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**NOTE**

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From:	Presidency
To:	Delegations
No. prev. doc.:	15448/17
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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 - Four column table with Presidency suggestions/comments

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The table set out in the Annex allows to compare three texts concerning the above draft Regulation:

- 1) the Commission proposal of 29 June 2017 (doc. 10940/17);
- 2) the text as it results from the (draft) amendments to the Commission proposal, as voted and adopted by LIBE Committee on 25 January 2018 (doc. 5727/18);
- 3) the General Approach, as reached by the (JHA) Council on 8 December 2017 (doc. 15448/17).

Doc. 5729/18 allows to assess the EP amendments in the context of the General Approach.

At the Working Party meeting on 20 February 2018, the Presidency intends firstly discussing the questions set out in doc. 5730/18. Subsequently, and as far as time allows, the Presidency intends discussing the (additional) questions indicated with **bold** and underlining in the fourth column of the attached four column table.

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FOUR COLUMN TABLE "ECRIS REGULATION"

Recitals

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured, in conjunction with appropriate measures to prevent and combat crime.	(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured, in conjunction with appropriate measures to prevent and combat crime, <i>including terrorism.(AM 1)</i>	(1) The Union has set itself the objective of offering its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured, in conjunction with appropriate measures to prevent and combat crime.	AM seems acceptable.
(2) This objective requires that information on convictions handed down in the Member States be taken into account outside the convicting Member State, <i>both</i> 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.	(2) This objective requires that information on convictions handed down in the Member States be taken into account outside the convicting Member State, in the course of new criminal proceedings, as laid down in Council Framework Decision 2008/675/JHA <sup>19</sup> , as well as <i>for the purposes of recruitment for posts</i>	(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>2</sup> , as well as in order to prevent new offences.	PRES suggests keeping the GA, taking into account that the reference to Art. 10 of Directive 2011/93/EU is already included in Recital 11d and in Art. 7(1).

<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).

	<i>involving direct and regular contact with children under Article 10 of Directive 2011/93/EU of the European Parliament and of the Council<sup>19a</sup> and for any other purpose according to national law. Member States should endeavour to provide similar safeguards with regard to persons who intend to work with disabled or elderly persons. The aim is to ensure that a person convicted of a sexual or violent offence against a child or vulnerable person can no longer conceal this conviction or disqualification with a view to working in contact with such persons in another Member State. (AM 2)</i>		
(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>3</sup> and by the European Criminal Records Information System (ECRIS) which	(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>5</sup> and by the European Criminal Records Information System (ECRIS) which	(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>7</sup> and by the European Criminal Records Information System (ECRIS) which	Keep GA (texts identical).

<sup>2</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>3</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).

has been established by Council Decision 2009/316/JHA <sup>4</sup> .	has been established by Council Decision 2009/316/JHA <sup>6</sup> .	has been established by Council Decision 2009/316/JHA <sup>8</sup> .	
(4) The ECRIS legal framework, however, does not sufficiently cover the particularities of requests concerning third country nationals. Although it is now possible to exchange information on third country nationals through ECRIS, there is no procedure or mechanism in place to do so efficiently.	(4) The <i>existing</i> ECRIS legal framework, however, does not sufficiently <i>address</i> the particularities of requests concerning third country nationals. Although it is <i>already</i> possible to exchange information on third country nationals through ECRIS, there is no <i>common Union</i> procedure or mechanism in place to do so efficiently, <i>rapidly and accurately</i> . (AM 3)	(4) The ECRIS legal framework, however, does not sufficiently cover the particularities of requests concerning third country nationals. Although it is now possible to exchange information on third country nationals through ECRIS, there is no procedure or mechanism in place to do so efficiently.	AMs seem acceptable.
(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	(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	(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	Keep GA (texts identical).

<sup>5</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>7</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>4</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).

<sup>6</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).

<sup>8</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).

requested from all Member States.	requested from all Member States.	requested from all Member States.	
<p>(6) Such 'blanket requests' impose an 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, and leads to Member States limiting the criminal record information to information stored in their national register.</p>	<p>(6) Such 'blanket requests' impose <b>a disproportionate</b> 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 <b>from other Member States, which seriously hinders its exchange between</b> Member States, limiting the criminal record information to information stored in their national register. <b>As a consequence, the risk of information exchange between Member States being inefficient and incomplete is increased, which in turn affects the level of security and safety provided to citizens and persons residing within the Union. (AM 4)</b></p>	<p>(6) Such 'blanket requests' impose an 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, and leads to Member States limiting the criminal record information to information stored in their national register.</p>	<p>PRES suggests keeping the first two EP AMs in the text of the provision, as they make it clearer. The last addition doesn't seem to have any added value, but it doesn't harm anyway.</p>
<p>(7) To improve the situation, a system should be established by which the central authority of a Member State can find out quickly and efficiently in which other Member State(s) criminal record information on a third country national is stored so that the existing ECRIS framework can 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.</p>	<p>(7) To improve the situation, a system should be established by which the central authority of a Member State can find out <b>promptly</b> and efficiently in which other Member State <b>or Member States hold</b> criminal record information on a third country national. <b>(AM 5)</b></p>	<p>(7) To improve the situation, a system should be established by which the central authority of a Member State can find out quickly and efficiently in which other Member State(s) criminal record information on a third country national is stored so that the existing ECRIS framework can 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.</p>	<p>The first two AMs seem rather technical and could be accepted. However, PRES suggests keeping the last part of the GA, because it indicates the full mechanism which shall be used by MS to receive the criminal record information. Suggested text:</p> <p>(7) To improve the situation, a system should be established by which the central authority of a Member State can find out <b>promptly</b> and efficiently</p>

			<p>which other Member State <b>or Member States hold</b> criminal record information on a third country national. <b>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.</b></p> <p><b><u>MS are invited to express their opinion on this suggestion.</u></b></p>
<p>(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 and data security. The fundamental rights of the persons concerned should be protected as well.</p>	<p>(8) This Regulation should therefore lay down rules on creating a centralised system containing <b>and protecting</b> 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 <b>and the protection of</b> the fundamental rights of the persons concerned. <i>(AM 6)</i></p>	<p>(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 and data security. The fundamental rights of the persons concerned should be protected as well.</p>	<p>The first EP addition seems unacceptable. The first part of the recital should refer only to the rules on the content of the system.</p> <p>The second part of the recital refers to the special rules on data protection, where the AM seems logical (it doesn't change the meaning of the text).</p>
	<p><i>(8a) The ECRIS-TCN system allows processing of fingerprint data with the aim of identifying the Member State or Member States in possession of</i></p>		<p>PRES suggests not accepting the new recital as it doesn't seem to have any added value.</p>

	<i>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, including the best interests of children, and must be in conformity with Directive (EU) 2016/680 of the European Parliament and of the Council<sup>9</sup>. (AM 7)</i>		
(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>10</sup> to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system') should be entrusted with the	(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>11</sup> to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system') should be entrusted with the	(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>12</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	Keep GA (texts identical).

<sup>9</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>10</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).

<sup>11</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).

<sup>12</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).



task of developing and operating the new centralised 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.	task of developing and operating the new centralised 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.	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.	
	<b><i>(9a) eu-LISA should be equipped with the appropriate funding and staffing to exercise the responsibilities provided for to in this Regulation. (AM 8)</i></b>		This AM reflects concerns raised by eu-LISA and by some MS at an earlier stage. Suggestion for redrafting:  <i>(9a) Respecting the applicable budgetary framework, eu-LISA should be equipped with the appropriate funding and staffing in order to exercise the responsibilities entrusted on it by this Regulation.</i>  <b><u>MS are invited to express their opinion on this suggestion.</u></b>
(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.	(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.	(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.	Keep GA (texts identical).
		<b>(10a) Four Member States have developed their own ECRIS national implementation software in accordance with Art. 3 of Council</b>	Keep GA (political compromise).

		<b>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.</b>	
(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 data, fingerprint data <b>in accordance with Framework Decision 2009/315/JHA, and facial images in as far as they are recorded in the national criminal records databases of the Member States.</b>	(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 data, fingerprint data in accordance with Framework Decision 2009/315/JHA, and facial images in as far as they are recorded in the national criminal records databases of the Member States.	(11) The ECRIS-TCN system should contain only the identity information of convicted third country nationals. Such identity information should include alphanumeric data, fingerprint data and facial images.	PRES suggests keeping the GA taking into account the different approach on identity information and facial images in the Regulation in comparison to FD 2009/315/JHA.
		<b>(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</b>	Keep GA (consistency with operative text).

		<p><b>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.</b></p>	
		<p><b>(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.</b></p>	<p>Keep GA (consistency with operative text).</p>
		<p><b>(11c) 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</b></p>	<p>Keep GA (consistency with operative text).</p>

		<p><b>criminal proceedings against that person or for any other purpose 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.</b></p>	
		<p><b>(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</b></p>	<p>Keep GA (consistency with operative text).</p>

		<p><b>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>13</sup></b></p>	
<p>(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. That information should only be used to assist in confirming the identity of the third country national concerned. This may include the recording of such data in the national criminal record database of the querying Member States as an alias of the third country national.</p>	<p>(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. That information should only be used to assist in confirming the identity of the third country national concerned <i>in order to verify that the recorded data is accurately assigned to the correct person to which the hit relates.</i> This may include the recording of such data in the national criminal record database of the querying Member</p>	<p>(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. <b>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</b></p>	<p>PRES suggests keeping the GA. The confirmation of the identity of the third national and the verification of the accuracy of the recorded data are carried out on a later stage, when an ECRIS request is sent to the MS which has been identified in the system as a convicting MS.</p>

<sup>13</sup> OJ L 335, 17.12.2011, p. 1.

	States as an alias of the third country national. <b>(AM 9)</b>	<b>Regulation.</b>	
(13) In the first instance, facial images included in the ECRIS-TCN system should only be used for the purpose of verifying the identity of a third country national. In the future, it is possible that, following the development of facial recognition software, facial images might be used for automated biometric matching, provided that the technical requirements to do so have been met.	(13) In the first instance, facial images included in the ECRIS-TCN system should only be used for the purpose of verifying the identity of a third country national. In the future, it is possible that, following the development of facial recognition software <b>and based on an assessment by the Commission of the availability and readiness of the required technology</b> , facial images might be used for automated biometric matching <b>as long as this is necessary and proportionate</b> . <b>(AM 10)</b>	(13) In the first instance, facial images included in the ECRIS-TCN system should only be used for the purpose of verifying the identity of a third country national. In the future, it is possible that, following the development of facial recognition software, facial images might be used for automated biometric matching, <b>provided that the technical requirements to do so have been met. The Commission should present a report on the availability and readiness of the technology to use facial images in order to identify third country nationals. This report should include an assessment of the necessity and proportionality of the use of facial images to determine the Member State(s) holding information on previous convictions of third country nationals.</b>	PRES suggests keeping the GA (the AM is in the same direction).
		<b>(13a) 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</b>	Keep GA (consistency with operative text).

		<b>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.</b>	
		<b>(13b) This Regulation should establish minimum criteria as regards the fingerprints that Member States should include in the central system. Member States have a choice: they could either insert fingerprints of third country nationals who have been convicted to custodial sentence of at least 6 months, or fingerprints of third country nationals who have been convicted in relation to a criminal offence which is punishable by a custodial sentence for a maximum period of at least 12 months.</b>	Keep GA (consistency with operative text).
(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.	<i>Deleted (AM 11)</i>	(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.	PRES suggests keeping the GA, as it explains the grounds for the inclusion of fingerprints and facial images in the system.
(15) Member States should create	(15) Member States should	(15) Member States should create	<b><u>MS are invited to state their position</u></b>

<p>records in the ECRIS-TCN system regarding convicted third country nationals as soon as possible after their conviction was entered into the national criminal record.</p>	<p><i>automatically</i> create records in the ECRIS-TCN system regarding convicted third country nationals <i>immediately upon</i> their conviction <i>being</i> entered into the national criminal record. (AM 12)</p>	<p>records in the ECRIS-TCN system regarding convicted third country nationals without undue delay after their conviction was entered into the national criminal record. <b>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.</b></p>	<p><b>on this amendment, especially as regards the technical possibility for an automatic creation of the data record in the ECRIS-TCN system.</b></p>
<p>(16) Member States should also create records in the ECRIS-TCN system regarding third country nationals convicted prior to the entry into force of the 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 entry into force of this Regulation.</p>	<p>(16) Member States should also create records in the ECRIS-TCN system regarding third country nationals convicted prior to the entry into force of the 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 entry into force of this Regulation.</p>	<p>(16) Member States should also create records in the ECRIS-TCN system regarding third country nationals convicted prior to the <b>date of start of entry of data, in accordance with this Regulation</b>, 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 <b>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</b></p>	<p>PRES suggests keeping the GA. The AM on Art. 5(4) goes in the same direction.</p>



		<b>considers that they can be clearly matched with other identity information in criminal records. Furthermore, Member States should process fingerprints only for the purposes provided for by national law.</b>	
(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 the course of new criminal proceedings.	(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 <i>other Member States in</i> the course of new criminal proceedings, <i>to the extent previous national convictions are taken into account in accordance with national law. (AM 13)</i>	(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 the course of new criminal proceedings.	The AM seems acceptable. It is in line with Recital 5 of FD 2008/675/JHA on taking account of convictions in the Member States of EU in the course of new criminal proceedings.
(18) Member States should be obliged to make use of the ECRIS-TCN system in all cases where they receive a request for information on previous convictions of third country nationals in accordance with national law, and follow up on any hits with the Member States identified through the ECRIS system. This obligation should not be limited only to requests in connection with criminal investigations.	(18) Member States should be obliged to make use of the ECRIS-TCN system in all cases where they receive a request for information on previous convictions of third country nationals in accordance with national law, and follow up on any hits with the Member States identified through the ECRIS system. This obligation should not be limited only to requests in connection with criminal investigations.	(18) [replaced by recital 11c:]  <b>(11c) 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 any other purpose in accordance with national law. While</b>	

		<p><b>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.</b></p>	
<p>(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), <b><i>nor that the indicated Member State(s) hold criminal record information on that third country national.</i></b> The existence of previous convictions should only be confirmed based on information received from the criminal records of the Member States concerned.</p>	<p>(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. <b><i>A hit in the ECRIS-TCN system by itself should not therefore be used to undermine the principle of equality before the law, the right to a fair trial, the presumption of innocence or the general prohibition of discrimination. (AM 14)</i></b></p>	<p>(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), nor that the indicated Member State(s) hold criminal record information on that third country national. The existence of previous convictions should only be confirmed based on information received from the criminal records of the Member States concerned.</p>	<p>The AM seems acceptable. The deleted text repeats the first part of the sentence and the addition has an added value in terms of procedural safeguards.</p>

<p>(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.</p>	<p>(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.</p>	<p>(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.</p>	<p>Keep GA (texts identical).</p>
<p>(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>14</sup>, Eurojust established by Council Decision 2002/187/JHA<sup>15</sup> [<i>and the European Public Prosecutor's Office established by Regulation (EU) .../...</i><sup>16</sup></p>	<p>(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>17</sup>, Eurojust established by Council Decision 2002/187/JHA<sup>18</sup> [<i>and the European Public Prosecutor's Office established by Regulation (EU) .../...</i><sup>19</sup></p>	<p>(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>20</sup>, Eurojust established by Council Decision 2002/187/JHA<sup>21</sup> and the European Public Prosecutor's Office established by Regulation (EU)</p>	<p>PRES suggests keeping the GA.</p>

<sup>14</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>15</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>16</sup> Regulation (EU) .../... (OJ L ...).

