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From:	Presidency
To:	Delegations
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Subject:	Amendments in the ECRIS proposal on the basis of the “consolidated” text following the COPEN (ECRIS) meetings of 1 and 22 February and 1 - 2 March, 2016

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After the COPEN (ECRIS) meetings held in February and in particular the meeting held on 1 - 2 March the Presidency discussed their outcome with the Commission and decided that it would be helpful to introduce amendments to the Commission proposal using as a basis the consolidated text set out in document WK 13/2016 INIT.

For the sake of clarity a brief explanation precedes all of the amendments introduced in the text of the proposal.

Also the changes are visibly indicated in the following manner: new text is in bold and underlined whereas deletions are indicated by (...).

The recitals are not included in this document and will be dealt with at a later stage with one exception, which is the new recital on TCN which is linked to Article 2, point e).

The Presidency proposes to base the discussions in the upcoming COPEN (ECRIS) meeting on this document.

**“CONSOLIDATED” TEXT OF FRAMEWORK DECISION 2009/315/JHA AS IT WOULD  
BE AMENDED BY THE DRAFT ECRIS DIRECTIVE**

*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 as amended by the DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA*

**Recital 9a**

**Explanation:** *The proposed definition of TCN led to discussions on the basis of which a simplified version of Article 2, point e) is proposed together with this supporting recital.*

**(9a) A third country national should be defined as a person who does not have the nationality of a Member State, which includes a person whose nationality is unknown to the Member State where the conviction against the person is handed down and a stateless person. The latter, in accordance with the UN Convention relating to the Status of Stateless Persons<sup>1</sup>, "stateless person" means a person who is not considered as a national by any state under the operation of its law.**

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<sup>1</sup> Convention relating to the Status of Stateless Persons, United Nations, Treaty Series , vol. 360, p.117, not signed by CY, EE, MT and PL.

## Article 1

### Subject Matter

**Explanation:** *In point b) wording is added to clarify the obligations of Member States in relation to both TCN and EU nationals whereas in point c) the term ECRIS is moved from the end to the beginning of the subparagraph.*

#### **This Framework Decision:**

- (a) **defines the ways in which a convicting Member State shares information on convictions with other Member States;**
- (b) **defines storage obligations for the convicting Member State, in relation to third country nationals and of the Member State of nationality in relation to EU nationals, and specifies the methods to be followed when replying to a request for (...) criminal records information and related data;**
- (c) **establishes ECRIS, the European Criminal Record Information System as a decentralised information technology system for the exchange of information on convictions based on the criminal records databases in each Member State (...).**

## Article 2

### Definitions

**Explanation:** *In point e) the definition of TCN has been simplified, with the purpose to clarify that a TCN is not a EU national. In that regard a new recital 9a has been added.*

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.
- (d) ‘convicting Member State’ means the Member State where a conviction is handed down;
- (e) ‘third country national’ means a (...) person who does not have the nationality of a Member State.

## Article 2a

### Information exchanged via ECRIS

***Explanation:** It seemed useful to list in a general article all types of information that may be exchanged via ECRIS in relation to EU nationals and TCN. That information is clustered in a logical manner. The wording “subject to Articles....” is included, to explain which information and when and how it will be exchanged. These articles will be specified at a later stage, but they include Articles 4a and 11.*

**For the purposes of this Framework Decision and subject to Articles ... information exchanged via ECRIS may comprise the following:**

- (a) **information on the convicted person:**
- full name, date of birth, place of birth (town and country), gender, nationality(ies) and previous name(s) as well as pseudonym and/or alias name(s), fingerprints, identity number or type and number of the person’s identification document, the convicted person parents’ names;**
- (b) **information on the nature of the conviction:**
- date of conviction, name of the court, date on which the decision became final and reference number of the conviction;**
- (c) **information on the offence giving rise to the conviction:**
- date and place of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions;**
- (d) **information on the contents of the conviction:**
- notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence;**
- (e) **disqualifications arising from the conviction; and**
- (f) **other relevant information.**

## Article 3

### Central authority

1. For the purposes of this Framework Decision, each Member State shall designate a central authority for the transmission of information under Article 4 and for replies under Article 7 to requests referred to in Article 6.
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

*Explanation: Paragraph 1 has been amended to exclude doubts on the knowledge or lack of it on the nationality (ies) of the persons.*

1. **Each Member State shall take the necessary measures to ensure that when convictions handed down within its territory are entered into its criminal records, information on the nationality or nationalities of the convicted person is included and stored there unless such information is unknown (...). In the latter case or where the convicted person is a stateless person the criminal record shall reflect this.**
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 4a**  
**Obligations of the convicting Member State**  
**concerning convictions of third country nationals**

