

This text is meant purely as a documentation tool and has no legal effect. The Union's institutions do not assume any liability for its contents. The authentic versions of the relevant acts, including their preambles, are those published in the Official Journal of the European Union and available in EUR-Lex. Those official texts are directly accessible through the links embedded in this document

► **B**

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)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019	L 151	143	7.6.2019

▼B**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****▼M1***Article 1***Subject matter**

This Framework Decision:

- (a) defines the conditions under which a convicting Member State shares information with other Member States on convictions;
- (b) defines obligations for the convicting Member State and for the Member State of the convicted person's nationality (the 'Member State of the person's nationality'), and specifies the methods to be followed when replying to a request for information extracted from criminal records;
- (c) establishes a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Records Information System (ECRIS).

▼B*Article 2***Definitions**

For the purposes of this Framework Decision:

- (a) 'conviction' means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent these decisions are 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;

▼M1

- (d) 'convicting Member State' means the Member State where a conviction is handed down;
- (e) 'third-country national' means a person who is not a citizen of the Union within the meaning of Article 20(1) TFEU, or who is a stateless person or a person whose nationality is unknown;
- (f) 'fingerprint data' means the data relating to plain and rolled impressions of the fingerprints of each of a person's fingers;
- (g) 'facial image' means a digital image of a person's face;
- (h) '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.

▼B*Article 3***Central authority**

1. For the purposes of this Framework Decision, each Member State shall designate a central authority. However, for the transmission of information under Article 4 and for replies under Article 7 to requests referred to in Article 6, Member States may designate one or more central authorities.
2. Each Member State shall inform the General Secretariat of the Council and the Commission of the central authority or authorities designated in accordance with paragraph 1. The General Secretariat of the Council shall notify the Member States and Eurojust of this information.

*Article 4***Obligations of the convicting Member State****▼M1**

1. Each convicting Member State shall take all the necessary measures to ensure that convictions handed down within its territory are accompanied by information on the nationality or nationalities of the convicted person if the person is a national of another Member State or a third-country national. Where a convicted person is of unknown nationality or stateless, the criminal record shall reflect this.

▼B

2. The central authority of the convicting Member State shall, as soon as possible, inform the central authorities of the other Member States of any convictions handed down within its territory against the nationals of such other Member States, as entered in the criminal record.

If it is known that the convicted person is a national of several Member States, the relevant information shall be transmitted to each of these Member States, even if the convicted person is a national of the Member State within whose territory he was convicted.

3. Information on subsequent alteration or deletion of information contained in the criminal record shall be immediately transmitted by the central authority of the convicting Member State to the central authority of the Member State of the person's nationality.
4. Any Member State which has provided information under paragraphs 2 and 3 shall communicate to the central authority of the Member State of the person's nationality, on the latter's request in individual cases, a copy of the convictions and subsequent measures as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measure at national level.

*Article 5***Obligations of the Member State of the person's nationality**

1. The central authority of the Member State of the person's nationality shall store all information in accordance with Article 11(1) and (2) transmitted under Article 4(2) and (3), for the purpose of retransmission in accordance with Article 7.

▼B

2. Any alteration or deletion of information transmitted in accordance with Article 4(3) shall entail identical alteration or deletion by the Member State of the person's nationality regarding information stored in accordance with paragraph 1 of this Article for the purpose of retransmission in accordance with Article 7.

3. For the purpose of retransmission in accordance with Article 7 the Member State of the person's nationality may only use information which has been updated in accordance with paragraph 2 of this Article.

*Article 6***Request for information on convictions**

1. When information from the criminal record of a Member State is requested for the purposes of criminal proceedings against a person or for any purposes other than that of criminal proceedings, the central authority of that Member State may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record.

2. When a person asks for information on his own criminal record, the central authority of the Member State in which the request is made may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record, provided the person concerned is or was a resident or a national of the requesting or requested Member State.

▼M1

3. Where a national of one Member State asks the central authority of another Member State for information on his or her own criminal record, that central authority shall submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal records and shall include such information and related data in the extract to be provided to the person concerned.

3a. Where a third-country national asks the central authority of a Member State for information on his or her own criminal record, that central authority shall submit a request only to those central authorities of the Member States which hold information on the criminal record of that person for information and related data to be extracted from the criminal records and shall include such information and related data in the extract to be provided to the person concerned.

▼B

4. All requests from the central authority of a Member State for information extracted from the criminal record shall be submitted using the form set out in the Annex.

