



2016/0002(COD)

20.4.2016

AMENDMENTS

21 - 62

Draft report
Timothy Kirkhope
(PE580.424v01-00)

on the proposal for a directive of the European Parliament and of the Council amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA

Proposal for a directive
(COM(2016/0007) – C8-0012/2016 – 2016/0002(COD))

Amendment 21
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 4

Text proposed by the Commission

(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.

Amendment

(4) The **existing** ECRIS legal framework, however, does not sufficiently **address** the particularities of requests concerning third country nationals. Although it is **already** possible to exchange information on third country nationals through ECRIS, there is no **common European** procedure or mechanism in place to do so efficiently.

Or. en

Amendment 22
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) Such blanket requests impose **an** administrative burden on all Member States, including those not holding information on the particular third country national. In practice, this negative effect deters Member States from requesting information on third country nationals **and** leads to **Member States limiting the** criminal record information on information stored in their national register.

Amendment

(6) Such blanket requests impose **a disproportionate** administrative burden on all Member States, including those not holding information on the particular third country national. In practice, this negative effect deters Member States from requesting information on third country nationals **from other Member States which** leads to **serious limitation of exchange of** criminal record information on information stored in their national register. **As a consequence, the third country national already convicted in another Member States may be undetected by the convicting Member State, which in turn affects the level of security and safety provided to Union citizens and persons residing within the Union.**

Amendment 23
Gérard Deprez

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Where, in connection with criminal proceedings, a Member State has knowledge of a conviction for acts of terrorism or of serious crime handed down in a third country against a third-country national, that Member State should be able to create an index-filter and transmit it to the other Member States so that they can take cognisance thereof.

Or. fr

Amendment 24
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In order to increase the utility of information on convictions and disqualifications arising from convictions for sexual offences against children, Directive 2011/93/EU of the European Parliament and the Council^{1a} established the obligation for Member States to take the necessary measures to ensure that when recruiting a person to a role involving direct and regular contacts with children, employers are entitled to request information about that person's criminal convictions or any disqualifications arising from those convictions. 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 carrying out such work in another Member State.

^{1a} Directive 2011/93/EU of the European Parliament and the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

Or. en

Amendment 25
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) As a result, a system should be established by which the central authority of a Member State finds out **quickly** and efficiently **in** which other Member State criminal record information on a third country national **is stored so that the existing ECRIS framework can then be used.**

Amendment

(9) As a result, a system should be established by which the central authority of a Member State finds out **promptly** and efficiently which other Member State **holds** criminal record information on a third country national.

Or. en

Amendment 26
Anna Hedh, Birgit Sippel

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The obligations of Member States as regards convictions of third country nationals should also include fingerprints to secure identification. This obligation includes to store information, including fingerprints, to reply to requests on information from other central authorities, to ensure that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, and to make the technical changes to apply state-of-the-art technologies necessary to make the information exchange system work.

Amendment

(10) The obligations of Member States as regards convictions of third country nationals should also include fingerprints **when this is necessary** to secure identification. This obligation includes to store information, including fingerprints, to reply to requests on information from other central authorities, to ensure that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, and to make the technical changes to apply state-of-the-art technologies necessary to make the information exchange system work.

Or. en

Amendment 27
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The obligations of Member States as regards convictions of third country nationals should also include fingerprints to secure identification. This obligation includes **to store** information, including fingerprints, **to reply** to requests on information from other central authorities, **to ensure** that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, **and to make** the technical changes to apply state-of-the-art technologies necessary to make the information exchange system work.

Amendment

(10) The obligations of Member States as regards convictions of third country nationals should also include **an obligation to store and exchange** fingerprints to secure identification. This obligation includes **storing** information, including fingerprints; **replying promptly, fully and effectively** to requests on information from other central authorities; **ensuring** that a criminal record extract requested by a third country national is supplemented as appropriate with information from other Member States, **in order to provide a complete picture of a person's previous criminal convictions; making** the technical changes to apply state-of-the-art

technologies necessary to make the information exchange system work; **while ensuring the highest levels of data protection and security.**