**Explanation:** *Due to the numerous comments made regarding Article 4a it was redrafted substantially. As it follows from its title, this article is devoted to the obligations related to TCN. Paragraph 1 contains the obligations to store certain information in the criminal record, unless in individual cases elements of that information are not known. This paragraph lists the same obligatory information as the current paragraph 1 of Article 11 on the transmission of information lists as well as, the optional reference number of the conviction and disqualifications arising from the conviction and the additional pseudonym and/or alias name(s).*

*A new paragraph 2 focuses on information that does not need to be stored in the criminal record and may be stored elsewhere as long as it is made available for the purposes of ECRIS.*

*In paragraph 3, dealing with the index filter, the information on the name of the parents has been deleted and the term “anonymised” has been replaced by “pseudonymised”, in view of the new EU legislation on data protection.*

*The changes in paragraph 4 are purely technical. The former paragraph 4 on TCN who hold an EU nationality has been deleted for reasons explained in working document WK 174/2016 INIT. In the final paragraph, a distinction has been made between the storage in the criminal record and in the index-filter.*

**1. The Member State where a conviction is handed down against a third country national shall store in the criminal record the following information: unless, in (...) individual cases, (...) such information is not known:**

**a. information on the convicted person:**

**full name, date of birth, place of birth (town and country), gender, nationality and – if applicable – previous name(s) as well as pseudonym and/or alias name(s);**

**b. information on the nature of the conviction:**

**date of conviction, name of the court, date on which the decision became final and reference number of the conviction;**

**c. information on the offence giving rise to the conviction;**

**date and place of the offence underlying the conviction and name or legal classification of the offence as well as reference to the applicable legal provisions;**

**d. information on the contents of the conviction;**

**notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence;**

**e. (...)**

**f. (...)**

**g. (...)**

**h. if applicable, disqualifications arising from the conviction.**

**i. (...)**

**j. (...)**

**k. (...).**

**1a. Member States shall make available for the purposes of ECRIS:**

**a. fingerprints;**

**b. if known, the convicted person's identity number, or the type and number of the person's identification document and**

**c. if known, the convicted person's parents' names.**

**2. The central authority shall create an index-filter containing (...) pseudonymised information of the types referred to in (...) paragraph 1, point (a) and paragraph 2, points (a) and (b), concerning third country nationals convicted in its Member State. The central authority shall transmit this index-filter, and any updates to it, to all Member States.**

**3. Any alteration or deletion of the information referred to in paragraph 1 and 2 shall immediately entail identical alteration or deletion of the information stored in accordance with paragraph 1 and 2 and contained in the index-filter created in accordance with paragraph (...) 3 by the central authority of the convicting Member State.**

**4. (...)**

**5. (...)**

**5a. The obligations referred to in paragraphs 1 and 2 shall apply to all convictions handed down after [ .. months after the adoption of the directive].**

**The index-filter referred to in paragraph 3 shall be created on the basis of such new convictions as well as previous convictions handed down and already entered in the criminal record. However in relation to previous convictions the obligation to store pseudonym and/or alias name(s) referred to in paragraph 1, point (a) and the information referred to in paragraph 2, points (a) and (b) in the index-filter insofar it exists.**

## **Article 4b**

### **Use of the index-filters**

***Explanation:*** *The second paragraph relating to TCN who hold an EU nationality has been deleted. In the remaining paragraph the wording “third country national” has been deleted since the index filter relates only to TCN. Furthermore, the deletion allows to search the index-filter where a Member State knows that a EU national also holds a nationality of third state.*

**1. For the purpose of identifying those Member States holding criminal record information (.....), the central authorities of the Member States may search the index-filters transmitted in accordance with Article 4a in order to match any information in these index-filters with their own information of the types referred to in Article 4a ( 2). The index-filters shall not be used for other purposes than those referred to in Article 6.**

**2. (...)**

## **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.**
- 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

**Explanation:** *The previous paragraph 2 has been restored. The paragraph 3 has been split into two paragraphs: 3 and 3a where some wording has been deleted in order to ease the understanding of the text.*

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.**
3. **Whenever a national of a Member State asks the central authority of a Member State other than the Member State of the person's nationality for information on his own criminal record, that central authority shall (.....) submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include (...) it 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 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 this person for information and related data to be extracted from the criminal record in order to be able to include (...) it in the extract to be provided to the person concerned.

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

**Explanation:** *In paragraphs 4 and 4a wording has been simplified or deleted in order to ease the understanding of the text. In paragraph 4 "such" has been added and "on convictions handed down in the requested Member State" has been deleted. In paragraph 4a "to the central authority of the requesting Member State" has been deleted.*

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:
  - (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.