*Article 7***Reply to a request for information on convictions**

1. When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for the purposes of criminal proceedings, that central authority shall transmit to the central authority of the requesting Member State information on:

▼B

- (a) convictions handed down in the Member State of the person's nationality and entered in the criminal record;
- (b) any convictions handed down in other Member States which were transmitted to it after 27 April 2012, in application of Article 4, and stored in accordance with Article 5(1) and (2);
- (c) any convictions handed down in other Member States which were transmitted to it by 27 April 2012, and entered in the criminal record;
- (d) any convictions handed down in third countries and subsequently transmitted to it and entered in the criminal record.

2. When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for any purposes other than that of criminal proceedings, that central authority shall in respect of convictions handed down in the Member State of the person's nationality and of convictions handed down in third countries, which have been subsequently transmitted to it and entered in its criminal record, reply in accordance with its national law.

In respect of information on convictions handed down in another Member State, which have been transmitted to the Member State of the person's nationality, the central authority of the latter Member State shall in accordance with its national law transmit to the requesting Member State the information which has been stored in accordance with Article 5 (1) and (2) as well as the information which has been transmitted to that central authority by 27 April 2012, and has been entered in its criminal record.

When transmitting the information in accordance with Article 4, the central authority of the convicting Member State may inform the central authority of the Member State of the person's nationality that the information on convictions handed down in the former Member State and transmitted to the latter central authority may not be retransmitted for any purposes other than that of criminal proceedings. In this case, the central authority of the Member State of the person's nationality shall, in respect of such convictions, inform the requesting Member State which other Member State had transmitted such information so as to enable the requesting Member State to submit a request directly to the convicting Member State in order to receive information on these convictions.

3. When information extracted from the criminal record is requested from the central authority of the Member State of the person's nationality by a third country, the Member State of the person's nationality may reply in respect of convictions transmitted by another Member State only within the limitations applicable to the transmission of information to other Member States in accordance with paragraphs 1 and 2.

▼M1

4. Where information extracted from the criminal records on convictions handed down against a national of a Member State is requested under Article 6 from the central authority of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit such information to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

▼ M1

4a. Where information extracted from the criminal records on convictions handed down against a third-country national is requested under Article 6 for the purposes of criminal proceedings, the requested Member State shall transmit information on any conviction handed down in the requested Member State and entered in the criminal records and on any conviction handed down in third countries and subsequently transmitted to it and entered into the criminal records.

If such information is requested for any purpose other than that of criminal proceedings, paragraph 2 of this Article shall apply accordingly.

▼ B

5. The reply shall be made using the form set out in the Annex. It shall be accompanied by a list of convictions, as provided for by national law.

*Article 8***Deadlines for replies**

1. Replies to the requests referred to in Article 6(1) shall be transmitted by the central authority of the requested Member State to the central authority of the requesting Member State immediately and in any event within a period not exceeding ten working days from the date the request was received, as provided for by its national law, rules or practice, using the form set out in the Annex.

When the requested Member State requires further information to identify the person involved in the request, it shall immediately consult the requesting Member State with a view to providing a reply within ten working days from the date the additional information is received.

▼ M1

2. Replies to the requests referred to in Article 6(2), (3) and (3a) shall be transmitted within twenty working days from the date the request was received.

▼ B*Article 9***Conditions for the use of personal data**

1. Personal data provided under ► **M1** Article 7(1), (4) and (4a) ◀ for the purposes of criminal proceedings may be used by the requesting Member State only for the purposes of the criminal proceedings for which it was requested, as specified in the form set out in the Annex.

2. Personal data provided under ► **M1** Article 7(2), (4) and (4a) ◀ for any purposes other than that of criminal proceedings may be used by the requesting Member State in accordance with its national law only for the purposes for which it was requested and within the limits specified by the requested Member State in the form set out in the Annex.

3. Notwithstanding paragraphs 1 and 2, personal data provided under ► **M1** Article 7(1), (2), (4) and (4a) ◀ may be used by the requesting Member State for preventing an immediate and serious threat to public security.

▼B

4. Member States shall take the necessary measures to ensure that personal data received from another Member State under Article 4, if transmitted to a third country in accordance with Article 7(3), is subject to the same usage limitations as those applicable in a requesting Member State in accordance with paragraph 2 of this Article. Member States shall specify that personal data, if transmitted to a third country for the purposes of a criminal proceeding, may be further used by that third country only for the purposes of criminal proceedings.

5. This Article does not apply to personal data obtained by a Member State under this Framework Decision and originating from that Member State.

*Article 10***Languages**

When submitting a request referred to in Article 6(1), the requesting Member State shall transmit to the requested Member State the form set out in the Annex in the official language or one of the official languages of the latter Member State.

The requested Member State shall reply either in one of its official languages or in any other language accepted by both Member States.

Any Member State may, at the time of the adoption of this Framework Decision or at a later date, indicate, in a statement to the General Secretariat of the Council, which are the official languages of the institutions of the European Union that it accepts. The General Secretariat of the Council shall notify the Member States of this information.

