirmed based on information received from the criminal records of the Member States concerned.
- (20) 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 national fingerprint databases, and from the implementation, administration, use and maintenance of the technical alterations necessary to be able to use the ECRIS-TCN system, including their connections to the national central access point.

(21) The European Union Agency for Law Enforcement Cooperation (Europol) established by Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>6</sup>, Eurojust established by Council Decision 2002/187/JHA<sup>7</sup> and the European Public Prosecutor's Office established by Regulation (EU) 2017/1939<sup>8</sup> should have access to the ECRIS-TCN system for identifying the Member State(s) holding criminal record information on a third country national in order to support their statutory tasks. Eurojust should also have direct access to the ECRIS-TCN system for the purpose of carrying out the task, attributed by this Regulation, to act as contact point for third countries and international organisations, without prejudice to the application of principles of judicial cooperation in criminal matters, including rules on mutual legal assistance. While the position of Member States who are not part of the enhanced cooperation procedure establishing the European Public Prosecutor's Office should be taken into account, the European Public Prosecutor's Office should not be refused access to conviction information on the only ground that the Member State concerned is not part of that enhanced cooperation procedure.

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<sup>6</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

<sup>7</sup> Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (OJ L 063, 6.3.2002, p.1).

<sup>8</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

- (22) This Regulation establishes strict access rules to the ECRIS-TCN system and the necessary safeguards, including the responsibility of the Member States in collecting and using the data. It also sets out how individuals may exercise their rights to compensation, access, correction, deletion and redress, in particular the right to an effective remedy and the supervision of processing operations by public independent authorities. It therefore 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. In this regard, it also takes into account the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, and other human rights obligations under international law.
- (23) Directive (EU) 2016/680 of the European Parliament and of the Council<sup>26</sup> 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 the safeguarding against and the prevention of threats to public security. Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>27</sup> should apply to the processing of personal data by national authorities when such processing does not fall within the scope of Directive (EU) 2016/680. Coordinated supervision should be ensured in accordance with Article 62 of Regulation (EU) 2018/1725. This Regulation should also apply to the processing of personal data by eu-LISA.<sup>9</sup>
- (23a) In respect of prior convictions, the central authorities should insert alphanumeric data at the latest by the end of the period for entry of data in accordance with this Regulation, and fingerprint data at the latest within two years after the start of operations. Member States could insert all data at the same time, provided these time limits are respected.
- (24) Rules on the liability of the Member States and Union bodies making use of the ECRIS-TCN system in respect to damage arising from any breach of this Regulation should be laid down.

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<sup>9</sup> Text modified following the adoption of Regulation (EU) 2018/1725, to be verified.

- (25) Since the objective of this Regulation, namely to enable the rapid and efficient exchange of accurate criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by putting in place common Union rules, 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 Regulation does not go beyond what is necessary to achieve that objective.
- (25a) In order to improve the identification of the Member State(s) holding information on previous convictions of third country nationals, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of supplementing this Regulation by providing for the use of facial images for the purpose of identifying third country nationals in order to determine the Member State(s) holding information on previous convictions on the basis of this biometric identifier. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.<sup>10</sup> In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (26) In order to ensure uniform conditions for the establishment and operational management of the ECRIS-TCN system, 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>11</sup>

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<sup>10</sup> OJ L 123, 12.5.2016, p. 1.

<sup>11</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)

- (26a) Member States should take the necessary measures to comply with this Regulation as soon as possible so as to ensure the proper functioning of the ECRIS-TCN system, taking into account the time that eu-LISA needs to develop and implement the ECRIS-TCN system. However, Member States should have at least 36 months after the entry into force of this Regulation to take the measures to comply with this Regulation.
- (27) 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 European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (28) 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, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (29) 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 and to the Treaty on the Functioning of the European Union, the United Kingdom has notified its wish to take part in the adoption and application of this Regulation.
- (30) 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>12</sup> and delivered an opinion on ...<sup>13</sup>,

HAVE ADOPTED THIS REGULATION:

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<sup>12</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 008, 12.1.2001, p.1).

<sup>13</sup> Opinion of 12 December 2017. OJ C ...

CHAPTER I  
GENERAL PROVISIONS

ARTICLE 1

Subject matter

This Regulation establishes:

- (a) a system to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system');
- (b) the conditions under which the ECRIS-TCN system shall be used by the central authorities in order to obtain information on such previous convictions through the European Criminal Records Information System (ECRIS) established by Decision 2009/316/JHA, as well as the conditions under which the Union bodies referred to in Article 3(f) of this Regulation shall use the ECRIS-TCN system.

ARTICLE 2

Scope

This Regulation applies to the processing of identity information of third country nationals, who have been subject to convictions in the Member States, for the purpose of identifying the Member State(s) where such convictions were handed down. With the exception of point (ii) under (b) of Article 5(1), the provisions of this Regulation that apply to third country nationals also apply to citizens of the Union who also hold the nationality of a third country and who have been subject to convictions in the Member States.



## ARTICLE 3

### Definitions

For the purposes of this Regulation, the following definitions apply:

- (a) 'conviction' means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent that the decision is entered in the criminal record of the convicting Member State;
- (b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;
- (c) 'criminal record' means the national register or registers recording convictions in accordance with national law;
- (d) 'convicting Member State' means the Member State in which a conviction is handed down;
- (e) 'central authority' means an authority designated in accordance with Article 3(1) of Framework Decision 2009/315/JHA;
- (f) 'competent authorities' means the central authorities and the Union bodies (Eurojust, Europol, the European Public Prosecutor's Office) competent to access or query the ECRIS-TCN system in accordance with this Regulation;
- (g) 'third country national' means 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;
- (h) 'Central System' means the database(s) developed and maintained by eu-LISA which hold identity information on third country nationals who have been subject to convictions in the Member States;

- (i) 'Interface Software' means the software hosted by the competent authorities allowing them to access the Central System through the Communication Infrastructure referred to in Article 4;
- (j) 'identity information' means alphanumeric data, fingerprint data and facial images that are used to establish a connection between these data and a natural person;
- (k) 'alphanumeric data' means data represented by letters, digits, special characters, spaces and punctuation marks;
- (l) 'fingerprint data' means the data relating to plain and rolled impressions of the fingerprints of each of a person's fingers;
- (m) 'facial image' means a digital image of a person's face;
- (n) 'hit' means a match or matches established by comparison between identity information recorded in the Central System and the identity information used for a search;
- (o) 'national central access point' means the national connection point to the Communication Infrastructure referred to in Article 4;
- (p) 'ECRIS reference implementation' means the software developed by the Commission and made available to the Member States for the exchange of criminal records information through ECRIS.