<sup>17</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>18</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>19</sup> Regulation (EU) .../... (OJ L ...).

<p>] 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.</p>	<p>] 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.</p>	<p><b>2017/1939</b><sup>22</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. <b>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. Regarding access of the European Public Prosecutor’s Office (EPPO) to the ECRIS-TCN system, the position of non-participating Member States should be taken into account.</b></p>	
<p>(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 the individuals' rights to compensation, access,</p>	<p>(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 <i>how</i> individuals <i>may exercise their</i> rights to</p>	<p>(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 the individuals' rights to compensation, access,</p>	<p>The AM seems acceptable.</p>

<sup>20</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>21</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>22</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).

<p>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.</p>	<p>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. <i>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. (AM 15)</i></p>	<p>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.</p>	
	<p><i>(22a) Third country nationals should be able to address requests related to their rights of access to, and correction and deletion of, data to the central authority of any Member State. Where the request is made to a Member State other than the convicting Member State, the written confirmation on the action taken addressed to the person concerned should be sent by the convicting Member State. The confirmation should also specify the reasons why</i></p>		<p>PRES considers this AM reflected in Art. 23.</p>

	<i>the request was handled by the convicting Member State. (AM 16)</i>		
<p>(23) Directive (EU) 2016/680 of the European Parliament and of the Council<sup>23</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>24</sup> should apply to the processing of personal data by national authorities <b><i>provided that national provisions transposing Directive (EU) 2016/680 do not apply.</i></b> Coordinated supervision should be ensured in accordance with Article 62 of [the new data protection regulation for Union</p>	<p>(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. Coordinated supervision should be ensured in accordance with Article 62 of [the new data protection regulation for Union institutions and bodies]. <b><i>Regulation (EU) .../... of the European Parliament and of the Council</i></b><sup>25</sup> <b><i>should apply to the</i></b></p>	<p>(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 provided that national provisions transposing Directive (EU) 2016/680 do not apply. Coordinated supervision should be ensured in accordance with Article 62 of [the new data protection regulation for Union</p>	<p>PRES suggests inviting EP to explain the deletion of "provided that national provisions transposing Directive (EU) 2016/680 do not apply". The addition of the new sentence in the Parliaments text seems acceptable.</p>

<sup>23</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89)

<sup>24</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>25</sup> Regulation (EU) .../... of the European Parliament and of the Council on the protection of individuals 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 ..., ..., p. ...). (+ OJ: please insert the number of the Regulation, contained in document 2017/0002 (COD), in the text and complete the footnote).

institutions and bodies].	<i>processing of personal data by eu-LISA. (AM 17)</i>	institutions and bodies].	
		<b>(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.</b>	Keep GA (consistency with operative text).
(24) Rules on the liability of the Member States in respect to damage arising from any breach of this Regulation should be laid down.	(24) Rules on the liability of the Member States <i>and Union agencies making use of the ECRIS-TCN system</i> in respect to damage arising from any breach of this Regulation should be laid down. <b>(AM 18)</b>	(24) Rules on the liability of the Member States in respect to damage arising from any breach of this Regulation should be laid down.	AM seems acceptable as it fully reflects the content of Art.18.
	<b>(24a) eu-LISA should provide regular statistics on the recording, storage and exchange of information extracted from criminal records through the ECRIS-TCN system, including through the use of statistics provided by Member States on the</b>		PRES suggests inviting EP to explain the rationale for this amendment.

<sup>26</sup> Directive (EU 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89)

<sup>27</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

	<i>number of convicted third country nationals. However, these statistics should take into account the statistical bias stemming from the use of unrepresentative samples of the population, in this case third country nationals, and not draw any conclusions in comparative analyses. (AM 19)</i>		
(25) Since the objective of this Regulation, namely to enable the rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by reason of the necessary synergy and interoperability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.	(25) Since the objective of this Regulation, namely to enable the rapid, <i>efficient and accurate as possible</i> exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by <i>putting in place common Union rules and interoperable systems</i> , 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. (AM 20)	(25) Since the objective of this Regulation, namely to enable the rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by reason of the necessary synergy and interoperability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.	AMs could be accepted. The amendments are merely cosmetic and do not change the substance of the provision.
	<i>(25a) In order to take into account the technical developments in the field of facial recognition software and in order to provide specific rules concerning certain aspects of the development and technical</i>		<b><u>MS are invited to state their position on this amendment.</u></b> It shall be taken together with the EP Proposal for Art. 10a (AM 47).



	<p><i>implementation of the ECRIS-TCN system,, 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 amending this Regulation by providing for the use of facial images for the purpose of identifying third country nationals on the basis of this biometric identifier and supplementing this Regulation by laying down rules concerning entering, accessing, amending and deleting the data and keeping and accessing the logs. 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>28</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</i></p>		
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<sup>28</sup> OJ L 123, 12.5.2016, p. 1.

	<i>preparation of delegated acts. (AM 21)</i>		
(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>29</sup> .	(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>30</sup> .	(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>31</sup>	Keep GA (texts identical).
(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.	(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.	(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.	Keep GA (texts identical).
(28) In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of	(28) In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of	(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	Keep GA.

<sup>29</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)

<sup>30</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)

<sup>31</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)

freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.	freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.	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.	
[or]			
In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Directive.	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, those Member States have notified their wish to take part in the adoption and application of this Directive.	(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.	Keep GA.
(29) Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of the entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend	(29) Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of the entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend	<i>Deleted</i>	(See above)

<p>that period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this above-mentioned description of the participation of the UK in proposal only applies until the United Kingdom ceases to be a Member State.</p>	<p>that period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this above-mentioned description of the participation of the UK in proposal only applies until the United Kingdom ceases to be a Member State.</p>		
<p>(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>32</sup> and delivered an opinion on ...<sup>33</sup>,</p>	<p><i>Deleted (AM 22)</i></p>	<p>(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>34</sup> and delivered an opinion on ...<sup>35</sup>,</p>	<p>PRES suggests keeping the GA. The EDPS Opinion on the Draft Regulation was published on 12 December 2017.</p>

<sup>32</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>33</sup> OJ C ...

<sup>34</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>35</sup> OJ C ...

**CHAPTER I**

**GENERAL PROVISIONS**

<b>COM proposal</b>	<b>EP amendments</b>	<b>Council General Approach</b>	<b>Presidency comments/suggestions</b>
<b>ARTICLE 1 - Subject matter</b>			
This Regulation:	This Regulation:	This Regulation <b>establishes</b> :	PRES suggests keeping the GA.
(a) <b>establishes</b> a system to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system');	(a) establishes a system to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system');	(a) a system to identify the Member State(s) holding information on previous convictions of third country nationals ('ECRIS-TCN system');	PRES suggests keeping the GA.
(b) <b>lays down</b> the conditions under which the ECRIS-TCN system shall be used by <b>competent</b> authorities in order to obtain information on such previous convictions through the European Criminal Records Information System (ECRIS) established by Decision 2009/316/JHA.	(b) lays down the conditions under which the ECRIS-TCN system shall be used by competent authorities in order to obtain information on such previous convictions through the European Criminal Records Information System (ECRIS) established by Decision 2009/316/JHA.	(b) the conditions under which the ECRIS-TCN system shall be used by the <b>central authorities</b> in order to obtain information on such previous convictions through the European Criminal Records Information System (ECRIS) established by Decision 2009/316/JHA, <b>as well as the conditions under which the Union bodies referred to in Article 3(f) shall use the ECRIS-TCN system.</b>	PRES suggests keeping the GA.
<b>ARTICLE 2 - Scope</b>			
This Regulation applies to the processing of identity information of third country nationals who have been subject to final decisions against them of criminal courts in the Member	This Regulation applies to the processing of identity information of third country nationals who have been subject to final decisions against them of criminal courts in the Member	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	Keep GA (texts identical).

States for the purpose of identifying the Member State(s) where such decisions were handed down.	States for the purpose of identifying the Member State(s) where such decisions were handed down.	the Member State(s) where such convictions were handed down.	
<b>ARTICLE 2a - Citizens of the Union that also have the nationality of a third country (new, GA)</b>			
		<b>The provisions of this Regulation that apply to third country nationals also apply to citizens of the Union within the meaning of Article 20(1) TFEU who also hold the nationality of a third country.</b>	<b>See also the note with questions.</b>
<b>ARTICLE 3 - Definitions</b>			
For the purposes of this Regulation, the following definitions shall apply:	For the purposes of this Regulation, the following definitions shall apply:	For the purposes of this Regulation, the following definitions shall apply:	Keep GA (texts identical).
(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;	(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;	(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;	Keep GA (texts identical).
(b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;	(b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;	(b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;	Keep GA (texts identical).
(c) 'criminal record' means the national register or registers recording convictions in accordance with national law;	(c) 'criminal record' means the national register or registers recording convictions in accordance with national law;	(c) 'criminal record' means the national register or registers recording convictions in accordance with national law;	Keep GA (texts identical).
(d) 'convicting Member State' means	(d) 'convicting Member State' means	(d) 'convicting Member State' means	Keep GA (texts identical).

the Member State in which a conviction is handed down;	the Member State in which a conviction is handed down;	the Member State in which a conviction is handed down;	
(e) 'central authority' means the authority(ies) designated in accordance with Article 3(1) of Framework Decision 2009/315/JHA;	(e) 'central authority' means the authority(ies) designated in accordance with Article 3(1) of Framework Decision 2009/315/JHA;	(e) 'central authority' means an authority designated in accordance with Article 3(1) of Framework Decision 2009/315/JHA;	Keep GA (texts identical).
(f) 'competent authorities' means the central authorities and the Union bodies competent to access the ECRIS-TCN system in accordance with this Regulation;	(f) 'competent authorities' means the central authorities and the Union bodies competent to access the ECRIS-TCN system in accordance with this Regulation;	(f) 'competent authorities' means the central authorities and the Union bodies ( <b>Eurojust, Europol, the European Public Prosecutor's Office</b> ) competent to access <b>or query</b> the ECRIS-TCN system in accordance with this Regulation;	PRES suggests keeping the GA, which is clearer.
(g) 'third country national' means a <i>national of a country other than a Member State regardless of whether the person also holds the nationality of a Member State</i> , or a stateless person or a person whose nationality is unknown <i>to the convicting Member State</i> ;	(g) 'third country national' means a person <i>who is not a citizen of the Union within the meaning of Article 20(1) TFEU</i> or <i>who is</i> a stateless person or a person whose nationality is unknown to the convicting Member State; ( <b>AM 23</b> )	(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;	AM seems acceptable: text is almost the same as the GA and 'who is' makes the text clearer.  <b>See also the note with questions.</b>
(h) 'Central System' means the database(s) holding identity information on third country nationals who have been subject to final decisions against them of criminal courts in the Member States, developed and maintained by eu-LISA;	(h) 'Central System' means the database(s) holding identity information on third country nationals who have been subject to final decisions against them of criminal courts in the Member States, developed and maintained by eu-LISA;	(h) 'Central System' means the database(s) <b>developed and maintained by eu-LISA in which</b> identity information on third country nationals who have been subject <b>to convictions</b> in the Member States is <b>stored</b> ;	PRES suggests keeping the GA.
(i) 'Interface Software' means the software hosted by the competent	(i) 'Interface Software' means the software hosted by the competent	(i) 'Interface Software' means the software hosted by the competent	Keep GA (texts identical).

authorities allowing them to access the Central System through the Communication Infrastructure referred to in Article 4;	authorities allowing them to access the Central System through the Communication Infrastructure referred to in Article 4;	authorities allowing them to access the Central System through the Communication Infrastructure referred to in Article 4;	
(j) 'identification' means the process of determining a person's identity through a database search against multiple sets of data;	(j) 'identification' means the process of determining a person's identity through a database search against multiple sets of data;	(j) 'identity information' means <b>alphanumeric data, fingerprint data and facial images that are used to establish a connection between these data and a natural person;</b>	PRES suggests keeping the GA, which is clearer.
(k) 'alphanumeric data' means data represented by letters, digits, special characters, spaces and punctuation marks;	(k) 'alphanumeric data' means data represented by letters, digits, special characters, spaces and punctuation marks;	(k) 'alphanumeric data' means data represented by letters, digits, special characters, spaces and punctuation marks;	Keep GA (texts identical).
(l) 'fingerprint data' means the data relating to plain and rolled impressions of the fingerprints of <b>all ten</b> fingers;	(l) 'fingerprint data' means the data relating to plain and rolled impressions of fingerprints <b>collected by Member States during criminal proceedings in accordance with national law;</b> (AM 24)	(l) 'fingerprint data' means the data relating to plain and rolled impressions of the fingerprints of <b>each of a</b> person's fingers;	PRES suggests keeping the GA. The aim of the definition is not to define the fingerprints that should be included in the centralised system. This is specified further in the Regulation.
(m) 'facial image' means a digital image of the face;	(m) 'facial image' means a digital image of the face;	(m) 'facial image' means a digital image of the face;	Keep GA (texts identical).
(n) 'hit' means a match or matches established by comparison between data recorded in the Central System and those used for search <b>by a Member State;</b>	(n) 'hit' means a match or matches established by comparison between data recorded in the Central System and those used for search by a Member State;	(n) 'hit' means a match or matches established by comparison between <b>identity information</b> recorded in the Central System <b>and the identity information</b> used for a search;	PRES suggests keeping the GA.
(o) 'national central access point' means the national connection point to the Communication Infrastructure	(o) 'national central access point' means the national connection point to the Communication Infrastructure	(o) 'national central access point' means the national connection point to the Communication Infrastructure	Keep GA (texts identical).



referred to in Article 4;	referred to in Article 4;	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.	(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.	(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.	Keep GA (texts identical).
<b>ARTICLE 4 - Technical architecture of the ECRIS-TCN system</b>			
1. The ECRIS-TCN system shall be composed of:	1. The ECRIS-TCN system shall be composed of:	1. The ECRIS-TCN system shall be composed of:	Keep GA (texts identical).
(a) a Central System where identity information on convicted third country nationals is stored;	(a) a Central System where identity information on convicted third country nationals is stored;	(a) a Central System where identity information on convicted third country nationals is stored;	Keep GA (texts identical).
(b) a national central access point in each Member State;	(b) a national central access point in each Member State;	(b) a national central access point in each Member State;	Keep GA (texts identical).
(c) Interface Software enabling the connection of the central authorities to the Central System via the national central access point and the Communication Infrastructure;	(c) Interface Software enabling the connection of the central authorities to the Central System via the national central access point and the Communication Infrastructure;	(c) Interface Software enabling the connection of the competent authorities to the Central System via the national central access point and the Communication Infrastructure;	Keep GA (texts identical).
(d) a Communication Infrastructure between the Central System and the national central access point.	(d) a Communication Infrastructure between the Central System and the national central access point.	(d) a Communication Infrastructure between the Central System and the national central access point.	Keep GA (texts identical).
2. The Central System shall be hosted by eu-LISA in its <i>two</i> technical sites.	2. The Central System shall be hosted by eu-LISA in its technical sites. <i>(AM 25)</i>	2. The Central System shall be hosted by eu-LISA in its technical sites.	Keep GA (texts identical).