*Article 11***Format and other ways of organising and facilitating exchanges of information on convictions**

1. When transmitting information in accordance with Article 4(2) and (3), the central authority of the convicting Member State shall transmit the following information:

- (a) information that shall always be transmitted, unless, in individual cases, such information is not known to the central authority (obligatory information):
 - (i) information on the convicted person (full name, date of birth, place of birth (town and State), gender, nationality and – if applicable – previous name(s));
 - (ii) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);
 - (iii) information on the offence giving rise to the conviction (date of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions); and
 - (iv) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);

▼B

- (b) information that shall be transmitted if entered in the criminal record (optional information):
 - (i) the convicted person's parents' names;
 - (ii) the reference number of the conviction;
 - (iii) the place of the offence; and
 - (iv) disqualifications arising from the conviction;
- (c) information that shall be transmitted, if available to the central authority (additional information):
 - (i) the convicted person's identity number, or the type and number of the person's identification document;
 - (ii) fingerprints, which have been taken from that person;
 - (iii) if applicable, pseudonym and/or alias name(s); and

▼M1

- (iv) facial image.

▼B

In addition, the central authority may transmit any other information concerning convictions entered in the criminal record.

2. The central authority of the Member State of the person's nationality shall store all information of the types listed in points (a) and (b) of paragraph 1, which it has received in accordance with Article 5(1) for the purpose of retransmission in accordance with Article 7. For the same purpose it may store the information of the types listed in point (c) of the first subparagraph and in the second subparagraph of paragraph 1.

▼M1

3. Central authorities of Member States shall transmit the following information electronically using ECRIS and a standardised format in accordance with the standards to be laid down in implementing acts:

- (a) information referred to in Article 4;
- (b) requests referred to in Article 6;
- (c) replies referred to in Article 7; and
- (d) other relevant information.

4. If the mode of transmission referred to in paragraph 3 is not available, central authorities of Member States shall transmit all information referred to in paragraph 3 by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity of the information, taking the security of transmission into consideration.

If the mode of transmission referred to in paragraph 3 is not available for an extended period of time, the Member State concerned shall inform the other Member States and the Commission.

▼ **M1**

5. Each Member State shall carry out the technical alterations necessary for its use of the standardised format to electronically transmit all information as referred to in paragraph 3 to other Member States via ECRIS. Each Member State shall notify the Commission of the date from which it will be able to carry out such transmissions.

*Article 11a***European Criminal Records Information System (ECRIS)**

1. In order to exchange information extracted from criminal records in accordance with this Framework Decision electronically, a decentralised information technology system based on the criminal records databases in each Member State, the European Criminal Records Information System (ECRIS), is established. It is composed of the following elements:

- (a) ECRIS reference implementation;
- (b) a common communication infrastructure between central authorities that provides an encrypted network.

To ensure the confidentiality and integrity of criminal records information transmitted to other Member States, appropriate technical and organisational measures shall be used, taking into account the state of the art, the cost of implementation and the risks posed by the processing of information.

2. All criminal records data shall be stored solely in databases operated by the Member States.

3. The central authorities of the Member States shall not have direct access to the criminal records databases of other Member States.

4. The ECRIS reference implementation and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned. The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) established by Regulation (EU) 2018/1726 of the European Parliament and of the Council ⁽¹⁾ shall support the Member States in accordance with its tasks as laid down in Regulation (EU) 2019/816 of the European Parliament and of the Council ⁽²⁾.

5. The common communication infrastructure shall be operated under the responsibility of the Commission. It shall fulfil the necessary security requirements and fully meet the needs of ECRIS.

⁽¹⁾ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

⁽²⁾ Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

▼ M1

6. eu-LISA shall provide, further develop and maintain the ECRIS reference implementation.

7. Each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the installation and use of the ECRIS reference implementation.

The Commission shall bear the costs arising from the implementation, administration, use, maintenance and future development of the common communication infrastructure.

8. The Member States which use their national ECRIS implementation software in accordance with paragraphs 4 to 8 of Article 4 of Regulation (EU) 2019/816 may continue to use their national ECRIS implementation software instead of the ECRIS reference implementation, provided that they fulfil all the conditions set out in those paragraphs.

*Article 11b***Implementing Acts**

1. The Commission shall lay down the following in implementing acts:

- (a) the standardised format referred to in Article 11(3), including as regards information on the offence giving rise to the conviction and information on the content of the conviction;
- (b) the rules concerning the technical implementation of ECRIS and the exchange of fingerprint data;
- (c) any other technical means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:
 - (i) the means of facilitating the understanding and automatic translation of transmitted information;
 - (ii) the means by which information may be exchanged electronically, particularly as regards the technical specifications to be used and, if need be, any applicable exchange procedures.