## ARTICLE 4

### Technical architecture of the ECRIS-TCN system

1. The ECRIS-TCN system shall be composed of:
  - (a) a Central System where identity information on convicted third country nationals is held;
  - (b) a national central access point in each Member State;
  - (c) Interface Software enabling the connection of the competent authorities to the Central System via the national central access point and the Communication Infrastructure;
  - (d) a Communication Infrastructure between the Central System and the national central access point.
2. The Central System shall be hosted by eu-LISA in its technical sites.
3. The Interface Software shall be integrated with the ECRIS reference implementation. The Member States shall use the ECRIS reference implementation or, in the situation and under the conditions set out in paragraphs 4-8, the national ECRIS implementation software, to query the ECRIS-TCN system, as well as to send subsequent requests for criminal records information.

4. The Member States which use their national ECRIS implementation software shall be responsible for ensuring that their national ECRIS implementation software allows their national criminal records authorities to use the ECRIS-TCN system, with the exception of the Interface Software, in accordance with this Regulation. For that purpose, they shall, before the date of start of operations of the ECRIS-TCN system in accordance with Article 33(5), ensure that their national ECRIS implementation software functions in accordance with the protocols and technical specifications established in the implementing acts referred to in Article 10, and with any further technical requirements based on those acts established by eu-LISA under this Regulation.
5. For as long as they do not use the ECRIS reference implementation Member States which use their national ECRIS implementation software shall also ensure the implementation of any subsequent technical adaptations to their national ECRIS implementation software required by any changes to the technical requirements established through the implementing acts referred to in Article 10, or decided by eu-LISA under this Regulation, without undue delay.
6. The Member States which use their national ECRIS implementation software shall bear all the costs associated with the implementation, maintenance and further development of their national ECRIS implementation software and its interconnection with the ECRIS-TCN system, with the exception of the Interface Software.
7. If a Member State which uses their national ECRIS implementation software is unable to comply with its obligations under this Article, it shall be obliged to use the ECRIS reference implementation, including the integrated Interface Software, to make use of the ECRIS-TCN system.
8. In view of the assessment to be carried out by the Commission as foreseen in Article 34(5a), under b), the Member States concerned shall provide the Commission with all necessary information.

CHAPTER II  
ENTRY AND USE OF DATA BY CENTRAL AUTHORITIES

ARTICLE 5

Data entry in the ECRIS-TCN system

1. For each convicted third country national, the central authority of the convicting Member State shall create a data record in the Central System. The data record shall include the following data:
  - (a) alphanumeric data:
    - (i) obligatory information, unless, in individual cases, such information is not known to the central authority:
      - surname (family name);
      - first name(s) (given names);
      - date of birth;
      - place of birth (town and country);
      - nationality or nationalities;
      - gender;
      - previous name(s), if applicable;
      - the code of the convicting Member State,

(ii) optional information, if entered in the criminal record:

– parents' names,

(iii) additional information, where available to the central authority:

– identity number, or the type and number of the person's identification document(s), as well as the name of the issuing authority thereof;

– pseudonym and/or alias name(s).

(b) fingerprint data:

(i) fingerprints of third country nationals that have been collected in accordance with national law during criminal proceedings;

(ii) as a minimum, fingerprints on the basis of either of the following criteria:

- where the third country national has been convicted to a custodial sentence of a minimum of 6 months;

or

- where the third country national has been convicted in relation to a criminal offence which is punishable under the national law of the Member State by a custodial sentence for a maximum period of at least 12 months.

1a. The fingerprint data referred to in point b) of paragraph 1 shall have the specifications for the resolution and use of fingerprints referred to in point (b) of Article 10(1), and the reference number of the fingerprint data of the convicted person shall include the code of the convicting Member State.

2. The data record may also contain facial images of the convicted third country national, if the national law of the Member State where a conviction is handed down allows for the collection and storage of facial images of a convicted person.

3. The convicting Member State shall create the data record automatically, where possible, and without undue delay after the conviction was entered into the criminal records.
4. The convicting Member States shall create data records also for convictions handed down prior to [date of entry of data in accordance with Article 33(2)] to the extent that data related to convicted persons are stored in their national databases. With respect to fingerprints, these should be included only where they have been collected during criminal proceedings in accordance with national law, and where they can be clearly matched with other identity information in criminal records.
5. In order to comply with the obligations set out in paragraph 1, under b), points (i) and (ii), and paragraph 4, to include fingerprints in the data record, Member States may for such inclusion use fingerprints collected for purposes other than criminal proceedings, where such use is permitted under national law.

## ARTICLE 6

### Facial images

1. Until the entry into force of the delegated act provided for in paragraph 2, facial images may be used only to confirm the identity of a third country national who has been identified as a result of an alphanumeric search or a search using fingerprints.
2. The Commission is empowered to adopt delegated acts in accordance with Article 34a supplementing this Regulation concerning the use of facial images for the purpose of identifying third country nationals in order to determine the Member State(s) holding information on previous convictions concerning such persons on the basis of this biometric identifier when it becomes technically possible. Before exercising this empowerment, the Commission shall, taking into account the necessity and proportionality as well as technical developments in the field of facial recognition software, assess the availability and readiness of the required technology.

## ARTICLE 7

### Use of the ECRIS-TCN system for identifying the Member State(s) holding criminal record information

1. The central authorities of the Member States shall use the ECRIS-TCN system to identify the Member State(s) holding criminal record information on a third country national, in order to obtain information on previous convictions through ECRIS, when criminal records information on that person is requested in the Member State concerned for the purposes of criminal proceedings against that person, or for any of the following purposes, if provided under and in accordance with national law:
  - checking person's own criminal record at their request;
  - security clearances;
  - obtaining a license or permit;
  - employment vetting;
  - vetting for voluntary activities involving direct and regular contacts with children or vulnerable persons;
  - visa, acquisition of citizenship and migration procedures, including asylum procedures;  
and
  - checks in relation with public contracts and public examinations.

However, in specific cases, other than those where a third country national asks the central authority of a Member State for information on his own criminal record, or where the request is made in order to obtain criminal record information in application of Article 10(2) of Directive 2011/93/EU, the authority requesting criminal record information may decide that use of the ECRIS-TCN system is not appropriate.



- 1a. Any Member State which decides, if provided under and in accordance with national law, to use the ECRIS-TCN system for any purposes other than those set out in paragraph 1, in order to obtain information on previous convictions through ECRIS, shall notify the European Commission by the date of start of operations as referred to in Article 33(5), or any time thereafter, of such other purposes and any changes thereto. Such notifications shall be published within 30 days following receipt of the notification by the European Commission in the Official Journal of the European Union.
2. Europol, Eurojust and the European Public Prosecutor's Office are entitled to query the ECRIS-TCN system for identifying the Member State(s) holding criminal record information on a third country national in accordance with Articles 14, 15, 16 and 16a. However, these Union bodies shall not enter, rectify or erase any data in the system.
- 2a. For the purposes stipulated in paragraphs 1, 1a and 2, the competent authorities may also query the ECRIS-TCN system to verify whether, in respect of a person having the nationality of a Member State, any Member State holds criminal record information concerning this person as a third country national.
3. When querying the ECRIS-TCN system, the competent authorities may use all or only some of the data referred to in Article 5(1). The minimum set of data that is required to query the system shall be specified in an implementing act adopted in accordance with point (g) of Article 10(1).
4. The competent authorities may also query the ECRIS-TCN system using facial images, provided that such functionality has been implemented in accordance with Article 6(2).