**4. When information extracted from the criminal record on convictions handed down against a national of a Member State is requested under Article 6 from the central authority 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.**

**4a. When information extracted from the criminal record on convictions handed down against third country nationals is requested under Article 6 for purposes of criminal proceedings, the requested Member State shall transmit information (...) on any conviction handed down in the requested Member State and on any conviction handed down in third countries and subsequently transmitted to it and entered in its criminal record.**

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

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.

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

## Article 9

### Conditions for the use of personal data

1. Personal data provided under **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 **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 **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.

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 exchange of information on convictions of EU nationals and third country nationals

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) 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; and
  - (iii) if applicable, pseudonym and/or alias name(s).

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.
3. **Central authorities of Member States shall transmit the information referred to in Article 4, the index-filter referred to in Article 4a, requests referred to in Article 6, replies referred to in Article 7 and other relevant information electronically using ECRIS and a standardised format in accordance with the standards laid down in implementing acts.**
4. **If the mode of transmission referred to in paragraph 3 is not available and for as long as it is not available, central authorities of Member States shall transmit all information referred to in paragraph 3, with the exception of the index-filter referred to in Article 4a, by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.**
5. **Each Member State shall carry out the necessary technical alterations to be able to use the standardised format referred to in paragraph 3 and the index-filter referred to in Articles 4a and 4b and to electronically transmit all information referred to in paragraph 3 to other Member States via ECRIS. It shall notify the Commission of the date from which it will be able to carry out such transmissions and use the index-filter referred to in Articles 4a and 4b.**
6. [deleted]
7. [deleted]



## Article 11a

### European Criminal Records Information System (ECRIS)

**Explanation:** *In paragraph 1, last sentence, “ECRIS shall” has been replaced by “The best available techniques shall be employed to”. The addition of references in the paragraphs 5 to 7 to the relevant points of paragraph 1 has been made to improve the understanding of the text. In paragraph 7 the opening sentence has been added in order to reflect what the Commission already said in the technical meeting.*

- 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) interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' criminal record databases;**
  - (b) index-filter software built in compliance with a common set of protocols enabling the central authorities to match their data pursuant to Articles 4a and 4b with that of other central authorities while ensuring full protection of personal data;**
  - (c) a common communication infrastructure between central authorities that provides an encrypted network.**

**(...) The best available techniques shall be employed to ensure the confidentiality and integrity of criminal record information transmitted to other Member States.**
- 2. All criminal records data shall be stored solely in databases operated by the Member States.**
- 3. Central authorities of the Member States shall not have direct online access to criminal records databases of other Member States.**
- 4. The software and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned.**

5. The common communication infrastructure referred to in point (c), shall be operated under the responsibility of the Commission. It shall fulfil the necessary security requirements and fully meet the needs of ECRIS.
6. The Commission shall provide the software referred to in points (a) and (b) of paragraph 1, general support and technical assistance, including the collection and drawing up of statistics.
7. Notwithstanding the possibility of using the European Union financial programmes in accordance with the applicable rules, each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the software referred to in points (a) and (b) of paragraph 1.

The Commission shall bear the costs arising from the implementation, administration, use, maintenance and future development of the common communication infrastructure of ECRIS referred to in point (c), together with the implementation and future development of (...) the software referred to in points (a) and (b) of paragraph 1.

#### Article 11b

#### Implementing Acts

**Explanation:** *The addition in point b has been added upon suggestion of the Commission.*

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, the index-filter referred to in Articles 4a and 4b and the exchange of fingerprints, including the techniques to ensure confidentiality and integrity referred to in paragraph 1 of Article 11a;

**(c) any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States, including:**

**(i) the means of facilitating the understanding and automatic translation of transmitted information;**

**(ii) the means by which information may be exchanged electronically, particularly as regards the technical specifications to be used and, if need be, any applicable exchange procedures.**

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

## 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.
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.

## 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 of the European Parliament and of the Council.**
2. **Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.**

## 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.

## Article 13a

### Reporting by the Commission and review

1. **By [(...) 12 months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.**

2. The report shall be accompanied, where appropriate, by relevant legislative proposals.
3. The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 11a(6). This report shall be published for the first time one year after the report referred to in paragraph 1 is submitted.

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*.

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**PROPOSED NEW PROVISIONS**

Article 2

**Replacement of Decision 2009/316/JHA**

Decision 2009/316/JHA is replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for implementation of that Decision into national law.

Article 3

**Transposition**

*Explanation:* In paragraphs 1 and 3 the implementation period has been left open and will be defined at a later stage.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [(....) months after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.  
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
3. Member States shall carry out the technical alterations referred to in Article 11(5) by [(...) months after adoption].

#### Article 4

#### **Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 2 shall apply from [*the date for transposition of this Directive*]

#### Article 5

#### **Addressees**

This Directive is addressed to the Member States in accordance with the Treaties.

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