

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

CHAPTER VI

Final provisions

Article 32

Use of data for reporting and statistics

1 The duly authorised staff of eu-LISA, of the competent authorities and of the Commission shall have access to the data processed within ECRIS-TCN solely for the purposes of reporting and providing statistics, without allowing for individual identification.

[^{F12} For the purpose of paragraph 1 of this Article, eu-LISA shall store the data referred to in that paragraph in the central repository for reporting and statistics referred to in Article 39 of Regulation (EU) 2019/818.]

3 The procedures put in place by eu-LISA to monitor the functioning of ECRIS-TCN referred to in Article 36 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 relating to the recording, storage and exchange of information extracted from criminal records through ECRIS-TCN and the ECRIS reference implementation. eu-LISA shall ensure that it is not possible to identify individuals on the basis of those statistics. 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 Member States shall provide eu-LISA with the statistics necessary to fulfil its obligations referred to in this Article. They shall provide the Commission with statistics on the number of convicted third-country nationals, as well as the number of convictions of third-country nationals on their territory.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations \(EU\) 2018/1726, \(EU\) 2018/1862 and \(EU\) 2019/816.](#)

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) 2019/816 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 33

Costs

1 The costs incurred in connection with the establishment and operation of the [F¹ central system, the CIR and], the communication infrastructure referred to in point (d) of Article 4(1), the interface software and the ECRIS reference implementation shall be borne by the general budget of the Union.

2 The costs of connection of Eurojust, Europol and the EPPO to ECRIS-TCN shall be borne by their respective budgets.

3 Other costs shall be borne by the Member States, specifically the costs incurred by the connection of the existing national criminal records registers, fingerprints databases and the central authorities to ECRIS-TCN, as well as the costs of hosting the ECRIS reference implementation.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations \(EU\) 2018/1726, \(EU\) 2018/1862 and \(EU\) 2019/816.](#)

Article 34

Notifications

1 Each Member State shall notify eu-LISA of its central authority, or authorities, that has access to enter, rectify, erase, consult or search data, as well as of any change in this respect.

2 eu-LISA shall ensure publication of the list of central authorities notified by the Member States, both in the *Official Journal of the European Union* and on its website. When eu-LISA receives notification of a change to a Member State's central authority, it shall update the list without undue delay.

Article 35

Entry of data and start of operations

1 Once the Commission is satisfied that the following conditions are met, it shall determine the date from which the Member States shall start entering the data referred to in Article 5 into ECRIS-TCN:

- a the relevant implementing acts referred to in Article 10 have been adopted;
- b the Member States have validated the technical and legal arrangements to collect and transmit the data referred to in Article 5 to ECRIS-TCN and have notified them to the Commission;
- c eu-LISA has carried out a comprehensive test of ECRIS-TCN, in cooperation with the Member States, using anonymous test data.

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2 When the Commission has determined the date of start of entry of data in accordance with paragraph 1, it shall communicate that 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 ECRIS-TCN, taking account of Article 41(2).

3 After the end of the period referred to in paragraph 2, eu-LISA shall carry out a final test of ECRIS-TCN, in cooperation with the Member States.

4 When the test referred to in paragraph 3 has been successfully completed and eu-LISA considers that ECRIS-TCN is ready to start operations, it shall notify the Commission. The Commission shall inform the European Parliament and the Council of the results of the test and shall decide on the date on which ECRIS-TCN is to start operations.

5 The decision of the Commission on the date of the start of operations of ECRIS-TCN, as referred to in paragraph 4, shall be published in the *Official Journal of the European Union*.

6 The Member States shall start using ECRIS-TCN from the date determined by the Commission in accordance with paragraph 4.

7 When taking the decisions referred to in this Article, the Commission may specify different dates for the entry into ECRIS-TCN of alphanumeric data and fingerprint data as referred to in Article 5, as well as for the start of operations with respect to those different categories of data.

Article 36

Monitoring and evaluation

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

2 For the purposes of monitoring the functioning of ECRIS-TCN and its technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in ECRIS-TCN and in the ECRIS reference implementation.