5. In the event of a hit, the Central System shall automatically provide the competent authority with information on the Member State(s) holding criminal record information on the third country national, along with the associated reference number(s) and any corresponding identity information. Such identity information shall only be used for the purpose of verification of the identity of the third country national concerned. The result of a search in the Central System may only be used for the purpose of making a request according to Article 6 of Framework Decision 2009/315/JHA or a request referred to in Article 16(4) of this Regulation.
6. In the event that there is no hit, the Central System shall automatically inform the competent authority thereof.

CHAPTER III  
RETENTION AND AMENDMENT OF THE DATA

Article 8

Retention period for data storage

1. Each data record shall be stored in the Central System as long as the data related to the conviction(s) of the person concerned are stored in the criminal records.
2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall erase the data record, including any fingerprints or facial images, from the Central System. This shall be done automatically, where possible, and in any event no later than one month after the expiry of the retention period.

Article 9

Amendment and deletion of data

1. The Member States shall have the right to amend or delete the data which they have introduced into the ECRIS-TCN system.
2. Any subsequent amendment of the information in the national criminal records which led to the creation of a data record in accordance with Article 5 shall entail identical amendment of the information stored in that data record in the Central System by the convicting Member State without undue delay.

3. If a convicting Member State has reason to believe that the data it has recorded in the Central System are inaccurate or that data were processed in the Central System in contravention of this Regulation, it shall:
  - (a) immediately launch the procedure for checking the data concerned;
  - (b) if necessary, rectify the data or erase them from the Central System without undue delay.
  
4. If a Member State other than the convicting Member State which entered the data has reason to believe that data recorded in the Central System are inaccurate or that data were processed in the Central System in contravention of this Regulation, it shall contact the central authority of the convicting Member State without undue delay.

The convicting Member State shall:

- (a) immediately launch the procedure for checking the accuracy of the data and the lawfulness of its processing;
- (b) if necessary, rectify or erase these data without undue delay;
- (c) inform the other Member State that the data have been rectified or erased, or of the reasons why the data have not been rectified or erased, without undue delay.

CHAPTER IV  
DEVELOPMENT, OPERATION AND RESPONSIBILITIES

ARTICLE 10

Adoption of implementing acts by the Commission

1. The Commission shall adopt, as soon as possible and taking account of the deadline set forth in Article 11(4), the acts necessary for the technical development and implementation of the ECRIS-TCN system, and in particular rules on:
  - (a) the technical specifications for the processing of the alphanumeric data;
  - (b) the technical specifications for the quality, resolution and processing of fingerprints;
  - (c) the technical specifications of the Interface Software referred to in point (c) of Article 4(1);
  - (d) the technical specifications for the quality, resolution and processing of facial images for the purposes of and under the conditions set out in Article 6;
  - (e) data quality, including a mechanism and procedures to carry out data quality checks;
  - (f) entering the data in accordance with Article 5;
  - (g) accessing and querying the ECRIS-TCN system in accordance with Article 7;
  - (h) amending and deleting the data in accordance with Articles 8 and 9;
  - (i) keeping and accessing the logs in accordance with Article 29;
  - (j) providing statistics in accordance with Article 30;

- (k) performance and availability requirements of the ECRIS-TCN system, including minimal specifications and requirements on the biometric performance of the ECRIS-TCN system in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate.
2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 35(2).

## ARTICLE 11

### Development and operational management of the ECRIS - TCN system

1. eu-LISA shall be responsible for the development of the ECRIS-TCN system in accordance with the principle of data protection by design and by default. In addition, eu-LISA shall be responsible for the operational management of the ECRIS-TCN system. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.
2. eu-LISA shall also be responsible for the further development and maintenance of the ECRIS reference implementation.
3. eu-LISA shall define the design of the physical architecture of the ECRIS-TCN system including its technical specifications and their evolution as regards the Central System referred to in point (a) of Article 4(1), the national central access point referred to in point (b) of Article 4(1) and the Interface Software referred to in point (c) of Article 4(1). That design shall be adopted by its Management Board, subject to a favourable opinion of the Commission.

4. eu-LISA shall develop and implement the ECRIS-TCN system as soon as possible after the entry into force of this Regulation and following the adoption by the Commission of the measures provided for in Article 10.
5. Prior to the design and development phase of the ECRIS-TCN system, the Management Board of eu-LISA shall establish a Programme Management Board composed of a maximum of ten members.

The Programme Management Board shall be composed of eight representatives appointed by the Management Board, the Chair of the ECRIS-TCN system Advisory Group referred to in Article 36 and one member appointed by the Commission. The members appointed by the Management Board shall be elected only from those Member States which are fully bound under Union law by the legislative instruments governing the ECRIS and which will participate in the ECRIS-TCN system. The Management Board shall ensure that the representatives it appoints to the Programme Management Board have the necessary experience and expertise in the development and management of IT systems supporting judicial and criminal records authorities.

eu-LISA shall participate in the work of the Programme Management Board. To that end, representatives of eu-LISA shall attend the meetings of the Programme Management Board, in order to report on work regarding the design and development of the ECRIS-TCN system and on any other related work and activities.

The Programme Management Board shall meet at least once every three months, and more often when necessary. It shall ensure the adequate management of the design and development phase of the ECRIS-TCN system and ensure consistency between central and national ECRIS-TCN projects, and with national implementation software. The Programme Management Board shall submit written reports regularly, if possible every month, to eu-LISA's Management Board on progress of the project. The Programme Management Board shall have no decision-making power nor any mandate to represent the members of the Management Board.

6. The Programme Management Board shall establish its rules of procedure which shall include in particular rules on:
  - (a) chairmanship;
  - (b) meeting venues;
  - (c) preparation of meetings;
  - (d) admission of experts to the meetings;
  - (e) communication plans ensuring full information to non-participating Members of the Management Board.
7. The chairmanship of the Programme Management Board shall be held by a Member State which is fully bound under Union law by the legislative instruments governing the ECRIS system and legislative instruments governing the development, establishment, operation and use of all the large-scale IT systems managed by eu-LISA.
8. All travel and subsistence expenses incurred by the members of the Programme Management Board shall be paid by the Agency and Article 10 of the eu-LISA Rules of Procedure shall apply mutatis mutandis. The Programme Management Board's secretariat shall be ensured by eu-LISA.
9. During the design and development phase, the ECRIS-TCN system Advisory Group referred to in Article 36 shall be composed of the national ECRIS-TCN system project managers and chaired by eu-LISA. During the design and development phase it shall meet regularly, if possible at least once a month, until the start of operations of the ECRIS-TCN system. It shall report after each meeting to the Programme Management Board. It shall provide the technical expertise to support the tasks of the Programme Management Board and shall follow-up on the state of preparation of the Member States.