<p>3. The Interface Software shall be integrated with the ECRIS reference implementation. The Member States shall use the ECRIS reference implementation to query the ECRIS-TCN system, as well as to send subsequent requests for criminal records information.</p>	<p>3. The Interface Software shall be integrated with the ECRIS reference implementation. The Member States shall use the ECRIS reference implementation to query the ECRIS-TCN system, as well as to send subsequent requests for criminal records information.</p>	<p>3. The Interface Software shall be integrated with the ECRIS reference implementation. The Member States shall use the ECRIS reference implementation <b>or, in the situation and under the conditions set out in paragraphs 4-8, the national ECRIS implementation software</b>, to query the ECRIS-TCN system, as well as to send subsequent requests for criminal records information.</p>	<p>PRES suggests keeping the GA.</p>
		<p><b>4. The Member States which use their national ECRIS implementation software shall be responsible for ensuring that their national ECRIS implementation software will allow their national criminal records authorities to use the ECRIS-TCN system, with the exception of the Interface Software, in accordance with this Regulation. For this purpose, they shall, before the start of operations of the ECRIS-TCN system in accordance with Article 33(5), ensure that their national ECRIS implementation software will function in line with the protocols and technical specifications established in the implementing acts referred to in Article 10, and any further technical requirements based on these acts established by eu-LISA on the basis</b></p>	<p>Keep GA (political compromise).</p>

		<b>of this Regulation.</b>	
		<b>5. For as long as they do not use the ECRIS reference implementation, these Member States 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.</b>	Keep GA (political compromise).
		<b>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.</b>	Keep GA (political compromise).
		<b>7. In case one of these Member State 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.</b>	Keep GA (political compromise).

		<b>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.</b>	Keep GA (political compromise).
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## CHAPTER II

### ENTRY AND USE OF DATA BY CENTRAL AUTHORITIES

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
<b>ARTICLE 5 - Data entry in the ECRIS-TCN system</b>			
<p>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:</p>	<p>1. For each convicted third country national <i>whose data have been entered in the criminal record</i> of the convicting Member <i>State, the central authority of that Member</i> State shall create a data record in the Central System. The data record shall include the following data: <i>(AM 26)</i></p>	<p>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:</p>	<p>PRES suggests keeping the GA. The EP amendment seems unnecessary as it is clear that once a TCN is convicted, data of the conviction shall be entered in the criminal record of the convicting Member State.</p>
<p>(a) surname (family name); first name(s) (given names); date of birth; place of birth (town and country); nationality or nationalities; gender; <i>parents' names</i>; where applicable previous names, pseudonym(s) and/or alias name(s); the code of the convicting Member State;</p>	<p>(a) surname (family name); first name(s) (given names); date of birth; place of birth (town and country); nationality or nationalities; gender; where applicable previous names, pseudonym(s) and/or alias name(s); the code of the convicting Member State; <i>(AM 27)</i></p>	<p><b>(a) alphanumeric data:</b></p> <p><b>(i) obligatory information, unless, in individual cases, such information is not known to the central authority:</b></p> <ul style="list-style-type: none"> <li>– surname (family name);</li> <li>– first name(s) (given names);</li> <li>– date of birth;</li> <li>– place of birth (town and country);</li> <li>– nationality or nationalities;</li> <li>– gender;</li> </ul>	<p>The inclusion of parents' names is envisaged as optional in the GA, which could be already regarded as a compromise proposal.</p>

		<ul style="list-style-type: none"> <li>– previous name(s), if applicable;</li> <li>– the code of the convicting Member State,</li> </ul> <p><b>(ii) optional information, if entered in the criminal record:</b></p> <ul style="list-style-type: none"> <li>– parents' names,</li> </ul> <p><b>(iii) additional information, where available to the central authority:</b></p> <ul style="list-style-type: none"> <li>– identity number, or the type and number of the person's identification document(s), as well as the name of the issuing authority thereof;</li> <li>– pseudonym and/or alias name(s).</li> </ul>	
<p>(b) fingerprint data in accordance with Framework Decision 2009/315/JHA<sup>36</sup> and with the specifications for the resolution and use of fingerprints referred to in point (b) of Article 10(1); the reference number of the fingerprint data of the convicted person including the code of the convicting Member State.</p>	<p>(b) fingerprint data, <i>only when the national law of a Member State where a conviction is handed down allows for collection and storage of fingerprints of a convicted person, and</i> in accordance with Framework Decision 2009/315/JHA<sup>31</sup> and with the specifications for the resolution and use of fingerprints referred to in point (b) of Article 10(1); the reference number of the fingerprint data of the convicted person including the code of</p>	<p>b) fingerprint data:</p> <p><b>(i) fingerprints of third country nationals that have been collected in accordance with national law during criminal proceedings;</b></p> <p><b>(ii) as a minimum, fingerprints on the basis of either of the following criteria:</b></p> <ul style="list-style-type: none"> <li>- where the third country national</li> </ul>	<p>EP wishes to limit the inclusion of the fingerprints in the ECRIS-TCN and to link it to the national law of the MS. The GA on the contrary sets minimal standards for the inclusion of fingerprints. <b><u>MS are invited to state their position on this amendment.</u></b></p> <p><b>See also the note with questions.</b></p>

<sup>36</sup> As amended by Directive of the European Parliament and 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 (...).

	the convicting Member State. (AM 28)	<p><b>has been convicted to a custodial sentence of a minimum of 6 months;</b></p> <p><b>or</b></p> <p><b>- 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.</b></p> <p><b>The fingerprint data shall have</b> the specifications for the resolution and use of fingerprints referred to in point (b) of Article 10(1), <b>and</b> the reference number of the fingerprint data of the convicted person shall include the code of the convicting Member State.</p>	
2. The data record may also contain facial images of the convicted third country national.	2. The data record may also contain facial images of the convicted third country national, <i>if the national law of a Member State where a conviction is handed down allows for the collection and storage or facial images of a convicted person.</i> (AM 29)	2. The data record may also contain facial images of the convicted third country national.	The AM seems acceptable, even if it doesn't have much added value.
3. The convicting Member State shall create the data record as soon as possible after the conviction was entered into the national criminal records register.	3. The convicting Member State shall create the data record <i>automatically, where possible, and in any event within 24 hours upon the conviction being</i> entered into the national criminal records register. (AM 30)	3. The convicting Member State shall create the data record <b>without undue delay</b> after the conviction was entered into the criminal records.	<b><u>MS are invited to state their position on this amendment</u></b> , especially as regards the technical possibility for an automatic creation of the data record in the ECRIS-TCN system.

			<b>See also the note with questions.</b>
4. The convicting Member States shall create data records also for convictions handed down prior to <i>[date of entry into force of this Regulation]</i> to the extent that such data are stored in its <b>national criminal records or national fingerprints database</b> .	4. The convicting Member States shall create data records also for convictions handed down <b>up to [24 months after the entry into force of this Regulation]</b> to the extent that such data are stored in its national criminal records or national fingerprints database. <i>(AM 31)</i>	4. The convicting Member States shall create data records also for convictions handed down prior to <i>[date of entry of data in accordance with Article 33(2)]</i> to the extent that data related to convicted persons are stored in their national databases. <b>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.</b>	<b><u>MS are invited to state their position on this amendment.</u></b> PRES considers the EP approach similar to the GA, with the difference that as regards timing, the reference point of the GA for inclusion of prior convictions in the centralised system is the date of entry of data as defined in Art. 33 (and not a specific date after the entry into force of the Regulation).
		<b>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.</b>	Keep GA (political compromise).
<b>ARTICLE 6 - Specific rules for facial images (COM proposal)</b>			
<b>ARTICLE 6 - Facial images (Council)</b>			
1. Facial images <b>as referred to in Article 5(2)</b> shall be used only to confirm the identity of a third country	1. Facial images as referred to in Article 5(2) <b>may</b> be used only to confirm the identity of a third country	1. Facial images shall be used only to confirm the identity of a third country national who has been identified as a	The AM seems acceptable. In this case the amended verb doesn't change the meaning of the text.



national who has been identified as a result of an alphanumeric search or a search using fingerprints.	national who has been identified as a result of an alphanumeric search or a search using fingerprints. (AM 32)	result of an alphanumeric search or a search using fingerprints.	
2. As soon as this becomes technically possible, facial images may also be used to identify a third country national on the basis of this biometric identifier. Before this functionality is implemented in the ECRIS-TCN system, the Commission shall present a report on the availability and readiness of the required technology, on which the European Parliament shall be consulted.	<b>2. The Commission is empowered to adopt delegated acts in accordance with Article 34a amending this Regulation by providing, as soon as it becomes technically possible and based on an assessment by the Commission of the availability and readiness of the required technology, that facial images may also be used to identify a third country national on the basis of this biometric identifier. (AM 33)</b>	2. As soon as this becomes technically possible, facial images may also be used to identify third country nationals <b>in order to determine the Member State(s) holding information on previous convictions concerning such persons.</b> Before this functionality is implemented in the ECRIS-TCN system, the Commission shall present a report <b>to the European Parliament and the Council</b> on the availability and readiness of the required technology <b>including an assessment of the necessity and proportionality of the use of facial images of natural persons to determine the Member State(s) holding information on previous convictions of third country nationals.</b>	<b><u>MS are invited to state their position on this amendment.</u></b> It seems that the use of facial images for the purpose of identification is a very sensitive issue for the EP. This is why the EP wants the Commission to be empowered to adopt delegated acts, which would in turn allow the EP to exercise more control in the adoption procedure.  The AMs shall be taken together with the EP Proposal for Recital 25a.
<b>ARTICLE 7 - Use of the ECRIS-TCN system for identifying the Member State(s) holding criminal record information</b>			
1. When criminal records information on a third country national is requested in a Member State for the purposes of criminal proceedings against that third country national <b>or for any purposes other than that of criminal proceedings in accordance with its national law</b> , the central authority of that Member State shall	1. When criminal records information on a third country national is requested in a Member State for the purposes of criminal proceedings against that third country national, the central authority of that Member State shall use the ECRIS-TCN system to identify the Member State(s) holding criminal record information on that third county	1. When criminal records information on a third country national is requested for the purposes of criminal proceedings against that third country national or for any other purpose in accordance with national law, the central authority of that Member State shall use the ECRIS-TCN system to identify the Member State(s) holding	<b><u>MS are invited to state their position on this amendment.</u></b> <b>PRES intends inviting EP to explain its amendment.</b> It shall be also taken into account that this amendment doesn't correspond to the intentions of the EP to make obligatory the use of the system for the purposes of recruitment for posts involving direct and regular

<p>use the ECRIS-TCN system to identify the Member State(s) holding criminal record information on that third country national in order to obtain information on previous convictions through ECRIS.</p>	<p>national in order to obtain information on previous convictions through ECRIS. <b>(AM 34)</b></p>	<p>criminal record information on that third country national in order to obtain information on previous convictions through ECRIS. <b>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 records information may decide that the use of the ECRIS-TCN system is not appropriate.</b></p>	<p>contact with children under Article 10 of Directive 2011/93/EU.</p> <p><b>See also the note with questions.</b></p>
<p>2. Europol, Eurojust [<i>and the European Public Prosecutor's Office</i>] shall have access to 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 and 16.</p>	<p>2. Europol, Eurojust [<i>and the European Public Prosecutor's Office</i>] shall have access to 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 and 16.</p>	<p>2. Europol, Eurojust and the European Public Prosecutor's Office <b>are entitled to query</b> 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 <b>and 16a. However, these Union bodies shall not enter, rectify or erase any data in the system.</b></p>	<p>PRES suggests keeping the GA.</p>
<p>3. The competent authorities may query the ECRIS-TCN system using the data referred to in Article 5(1).</p>	<p>3. The competent authorities may query the ECRIS-TCN system using the data referred to in Article 5(1).</p>	<p>3. <b>When querying the ECRIS-TCN system</b>, the competent authorities may <b>use all or only some</b> of the data referred to in Article 5(1), <b>as specified in an implementing act adopted in accordance with Article</b></p>	<p>PRES suggests keeping the GA.</p>

		<b>10.</b>	
4. The competent authorities may also query the ECRIS-TCN system using the facial images referred to in Article 5(2), provided that such functionality has been implemented in accordance with Article 6(2).	4. The competent authorities may also query the ECRIS-TCN system using the facial images referred to in Article 5(2), provided that such functionality has been implemented in accordance with Article 6(2).	4. The competent authorities may also query the ECRIS-TCN system using the facial images referred to in Article 5(2), provided that such functionality has been implemented in accordance with Article 6(2).	Keep GA (texts identical).
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.	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.	5. In the event of a hit, <b>resulting from either an alphanumeric search, a search using fingerprints or, subject to Article 6(2), a search using facial images</b> , 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) <b>referred to in Article 5(1)</b> and any corresponding identity information. <b>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 14(4) of this Regulation.</b>	PRES suggests keeping the GA.
6. In the event that there is no hit, the Central System shall automatically inform the competent authority thereof.	6. In the event that there is no hit, the Central System shall automatically inform the competent authority thereof.	6. In the event that there is no hit, the Central System shall automatically inform the competent authority thereof.	Keep GA (texts identical).

