



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 June 2011**

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EJUSTICE 53  
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**NOTE**

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from:	Presidency
to:	CATS
Subject:	ECRIS - State of play

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The Council Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS)<sup>1</sup> was adopted by the Council in April 2009. This Decision aims at implementing the Council Framework Decision 2009/315/JHA on the exchange of information extracted from criminal records.<sup>2</sup> By 7 April 2012 Member States shall take the necessary steps to comply with ECRIS Decision. The implementation of both instruments will result in the setting up of a computerised system of exchange of information on convictions between the Member States of the EU. It will not be a centralised system. The system should be based on an electronic interconnection of the Member States' criminal records through which the information will be exchanged in a standardised way.

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<sup>1</sup> OJ L 93, 7.4.2009, p. 33

<sup>2</sup> OJ L 93, 7.4.2009, p. 23

The Council Decision on ECRIS sets out a general framework of the electronic exchange system. Article 6(2) of this Decision specifies that Member States and the Commission shall inform and consult one another within the Council in order to undertake further implementing measures needed in order to enable the system to be fully established and operational between the Member States. In respect of this provision, COREPER decided, in June 2009, that the Working Party on Cooperation in Criminal Matters (COPEN) was the relevant forum to examine the implementing measures referred to in Article 6(2) of the ECRIS Decision.

Accordingly, since the Spanish Presidency the Council COPEN Working Party has examined the issues related to the implementation of ECRIS. Two issues in particular have been on the ECRIS agenda between March and June 2011:

- The draft Business Analysis and Detailed Technical Specifications,
- The non-binding Manual for Practitioners.

*A. The draft Business Analysis and Detailed Technical Specifications*

The adoption of technical specifications of the exchange is a prerequisite for the establishment of the uniform system of exchange of information. The technical specifications should be understood as a common set of protocols enabling the exchange of information between Member States' criminal records databases plus additional technical requirements such as security requirements. The exchange of information between the national criminal records will in the future take place on the basis of these technical specifications. Therefore, as far as its preparation is concerned, it is of crucial importance that these technical specifications are uniform for all Member States.

Together with the independent consortium iLICONN (Interactive LIstening & CONNecting) and with the support of the Member States, the Commission has elaborated a number of technical measures to assist Member States in preparing the technical infrastructure for interconnecting their criminal records databases. The technical measures - the inception report, the business analysis and the logging monitoring and statistics analysis - will constitute an independent source of information on the operation of ECRIS for practitioners and competent authorities in the Member States.

With regard to technical measures, the reference implementation is a key issue. The reference implementation (RI) should be understood as a software which allows the national criminal records a connection to the Common Communication Infrastructure. In accordance with Article 3(7) of the ECRIS Decision, the Commission shall provide such software. The Commission has already developed a software for the purposes of exchange of information between the national criminal records systems of the Member States participating in the National Judicial Registers pilot project. Such software will also be necessary for the connection in the framework of ECRIS. Accordingly, the already existing version will be further developed, once the technical specifications are in place, in order to comply with the requirements of ECRIS. Such reference implementation proposed by the Commission will be available to all Member States willing to use it. Following the initial call from the Commission to the Member States, a number of them have indicated their willingness to use the RI provided by the Commission.

The discussion on the draft Business Analysis and Detailed Technical Specifications was finalised during the 19 May COPEN meeting. In particular the issue related to the situations of multiple references in respect of the identification of the person, raised previously by Poland, was addressed. Experts agreed that the technical specification of the ECRIS system should allow for the storage of such data.

Following the COPEN meeting, the written procedure for the following documents was initiated on 8 June with a deadline set to 17 June:

- 11273/11 COPEN 149 EJUSTICE 50 JURINFO 40: "ECRIS Business Analysis",
- 11274/11 COPEN 150 EJUSTICE 51 JURINFO 41: "ECRIS-BA-Logging, Monitoring and Statistics Analysis",
- 11275/11 COPEN 151 EJUSTICE 52 JURINFO 42: "ECRIS Detailed Technical Specifications".

The issues raised by delegations during the written procedure may be further addressed at the 24 June COPEN meeting. With an agreement in place about possible changes, the initially foreseen agenda would be complied with, which implies the timely implementation of the system. Without an agreement, delays may be introduced.

*CATS is requested to take note of the state of play with regard the draft Business Analysis and Detailed Technical Specifications.*

*B. The non-binding Manual for Practitioners*

In addition to the technical aspects of the ECRIS system, work is also being carried out to produce a non-binding manual for practitioners. This task is recognised as particularly important for the future operation of the system. The end-product will be aimed at two main groups of users: central criminal records authorities and judges/prosecutors.

The exchange of information on convictions via the ECRIS system is based on the reference tables of categories of offences and categories of penalties and measures. This should allow the automatic translation and thus facilitate the mutual understanding of the information which will be transmitted using a system of codes. The tables reflect the national legal systems of 27 Member States. In order to ensure the mutual understanding and transparency of the common categorisation, the Member States are obliged under Article 5 of the ECRIS Decision to provide and update lists of national offences and sentences as well as a short description of the measure. This information, together with the information on the procedure for the exchange of information and the modalities of identification of offenders, will be included in the non-binding manual for practitioners. The manual will be a "living tool", since some of the information may need to be updated as the system intensifies its operation, and as laws of Member States change.

During the 19 May COPEN meeting, delegations had an exchange of views on the first draft of the non-binding Manual for Practitioners on the basis of 9300/11 COPEN 84 JURINFO 21 EJUSTICE 34. A number of delegations had submitted very substantive comments in writing, others had informed the Presidency and the Council Secretariat that at this stage they had no comments. The Presidency underlined that this was a very first draft that would require a lot of further adjustment. First of all a number of sections still needed to be filled in, and a number of points needed clarifications.

The drafting continues taking into account comments received. A revised version of the draft Manual will be circulated to delegations in advance of the next COPEN meeting. This meeting on 24 June is dedicated to the ECRIS non-binding manual for practitioners.

*CATS is requested to take note of the state of play with regard the non-binding Manual for Practitioners.*

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