10. In order to ensure the confidentiality and integrity of information stored in ECRIS-TCN, eu-LISA shall provide for, in cooperation with the Member States, at all times appropriate technical and organisational measures, taking into account the state of the art, the cost of implementation and the risks posed by the processing.
11. eu-LISA shall be responsible for the following tasks related to the Communication Infrastructure referred to in point (d) of Article 4(1):
  - (a) supervision;
  - (b) security;
  - (c) the coordination of relations between the Member States and the provider.
12. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular
  - (a) tasks relating to the implementation of the budget
  - (b) acquisition and renewal;
  - (c) contractual matters.
13. eu-LISA shall develop and maintain a mechanism and procedures for carrying out quality checks on the data in the ECRIS-TCN system and shall provide regular reports to the Member States. eu-LISA shall provide a regular report to the Commission covering the issues encountered and the Member States concerned.
14. Operational management of the ECRIS-TCN system shall consist of all the tasks necessary to keep the ECRIS-TCN system operational in accordance with this Regulation, and in particular the maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of operational quality in accordance with the technical specifications.

15. eu-LISA shall perform tasks related to providing training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.
16. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff required to work with data registered in the Central System. That obligation shall also apply after such staff leave office or employment or after the termination of their activities.

## ARTICLE 12

### Responsibilities of the Member States

1. Each Member State shall be responsible for:
  - (a) ensuring a secure connection between their national criminal records and fingerprints databases and the national central access point;
  - (b) the development, operation and maintenance of the connection referred to in point (a);
  - (c) ensuring a connection between their national systems and the ECRIS reference implementation;
  - (d) the management and arrangements for access of duly authorised staff of the central authorities to the ECRIS-TCN system in accordance with this Regulation and to establish and regularly update a list of such staff and their profiles.
  
2. Each Member State shall give the staff of its central authorities which have a right to access the ECRIS-TCN system appropriate training, in particular on data security and data protection rules and on applicable fundamental rights, before authorising them to process data stored in the Central System.

## ARTICLE 13

### Responsibility for the use of data

1. In accordance with applicable Union data protection rules, each Member State shall ensure that the data recorded in the ECRIS-TCN system are processed lawfully, and in particular that:
  - (a) only duly authorised staff have access to the data for the performance of their tasks;
  - (b) the data are collected lawfully and fully respect the human dignity and fundamental rights of the third country national;
  - (c) the data are included lawfully in the ECRIS-TCN system;
  - (d) the data are accurate and up-to-date when they are included in the ECRIS-TCN system.
2. eu-LISA shall ensure that the ECRIS-TCN system is operated in accordance with this Regulation, with the delegated act referred to in Article 6(2) and with the implementing acts referred to in Article 10, as well as in accordance with Regulation (EC) No 45/2001 [or its successor Regulation<sup>14</sup>]. In particular, eu-LISA shall take the necessary measures to ensure the security of the Central System and the Communication Infrastructure between the Central System and the national central access point, without prejudice to the responsibilities of each Member State.
3. eu-LISA shall inform the European Parliament, the Council and the Commission as well as the European Data Protection Supervisor as soon as possible of the measures it takes pursuant to paragraph 2 for the start of operations of the ECRIS-TCN system.
4. The Commission shall make the information referred to in paragraph 3 available to the Member States and the public by a regularly updated public website.

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<sup>14</sup> Reference to be modified in the light of Regulation (EU) 2018/1725 of 23 October 2018, OJ L 295, 21.11.2018, p. 39.

## ARTICLE 14

### Access for Eurojust, Europol, and the European Public Prosecutor's Office

1. Eurojust shall have direct access to the ECRIS-TCN system for the purpose of the implementation of Article 16, as well as for fulfilling its statutory tasks as referred to in Article 3 of Council Decision 2002/187/JHA, as amended,<sup>15</sup> to identify the Member State(s) holding information on previous convictions of third country nationals.
2. Europol shall have direct access to the ECRIS-TCN system for the purpose of fulfilling its statutory tasks as referred to in Article 4(1)(a), (b), (c), (d), (e) and (h) of Regulation 2016/794 to identify the Member State(s) holding information on previous convictions of third country nationals.
- 2a. The European Public Prosecutor's Office shall have direct access to the ECRIS-TCN system for the purpose of fulfilling its statutory tasks as referred to in Article 4 of Regulation (EU) 2017/1939 to identify the Member State(s) holding information on previous convictions of third country nationals.
3. Following a hit indicating the Member State(s) holding criminal records information on a third country national, Eurojust, Europol, and the European Public Prosecutor's Office may use their respective contacts with the national authorities of those Member States established in accordance with their respective constituting legal instruments to request the criminal records information.

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<sup>15</sup> Reference to be modified in the light of the Regulation 2018/1727 of 14 November 2018, OJ L 295, 21.11.2018, p. 138.

## ARTICLE 14a

Access by authorised staff of Eurojust, Europol and the European Public Prosecutor's Office

Each of the bodies referred to in Article 14 shall be responsible for

1. the management of and arrangements for access of duly authorised staff to the ECRIS-TCN system in accordance with this Regulation; and
2. establishing and regularly updating a list of such staff and their profiles.

## ARTICLE 15

Responsibilities of Eurojust, Europol, and the European Public Prosecutor's Office

Eurojust, Europol, and the European Public Prosecutor's Office shall:

1. establish the technical means to connect to the ECRIS-TCN system and shall be responsible for maintaining that connection;
2. provide appropriate training to those members of their staff who have a right to access the ECRIS-TCN system before authorising them to process data stored in the Central System. The training shall, in particular, cover data security and data protection rules, and applicable fundamental rights;
3. ensure that the personal data processed by them under this Regulation is protected in accordance with the applicable data protection provisions.

## ARTICLE 16

### Contact point for third countries and international organisations

1. Third countries and international organisations may, for the purposes of criminal proceedings, address their requests for information on the EU Member State that may hold criminal records information of third country nationals to Eurojust. To that end, they shall use the standard form that is set out in the Annex to this Regulation.
2. When Eurojust receives a request as referred to in paragraph 1, it shall use the ECRIS-TCN system to determine which Member State(s), if any, hold criminal record information on the third country national concerned.
3. If there is a hit, Eurojust shall enquire with the Member State(s) that hold criminal record information on the third country national concerned if it consents that Eurojust informs the third country or the international organisation of the name of the Member State(s) concerned. In case of such consent, Eurojust shall inform the third country or the international organisation of the name of the Member State(s) that hold criminal record information on the third country national concerned, and it shall inform the third country or the international organisation how it can introduce a request for extracts from the criminal records with that Member State(s) in accordance with the applicable procedures.
4. In cases where there is no hit or where Eurojust cannot provide an answer in accordance with paragraph 3 to requests made under this Article, it shall inform the third country or international organisation concerned that it has completed the procedure, without providing any indication whether criminal records information on the person concerned is held by one of the Member States or not.