**CHAPTER III**

**RETENTION AND AMENDMENT OF THE DATA**

<b>COM proposal</b>	<b>EP amendments</b>	<b>Council General Approach</b>	<b>Possible compromise</b>
<b>Article 8 - Retention period for data storage</b>			
1. Each <i>individual</i> 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 <i>national</i> criminal records <i>register</i> .	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 national criminal records register. <i>(AM 35)</i>	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.	Keep GA (texts identical). The only difference in the GA is the deletion of 'register'.
2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall erase the <i>individual</i> data record without delay from the Central System, <i>and in any event no later than one month after the expiry of that retention period</i> .	2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall <i>permanently</i> erase the individual data record <i>automatically, where possible</i> , from the Central System, and in any event <i>within 24 hours</i> after the expiry of that retention period. <i>(AM 36)</i>	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, <b>including any fingerprints or facial images</b> , without <b>undue</b> delay from the Central System.	<b><u>MS are invited to state their position on this amendment</u></b> , especially as regards the possibility of automatic erasure of data/deletion in 24 hours. The addition of 'permanently' seems acceptable.  <b>See also the note with questions.</b>
<b>Article 9 - Amendment and deletion of data</b>			
1. The Member States shall have the right to amend or delete the data which they have introduced into the ECRIS-TCN system.	1. The Member States shall have the right to amend or delete the data which they have introduced into the ECRIS-TCN system.	1. The Member States shall have the right to amend or delete the data which they have introduced into the ECRIS-TCN system.	Keep GA (texts identical).
2. Any subsequent amendment in	2. Any subsequent amendment in	2. Any subsequent amendment of	PRES suggests keeping the GA.

the national criminal records of the information 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.	the national criminal records of the information 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.	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 <b>without undue delay</b> .	
3. If a 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 <b>check the data concerned and, if necessary, amend them or delete them from the Central System</b> without delay.	3. If a 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 check the data concerned and, if necessary, amend them or delete them from the Central System <b>immediately</b> . (AM 37)	3. If a <i>convicting</i> 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 without <b>undue</b> delay:	PRES suggests keeping the GA. <b><u>MS are invited to state their position on the time limits proposed by the EP.</u></b>  <b>See also the note with questions.</b>
		<b>(a) check the data concerned;</b>	
		<b>(b) if necessary, rectify the data or erase them from the Central System.</b>	
4. If a Member State other than the Member State which entered the data has reason to believe that data recorded in the Central System are inaccurate or that data was processed in the Central System in contravention of this Regulation, it shall contact the central authority of the convicting Member State without delay. The convicting Member State <b>shall check the accuracy of the data and the</b>	4. If a Member State other than the Member State which entered the data has reason to believe that data recorded in the Central System are inaccurate or that data was processed in the Central System in contravention of this Regulation, it shall contact the central authority of the convicting Member State without delay. The convicting Member State shall check the accuracy of the data and the lawfulness of its	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 <b>undue</b> delay.	PRES suggests keeping the GA. <b><u>MS are invited to state their position on the time limits proposed by the EP.</u></b>  <b>See also the note with questions.</b>

<b>lawfulness of its processing within one month.</b>	processing <i>without delay, and in any event</i> within one <i>week after receiving the information.</i> (AM 38)	The convicting Member State shall <b>without undue delay</b>	
		<b>(a) check the accuracy of the data and the lawfulness of its processing and, if necessary, rectify or erase these data;</b>	
		<b>(b) 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.</b>	

**CHAPTER IV**

**DEVELOPMENT, OPERATION AND RESPONSIBILITIES**

COM proposal	EP amendments	Council General Approach	Presidency comments/suggestions
<b>ARTICLE 10 - Adoption of implementing acts by the Commission</b>			
1. The Commission shall adopt the acts necessary for the development and technical implementation of the ECRIS-TCN system, and in particular rules on:	1. The Commission shall adopt, <i>before [two years after the entry into force of this Regulation]</i> , the acts necessary for the development and technical implementation of the ECRIS-TCN system, and in particular rules on: <i>(AM 39)</i>	1. The Commission shall adopt the acts necessary for the technical development and implementation of the ECRIS-TCN system, and in particular rules on:	<b><u>MS are invited to state their position on the amendment.</u></b>  <b>See also the note with questions.</b>
(a) the technical specifications for the processing of the alphanumeric data;	(a) the technical specifications for the processing of the alphanumeric data;	(a) the technical specifications for the processing of the alphanumeric data;	Keep GA (texts identical).
(b) the technical specifications for the resolution and processing of fingerprints in the ECRIS-TCN system;	(b) the technical specifications for the resolution and processing of fingerprints in the ECRIS-TCN system;	(b) the technical specifications for the quality, resolution and processing of fingerprints;	Keep GA (texts identical).
(c) the technical specifications of the Interface Software referred to in point (c) of Article 4(1);	(c) the technical specifications of the Interface Software referred to in point (c) of Article 4(1);	(c) the technical specifications of the Interface Software referred to in point (c) of Article 4(1);	Keep GA (texts identical).
(d) the technical specifications for the processing of facial images;	(d) the technical specifications for the processing of facial images;	(d) the technical specifications for the <b>quality, resolution and</b> processing of facial images <b>for the purposes of and under the conditions set out in Article 6;</b>	PRES suggests keeping the GA.

(e) data quality, including a mechanism and procedures to carry out data quality checks;	(e) <i>the technical specifications for</i> data quality, including a mechanism and procedures to carry out data quality checks; ( <i>AM 40</i> )	(e) data quality, including a mechanism and procedures to carry out data quality checks;	The AM seems acceptable.
(f) entering the data in accordance with Article 5;	<i>Deleted (AM 41)</i>	(f) entering the data in accordance with Article 5;	<b><u>MS are invited to state their position on the proposed deletion of letters (f)-(k).</u></b> The proposed deletions shall be taken together with the EP Proposals for Recital 25a and Art. 10a.  <b>See also the note with questions.</b>
(g) accessing the data in accordance with Article 7;	<i>Deleted (AM 42)</i>	(g) accessing <b>and querying the ECRIS-TCN system</b> in accordance with Article 7;	
(h) amending and deleting the data in accordance with Articles 8 and 9;	<i>Deleted (AM 43)</i>	(h) amending and deleting the data in accordance with Articles 8 and 9;	
(i) keeping and accessing the logs in accordance with Article 29;	<i>Deleted (AM 44)</i>	(i) keeping and accessing the logs in accordance with Article 29;	
(j) providing statistics in accordance with Article 30;	<i>Deleted (AM 45)</i>	(j) providing statistics in accordance with Article 30;	
(k) performance and availability requirements of the ECRIS-TCN system.	<i>Deleted (AM 46)</i>	(k) performance and availability requirements of the ECRIS-TCN system, <b>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.</b>	



2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 35(2).	2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 35(2).	2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 35(2).	Keep GA (texts identical).
	<p style="text-align: center;"><b>ARTICLE 10a (new)</b></p> <p style="text-align: center;"><i>Adoption of delegated acts by the Commission</i></p> <p>(a) <i>entering data in accordance with Article 5;</i></p> <p>(b) <i>accessing data in accordance with Article 7;</i></p> <p>(c) <i>amending and deleting data in accordance with Articles 8 and 9;</i></p> <p>(d) <i>keeping and accessing logs in accordance with Article 29; (AM 47)</i></p>		<p><b>MS are invited to state their position on the amendment. The addition shall be taken together with the EP Proposal for Recital 25a.</b></p> <p><b>See also the note with questions.</b></p>
<p><b>ARTICLE 11 - Development and operational management (COM proposal)</b></p> <p><b>ARTICLE 11 - Development and operational management of the ECRIS - TCN system (Council GA)</b></p>			
1. eu-LISA shall be responsible for the development and 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.	1. eu-LISA shall be responsible for the development <i>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</i> operational management of the ECRIS-TCN system. The development shall consist of the elaboration and	1. eu-LISA shall be responsible for the development and 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.	PRES intends inviting EP to explain this addition.

	implementation of the technical specifications, testing and overall project coordination. <b>(AM 48)</b>		
2. eu-LISA shall also be responsible for the further development and maintenance of the ECRIS reference implementation.	2. eu-LISA shall also be responsible for the further development and maintenance of the ECRIS reference implementation.	2. eu-LISA shall also be responsible for the further development and maintenance of the ECRIS reference implementation.	Keep GA (texts identical).
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.	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.	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.	Keep GA (texts identical).
4. eu-LISA shall develop and implement the ECRIS-TCN system before [ <i>two years after the entry into force of this Regulation</i> ] and following the adoption by the Commission of the measures provided for in Article 10.	4. eu-LISA shall develop and implement the ECRIS-TCN system <b>as soon as possible</b> after the entry into force of this Regulation <b>and</b> the adoption by the Commission of the measures provided for in Article 10 <b>and 10a. (AM 49)</b>	4. eu-LISA shall develop and implement the ECRIS-TCN system before [ <i>two years after the entry into force of this Regulation</i> ] and following the adoption by the Commission of the measures provided for in Article 10.	<b><u>MS are invited to state their position on this amendment.</u></b> The same proposal was made by eu-LISA in the course of the WG's discussions (see document 12235/17).
5. Prior to the design and development phase, a <b>Programme</b> Management Board composed of a maximum of ten members shall be	5. Prior to the design and development phase, a Programme Management Board composed of a maximum of ten members shall be	5. Prior to the design and development phase of the ECRIS-TCN system, the Management Board of eu-LISA <b>shall establish</b> a Programme	<b><u>MS are invited to state their position on this amendment.</u></b> The same proposal was made by eu-LISA in the course of the WG's discussions (see

<p>established by the Management Board of eu-LISA. It shall be composed of <i>eight</i> 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 shall have the necessary experience and expertise in the development and management of IT systems supporting judicial and criminal records authorities. 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. The Programme Management Board shall submit written reports every month to eu-LISA's Management Board on progress of the project. It shall have no decision-making power nor any mandate to represent the members of the Management Board.</p>	<p>established by the Management Board of eu-LISA. It shall be composed of <i>seven</i> representatives appointed by the Management Board <i>from among its members or their alternates</i>, the Chair of the ECRIS-TCN system Advisory Group referred to in Article 36, <i>a member representing eu-LISA appointed by its Executive Director</i> 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 shall have the necessary experience and expertise in the development and management of IT systems supporting judicial and criminal records authorities. 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. The Programme Management Board shall submit written reports every month to eu-LISA's Management Board on progress of the project. It shall have no decision-making power nor any</p>	<p>Management Board composed of a maximum of ten members.</p> <p><b>The Programme Management Board</b> 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.</p> <p>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. The Programme Management Board shall submit</p>	<p>document 12235/17). PRES intends inviting EP to explain this amendment.</p>
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	mandate to represent the members of the Management Board. <b>(AM 50)</b>	written reports regularly, if possible every month, to eu-LISA's Management Board on progress of the project. <b>The Programme Management Board</b> 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:	6. The Programme Management Board shall establish its rules of procedure which shall include in particular rules on:	6. The Programme Management Board shall establish its rules of procedure which shall include in particular rules on:	Keep GA (text identical).
(l) chairmanship;	(a) chairmanship;	(a) chairmanship;	Keep GA (text identical).
(m) meeting venues;	(b) meeting venues;	(b) meeting venues;	Keep GA (text identical).
(n) preparation of meetings;	(c) preparation of meetings;	(c) preparation of meetings;	Keep GA (text identical).
(o) admission of experts to the meetings;	(d) admission of experts to the meetings;	(d) admission of experts to the meetings;	Keep GA (text identical).
(p) communication plans ensuring full information to non-participating Members of the Management Board.	(e) communication plans ensuring full information to non-participating Members of the Management Board.	(e) communication plans ensuring full information to non-participating Members of the Management Board.	Keep GA (text identical).
7. The chairmanship shall be held by <i>the</i> Member State <b>holding PRES of the Council of the European Union, provided</b> that it is fully bound under Union law by the legislative instruments governing the ECRIS and which will participate in the ECRIS-TCN system. <b>If this requirement is not</b>	7. The chairmanship shall be held by <i>a</i> Member State <b>that</b> is fully bound under Union law by the legislative instruments governing the ECRIS and which will participate in the ECRIS-TCN system. <b>(AM 51)</b>	7. The chairmanship <b>of the Programme Management Board</b> shall be held by a Member State <b>which</b> is fully bound under Union law by the legislative instruments governing the ECRIS system and legislative instruments governing the development, establishment,	PRES suggests keeping the GA.

<i>met, the chairmanship shall be held by the Member State which shall next hold PRES and which meets that requirement.</i>		<b>operation and use of all the large-scale IT systems managed by eu-LISA.</b>	
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.	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.	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.	Keep GA (texts identical).
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. During the design and development phase it shall meet at least once a month until the start of operations of the ECRIS-TCN system. It shall report after each meeting to the Management Board <b>of eu-LISA</b> . It shall provide the technical expertise to support the tasks of the Management Board and shall follow-up on the state of preparation of the Member States.	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 <b>and chaired by eu-LISA</b> . During the design and development phase it shall meet at least once a month until the start of operations of the ECRIS-TCN system. It shall report after each meeting to the Management Board of eu-LISA. It shall provide the technical expertise to support the tasks of the Management Board and shall follow-up on the state of preparation of the Member States. <i>(AM 52)</i>	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 <b>and chaired by eu-LISA</b> . During the design and development phase it shall meet <b>regularly, if possible</b> at least once a month, until the start of operations of the ECRIS-TCN system. It shall report after each meeting to the <b>Programme</b> 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.	PRES suggests keeping the GA. It is almost identical to the EP text.
10. eu-LISA shall ensure, in cooperation with the Member States, at	10. eu-LISA shall ensure, in cooperation with the Member States, at	10. <b>In order to ensure the confidentiality and integrity of</b>	PRES suggests keeping the GA.

all times the best available technology, subject to a cost-benefit analysis.	all times the best available technology, subject to a cost-benefit analysis.	<b>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.</b>	
11. eu-LISA shall be responsible for the following tasks related to the Communication Infrastructure referred to in point (d) of Article 4(1):	11. eu-LISA shall be responsible for the following tasks related to the Communication Infrastructure referred to in point (d) of Article 4(1):	11. eu-LISA shall be responsible for the following tasks related to the Communication Infrastructure referred to in point (d) of Article 4(1):	Keep GA (texts identical).
(q) supervision;	(a) supervision;	(a) supervision;	Keep GA (texts identical).
(r) security;	(b) security;	(b) security;	Keep GA (texts identical).
(s) the coordination of relations between the Member States and the provider.	(c) the coordination of relations between the Member States and the provider.	(c) the coordination of relations between the Member States and the provider.	Keep GA (texts identical).
12. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular:	12. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular:	12. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular:	Keep GA (texts identical).
(t) tasks relating to the implementation of the budget;	(a) tasks relating to the implementation of the budget;	(a) tasks relating to the implementation of the budget;	Keep GA (texts identical).
(u) acquisition and renewal;	(b) acquisition and renewal;	(b) acquisition and renewal;	Keep GA (texts identical).
(v) contractual matters.	(c) contractual matters.	(c) contractual matters.	Keep GA (texts identical).
13. eu-LISA shall develop and	13. eu-LISA shall develop and	13. eu-LISA shall develop and	Keep GA (texts identical).