3 By 12 December 2019 and every six months thereafter during the design and development phase, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of ECRIS-TCN and of the ECRIS reference implementation.

4 The report referred to in paragraph 3 shall include an overview of the current costs and the progress of the project, a financial impact assessment, and information on any technical problems and risks that may impact the overall costs of ECRIS-TCN to be borne by the general budget of the Union in accordance with Article 33.

5 In the event of substantial delays in the development process, eu-LISA shall inform the European Parliament and the Council as soon as possible of the reasons for these delays and of their impact in terms of time and finances.

6 Once the development of ECRIS-TCN and of the ECRIS reference implementation is finalised, eu-LISA shall submit a report to the European Parliament and to the Council explaining how the objectives, in particular relating to planning and costs, were achieved and justifying any divergences.

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7 In the event of a technical upgrade of ECRIS-TCN which could result in substantial costs, eu-LISA shall inform the European Parliament and the Council.

8 Two years after the start of operations of ECRIS-TCN and every year thereafter, eu-LISA shall submit to the Commission a report on the technical functioning of ECRIS-TCN and of the ECRIS reference implementation, including their security, based in particular on the statistics on the functioning and use of ECRIS-TCN and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.

9 Four years after the start of operations of ECRIS-TCN and every four years thereafter, the Commission shall conduct an overall evaluation of ECRIS-TCN and of the ECRIS reference implementation. The overall evaluation report established on this basis shall include an assessment of the application of this Regulation and an examination of results that have been achieved relative to the objectives that were set and of the impact on fundamental rights. The report shall also include an assessment of whether the underlying rationale for operating ECRIS-TCN continues to hold, of the appropriateness of the use of biometric data for the purposes of ECRIS-TCN, of the security of ECRIS-TCN and of any security implications for future operations. The evaluation shall include any necessary recommendations. The Commission shall transmit the report to the European Parliament, the Council, the European Data Protection Supervisor and the European Union Agency for Fundamental Rights.

10 In addition, the first overall evaluation as referred to in paragraph 9 shall include an assessment of:

- a the extent to which, on the basis of relevant statistical data and further information from the Member States, the inclusion in ECRIS-TCN of identity information of citizens of the Union who also hold the nationality of a third country has contributed to the achievement of the objectives of this Regulation;
- b the possibility, for some Member States, to continue the use of national ECRIS implementation software, as referred to in Article 4;
- c the entry of fingerprint data into ECRIS-TCN, in particular the application of the minimum criteria as referred to in point (b)(ii) of Article 5(1);
- d the impact of ECRIS and of ECRIS-TCN on the protection of personal data.

The assessment may be accompanied, if necessary, by legislative proposals. Subsequent overall evaluations may include an assessment of any or all of those aspects.

11 The Member States, Eurojust, Europol and the EPPO shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraphs 3, 8 and 9 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.

12 Where relevant, the supervisory authorities shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraph 9 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.

13 eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to in paragraph 9.

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Article 37

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 6(2) shall be conferred on the Commission for an indeterminate period of time from 11 June 2019.

3 The delegation of power referred to in Article 6(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 6(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 38

Committee procedure

1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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

Article 39

Advisory Group

eu-LISA shall establish an Advisory Group in order to obtain expertise related to ECRIS-TCN 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(9) shall apply.

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Article 40

Amendments to Regulation (EU) 2018/1726

Regulation (EU) 2018/1726 is amended as follows:

- (1) In Article 1, paragraph 4 is replaced by the following:
 4. The Agency shall be responsible for the preparation, development or operational management of the Entry/Exit System (EES), DubliNet, the European Travel Information and Authorisation System (ETIAS), ECRIS-TCN and the ECRIS reference implementation.;
- (2) The following Article is inserted:

Article 8a

Tasks related to ECRIS-TCN and the ECRIS reference implementation

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

- (a) the tasks conferred on it by Regulation (EU) 2019/816 of the European Parliament and of the Council⁽¹⁾;
 - (b) tasks relating to training on the technical use of ECRIS-TCN and the ECRIS reference implementation.;
- (3) In Article 14, paragraph 1 is replaced by the following:
 1. The Agency shall monitor developments in research relevant for the operational management of SIS II, VIS, Eurodac, the EES, ETIAS, DubliNet, ECRIS-TCN and other large-scale IT systems as referred to in Article 1(5).;
 - (4) In Article 19, paragraph 1 is amended as follows:
 - (a) point (ee) is replaced by the following:
 - (ee) adopt the reports on the development of the EES pursuant to Article 72(2) of Regulation (EU) 2017/2226, the reports on the development of ETIAS pursuant to Article 92(2) of Regulation (EU) 2018/1240 and the reports on the development of ECRIS-TCN and of the ECRIS reference implementation pursuant to Article 36(3) of Regulation (EU) 2019/816;;
 - (b) point (ff) is replaced by the following:
 - (ff) adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, of the EES pursuant to Article 72(4) of Regulation (EU) 2017/2226, of ETIAS pursuant to Article 92(4) of Regulation (EU) 2018/1240, and of ECRIS-TCN and of the ECRIS

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reference implementation pursuant to Article 36(8) of Regulation (EU) 2019/816;;

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

(hh) adopt formal comments on the European Data Protection Supervisor's reports on the audits carried out pursuant to Article 45(2) of Regulation (EC) No 1987/2006, Article 42(2) of Regulation (EC) No 767/2008 and Article 31(2) of Regulation (EU) No 603/2013, Article 56(2) of Regulation (EU) 2017/2226, Article 67 of Regulation (EU) 2018/1240 and to Article 29(2) of Regulation (EU) 2019/816 and ensure appropriate follow-up of those audits;;

(d) the following point is inserted:

(lla) submit to the Commission statistics related to ECRIS-TCN and to the ECRIS reference implementation pursuant to the second subparagraph of Article 32(3) of Regulation (EU) 2019/816;;

(e) point (mm) is replaced by the following:

(mm) ensure annual publication of the list of competent authorities authorised to search directly the data contained in SIS II pursuant to Article 31(8) of Regulation (EC) No 1987/2006 and Article 46(8) of Decision 2007/533/JHA, together with the list of Offices of the national systems of SIS II (N.SIS II Offices) and SIRENE Bureaux pursuant to Article 7(3) of Regulation (EC) No 1987/2006 and Article 7(3) of Decision 2007/533/JHA respectively as well as the list of competent authorities pursuant to Article 65(2) of Regulation (EU) 2017/2226, the list of competent authorities pursuant to Article 87(2) of Regulation (EU) 2018/1240 and the list of central authorities pursuant to Article 34(2) of Regulation (EU) 2019/816;;

(5) In Article 22(4), the following subparagraph is inserted after the third subparagraph:

Eurojust, Europol and the EPPO may attend the meetings of the Management Board as observers when a question concerning ECRIS-TCN in relation to the application of Regulation (EU) 2019/816 is on the agenda.;

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

(p) establishing, without prejudice to Article 17 of the Staff Regulations of Officials, confidentiality requirements in order to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA, Article 26(9) of Regulation (EC) No 767/2008, Article 4(4) of Regulation (EU) No 603/2013, Article 37(4) of Regulation (EU) 2017/2226, Article 74(2) of Regulation (EU) No 2018/1240 and Article 11(16) of Regulation (EU) 2019/816;;

(7) In Article 27(1), the following point is inserted:

(da) ECRIS-TCN Advisory Group;.

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Article 41

Implementation and transitional provisions

1 Member States shall take the necessary measures to comply with this Regulation as soon as possible so as to ensure the proper functioning of ECRIS-TCN.

[^{F12} For convictions handed down prior to the date of start of entry of data in accordance with Article 35(1), the central authorities shall create the individual data records in the central system and the CIR as follows:

- a alphanumeric data to be entered into the central system and the CIR by the end of the period referred to in Article 35(2);
- b fingerprint data to be entered into the CIR within two years after the start of operations in accordance with Article 35(4).]

Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations \(EU\) 2018/1726, \(EU\) 2018/1862 and \(EU\) 2019/816.](#)

Article 42

Entry into force

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

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2019/816 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

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

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)