## ARTICLE 16a

### Providing information to a third country, international organisation or private party

Neither Eurojust, Europol, the European Public Prosecutor's Office nor any central authority of a Member State may transfer or make available to a third country, an international organisation, or a private party, information obtained from the ECRIS-TCN system concerning a third country national. However, Eurojust may provide information on the Member State which may hold such information, on condition that this Member State has given its consent in accordance with Article 16(3).

## ARTICLE 17

### Data Security

1. eu-LISA shall take the necessary measures to ensure the security of the ECRIS-TCN System, without prejudice to the responsibilities of each Member State, taking the security measures specified in paragraph 3 into consideration.
2. As regards the operation of the ECRIS-TCN system, eu-LISA shall take the necessary measures in order to achieve the objectives set out in paragraph 3, including the adoption of a security plan and a business continuity and disaster recovery plan, and to ensure that installed systems may, in case of interruption, be restored.
3. The Member States shall ensure the security of the data before and during the transmission to and receipt from the national central access point. In particular, each Member State shall:
  - (a) physically protect data, including by making contingency plans for the protection of infrastructure;
  - (b) deny unauthorised persons access to national installations in which the Member State carries out operations related to the ECRIS-TCN system;



- (c) prevent the unauthorised reading, copying, modification or removal of data media;
  - (d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;
  - (e) prevent the unauthorised processing of data in the ECRIS-TCN system and any unauthorised modification or deletion of data processed in the ECRIS-TCN system;
  - (f) ensure that persons authorised to access the ECRIS-TCN system have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;
  - (g) ensure that all authorities with a right of access to the ECRIS-TCN system create profiles describing the functions and responsibilities of persons who are authorised to enter, rectify, erase, consult and search the data and make their profiles available to the supervisory authorities referred to in Article 26 without undue delay at their request;
  - (h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;
  - (i) ensure that it is possible to verify and establish what data has been processed in the ECRIS-TCN system, when, by whom and for what purpose;
  - (j) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from the ECRIS-TCN system or during the transport of data media, in particular by means of appropriate encryption techniques;
  - (k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring and supervision to ensure compliance with this Regulation.
4. eu-LISA and the Member States shall cooperate in order to ensure a coherent data security approach based on a security risk management process encompassing the entire ECRIS-TCN system.

## ARTICLE 18

### Liability

1. Any person or Member State that has suffered material or non-material damage as a result of an unlawful processing operation or any other act incompatible with this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered or from eu-LISA, which is responsible for the damage suffered where it has not complied with the obligations set out in this Regulation or in Regulation 45/2001. That Member State or eu-LISA shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event which gave rise to the damage.
2. If any failure of a Member State, Eurojust, Europol, or the European Public Prosecutor's Office to comply with its obligations under this Regulation causes damage to the ECRIS-TCN system, that Member State or body shall be held liable for such damage, unless and insofar as eu-LISA or another Member State participating in the ECRIS-TCN system failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.
3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the national law of the defendant Member State. Claims for compensation against EU-LISA for the damage referred to in paragraphs 1 and 2 shall be subject to the conditions provided for in the Treaties.

## ARTICLE 19

### Self monitoring

Member States shall ensure that each central authority takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authority and national supervisory authority.

## ARTICLE 20

### Penalties

Any misuse of data entered in the ECRIS-TCN system shall be subject to penalties or disciplinary measures, in accordance with national or Union law, that are effective, proportionate and dissuasive.

CHAPTER V  
RIGHTS AND SUPERVISION ON DATA PROTECTION

ARTICLE 21

Data controller and data processor

1. Each central authority of the Member State is to be considered as controller in accordance with applicable Union data protection rules for the processing of the personal data by that Member State under this Regulation.
2. eu-LISA shall be considered as data processor in accordance with Regulation (EC) No 45/2001/EU [or its successor] as regards the personal data entered into the Central System by the Member States.

ARTICLE 22

Purpose of the processing of personal data

1. The data included in the Central System shall only be processed for the purpose of the identification of the Member State(s) holding the criminal records information of third country nationals.
2. With the exception of duly authorised staff of the Union bodies referred to in Article 14, who have access to the ECRIS-TCN system for the purpose of consulting the data referred to in Article 5, access to the ECRIS-TCN system shall be reserved exclusively to duly authorised staff of the central authorities. Access shall be limited to the extent needed for the performance of the tasks in accordance with the purpose referred to in paragraph 1, and to what is necessary and proportionate to the objectives pursued.

## ARTICLE 23

### Right of access, rectification, erasure and restriction of processing

1. The requests of third country nationals concerning the rights of access to personal data and to rectification and erasure and to restriction of processing of personal data, which are set out in the applicable Union data protection rules, may be addressed to the central authority of any Member State.
2. Where a request is made to a Member State other than the convicting Member State, the Member State to which the request has been made shall forward it to the convicting Member State without undue delay and in any event within 10 working days after receiving the request. Upon receipt of the request, the convicting Member State shall
  - (a) immediately launch the procedure for checking the accuracy of the data and the lawfulness of the data processing in the ECRIS-TCN system; and
  - (b) respond to the Member State that forwarded the request without undue delay.
3. In the event that data recorded in the ECRIS-TCN system are inaccurate or have been processed unlawfully, the convicting Member State shall rectify or erase the data in accordance with Article 9. The convicting Member State or, where applicable, the Member State to which the request has been made shall confirm in writing to the person concerned without undue delay that action has been taken to rectify or erase data relating to that person. The convicting Member State shall also without undue delay inform any other Member State which has been a recipient of conviction information obtained as a result of a query of the ECRIS-TCN system as to what action has been taken.

4. If the convicting Member State does not agree that data recorded in the ECRIS-TCN system are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative or judicial decision explaining in writing to the person concerned why it is not prepared to rectify or erase data relating to him or her. Such cases may, where appropriate, be communicated to the national supervisory authority for data protection.
5. The Member State which has adopted the decision pursuant to paragraph 4 shall also provide the person concerned with information explaining the steps which that person can take if the explanation given pursuant to paragraph 4 is not acceptable to them. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the national law of that Member State.
6. Any request made pursuant to paragraphs 1 and 2 shall contain the information necessary to identify the person concerned. That information shall be used exclusively to enable the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.
7. Whenever a person requests data relating to him- or herself in accordance with paragraph 2, the central authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority. Upon request of a supervisory authority, the central authority shall make such document available to that supervisory authority without delay. The central authorities and the supervisory authorities shall delete such records after three years of their creation.