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.	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.	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.	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.	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.	Keep GA (texts identical).
15. eu-LISA shall perform tasks related to providing training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	15. eu-LISA shall perform tasks related to providing training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	15. eu-LISA shall perform tasks related to providing training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	Keep GA (texts identical).
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	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	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	Keep GA (texts identical).

shall also apply after such staff leave office or employment or after the termination of their activities.	shall also apply after such staff leave office or employment or after the termination of their activities.	shall also apply after such staff leave office or employment or after the termination of their activities.	
<b>ARTICLE 12 - Responsibilities of the Member States</b>			
1. Each Member State shall be responsible for:	1. Each Member State shall be responsible for:	1. Each Member State shall be responsible for:	Keep GA (texts identical).
(w) ensuring a secure connection between their national criminal records <b>databases</b> and fingerprints databases and the national central access point;	(a) ensuring a secure connection between their national criminal records databases and fingerprints databases and the national central access point;	(a) ensuring a secure connection between their national criminal records and fingerprints databases and the national central access point;	Keep GA (texts almost identical).
(x) the development, operation and maintenance of the connection referred to in point (a);	(b) the development, operation and maintenance of the connection referred to in point (a);	(b) the development, operation and maintenance of the connection referred to in point (a);	Keep GA (texts identical).
(y) ensuring a connection between their national systems and the ECRIS reference implementation;	(c) ensuring a connection between their national systems and the ECRIS reference implementation;	(c) ensuring a connection between their national systems and the ECRIS reference implementation;	Keep GA (texts identical).
(z) 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.	(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.	(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.	Keep GA (texts identical).
2. Each Member State shall give the staff of its authorities which have a right to access the ECRIS-TCN system appropriate training, in particular on data security and data protection rules	2. Each Member State shall give the staff of its authorities which have a right to access the ECRIS-TCN system appropriate training, in particular on data security and data protection rules	2. Each Member State shall give the staff of its <b>central</b> authorities which have a right to access the ECRIS-TCN system appropriate training, in particular on data security	The AM seems acceptable, but the addition of 'central' in the GA should be kept.



and on <b>relevant</b> fundamental rights, before authorising them to process data stored in the Central System.	and on fundamental rights, before authorising them to process data stored in the Central System. ( <i>AM 53</i> )	and data protection rules and on relevant fundamental rights, before authorising them to process data stored in the Central System.	
<b>ARTICLE 13 - Responsibility for the use of data</b>			
1. In accordance with Directive (EU) 2016/680, each Member State shall ensure that the data recorded in the ECRIS-TCN system is processed lawfully, and in particular that:	1. In accordance with <i>Regulation (EU) 2016/679</i> , each Member State shall ensure that the data recorded in the ECRIS-TCN system is processed lawfully, and in particular that: ( <i>AM 54</i> )	1. <b>Member States shall ensure that</b> the data recorded in the ECRIS-TCN system is processed <b>in accordance with Regulation (EU) 2016/679 or Directive (EU) 2016/680.</b>	PRES suggests keeping the GA. Central authorities can process personal data not only for penal purposes which explain why there should be a reference to both the Regulation and the Directive.
(aa) only duly authorised staff have access to the data for the performance of their tasks;	(a) only duly authorised staff have access to the data for the performance of their tasks;		PRES suggests keeping the GA. MS agreed that points a, b, c, d from the original proposal are covered by the general term 'processing'. Similar text is included in the EES Regulation.
(bb) the data are collected lawfully and fully respect the human dignity of the third country national;	(b) the data are collected lawfully and fully respect the human dignity <b>and fundamental rights</b> of the third country national; ( <i>AM 55</i> )		
(cc) the data are included lawfully in the ECRIS-TCN system;	(c) the data are included lawfully in the ECRIS-TCN system;		
(dd) the data are accurate and up-to-date when they are included 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 and	2. eu-LISA shall ensure that the ECRIS-TCN system is operated in accordance with this Regulation, the	2. eu-LISA shall ensure that the ECRIS-TCN system is operated in accordance with this Regulation and	The position on this amendment should follow the outcome of the discussions on Art. 10a.

the implementing acts referred to in Article 10, as well as in accordance with Regulation (EC) No 45/2001 [or its successor Regulation]. 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.	implementing acts referred to in Article 10 <i>and the delegated acts referred to in Article 10a</i> , as well as in accordance with Regulation (EC) No 45/2001 [or its successor Regulation]. 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. <b>(AM 56)</b>	the implementing acts referred to in Article 10, as well as in accordance with Regulation (EC) No 45/2001 [or its successor Regulation]. 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 of the measures it takes pursuant to paragraph 2 for the start of operations of the ECRIS-TCN system.	3. eu-LISA shall inform the European Parliament, the Council and the Commission as well as the European Data Protection Supervisor <i>as soon as possible</i> of the measures it takes pursuant to paragraph 2 for the start of operations of the ECRIS-TCN system. <b>(AM 57)</b>	3. eu-LISA shall inform the European Parliament, the Council and the Commission as well as the European Data Protection Supervisor of the measures it takes pursuant to paragraph 2 for the start of operations of the ECRIS-TCN system.	AM seems acceptable.  <b>See also the note with questions.</b>
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.	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.	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.	Keep GA (texts identical).
<b>ARTICLE 14 - Contact point for third countries and international organisations (COM proposal)</b>			
<b>ARTICLE 16 - Contact point for third countries and international organisations (Council GA)</b>			
1. Third countries and international organisations may address their	1. Third countries and international organisations may address their	1. Third countries and international organisations may, <b>for the purposes</b>	EP finds it important to clarify for which purposes third countries and

<p>requests for information on previous convictions of third country nationals to Eurojust.</p>	<p>requests for information on previous convictions of third country nationals to Eurojust <i>for the same purposes as for which Member States' authorities have access to the ECRIS-TCN system pursuant Article 7(1). (AM 58)</i></p>	<p><b>of criminal proceedings</b>, address their requests for information on previous convictions of third country nationals to Eurojust. <b>To that end, they shall use the standard form that is set out in the Annex to this Regulation.</b></p>	<p>international organization may request ECRIS-TCN information. PRES suggests keeping the GA. It follows the same logic as the AM and is clearer.</p>
<p>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) hold information on the third country national concerned, <b>and shall, in cases where Member State(s) are identified, transmit the request immediately to the central authorities of those Member State(s). The Member States concerned shall be responsible for further dealing with such requests in accordance with their national law.</b></p>	<p>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) hold <b>criminal records</b> information on the third country national concerned, and shall, in cases where Member State(s) are identified, transmit the request immediately to the central authorities of those Member State(s). The Member States concerned shall be responsible for further dealing with such requests in accordance with their national law. <b>Eurojust shall send an acknowledgement of receipt to the third country or international organisation requesting the information as referred to in paragraph 1. (AM 59)</b></p>	<p>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.</p>	<p><b><u>MS are invited to state their position on this amendment.</u></b></p>
<p>3. 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, any international organisation nor a private party, information obtained from the ECRIS-TCN system on previous convictions</p>	<p>3. Neither Eurojust, Europol, [the European Public Prosecutor's Office] nor any central authority of a Member State <b>shall be permitted to</b> transfer or make available to a third country, any international organisation nor a private party, <b>any</b> information obtained from the ECRIS-TCN system on previous</p>	<p><b>3. If there is no hit, Eurojust shall inform the third country or the international organisation accordingly where Eurojust has concluded or signed a cooperation agreement, a memorandum of understanding or a letter of understanding with such country or</b></p>	<p>EP shares the (original) view of the Commission that Eurojust, Europol and EPPO should not be allowed to transfer or make available information on the MS holding criminal record information to anyone. The GA permits that such information (or 'no hit') be provided in certain</p>

of a third country national, or information on the Member State(s) which may hold such information.	convictions of a third country national, or information on the Member State(s) which may hold such information. <i>(AM 60)</i>	<b>international organisation.</b>	circumstances. <b><u>MS are invited to state their position on this amendment.</u></b>
		<b>4. 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.</b>	(see above)
<b>ARTICLE 15 - Access for Eurojust, Europol, and the European Public Prosecutor's Office] (COM proposal)</b>			
<b>Article 14 - Access for Eurojust, Europol, and the European Public Prosecutor's Office (Council GA)</b>			
1. Eurojust shall have direct access to the ECRIS-TCN system for the purpose of the implementation of Article 14, as well as for fulfilling its	1. <i>Authorised staff of</i> Eurojust shall have direct access to the ECRIS-TCN system for the purpose of the implementation of Article 14, as well	1. Eurojust shall have direct access to the ECRIS-TCN system for the purpose of the implementation of Article <b>16</b> , as well as for fulfilling its	PRES suggests keeping the GA. Art. 14, par. 4 and Art. 15, par. 2 GA already accommodate the concerns of

statutory tasks.	as for fulfilling its statutory tasks. (AM 61)	statutory tasks as referred to in Article 3 of Council Decision 2002/187/JHA, as amended, <sup>37</sup> to identify the Member State(s) holding information on previous convictions of third country nationals.	the EP.
	<i>1a. [Authorised staff of the European Public Prosecutor's Office shall have direct access to the ECRIS-TCN system for the purpose of fulfilling its statutory tasks]. (AM 62)</i>		PRES suggests keeping the GA (See Art. 14, par. 2a GA).
2. Europol [ <i>and the European Public Prosecutor's Office</i> ] shall have direct access to the ECRIS-TCN system for the purpose of fulfilling their statutory tasks.	2. <i>Authorised staff of</i> Europol shall have direct access to the ECRIS-TCN system for the purpose of <i>the prevention, detection, investigation and prosecution of criminal offences when</i> fulfilling their statutory tasks. (AM 63)	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.	PRES suggests keeping the GA. The GA approach more or less goes in the same direction. <b><u>MS are invited to state their position on this amendment.</u></b>
		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.	Keep GA.

<sup>37</sup> Reference to be modified once the new Regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust) is adopted.

<p>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 contacts with the national authorities of those Member States established in accordance with their respective constituting legal instruments to request the conviction information.</p>	<p>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 contacts with the national authorities of those Member States established in accordance with their respective constituting legal instruments to request the conviction information. <i><b>The European Public Prosecutor's Office shall not be refused access to such conviction information on the mere ground that the refusing Member State is not part of the enhanced cooperation procedure establishing the European Public Prosecutor's Office. (AM 64)</b></i></p>	<p>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 <b>respective</b> contacts with the national authorities of those Member States established in accordance with their respective constituting legal instruments to request the conviction information.</p>	<p><b><u>MS are invited to state their position on this amendment.</u></b></p>
<p>4. Each of the bodies referred to in this Article shall be responsible for the management of and arrangements for access of duly authorised staff to the ECRIS-TCN system in accordance with this Regulation and shall also be responsible for establishing and regularly updating a list of such staff and their profiles.</p>	<p>4. Each of the bodies referred to in this Article shall be responsible for the management of and arrangements for access of duly authorised staff to the ECRIS-TCN system in accordance with this Regulation and shall also be responsible for establishing and regularly updating a list of such staff and their profiles.</p>	<p>4. Each of the bodies referred to in this Article shall be responsible for the management of and arrangements for access of duly authorised staff to the ECRIS-TCN system in accordance with this Regulation and shall also be responsible for establishing and regularly updating a list of such staff and their profiles.</p>	<p>Keep GA (texts identical).</p>
<p><b>ARTICLE 16 - Responsibilities of Eurojust, Europol[, and the European Public Prosecutor's Office] (COM proposal)</b></p>			
<p><b>ARTICLE 15 - Responsibilities of Eurojust, Europol, and the European Public Prosecutor's Office (Council GA))</b></p>			
<p>1. Eurojust, Europol[, and the European Public Prosecutor's Office]</p>	<p>1. Eurojust, Europol[, and the European Public Prosecutor's Office]</p>	<p>1. Eurojust, Europol, and the European Public Prosecutor's Office</p>	<p>Keep GA (texts identical).</p>

shall establish the technical means to connect to the ECRIS-TCN system and shall be responsible for maintaining that connection.	shall establish the technical means to connect to the ECRIS-TCN system and shall be responsible for maintaining that connection.	shall establish the technical means to connect to the ECRIS-TCN system and shall be responsible for maintaining connection.	
2. The bodies referred to in paragraph 1 shall give their staff who have a right to access the ECRIS-TCN system appropriate training, <i>in particular on data security and data protection rules and on relevant fundamental rights</i> , before authorising them to process data stored in the Central System.	2. The bodies referred to in paragraph 1 shall give their staff who have a right to access the ECRIS-TCN system appropriate training, in particular on data security and data protection rules and on relevant fundamental rights, before authorising them to process data stored in the Central System.	2. <b>Eurojust, Europol, and the European Public Prosecutor's Office shall 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 relevant fundamental rights.</b>	Keep GA (texts almost identical).
3. The bodies referred to in paragraph 1 shall ensure that the personal data processed by them under this Regulation is protected in accordance with the applicable data protection provisions.	3. The bodies referred to in paragraph 1 shall ensure that the personal data processed by them under this Regulation is protected in accordance with the applicable data protection provisions.	3. <b>Eurojust, Europol, and the European Public Prosecutor's Office</b> shall ensure that the personal data processed by them under this Regulation is protected in accordance with the applicable data protection provisions.	Keep GA (texts almost identical).
<b>ARTICLE 16a - Providing information to a third country, international organisation or private party (Council GA)</b>			
		<b>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, any international organisation, or a private party, information obtained from the ECRIS-TCN system</b>	See Presidency's comment on Art. 14, par. 3 COM Proposal.

		<b>concerning a third country national, or information on the identity of a Member State which may hold such information without the consent of that Member State.</b>	
<b>ARTICLE 17 - Data Security</b>			
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.	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.	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.	Keep GA (texts identical).
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.	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.	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 <b>and ensures that installed systems may, in case of interruption, be restored.</b>	PRES suggest keeping the GA.
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:	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:	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:	Keep GA (texts identical).
(ee) physically protect data, including by making contingency plans for the protection of <i>critical</i>	(a) physically protect data, including by making contingency plans for the protection of infrastructure;	(a) physically protect data, including by making contingency plans for the protection of critical	PRES intends inviting EP to explain the proposed amendment. 'Critical infrastructure' is a standard wording.



infrastructure;	<i>(AM 65)</i>	infrastructure;	
(ff) deny unauthorised persons access to national installations in which the Member State carries out operations related to the ECRIS-TCN system;	(b) deny unauthorised persons access to national installations in which the Member State carries out operations related to the ECRIS-TCN system;	(b) deny unauthorised persons access to national installations in which the Member State carries out operations related to the ECRIS-TCN system;	Keep GA (texts identical).
(gg) prevent the unauthorised reading, copying, modification or removal of data media;	(c) prevent the unauthorised reading, copying, modification or removal of data media;	(c) prevent the unauthorised reading, copying, modification or removal of data media;	Keep GA (texts identical).
(hh) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	(d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	(d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	Keep GA (texts identical).
(ii) 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;	(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;	(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;	Keep GA (texts identical).
(jj) 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;	(f) <b><i>verify and</i></b> 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; <i>(AM 66)</i>	(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;	PRES intends inviting EP to explain this addition.
(kk) ensure that all authorities with a right of access to the ECRIS-TCN system create profiles describing the functions and responsibilities of	(g) ensure that all authorities with a right of access to the ECRIS-TCN system create profiles describing the functions and responsibilities of	(g) ensure that all authorities with a right of access to the ECRIS-TCN system create profiles describing the functions and responsibilities of	EP shall be invited to explain its reasons.

persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the national supervisory authorities referred to in Article 25 <b><i>without delay at their request</i></b> ;	persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the national supervisory authorities referred to in Article 25; ( <b>AM 67</b> )	persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the supervisory authorities referred to in Article 26 without <b>undue</b> delay at their request;	
(ll) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;	(h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;	(h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;	Keep GA (texts identical).
(mm) 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;	(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;	(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;	Keep GA (texts identical).
(nn) 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;	(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;	(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;	Keep GA (texts identical).
(oo) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation.	(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring <b><i>and supervision</i></b> to ensure compliance with this Regulation. ( <b>AM 68</b> )	(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation.	The AM seems acceptable.
	<b>3a. eu-LISA and the Member</b>		PRES intends inviting EP to explain

	<i>States shall cooperate in order to ensure a harmonised data security approach based on a security risk management process encompassing the entire ECRIS-TCN system. (AM 69)</i>		this amendment.
<b>ARTICLE 18 - Liability</b>			
1. Any person or Member State that has suffered damage as a result of an unlawful processing operation or any act incompatible with this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That Member State 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.	1. Any person or Member State that has suffered damage as a result of an unlawful processing operation or any act incompatible with this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That Member State 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.	1. Any person or Member State that has suffered <b>material or non-material</b> 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 <b>or from eu-LISA</b> , which is responsible for the damage suffered <b>where it has not complied with the obligations set out in this Regulation or in Regulation 45/2001</b> . That Member State <b>or eu-LISA</b> 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.	PRES suggests keeping the GA. It provides more protective rules for the data subject.
2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the ECRIS-TCN system, that Member State shall be held liable for such damage, unless and insofar as eu-LISA or another Member State participating	2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the ECRIS-TCN system, that Member State shall be held liable for such damage, unless and insofar as eu-LISA or another Member State participating	2. If any failure of a Member State, <b>Eurojust, Europol, or the European Public Prosecutor's Office</b> to comply with its obligations under this Regulation causes damage to the ECRIS-TCN system, that Member State <b>or body</b> shall be held liable for	PRES suggest keeping the GA.