2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 12a(2).

▼ B*Article 12***Relationship to other legal instruments**

1. In relations between the Member States, this Framework Decision supplements the provisions of Article 13 of the European Convention on Mutual Assistance in Criminal Matters, its additional Protocols of 17 March 1978 and 8 November 2001, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and its Protocol of 16 October 2001 ⁽¹⁾.

⁽¹⁾ OJ C 326, 21.11.2001, p. 1.

▼B

2. For the purposes of this Framework Decision, Member States shall waive the right to rely among themselves on their reservations to Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

3. Without prejudice to their application in relations between Member States and third States, this Framework Decision replaces in relations between Member States which have taken the necessary measures to comply with this Framework Decision and ultimately with effect from 27 April 2012 the provisions of Article 22 of the European Convention on Mutual Assistance in Criminal Matters, as supplemented by Article 4 of said Convention's additional Protocol of 17 March 1978.

4. Decision 2005/876/JHA is hereby repealed.

5. This Framework Decision shall not affect the application of more favourable provisions in bilateral or multilateral agreements between Member States.

▼M1*Article 12a***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 the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

▼B*Article 13***Implementation**

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 27 April 2012.

2. Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

3. On the basis of that information the Commission shall, by 27 April 2015, present a report to the European Parliament and the Council on the application of this Framework Decision, accompanied if necessary by legislative proposals.

▼M1*Article 13a***Reporting by the Commission and review**

1. By 29 June 2023, the Commission shall submit a report on the application of this Framework Decision to the European Parliament and to the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including its technical implementation.

▼ M1

2. The report shall be accompanied, where appropriate, by relevant legislative proposals.
3. The Commission shall regularly publish a report concerning the exchange of information extracted from the criminal record through ECRIS and concerning the use of ECRIS-TCN based in particular on the statistics provided by eu-LISA and the Member States in accordance with Regulation (EU) 2019/816. The report shall be published for the first time one year after the report referred to in paragraph 1 is submitted.
4. The Commission report referred to in paragraph 3 shall cover in particular the level of exchange of information between Member States, including that relating to third-country nationals, as well as the purpose of requests and their respective number, including requests for purposes other than criminal proceedings, such as background checks and requests for information from the persons concerned on their own criminal record.

▼ B*Article 14***Entry into force**

This Framework Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.



ANNEX

Form referred to in Articles 6, 7, 8, 9 and 10 of the Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States

Request for information extracted from the criminal record

Members States are to consult the Manual of Procedures for assistance in filling in this form correctly

(a) Information on the requesting Member State:

Member State:

Central authority(ies):

Contact person:

Telephone (with STD code):

Fax (with STD code):

E-mail address:

Correspondence address:

File reference, if known:

(b) Information on the identity of the person concerned by the request (*):

Full name (forenames and all surnames)

Previous names:

Pseudonym and/or alias, if any:

Gender: M F

Nationality:

Date of birth (in figures: dd/mm/yyyy):

Place of birth (town and State):

Father's name:

Mother's name:

Residence or known address:

Person's identity number or type and number of the person's identification document:

Fingerprints:

Other available identification information:

(*) To facilitate the identification of the person as much information as possible is to be provided.

▼B

(c) Purpose of the request:

Please tick the appropriate box

- (1) criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number)
-
- (2) request outside the context of criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number, while ticking the relevant box):
- (i) from a judicial authority
-
- (ii) from a competent administrative authority
-
- (iii) from the person concerned for information on own criminal record
-

Purpose for which the information is requested:

Requesting authority:

- the person concerned does not consent for this information to be divulged (if the person concerned was asked for its consent in accordance with the law of the requesting Member State).

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (e.g. urgency of the request):

Reply to the request

Information relating to the person concerned

Please tick the appropriate box

The undersigned authority confirms that:

- there is no information on convictions in the criminal record of the person concerned
- there is information on convictions entered in the criminal record of the person concerned; a list of convictions is attached
- there is other information entered in the criminal record of the person concerned; such information is attached (optional)

▼B

- there is information on convictions entered in the criminal record of the person concerned but the convicting Member State intimated that the information about these convictions may not be retransmitted for any purposes other than that of criminal proceedings. The request for more information may be sent directly to (please indicate the convicting Member State)
- in accordance with the national law of the requested Member State, requests made for any purposes other than that of criminal proceedings may not be dealt with.

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (limitations of use of the data concerning requests outside the context of criminal proceedings):

Please indicate the number of pages attached to the reply form:

Done at

on

Signature and official stamp (if appropriate):

Name and position/organisation:

If appropriate, please attach a list of convictions and send the complete package to the requesting Member State. It is not necessary to translate the form or the list into the language of the requesting Member State.