## ARTICLE 24

### Cooperation to ensure the rights on data protection

1. The central authorities of the Member States shall cooperate with each other in order to ensure respect for the rights laid down in Article 23.
2. In each Member State, the supervisory authority shall, upon request, provide information to the person concerned on how to exercise his or her right to rectify or erase data relating to him or her, in accordance with Union data protection rules.
3. In order to achieve those aims, the supervisory authority of the Member State which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.

## ARTICLE 25

### Remedies

Any person shall have the right to lodge a complaint and the right to a legal remedy in the convicting Member State which refused the right of access to or the right of correction or deletion of data relating to him or her, provided for in Article 23, in accordance with national or Union law.

## ARTICLE 26

### Supervision by the supervisory authority

1. Each Member State shall ensure that the supervisory authority or authorities designated pursuant to applicable Union data protection rules shall monitor the lawfulness of the processing of personal data referred to in Article 6 by the Member State concerned, including their transmission to and from the ECRIS-TCN system.
2. The supervisory authority shall ensure that an audit of the data processing operations in the national criminal records and fingerprints databases related to the data exchange between those systems and the ECRIS-TCN system is carried out in accordance with relevant international auditing standards at least every three years from the start of operations of the ECRIS-TCN system.
3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.
4. Each Member State shall supply any information requested by the supervisory authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 12, 13 and 17. Each Member State shall grant the supervisory authorities access to their records pursuant to Articles 23(7) and 29 and allow them access at all times to all their ECRIS-TCN system related premises.

## ARTICLE 27

### Supervision by the European Data Protection Supervisor

1. The European Data Protection Supervisor shall monitor that the personal data processing activities of eu-LISA concerning the ECRIS-TCN system are carried out in accordance with this Regulation.



2. The European Data Protection Supervisor shall ensure that an audit of the Agency's personal data processing activities is carried out in accordance with relevant international auditing standards at least every three years. A report of that audit shall be sent to the European Parliament, the Council, eu-LISA, the Commission, the supervisory authorities and the national supervisory authorities. eu-LISA shall be given an opportunity to make comments before the report is adopted.
3. eu-LISA shall supply information requested by the European Data Protection Supervisor, give him or her access to all documents and to its records referred to in Article 29 and allow him or her access to all of its premises at any time.

## ARTICLE 28

### Cooperation among supervisory authorities and the European Data Protection Supervisor

Coordinated supervision shall be ensured in accordance with Article 62 of Regulation (EU) 2018/1725.<sup>16</sup>

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<sup>16</sup> Regulation 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

## ARTICLE 29

### Keeping of logs

1. eu-LISA and the competent authorities shall ensure, in accordance with their respective responsibilities, that all data processing operations in the ECRIS-TCN system data are logged in accordance with paragraph 2 for the purposes of checking the admissibility of the request, monitoring data integrity, security and the lawfulness of the data processing as well as for the purposes of self-monitoring.
2. The log shall show:
  - (a) the purpose of the request for access to ECRIS-TCN system data;
  - (b) the data transmitted as referred to in Article 5;
  - (c) the national file reference;
  - (d) the date and exact time of the operation;
  - (e) the data used for a query;
  - (f) the identifying mark of the official who carried out the search.
3. The log of consultations and disclosures shall make it possible to establish the justification of such operations.
4. Logs shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs containing non-personal data may be used for the monitoring and evaluation referred to in Article 34. Those logs shall be protected by appropriate measures against unauthorised access and deleted after three years, if they are no longer required for monitoring procedures which have already begun.
5. On request, eu-LISA shall make the logs of its processing operations available to the central authorities without undue delay.

6. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data integrity and security shall have access to those logs at their request for the purpose of fulfilling their duties. On request, the central authorities shall make the logs of their processing operations available to the competent supervisory authorities without undue delay.

## CHAPTER VI

### FINAL PROVISIONS

#### ARTICLE 30

##### Use of data for reporting and statistics

1. The duly authorised staff of eu-LISA, the competent authorities and the Commission shall have access to the data processed within the ECRIS-TCN system solely for the purposes of reporting and providing statistics without allowing for individual identification.
2. For the purpose of paragraph 1, eu-LISA shall establish, implement and host a central repository in its technical site(s) containing the data referred to in paragraph 1 which, without allowing for individual identification, would allow to obtain customisable reports and statistics. Access to the central repository shall be granted by means of secured access with control of access and specific user profiles solely for the purpose of reporting and statistics.
3. Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted in accordance with the examination procedure referred to in Article 35(2).
4. The procedures put in place by eu-LISA to monitor the functioning of the ECRIS-TCN system referred to in Article 34 as well as the ECRIS reference implementation shall include the possibility to produce regular statistics for monitoring purposes.

Every month eu-LISA shall submit to the Commission statistics without allowing for individual identification relating to the recording, storage and exchange of information extracted from criminal records through the ECRIS-TCN system and the ECRIS reference implementation. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation.

5. The Member States shall provide eu-LISA with the statistics necessary to fulfil its obligations referred to in this Article. They shall provide the Commission with statistics on the number of convicted third country nationals, as well as the number of convictions of third country nationals on their territory.

## ARTICLE 31

### Costs

1. The costs incurred in connection with the establishment and operation of the Central System, the Communication Infrastructure, the Interface Software and the ECRIS reference implementation shall be borne by the general budget of the Union.
2. The costs of connection of Eurojust, Europol and the European Public Prosecutor's Office to the ECRIS-TCN system shall be borne by the budget of those bodies.
3. Other costs shall be borne by the Member States, specifically the costs incurred by the connection of the existing national criminal record registers, fingerprints databases and the central authorities to the ECRIS-TCN system, as well as the costs of hosting the ECRIS reference implementation.

## ARTICLE 32

### Notifications

1. Each Member State shall notify eu-LISA of its central authority, or authorities, that has access to enter, rectify, erase, consult or search data, as well as of any change in this respect.
2. eu-LISA shall ensure the publication of a list of central authorities as notified by the Member States in the Official Journal of the European Union and publish this list on its website. When eu-LISA receives a notification of a change to a Member State's central authority, it shall update the list without undue delay.

## ARTICLE 33

### Entry of data and start of operations

1. Once the Commission is satisfied that the following conditions are met, it shall determine the date from which the Member States shall start entering the data referred to in Article 5 into the ECRIS-TCN system:
  - (a) the measures referred to in Article 10 have been adopted;
  - (b) the Member States have validated the technical and legal arrangements to collect and transmit the data referred to in Article 5 to the ECRIS-TCN system and have notified them to the Commission;
  - (c) eu-LISA has carried out a comprehensive test of the ECRIS-TCN system, in cooperation with the Member States, using anonymous test-data.