in the ECRIS-TCN system failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.	in the ECRIS-TCN system failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.	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.	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.	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. <b>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.</b>	PRES suggests keeping the GA. It provides more protective rules for the data subject.
<b>ARTICLE 19 - Self monitoring</b>			
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.	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.	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.	Keep GA (texts identical).
<b>ARTICLE 20 - Penalties</b>			
Member States shall take the necessary measures to ensure that any use of data entered in the ECRIS-TCN system in contravention of this Regulation is punishable by penalties in accordance	<b>1.</b> Member States shall take the necessary measures to ensure that any use of data entered in the ECRIS-TCN system in contravention of this Regulation is punishable by penalties	<b>[Deleted]</b>	PRES suggests keeping the GA. The idea behind is to include data protection provisions in the Regulation only if they differ from the general data protection rules.

with national law, that are effective, proportionate and dissuasive.	in accordance with national law, <i>Article 84 of Regulation (EU) 2016/679 and Article 57 of Directive (EU) 2016/680</i> , that are effective, proportionate and dissuasive. (AM 70)		
	<b>1a. <i>Europol, Eurojust [and the European Public Prosecutor's Office] shall take the necessary measures to ensure that members of their staff authorised to access the ECRIS-TCN system are subjected to internal disciplinary measures if they make use of data from the ECRIS-TCN system in a way which does not conform with this Regulation.</i></b> (AM 71)		<b><u>MS are invited to state their position on this amendment.</u></b>

**CHAPTER V**

**RIGHTS AND SUPERVISION ON DATA PROTECTION**

<b>COM proposal</b>	<b>EP amendments</b>	<b>Council General Approach</b>	<b>Presidency comments/suggestions</b>
<b>ARTICLE 21 - Data controller and data processor</b>			
1. Each central authority of the Member State is to be considered as controller in accordance with <b>Directive (EU) 2016/680</b> for the processing of the personal data by that Member State under this Regulation.	1. Each central authority of the Member State is to be considered as controller in accordance with <b>Regulation (EU) 2016/679</b> for the processing of the personal data by that Member State under this Regulation. <b>(AM 72)</b>	1. Each central authority of the Member State is to be considered as controller in accordance with <b>Regulation 2016/679 or Directive (EU) 2016/680</b> for the processing of the personal data by that Member State under this Regulation.	PRES suggests keeping the GA. Central authorities can process personal data not only for penal purposes which explain why there should be a reference to both the Regulation and the Directive.
2. eu-LISA shall be considered as data processor in accordance with Regulation (EC) No 45/2001/EU as regards the personal data entered into the Central System by the Member States.	2. eu-LISA shall be considered as data processor in accordance with Regulation (EC) No 45/2001/EU <b>[or its successor]</b> as regards the personal data entered into the Central System by the Member States. <b>(AM 73)</b>	2. eu-LISA shall be considered as data processor in accordance with Regulation (EC) No 45/2001 as regards the personal data entered into the Central System by the Member States.	AM seems acceptable.
<b>ARTICLE 22 - Purpose of the processing of personal data</b>			
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.	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.	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.	Keep GA (texts identical).
2. Access to the ECRIS-TCN system for entering, amending, deleting and consulting the data	2. Access to the ECRIS-TCN system for entering, amending, deleting and consulting the data	2. <b>With the exception of duly authorised staff of the bodies referred to in Article 14, who shall</b>	PRES suggests keeping the GA, as the wording is clearer.

referred to in Article 5 shall be reserved exclusively to duly authorised staff of the central authorities, and to duly authorised staff of the bodies referred to in Article 15 for consulting the data. That 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 proportionate to the objectives pursued.	referred to in Article 5 shall be reserved exclusively to duly authorised staff of the central authorities, and to duly authorised staff of the bodies referred to in Article 15 for consulting the data. That 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 <b>to what is necessary and</b> proportionate to the objectives pursued. (AM 74)	<b>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.</b> 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 proportionate to the objectives pursued.	
<b>ARTICLE 23 - Right of access, correction and deletion (COM proposal)</b>			
<b>ARTICLE 23 - Right of access, rectification and erasure (Council GA)</b>			
1. The requests of third country nationals related to the rights set out in Articles 14 and 16 of Directive (EU) 2016/680 may be addressed to the central authority of any Member State.	1. The requests of third country nationals related to the rights set out in Articles 14 and 16 of Directive (EU) 2016/680 may be addressed to the central authority of any Member State.	1. The requests of third country nationals concerning the rights set out <b>in Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679 and</b> in Articles 14 and 16 of Directive (EU) 2016/680 may be addressed to the central authority of any Member State.	PRES suggests keeping the GA. Central authorities can process personal data not only for penal purposes which explain why there should be a reference to both the Regulation and the Directive.
2. If a request is made to a Member State other than the convicting Member State, <b>the authorities of</b> the Member State to which the request has been made shall <b>check the accuracy of the data and the lawfulness of the data processing in the ECRIS-TCN system within a time limit of one month if that check can be done without consulting the convicting</b>	2. If a request is made to a Member State other than the convicting Member State, the authorities of the Member State to which the request has been made shall contact the authorities of the convicting Member State <b>without delay, and in any event within seven days after receiving the request.</b> The convicting Member State shall check the accuracy of the data and the	2. <b>Where</b> 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 <b>forward it to the convicting Member State. Upon receipt of the request, the convicting Member State shall check the accuracy of the data and the lawfulness of the data processing in</b>	<b><u>MS are invited to state their position on this amendment.</u></b>  <b>See also the note with questions.</b>

<p><i>Member State. Otherwise, the Member State other than the convicting Member State shall contact the authorities of the convicting Member State within 14 days and the convicting Member State shall check the accuracy of the data and the lawfulness of the data processing within one month from the contact.</i></p>	<p>lawfulness of the data processing <i>and respond</i> within one <i>week</i> from the contact.(AM 75)</p>	<p><b>the ECRIS-TCN system without undue delay.</b></p>	
<p>3. In the event that data recorded in the ECRIS-TCN system are factually inaccurate or have been recorded unlawfully, the convicting Member State shall correct or delete the data in accordance with Article 9. The convicting Member State <i>or, where applicable, the Member State to which the request has been made</i> shall confirm in writing to the person concerned without delay that action has been taken to correct or delete data relating to that person.</p>	<p>3. In the event that data recorded in the ECRIS-TCN system are factually inaccurate or have been recorded unlawfully, the convicting Member State shall correct or delete the data in accordance with Article 9. The convicting Member State shall confirm in writing to the person concerned without delay that action has been taken to correct or delete data relating to that person. <i>The convicting Member State shall also without delay inform any other Member State who has been a recipient of conviction information pertaining to this record what action has been taken. (AM 76)</i></p>	<p>3. In the event that data recorded in the ECRIS-TCN system are inaccurate or have been processed unlawfully, the convicting Member State shall <b>rectify or erase</b> 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 <b>rectify or erase</b> data relating to that person.</p>	<p>PRES intends inviting EP to explain this amendment. PRES is of the opinion that the TCN has the right to be kept informed about the follow up to his request.</p>
<p>4. If the Member State to which the request has been made 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 <i>administrative</i> decision explaining in writing to the person concerned</p>	<p>4. If the <i>convicting</i> 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 decision explaining in writing to the person concerned without delay why it is not</p>	<p>4. If the convicting Member State does not agree that data recorded in the ECRIS-TCN system are inaccurate or have been processed unlawfully, that Member State shall adopt a decision explaining in writing to the person concerned without <b>undue</b> delay why it will not rectify or erase data relating to</p>	<p>PRES intends inviting EP to explain why it deems necessary that these cases to be communicated to the EDPS and the national supervisory authorities. At first reading this creates an additional burden.</p>



without delay why it <i>is not prepared</i> to correct or delete data relating to <i>him</i> .	prepared to correct or delete data relating to him <i>or her</i> . <i>Such cases shall be communicated to the European Data Protection Supervisor and the national supervisory authority for data protection. (AM 77)</i>	<b>that person.</b>	
5. The Member State which has adopted the <i>administrative</i> decision pursuant to paragraph 4 shall also provide the person concerned with information explaining the steps which that person can take if <i>he or she does not accept the explanation</i> . 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.	5. The Member State which has adopted the administrative decision pursuant to paragraph 4 shall also provide the person concerned with information explaining the steps which that person can take if he or she does not accept the explanation. 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.	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 <b>if the explanation given pursuant to paragraph 4 is not acceptable to them</b> . 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.	PRES suggests keeping the GA.
6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary information 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.	6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary information 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.	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.	Keep GA (texts identical).
7. Whenever a person requests data relating to him- or herself in	7. Whenever a person requests data relating to him- or herself in	7. Whenever a person requests data relating to him- or herself in	PRES intends inviting EP to explain the necessity of this amendment.

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 <b>and shall make that document available to the supervisory authorities without delay.</b>	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 and shall make that document available to the supervisory authorities without delay. <b>That record shall be deleted after three years. (AM 78)</b>	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.	<b>See also the note with questions.</b>
	<b>7a. Where applicable, if a search in the Central System returns no hits, the third country national asking for information on his own criminal record shall receive a statement certifying that the search in the Central System returned no hits. (AM 79)</b>		PRES intends inviting EP to explain this amendment. PRES considers this unnecessary as irrespective of whether there is a hit or no hit this should not be regarded as reliable source of information about the criminal history of the person. The result of the search shall only be used for the purpose of making a request through the ECRIS system.
<b>ARTICLE 24 - Cooperation to ensure the rights on data protection</b>			
1. The central authorities of the Member States shall cooperate with each other in order to enforce the rights laid down in Article 23.	1. The central authorities of the Member States shall cooperate with each other in order to enforce the rights laid down in Article 23.	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.	Keep GA (texts identical).
2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned in exercising his or her right to correct or delete data relating to him or her.	2. In each Member State, the supervisory authority shall <b>be able to audit the central authorities, shall be informed of all incidents referred to in Article 9(3) and (4) and Article 23(4), and</b> upon request, assist and advise the person concerned in	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 <b>rectify or erase</b> data relating to him or her.	PRES intends inviting EP to explain this amendment. The prerogatives of the supervisory authority are listed in the general data protection acts.

	exercising his or her right to correct or delete data relating to him or her. <i>(AM 80)</i>		
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.	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.	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.	Keep GA (texts identical).
<b>ARTICLE 25 - Remedies</b>			
1. In each Member State any person shall have the right to bring an action or a complaint in the 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.	1. <i>In accordance with Chapter VIII of Directive (EU) 2016/680</i> , in each Member State any person shall have the right to bring an action <i>before a court and the right to bring</i> a complaint in the 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. <i>(AM 81)</i>	[Deleted]	PRES suggests keeping the GA. The general data protection provisions will apply.
2. The assistance of the supervisory authorities shall remain available throughout the proceedings.	2. The assistance of the supervisory authorities shall remain available throughout the proceedings.	[Deleted]	PRES suggests keeping the GA. The general data protection provisions will apply.
<b>ARTICLE 26 - Supervision by the supervisory authority</b>			
1. Each Member State shall ensure that the supervisory authority or authorities designated pursuant to Article 41 of Directive (EU) 2016/680	1. Each Member State shall ensure that the supervisory authority or authorities designated pursuant to Article 51 of Regulation (EU)	1. Each Member State shall ensure that the supervisory authority or authorities designated pursuant to Article 51 of Regulation 2016/679 or	PRES suggests keeping the GA. Central authorities can process personal data not only for penal purposes which explain why there

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.	<b>2016/679</b> 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. <b>(AM 82)</b>	<b>Article 41 of Directive (EU) 2016/680</b> 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.	should be a reference to both the Regulation and the Directive.
2. The supervisory authority shall ensure that an audit of the data processing operations in the national criminal records and fingerprints databases is carried out in accordance with relevant international auditing standards at least every four years from the start of operations of 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 is carried out in accordance with relevant international auditing standards at least every <b>three</b> years from the start of operations of the ECRIS-TCN system. <b>(AM 83)</b>	2. The supervisory authority shall ensure that an audit of the data processing operations in the national criminal records and fingerprints databases is carried out in accordance with relevant international auditing standards at least every four years from the start of operations of the ECRIS-TCN system.	AM seems acceptable.  <b>See also the note with questions.</b>
3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	3. Member States shall ensure that their supervisory authority has sufficient resources <b>and training</b> to fulfil the tasks entrusted to it under this Regulation. <b>(AM 84)</b>	3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	AM could be accepted. Nevertheless, PRES considers that this is already covered by the more general term 'resources'.
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 Article 29 and allow them access at all times to all their ECRIS-TCN system related premises.	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 <b>Articles 23(7) and 29</b> and allow them access at all times to all their ECRIS-TCN system related premises. <b>(AM 85)</b>	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 Article 29 and allow them access at all times to all their ECRIS-TCN system related premises.	Subject to further discussion in light of the explanations provided by the EP on Art. 23(7).

**ARTICLE 27 - Supervision by the European Data Protection Supervisor**

<p>1. The European Data Protection Supervisor shall ensure that the personal data processing activities of eu-LISA concerning the ECRIS-TCN system are carried out in accordance with this Regulation.</p>	<p>1. The European Data Protection Supervisor shall ensure that the personal data processing activities of eu-LISA concerning the ECRIS-TCN system are carried out in accordance with this Regulation.</p>	<p>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.</p>	<p>Keep GA (texts identical).</p>
<p>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 four 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.</p>	<p>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 <i>three</i> 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. <b>(AM 86)</b></p>	<p>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 four 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.</p>	<p>AM seems acceptable. <b>See also the note with questions.</b></p>
<p>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.</p>	<p>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.</p>	<p>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.</p>	<p>Keep GA (texts identical).</p>

**ARTICLE 28 - Cooperation among supervisory authorities and the European Data Protection Supervisor**

Coordinated supervision should be ensured in accordance with Article 62 of [new data protection Regulation for Union institutions and bodies].	Coordinated supervision <i>shall</i> be ensured in accordance with Article 62 of [new data protection Regulation for Union institutions and bodies]. (AM 87)	Coordinated supervision should be ensured in accordance with Article 62 of [new data protection Regulation for Union institutions and bodies].	AM seems acceptable.
<b>ARTICLE 29 - Keeping of logs</b>			
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 for the purposes of checking the admissibility of the request, monitoring the lawfulness of the data processing and data integrity and security, and self-monitoring.	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 for the purposes of checking the admissibility of the request, monitoring the lawfulness of the data processing and data integrity and security, and self-monitoring.	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 <b>in accordance with paragraph 2</b> 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.	Keep GA (texts almost identical).
2. The log or documentation shall show:	2. The log or documentation shall show:	2. The log shall show:	Keep GA (texts identical).
(pp) the purpose of the request for access to ECRIS-TCN system data;	(a) the purpose of the request for access to ECRIS-TCN system data;	(a) the purpose of the request for access to ECRIS-TCN system data;	Keep GA (texts identical).
(qq) the data transmitted as referred to in Article 5;	(b) the data transmitted as referred to in Article 5;	(b) the data transmitted as referred to in Article 5;	Keep GA (texts identical).
(rr) the national file reference;	(c) the national file reference;	(c) the national file reference;	Keep GA (texts identical).
(ss) the date and exact time of the operation;	(d) the date and exact time of the operation;	(d) the date and exact time of the operation;	Keep GA (texts identical).

(tt) the data used for a query;	(e) the data used for a query;	(e) the data used for a query;	Keep GA (texts identical).
(uu) the identifying mark of the official who carried out the search <b>and of the official who ordered the search.</b>	(f) the identifying mark of the official who carried out the search and of the official who ordered the search.	(f) the identifying mark of the official who carried out the search.	PRES suggests keeping the GA.
3. The logs of consultations and disclosures shall make it possible to establish the justification of such operations.	3. The logs of consultations and disclosures shall make it possible to establish the justification of such operations.	3. The log of consultations and disclosures shall make it possible to establish the justification of such operations.	Keep GA (texts identical).
4. Logs <b>and documentation</b> 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 one year, if they are no longer required for monitoring procedures which have already begun.	4. Logs and documentation 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 <b>three years</b> , if they are no longer required for monitoring procedures which have already begun. <b>(AM 88)</b>	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 one year, if they are no longer required for monitoring procedures which have already begun.	PRES intends inviting EP to explain this amendment.  <b>See also the note with questions.</b>
5. On request, eu-LISA shall make the logs of its processing operations available to the central authorities without undue delay.	5. On request, eu-LISA shall make the logs of its processing operations available to the central authorities without undue delay.	5. On request, eu-LISA shall make the logs of its processing operations available to the central authorities without undue delay.	Keep GA (texts identical).
6. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data	6. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data	6. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data	Keep GA (texts identical).

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.	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.	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.	
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## CHAPTER VI

### FINAL PROVISIONS

COM proposal	EP amendments	Council General Approach	Possible compromise
<b>ARTICLE 30 - Use of data for reporting and statistics</b>			
1. The duly authorised staff of eu-LISA, the competent authorities, <i>and the Commission</i> 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.	1. The duly authorised staff of eu-LISA <i>and</i> the competent authorities 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. <b>(AM 89)</b>	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.	PRES intends inviting EP to further explain its proposal.
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 would not allow for the identification of individuals and would allow to obtain customisable reports and statistics.	<b>Deleted (AM 90)</b>	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 would not allow for the identification of individuals and would allow to obtain customisable reports and statistics.	EP wants to delete the provisions on central repository which is contrary to the GA. <b>MS are invited to state their position on this amendment.</b>



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.		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).	<i>Deleted (AM 91)</i>	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).	EP wants to delete the provisions on central repository which is contrary to the GA. <b>MS are invited to state their position on this amendment.</b>
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 ensuring that monitoring.  Every month eu-LISA shall submit to the Commission <i>non-personal</i> statistics 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.	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 ensuring that monitoring.  Every month eu-LISA shall submit to the Commission non-personal statistics 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.	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 <b>without allowing for individual identification</b> 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.	PRES suggests keeping the GA.
5. The Member States shall	5. The Member States shall	5. The Member States shall	Keep GA (texts identical).

provide eu-LISA with the statistics necessary to fulfil its obligations referred to in this Article. They shall provide statistics on the number of convicted third country nationals, as well as the number of convictions of third country nationals on their territory to the Commission.	provide eu-LISA with the statistics necessary to fulfil its obligations referred to in this Article. They shall provide statistics on the number of convicted third country nationals, as well as the number of convictions of third country nationals on their territory to the Commission.	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.	
<b>ARTICLE 31 - Costs</b>			
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.	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. <b><i>The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework and within the framework of the annual budgetary procedure. (AM 92)</i></b>	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.	PRES intends inviting EP to explain.
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.	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.	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.	Keep GA (texts identical).
3. Other costs shall be borne by the Member States, specifically the costs incurred by the connection of the	3. Other costs shall be borne by the Member States, specifically the costs incurred by the connection of the	3. Other costs shall be borne by the Member States, specifically the costs incurred by the connection of the	Keep GA (texts identical).

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.	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.	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.	
<b>ARTICLE 32 - Notifications</b>			
The Member States shall notify eu-LISA of their central authorities which have access to enter, amend, delete consult or search data. eu-LISA shall regularly publish a list of these central authorities.	The Member States shall notify eu-LISA of their central authorities which have access to enter, amend, delete, consult or search data. eu-LISA shall publish a list of these central authorities <i>on its website. In the event that there is a change to a Member State's central authority, eu-LISA shall update the list without delay. (AM 93)</i>	The Member States shall notify eu-LISA of their central authorities which have access to enter, amend, delete consult or search data. eu-LISA shall regularly publish a list of these central authorities.	PRES intends inviting EP to explain why it should be on the website.
<b>ARTICLE 33 - Start of operations (COM proposal)</b>			
<b>ARTICLE 33 - Entry of data and start of operations (Council GA)</b>			
1. The Commission shall determine the date from which the ECRIS-TCN system is to start operations, after the following conditions are met:	1. The Commission shall determine the date from which the ECRIS-TCN system is to start operations, after the following conditions are met:	1. <b>Once the Commission is satisfied that the following conditions are met</b> , it shall determine the date from which the Member States shall <b>start entering the data referred to in Article 5 into the ECRIS-TCN system:</b>	PRES suggests keeping the GA.
(vv) the measures referred to in Article 10 have been adopted;	(a) the measures referred to in <i>Articles 10 and 10a</i> have been adopted; <i>(AM 94)</i>	(a) the measures referred to in Article 10 have been adopted;	Solution should follow the outcome of the discussions on Art. 10a.

		<b>(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;</b>	
(ww) eu-LISA has declared the successful completion of a comprehensive test of the ECRIS-TCN system, which shall be conducted by eu-LISA in cooperation with the Member States;	(b) eu-LISA has declared the successful completion of a comprehensive test of the ECRIS-TCN system, which shall be conducted by eu-LISA in cooperation with the Member States;	(c) eu-LISA <b>has carried out a comprehensive test of the ECRIS-TCN system, in cooperation with the Member States, using test-data.</b>	PRES suggests keeping the GA.
(xx) 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) 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.		PRES suggests keeping the GA.
		<b>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).</b>	
		<b>3. After the end of the period referred to in paragraph 2, eu-LISA</b>	

		<b>shall carry out a final test of the ECRIS-TCN system, in cooperation with the Member States.</b>	
2. eu-LISA shall notify the Commission of the successful completion of the test referred to in point (b) of paragraph (1). The Commission shall inform the European Parliament and the Council of the results of the test carried out pursuant to point (b) of paragraph 1.	2. eu-LISA shall notify the Commission of the successful completion of the test referred to in point (b) of paragraph (1). The Commission shall inform the European Parliament and the Council of the results of the test carried out pursuant to point (b) of paragraph 1.	<b>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.</b> The Commission shall inform the European Parliament and the Council of the results of the test <b>and it shall decide the date of from which the ECRIS-TCN system is to start operations.</b>	PRES suggests keeping the GA.
3. The Commission decision referred to in paragraph 1 shall be published in the <i>Official Journal</i> .	3. The Commission decision referred to in paragraph 1 shall be published in the <i>Official Journal</i> .	5. The <b>decision of the Commission on the date of start of operations, as referred to in paragraph 4, shall be published in the <i>Official Journal</i>.</b>	PRES suggests keeping the GA.
4. The Member States shall start using the ECRIS-TCN system from the date determined by the Commission in accordance with paragraph 1.	4. The Member States shall start using the ECRIS-TCN system from the date determined by the Commission in accordance with paragraph 1.	6. The Member States shall start using the ECRIS-TCN system from the date determined by the Commission in accordance with paragraph 5.	PRES suggests keeping the GA.
<b>ARTICLE 34 - Monitoring and evaluation</b>			
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	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	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	Keep GA (texts identical).

implementation in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.	implementation in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.	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 the ECRIS reference implementation.	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 the ECRIS reference implementation.	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.	Keep GA (texts identical).
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. Once the development 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.	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. <b><i>That report 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. (AM 95)</i></b>	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 <b>and the ECRIS reference implementation. This report shall contain information about costs incurred and information as to any risks which may impact on the overall costs of the system.</b> Once the development 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.	PRES suggests keeping the GA. It goes in the same direction with the EP AM.

	<i>3a. In the event of delays in the development process, the European Parliament and the Council shall be informed as soon as possible of the reasons for the delays and of their impact in terms of time and finances. (AM 96)</i>		<b><u>MS are invited to state their position on this amendment.</u></b>
	<i>3b. As soon as the development is completed, a report shall be submitted to the European Parliament and the Council describing the implementation of the project, any difficulties experienced in reaching project milestones and a detailed assessment of the costs incurred and the technical specifications of the system. (AM 97)</i>		<b><u>MS are invited to state their position on this amendment.</u></b>
	<i>3c. In the event of an upgrade of the system, a report shall be submitted to the European Parliament and the Council, and the costs of the upgrade shall be published accordingly. (AM 98)</i>		<b><u>MS are invited to state their position on this amendment.</u></b>
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	4. <b>One year</b> 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 <b>their</b> security <b>and costs</b> , based in particular on the statistics on the functioning and	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	<b><u>MS are invited to state their position on this amendment.</u></b>  <b>See also the note with questions.</b>

functioning and use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.	use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records. <b>(AM 99)</b>	functioning and use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.	
5. <b>Three</b> years after the start of operations of the ECRIS-TCN system and every four years thereafter, the Commission shall produce an overall evaluation of the ECRIS-TCN system and the ECRIS reference implementation. That overall evaluation shall include an assessment of the application of the Regulation, an examination of results achieved against objectives and the impact on fundamental rights, and an assessment of the continuing validity of the underlying rationale, the application of the Regulation, the security of the system and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.	5. Three years after the start of operations of the ECRIS-TCN system and every four years thereafter, the Commission shall produce an overall evaluation of the ECRIS-TCN system and the ECRIS reference implementation. That overall evaluation shall include an assessment of the application of the Regulation, an examination of results achieved against objectives and the impact on fundamental rights, and an assessment of the continuing validity of the underlying rationale, the application of the Regulation, the security of the system and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.	5. <b>Four</b> years after the start of operations of the ECRIS-TCN system and every four years thereafter, the Commission shall produce an overall evaluation of the ECRIS-TCN system and the ECRIS reference implementation. That overall evaluation shall include an assessment of the application of the Regulation, an examination of results achieved against objectives and the impact on fundamental rights, and an assessment of the continuing validity of the underlying rationale, <b>an assessment of the adequacy of the biometric data used for the proper functioning of ECRIS TCN</b> , the security of the system and any implications on future operations, and shall include any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament, the Council, <b>the European Data Protection Supervisor and the European Agency for Fundamental Rights</b> .	<b><u>MS are invited to state their position on this amendment.</u></b>
		<b>5a. The first overall evaluation as referred to in paragraph 5 shall</b>	



		<b>include an assessment of</b>	
		<b>a) the advisability, necessity and proportionality to include in the ECRIS-TCN system identity information of convicted persons who are citizens of the Union within the meaning of Article 20(1) TFEU, and who hold the nationality of two or more Member States of the Union without also holding the nationality of a third country;</b>	
		<b>b) the possibility, for some Member States, to continue the use of national ECRIS implementation software, as referred to in Article 4;</b>	
		<b>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).</b>	
		<b>The assessment may be accompanied, if necessary, by legislative proposals. Subsequent overall evaluations may include an assessment of either or both of these aspects.</b>	
6. The Member States, Eurojust, Europol[, and the European Public Prosecutor's Office] shall provide eu-LISA and the Commission with the	6. The Member States, Eurojust, Europol[, and the European Public Prosecutor's Office], <i>the European Data Protection Supervisor and the</i>	6. The Member States, Eurojust, Europol, and the European Public Prosecutor's Office shall provide eu-LISA and the Commission with the	AM seems acceptable.

<p>information necessary to draft the reports referred to in this Article 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.</p>	<p><i>national supervisory authorities for data protection</i> shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in this Article 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. <b>(AM 100)</b></p>	<p>information necessary to draft the reports referred to <b>in paragraphs 3, 4 and 5</b> 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.</p>	
<p>7. eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to in <b>paragraph 5</b>.</p>	<p>7. eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to in <i>this Article</i>. <b>(AM 101)</b></p>	<p>7. eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to <b>in paragraph 5</b>.</p>	<p>PRES suggests keeping the GA.</p>
	<p style="text-align: center;"><i>Article 34a (new)</i></p> <p style="text-align: center;"><i>Exercise of the delegation</i></p> <p><b>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</b></p> <p><b>2. The power to adopt delegated acts referred to in Article 6(2) and Article 10a shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Regulation].</b></p>		<p><b><u>MS are invited to state their position on this amendment.</u></b></p> <p>See also the note with questions.</p>

	<p><b>3. The delegation of power referred to in Article 6(2) and Article 10a 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.</b></p> <p><b>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.</b></p> <p><b>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</b></p> <p><b>6. A delegated act adopted pursuant to Article 6(2) or Article 10a 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</b></p>		
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	<i>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 (AM 102)</i>		
<b>ARTICLE 35 - Committee procedure</b>			
1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. <sup>38</sup>	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. <sup>39</sup>	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. <sup>40</sup>	Keep GA (texts identical).
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	Keep GA (texts identical).
		<b>Where no opinion is delivered by the committee the draft implementing act shall not be adopted.</b>	
<b>ARTICLE 36 - Advisory Group</b>			
An Advisory Group shall be	An Advisory Group, <i>to include a</i>	eu-LISA shall establish an Advisory	<b><u>MS are invited to state their position</u></b>

<sup>38</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).

<sup>39</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).

<sup>40</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).

established by eu-LISA and provide it with the 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.	<i>representative of the European Data Protection Supervisor and a representative of the European Union Agency for Fundamental Rights</i> , shall be established by eu-LISA and provide it with the 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. <b>(AM 103)</b>	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.	<b><u>on this amendment.</u></b>
<b>ARTICLE 37 - Amendment of Regulation (EU) No 1077/2011</b>			
Regulation (EU) No 1077/2011 is amended as follows:	Regulation (EU) No 1077/2011 is amended as follows:	Regulation (EU) No 1077/2011 is amended as follows:	Keep GA (texts identical).
(1) In Article 1, paragraph 2 is replaced by the following:	(1) In Article 1, paragraph 2 is replaced by the following:	(1) In Article 1, paragraph 2 is replaced by the following:	Keep GA (texts identical).
“2. The Agency shall be responsible for the operational management of the Information System, the Visa Information System, Eurodac, [the Entry/Exit System], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system and the ECRIS reference implementation.	“2. The Agency shall be responsible for the operational management of the Information System, the Visa Information System, Eurodac, [the Entry/Exit System], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system and the ECRIS reference implementation.	“2. The Agency shall be responsible for the operational management of the Information System, the Visa Information System, Eurodac, [the Entry/Exit System], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system and the ECRIS reference implementation.	Keep GA (texts identical).
(2) The following Article is inserted:	(2) The following Article is inserted:	(2) The following article is inserted:	Keep GA (texts identical).