2. When the Commission has determined the date of start of entry of data in accordance with paragraph 1, it shall communicate this date to the Member States. Within a period of two months following that date, the Member States shall enter the data referred to in Article 5 into the ECRIS-TCN system, taking account of Article 38(2).
3. After the end of the period referred to in paragraph 2, eu-LISA shall carry out a final test of the ECRIS-TCN system, in cooperation with the Member States.
4. When the test referred to in paragraph 3 has been successfully completed and eu-LISA considers that the system is ready to start operations, it shall notify the Commission thereof. The Commission shall inform the European Parliament and the Council of the results of the test and it shall decide the date of from which the ECRIS-TCN system is to start operations.
5. The decision of the Commission on the date of start of operations, as referred to in paragraph 4, shall be published in the Official Journal.
6. The Member States shall start using the ECRIS-TCN system from the date determined by the Commission in accordance with paragraph 5.
7. When taking the decisions referred to in this Article, the Commission may specify different dates for the entry into the ECRIS-TCN system of alphanumeric data and fingerprint data as included in Article 5, as well as for the start of operations with respect to these different categories of data.

## ARTICLE 34

### Monitoring and evaluation

1. eu-LISA shall ensure that procedures are in place to monitor the development of the ECRIS-TCN system in light of objectives relating to planning and costs and to monitor the functioning of the ECRIS-TCN system and the ECRIS reference implementation in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.

2. For the purposes of monitoring the functioning of the system and its technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the ECRIS-TCN system and in the ECRIS reference implementation.
3. By [six months after the entry into force of this Regulation] and every six months thereafter during the development phase, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the ECRIS-TCN system and the ECRIS reference implementation.
  - 3a. The report referred to in paragraph 3 shall include an overview of the current costs and progress of the project, a financial impact assessment, and information on any technical problems and risks that may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 31.
  - 3b. In the event of substantial delays in the development process, the European Parliament and the Council shall be informed as soon as possible of the reasons for these delays and of their impact in terms of time and finances.
  - 3c. Once the development of the ECRIS-TCN system and the ECRIS reference implementation is finalised, a report shall be submitted to the European Parliament and the Council explaining how the objectives, in particular relating to planning and costs, were achieved, as well as justifying any divergences.
  - 3d. In the event of a technical upgrade of the system, which could result in substantial costs, the European Parliament and the Council shall be informed thereof.
4. Two years after the start of operations of the ECRIS-TCN system and every year thereafter, eu-LISA shall submit to the Commission a report on the technical functioning of the ECRIS-TCN system and the ECRIS reference implementation, including the security thereof, based in particular on the statistics on the functioning and use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.



5. Four years after the start of operations of the ECRIS-TCN system and every four years thereafter, the Commission shall conduct an overall evaluation of the ECRIS-TCN system and the ECRIS reference implementation. The overall evaluation report established on this basis shall include an assessment of the application of this Regulation, an examination of results that have been achieved relative to the objectives that were set and the impact on fundamental rights. The report shall also include an assessment of whether the underlying rationale of the ECRIS-TCN system's operation continues to hold, of the appropriateness of the biometric data used for the purposes of the ECRIS-TCN system, and of the security of the ECRIS-TCN system and of any security implications for future operations. The evaluation shall include any necessary recommendations. The Commission shall transmit the report to the European Parliament, the Council, the European Data Protection Supervisor and the European Agency for Fundamental Rights.
- 5a. In addition, the first overall evaluation as referred to in paragraph 5 shall include an assessment of
- (a) the extent to which, on the basis of relevant statistical data and further information from the Member States, the inclusion in the ECRIS-TCN system of identity information of citizens of the Union who also hold the nationality of a third country has contributed to the achievement of the objectives of this Regulation;
  - (b) the possibility, for some Member States, to continue the use of national ECRIS implementation software, as referred to in Article 4;
  - (c) the insertion of fingerprints in the ECRIS-TCN system, in particular the application of the minimum criteria as referred to in Article 5(1)(b)(ii);
  - (d) the impact of ECRIS and the ECRIS-TCN system on the protection of personal data.

The assessment may be accompanied, if necessary, by legislative proposals. Subsequent overall evaluations may include an assessment of either or both of these aspects.

6. The Member States, Eurojust, Europol and the European Public Prosecutor's Office shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraphs 3, 4 and 5 according to the quantitative indicators predefined by the Commission or eu-LISA or both. That information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.
- 6a. Where relevant, the European Data Protection Supervisor and the national supervisory authorities for data protection shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraph 5 according to the quantitative indicators predefined by the Commission or eu-LISA or both. That information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.
7. eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to in paragraph 5.

## ARTICLE 34a

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 6(2) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Regulation].

3. The delegation of power referred to in Article 6(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 6(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council (EP's text)

## ARTICLE 35

### Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where no opinion is delivered by the committee the draft implementing act shall not be adopted.

## ARTICLE 36

### Advisory Group

eu-LISA shall establish an Advisory Group in order to obtain expertise related to the ECRIS-TCN system and the ECRIS reference implementation, in particular in the context of preparation of its annual work programme and its annual activity report. During the design and development phase, Article 11 applies.

## ARTICLE 37

### Amendment of Regulation (EU) No 2018/1726

Regulation (EU) No 2018/1726 is amended as follows:

(1) In Article 1, paragraph 4 is replaced by the following:

"4. The Agency shall be responsible for the preparation, development or operational management of the Entry/Exit System (EES), DubliNet, the European Travel Information and Authorisation System (ETIAS), the ECRIS-TCN system and the ECRIS reference implementation."

(2) The following Article is inserted:

#### *"Article 8a*

##### *Tasks related to the ECRIS-TCN system and the ECRIS reference implementation*

In relation to the ECRIS-TCN system and the ECRIS reference implementation, the Agency shall perform:

- (a) the tasks conferred on it by Regulation (EU) No XXX/XX of the European Parliament and of the Council<sup>17</sup>;
- (b) tasks relating to training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation."

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<sup>17</sup> Regulation (EU) .... of the European Parliament and of the Council of ..... establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No 1077/2011 (OJ L ...).

(3) In Article 14, paragraph 1 is replaced by the following:

"1. The Agency shall monitor developments in research relevant for the operational management of SIS II, the VIS, Eurodac, the EES, ETIAS, DubliNet, the ECRIS-TCN system and other large-scale IT systems as referred to in Article 1(5)."

(4) In Article 19, paragraph 1 is amended as follows:

(a) point (ee) is replaced by the following:

"(ee) adopt the reports on the development of the EES pursuant to Article 72(2) of Regulation (EU) 2017/2226; adopt the reports on the development of ETIAS pursuant to Article 92(2) of Regulation (EU) 2018/XXX and adopt the reports on the development of the ECRIS-TCN system pursuant to Article 34(3) of Regulation (EU) No 20XX/XX".

(b) point (ff) is replaced by the following:

"(ff) adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of the VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, of the EES pursuant to Article 72(4) of Regulation (EU) 2017/2226 and of ETIAS pursuant to Article 92(4) of Regulation (EU) 2018/XX, and of the ECRIS-TCN system and the ECRIS reference implementation pursuant to Article 34(4) of Regulation (EU) XX/XXX;"

(c) point (hh) is replaced by the following:

"(hh) adopt formal comments on the European Data Protection Supervisor's reports on the audits carried out pursuant to Article 45(2) of Regulation (EC) No 1987/2006, Article 42(2) of Regulation (EC) No 767/2008 and Article 31(2) of Regulation (EU) No 603/2013, Article 56(2) of Regulation (EU) 2017/2226, Article 67 of Regulation (EU) 2018/XX [establishing the ETIAS] and to Article 27(2) of Regulation (EU) XX/XXXX [establishing the ECRIS-TCN system] and ensure appropriate follow-up of those audits;"

(d) the following point is inserted after point (ll):

"(llbis) submit to the Commission statistics related to the ECRIS-TCN system and to the ECRIS reference implementation pursuant to Article 30 of Regulation XXXX/XX [establishing the ECRIS TCN system];" .

(e) Point mm is replaced by the following:

"(mm) ensure annual publication of the list of competent authorities authorised to search directly the data contained in SIS II pursuant to Article 31(8) of Regulation (EC) No 1987/2006 and Article 46(8) of Decision 2007/533/JHA, together with the list of Offices of the national systems of SIS II (N.SIS II Offices) and SIRENE Bureaux pursuant to Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively as well as the list of competent authorities pursuant to Article 65(2) of Regulation (EU) 2017/2226, the list of competent authorities pursuant to Article 87(2) of Regulation (EU) 2018/XXXX [establishing the ETIAS] and the list of central authorities pursuant to Article 32 of Regulation XX/XXX [establishing the ECRIS-TCN system];"

(5) In Article 22, paragraph 4 is replaced by the following:

"4. Europol and Eurojust may attend the meetings of the Management Board as observers when a question concerning SIS II in relation to the application of Decision 2007/533/JHA is on the agenda. The European Border and Coast Guard Agency may attend the meetings of the Management Board as observers when a question concerning SIS II in relation to the application of Regulation (EU) 2016/1624 is on the agenda.

Europol may attend the meetings of the Management Board as observer when a question concerning the VIS in relation to the application of Decision 2008/633/JHA or a question concerning Eurodac in relation to the application of Regulation (EU) No 603/2013 is on the agenda.

Europol may attend the meetings of the Management Board as an observer when a question concerning the EES in relation to the application of Regulation 2017/2226 is on the agenda or when a question concerning ETIAS in relation to Regulation (EU) 2018/XXXX [establishing ETIAS] is on the agenda. The European Border and Coast Guard Agency may also attend the meetings of the Management Board as observer when a question concerning ETIAS in relation with the application of Regulation (EU) 2018/XX [establishing ETIAS] is on the agenda.

Eurojust, Europol and the European Public Prosecutor's Office may also attend the meetings of the Management Board as observers when a question concerning Regulation XX/XXXX [establishing the ECRIS-TCN system] is on the agenda.

The Management Board may invite any other person whose opinion may be of interest, to attend its meetings as an observer.



(6) In Article 24, paragraph 3, point (p) is replaced by the following:

"(p) establishing, without prejudice to Article 17 of the Staff Regulations, confidentiality requirements in order to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA, Article 26(9) of Regulation (EC) No 767/2008, Article 4(4) of Regulation (EU) No 603/2013, Article 37(4) of Regulation (EU) 2017/2226, Article 74(2) of Regulation 2018/XXXX [establishing the ETIAS] and Article 11(16) of Regulation (EU) XX/XX [establishing the ECRIS-TCN system.]"

(7) In Article 27, paragraph 1 is replaced by the following:

"1. The following Advisory Groups shall provide the Management Board with expertise relating to large-scale IT systems and, in particular, in the context of the preparation of the annual work programme and the annual activity report:

- (a) SIS II Advisory Group;
- (b) VIS Advisory Group;
- (c) Eurodac Advisory Group;
- (d) EES-ETIAS Advisory Group;
- (e) ECRIS-TCN system Advisory Group;
- (f) any other Advisory Group relating to a large-scale IT system when so provided in the relevant legislative instrument governing the development, establishment, operation and use of that large-scale IT system."

## ARTICLE 38

### Implementation and transitional provisions

1. Member States shall take the necessary measures to comply with this Regulation as soon as possible so as to ensure the proper functioning of the ECRIS-TCN system.
2. For convictions handed down prior to [the date of entry of data in accordance with Article 33(2)], the central authorities shall create the individual data records in the Central System as follows:
  - a) alphanumeric data should be entered into the Central System at the latest by the end of the period referred to in Article 33(2);
  - b) fingerprints should be entered into the Central System at the latest within two years after the start of operations in accordance with Article 33(5).

## ARTICLE 39

### Entry into force and applicability

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

(draft)

**Standard Information Request Form**  
**as referred to in Article 16(1) of Regulation (EU) XXXX/2018**  
**in order to obtain information on the EU Member State that may hold**  
**Criminal Records Information of a Third Country National**

*This form, which is available at [www.eurojust.europa.eu](http://www.eurojust.europa.eu) in all 24 official languages of the EU, should be addressed in one of those languages to [ECRIS-TCN@eurojust.europa.eu](mailto:ECRIS-TCN@eurojust.europa.eu)*

**Requesting State or International Organisation:**

Name of State or International Organisation:
Authority that submits the request:
Represented by ( <i>name of person</i> ):
Title:
Address:
Telephone number:
E-mail address:

**Criminal Proceedings for which the information is sought:**

Domestic reference number:
Competent authority:
Type of crimes under investigation ( <i>please mention relevant article(s) of criminal code</i> ):
Other relevant information ( <i>e.g. urgency of the request</i> ):

**Identity Information of the Person having the Nationality of a Third Country in respect of whom information regarding the convicting Member State is sought :**

*NB: please provide as much available information as possible.*

Surname ( <i>family name</i> ):
First name(s) ( <i>given names</i> ):
Date of birth:
Place of birth ( <i>town and country</i> ):
Nationality or nationalities:
Gender:
Previous name(s), if applicable:
Parents' names:
Identity number:
Type and number of the person's identification document(s):
Issuing authority of document(s):
Pseudonym and/or alias name(s):
If fingerprints are available, please provide these.

*In case of multiple persons, please indicate them separately*

A drop down panel would allow the insertion of additional subjects

Place	<input type="text"/>
Date	<input type="text"/>

(Electronic) signature and stamp:

\_\_\_\_\_