<p><i>"Article 5a</i></p> <p><i>Tasks related to the ECRIS-TCN system</i></p> <p>In relation to the ECRIS-TCN system and the ECRIS reference implementation, the Agency shall perform:</p>	<p><i>"Article 5a</i></p> <p><i>Tasks related to the ECRIS-TCN system</i></p> <p>In relation to the ECRIS-TCN system and the ECRIS reference implementation, the Agency shall perform:</p>	<p><i>"Article 5a</i></p> <p><i>Tasks related to the ECRIS-TCN system</i></p> <p>In relation to the ECRIS-TCN system and the ECRIS reference implementation, the Agency shall perform:</p>	Keep GA (texts identical).
(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council <sup>41</sup> ;	(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council <sup>42</sup> ;	(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council <sup>43</sup> ;	Keep GA (texts identical).
(b) tasks relating to training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	(b) tasks relating to training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	(b) tasks relating to training on the technical use of the ECRIS-TCN system and the ECRIS reference implementation.	Keep GA (texts identical).
(3) In Article 7, paragraph 5 is replaced by the following:	(3) In Article 7, paragraph 5 is replaced by the following:	(3) In Article 7, paragraph 5 is replaced by the following:	Keep GA (texts identical).
"5. Tasks relating to the operational management of the communication	"5. Tasks relating to the operational management of the communication	"5. Tasks relating to the operational management of the communication	Keep GA (texts identical).

<sup>41</sup> Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)."

<sup>42</sup> Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)."

<sup>43</sup> Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)."

<p>infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom) No 966/2012. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system operational data, or to the SIS II-related SIRENE exchange, by any means.</p>	<p>infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom) No 966/2012. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system operational data, or to the SIS II-related SIRENE exchange, by any means.</p>	<p>infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom) No 966/2012. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection] the ECRIS-TCN system operational data, or to the SIS II-related SIRENE exchange, by any means.</p>	
<p>(4) In Article 8, paragraph 1 is replaced by the following:</p>	<p>(4) In Article 8, paragraph 1 is replaced by the following:</p>	<p>(4) In Article 8, paragraph 1 is replaced by the following:</p>	<p>Keep GA (texts identical).</p>
<p>“1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection], the ECRIS-TCN system and other large-scale IT systems”.</p>	<p>“1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection], the ECRIS-TCN system and other large-scale IT systems”.</p>	<p>“1. The Agency shall monitor the developments in research relevant for the operational management of SIS II, VIS, Eurodac, [EES], [ETIAS], [the automated system for registration, monitoring and the allocation mechanism for applications for international protection], the ECRIS-TCN system and other large-scale IT systems”.</p>	<p>Keep GA (texts identical).</p>
<p>(5) In Article 12, paragraph 1 is amended as follows:</p>	<p>(5) In Article 12, paragraph 1 is amended as follows:</p>	<p>(5) In Article 12, paragraph 1 is amended as follows:</p>	<p>Keep GA (texts identical).</p>
<p>(a) a new point (sa) is added after point</p>	<p>(a) a new point (sa) is added after point</p>	<p>(a) a new point (sa) is added after point</p>	<p>Keep GA (texts identical).</p>

(s):	(s):	(s):	
“(sa) adopt the reports on the development of the ECRIS-TCN system pursuant to Article 34(3) of Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)”.	“(sa) adopt the reports on the development of the ECRIS-TCN system pursuant to Article 34(3) of Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)”.	“(sa) adopt the reports on the development of the ECRIS-TCN system pursuant to Article 34(3) of Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X 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 ...)”.	Keep GA (texts identical).
(b) point (t) is replaced by the following:	(b) point (t) is replaced by the following:	(b) point (t) is replaced by the following:	Keep GA (texts identical).
“(t) 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 [or Article 54(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No	“(t) 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 [or Article 54(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No	“(t) 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 [or Article 54(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No	Keep GA (texts identical).



<p>1987/2006 and Article 71(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU] and of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, [of EES pursuant to Article 64(4) of Regulation (EU) XX/XX of XXX and of ETIAS pursuant to Article 81(4) of Regulation (EU) XX/XX of XXX, and of the ECRIS-TCN system and the ECRIS reference implementation pursuant to Article 34(4) of Regulation (EU) XX/XXX;"</p>	<p>1987/2006 and Article 71(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU] and of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, [of EES pursuant to Article 64(4) of Regulation (EU) XX/XX of XXX and of ETIAS pursuant to Article 81(4) of Regulation (EU) XX/XX of XXX, and of the ECRIS-TCN system and the ECRIS reference implementation pursuant to Article 34(4) of Regulation (EU) XX/XXX;"</p>	<p>1987/2006 and Article 71(7) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU] and of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, [of EES pursuant to Article 64(4) of Regulation (EU) XX/XX of XXX and of ETIAS pursuant to Article 81(4) of Regulation (EU) XX/XX of XXX, and of the ECRIS-TCN system and the ECRIS reference implementation pursuant to Article 34(4) of Regulation (EU) XX/XXX;"</p>	
<p>(c) point (v) is replaced by the following:</p>	<p>(c) point (v) is replaced by the following:</p>	<p>(c) point (v) is replaced by the following:</p>	<p>Keep GA (texts identical).</p>
<p>"(v) adopt formal comments on the European Data Protection Supervisor's reports on the audits 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 50(2) of Regulation (EU) XX/XX of</p>	<p>"(v) adopt formal comments on the European Data Protection Supervisor's reports on the audits 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 50(2) of Regulation (EU) XX/XX of</p>	<p>"(v) adopt formal comments on the European Data Protection Supervisor's reports on the audits 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 50(2) of Regulation (EU) XX/XX of</p>	<p>Keep GA (texts identical).</p>

XXX [establishing the EES) and Article 57 of Regulation (EU) XX/XX of XXX [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;”.	XXX [establishing the EES) and Article 57 of Regulation (EU) XX/XX of XXX [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;”.	XXX [establishing the EES) and Article 57 of Regulation (EU) XX/XX of XXX [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;”.	
(yy) the following point is inserted after point (xa):	(d) the following point is inserted after point (xa):	(d) the following point is inserted after point (xa):	Keep GA (texts identical).
“(xb) Publish statistics related to the ECRIS-TCN system and to the ECRIS reference implementation pursuant to Article 30 of Regulation XXXX/XX;”.	“(xb) Publish statistics related to the ECRIS-TCN system and to the ECRIS reference implementation pursuant to Article 30 of Regulation XXXX/XX;”.	“(xb) Publish statistics related to the ECRIS-TCN system and to the ECRIS reference implementation pursuant to Article 30 of Regulation XXXX/XX;”.	Keep GA (texts identical).
(zz) Point y is replaced by the following:	(e) Point y is replaced by the following:	(e) Point y is replaced by the following:	Keep GA (texts identical).
"(y) 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) and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively [or by Article 36(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the	"(y) 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) and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively [or by Article 36(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the	"(y) 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) and SIRENE Bureaux as referred to in Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively [or by Article 36(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the	Keep GA (texts identical).

<p>Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 and by Article 53(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU together with the list of Offices of the national systems of SIS II (N.SIS II) and SIRENE Bureaux as referred to in Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters respectively; [as well as the list of competent authorities pursuant to Article 8(2) of Regulation (EU) XX/XXXX establishing the EES]; [the list of competent authorities pursuant to Article 11 of Regulation</p>	<p>Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 and by Article 53(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU together with the list of Offices of the national systems of SIS II (N.SIS II) and SIRENE Bureaux as referred to in Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters respectively; [as well as the list of competent authorities pursuant to Article 8(2) of Regulation (EU) XX/XXXX establishing the EES]; [the list of competent authorities pursuant to Article 11 of Regulation</p>	<p>Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 and by Article 53(8) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU together with the list of Offices of the national systems of SIS II (N.SIS II) and SIRENE Bureaux as referred to in Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and Article 7(3) of Regulation XX of XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation in criminal matters respectively; [as well as the list of competent authorities pursuant to Article 8(2) of Regulation (EU) XX/XXXX establishing the EES]; [the list of competent authorities pursuant to Article 11 of Regulation</p>	
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(EU) XX/XXXX establishing the ETIAS] and [the list of central authorities pursuant to Article 32 of Regulation XX/XXX establishing the ECRIS-TCN system];"	(EU) XX/XXXX establishing the ETIAS] and [the list of central authorities pursuant to Article 32 of Regulation XX/XXX establishing the ECRIS-TCN system];"	(EU) XX/XXXX establishing the ETIAS] and [the list of central authorities pursuant to Article 32 of Regulation XX/XXX establishing the ECRIS-TCN system];"	
(6) In Article 15, paragraph 4 is replaced by the following:	(6) In Article 15, paragraph 4 is replaced by the following:	(6) In Article 15, paragraph 4 is replaced by the following:	Keep GA (texts identical).
"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 may attend the meetings of the Management Board as observers when a question concerning SIS in relation to the application of Regulation (EU) 2016/1624 or of Regulation XXX of XXX is on the agenda]. Europol may also attend the meetings of the Management Board as observer when a question concerning 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 also attend the meetings of the Management Board as an observer when a question concerning EES in relation to the application of Regulation XX/XXXX (establishing	"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 may attend the meetings of the Management Board as observers when a question concerning SIS in relation to the application of Regulation (EU) 2016/1624 or of Regulation XXX of XXX is on the agenda]. Europol may also attend the meetings of the Management Board as observer when a question concerning 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 also attend the meetings of the Management Board as an observer when a question concerning EES in relation to the application of Regulation XX/XXXX (establishing	"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 may attend the meetings of the Management Board as observers when a question concerning SIS in relation to the application of Regulation (EU) 2016/1624 or of Regulation XXX of XXX is on the agenda]. Europol may also attend the meetings of the Management Board as observer when a question concerning 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 also attend the meetings of the Management Board as an observer when a question concerning EES in relation to the application of Regulation XX/XXXX (establishing the EES) is on the agenda or when a	Keep GA (texts identical).

<p>the EES) is on the agenda or when a question concerning ETIAS in relation to Regulation XX/XXXX (establishing ETIAS) is on the agenda. The European Border and Coast Guard may also attend the meetings of the Management Board when a question concerning ETIAS in relation with the application of Regulation XX/XX of XXX is on the agenda.] [EASO may also attend the meetings of the Management Board as an observer when a question concerning the automated system for registration, monitoring and the allocation mechanism for applications for international protection referred to in Article 44 of Regulation (EU) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM(2016) 270 final-2016/0133(COD), 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 a centralised system for the identification of Member States holding conviction information on</p>	<p>the EES) is on the agenda or when a question concerning ETIAS in relation to Regulation XX/XXXX (establishing ETIAS) is on the agenda. The European Border and Coast Guard may also attend the meetings of the Management Board when a question concerning ETIAS in relation with the application of Regulation XX/XX of XXX is on the agenda.] [EASO may also attend the meetings of the Management Board as an observer when a question concerning the automated system for registration, monitoring and the allocation mechanism for applications for international protection referred to in Article 44 of Regulation (EU) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM(2016) 270 final-2016/0133(COD), 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 a centralised system for the identification of Member States holding conviction information on</p>	<p>question concerning ETIAS in relation to Regulation XX/XXXX (establishing ETIAS) is on the agenda. The European Border and Coast Guard may also attend the meetings of the Management Board when a question concerning ETIAS in relation with the application of Regulation XX/XX of XXX is on the agenda.] [EASO may also attend the meetings of the Management Board as an observer when a question concerning the automated system for registration, monitoring and the allocation mechanism for applications for international protection referred to in Article 44 of Regulation (EU) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM(2016) 270 final-2016/0133(COD), 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 a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons</p>	
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third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS), and amending Regulation (EU) No 1077/2011 (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.	third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS), and amending Regulation (EU) No 1077/2011 (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.	(TCN) to supplement and support the European Criminal Records Information System (ECRIS), and amending Regulation (EU) No 1077/2011 (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.	
(7) In Article 17, paragraph 5, point (g) is replaced by the following:	(7) In Article 17, paragraph 5, point (g) is replaced by the following:	(7) In Article 17, paragraph 5, point (g) is replaced by the following:	Keep GA (texts identical).
“(g) without prejudice to Article 17 of the Staff Regulations, establish 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 34(4) of Regulation (EU) XX/XX of XX (establishing the EES)] <sup>44</sup> , Article 64(2) of Regulation XX/XXXX (establishing the ETIAS)and Article 11(16) of [Regulation (EU) XX/XX of XXX establishing the ECRIS-TCN system.]”	“(g) without prejudice to Article 17 of the Staff Regulations, establish 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 34(4) of Regulation (EU) XX/XX of XX (establishing the EES)] <sup>45</sup> , Article 64(2) of Regulation XX/XXXX (establishing the ETIAS)and Article 11(16) of [Regulation (EU) XX/XX of XXX establishing the ECRIS-TCN system.]”	“(g) without prejudice to Article 17 of the Staff Regulations, establish 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 34(4) of Regulation (EU) XX/XX of XX (establishing the EES)] <sup>46</sup> , Article 64(2) of Regulation XX/XXXX (establishing the ETIAS)and Article 11(16) of [Regulation (EU) XX/XX of XXX establishing the ECRIS-TCN system.]”	Keep GA (texts identical).
(8) In Article 19, paragraph 1 is	(8) In Article 19, paragraph 1 is	(8) In Article 19, paragraph 1 is	Keep GA (texts identical).

<sup>44</sup> Regulation on EES.

<sup>45</sup> Regulation on EES.

<sup>46</sup> Regulation on EES.

replaced by the following:	replaced by the following:	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:	“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:	“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:	Keep GA (texts identical).
(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	Keep GA (texts identical).
(b) VIS Advisory Group;	(b) VIS Advisory Group;	(b) VIS Advisory Group;	Keep GA (texts identical).
(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	Keep GA (texts identical).
(d) [EES-ETIAS] Advisory Group;	(d) [EES-ETIAS] Advisory Group;	(d) [EES-ETIAS] Advisory Group;	Keep GA (texts identical).
(e) ECRIS-TCN system Advisory Group;	(e) ECRIS-TCN system Advisory Group;	(e) ECRIS-TCN system Advisory Group;	Keep GA (texts identical).
(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."	(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."	(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."	Keep GA (texts identical).
<b>ARTICLE 38 - Implementation and transitional provisions</b>			
1. Member States shall take the necessary measures to comply with the provisions of this Regulation by 24 months after its entry into force.	1. Member States shall take the necessary measures to comply with the provisions of this Regulation by 24 months after its entry into force.	1. Member States shall take the necessary measures to comply with this Regulation by <i>[36 months after the entry into force of this Regulation]</i> .	<b><u>MS are invited to state their position on this amendment.</u></b>

<p>2. For convictions handed down prior to [date of entry into force of this Regulation], the central authorities shall create the individual data records in the Central System at the latest by 24 months after the entry into force of this instrument, to the extent that such data are stored in its national criminal records or national fingerprint database(s).</p>	<p>2. For convictions handed down prior to [date of entry into force of this Regulation], the central authorities shall create the individual data records in the Central System at the latest by 24 months after the entry into force of this instrument, to the extent that such data are stored in its national criminal records or national fingerprint database(s).</p>	<p>2. For convictions handed down prior to [<i>the date of entry of data in accordance with Article 33(2)</i>], the central authorities shall create the individual data records in the Central System as follows:</p>	<p>PRES suggests keeping the GA. The wording of the provision should reflect the outcome of the discussions on Art. 5(4).</p>
		<p><b>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></p>	<p>Keep GA.</p>
		<p><b>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).</b></p>	<p>Keep GA.</p>
<p><b>ARTICLE 39 - Entry into force and applicability</b></p>			
<p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	<p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	<p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</p>	<p>Keep GA (texts identical).</p>