Or. en

Amendment 28

Pál Csáky, Monika Hohlmeier

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) In order to compensate the lack of a single Member State **where** information on **a** particular third country national **is stored**, decentralised information technology should enable the central authorities of the Member States to find out **in** which other Member State criminal record information **is stored**. For this purpose, each central authority should distribute to the other Member States an index-filter which includes, in **an anonymised** form, the identification data of the third country nationals convicted in its Member State. The personal data should be **rendered anonymous** in such a way that the data subject is not identifiable. The **receiving** Member State may then match these data with their own information **on a ‘hit’/‘no hit’ basis**, thus finding out whether **or not criminal record information is available in other Member States and, in case of a ‘hit’, in which Member States. The receiving Member State should then follow up a ‘hit’ using the ECRIS framework. With respect to third country nationals who also hold the nationality of a Member State, the information included in the index should be limited to information available as regards nationals of Member States.**

Amendment

(11) In order to compensate the lack of a single Member State **being directly responsible for the storage of** information on **each** particular **convicted** third country national, **a** decentralised information technology **system** should enable the central authorities of the Member States to find out which other Member State **has** criminal record information **on this particular third country national**. For this purpose, each **designated** central authority should distribute to the other Member States an index-filter which includes, in a **pseudonymised** form, the identification data of the third country nationals convicted in its Member State. The personal data should be **pseudonymised** in such a way that the data subject is not **directly** identifiable. The **convicting** Member State may then match these data with their own information, thus finding out whether **a particular third country national has already been convicted (has a criminal record) in other Member States. Given the fact that in the case of third country nationals there is no Member State of nationality, it is appropriate to consider the possibility of establishing for third country nationals a centralised system which would be more efficient.**

Amendment 29
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Where information has been obtained by a Member State on a bilateral basis regarding a third country national and having previous criminal convictions handed down by a judicial authority in a third country, the Member State should enter and store this information in its national criminal records database, and therefore make it available to other Member States, as not having this possibility, the existing loopholes could weaken the exchange of information on third country nationals.

Or. en

Amendment 30
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) For the purposes of preventing and combating crime falling within the scope of its objectives, it is necessary for Europol to have the fullest and most up-to-date information possible. Therefore, Europol should be able to access all information extracted from criminal records of any Member State in order to develop an understanding of criminal phenomena and trends, to gather information about criminal networks, and

to detect links between different criminal offences.

Or. en

Amendment 31
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 11 c (new)

Text proposed by the Commission

Amendment

(11c) As Frontex contributes to the fight against terrorism and supports the coordinated implementation of the Common Risk Indicators, and when assisting the Member States in tightening controls at external borders so that suspicious travel by foreign terrorist fighters and smuggling of firearms can be better detected, it shall be entitled to access all the information extracted from criminal records under the conditions set out in this Directive.

Or. en

Amendment 32
Pál Csáky, Monika Hohlmeier

Proposal for a directive
Recital 11 d (new)

Text proposed by the Commission

Amendment

(11d) The European Commission should take all the necessary measures to achieve interoperability and interconnection of the common communication infrastructure of ECRIS with all the other relevant EU databases for law enforcement, border control and judicial cooperation purposes.

Amendment 33**Pál Csáky, Monika Hohlmeier****Proposal for a directive****Recital 16***Text proposed by the Commission*

(16) Since the objective of this Directive, namely to enable 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 Directive does not go beyond what is necessary to achieve that objective.

Amendment

(16) Since the objective of this Directive, namely to enable rapid and efficient exchange of criminal record information on third country nationals, cannot be sufficiently achieved by the Member States, but can rather, by ***putting in place common rules and a European system***, 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 Directive does not go beyond what is necessary to achieve that objective.

Or. en

Amendment 34**Pál Csáky, Monika Hohlmeier****Proposal for a directive****Article 1 – paragraph 1 – point 1**

Council Framework Decision 2009/315/JHA

Article 1 – point c

Text proposed by the Commission

(c) establishes a ***decentralised*** information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";

Amendment

(c) establishes a ***European*** information technology system for the exchange of information on convictions based on the criminal records databases in each Member State, the European Criminal Record Information System (ECRIS).";

Amendment 35
Gérard Deprez

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – title

Text proposed by the Commission

Obligations of the convicting Member State concerning convictions of third country nationals

Amendment

Obligations of the convicting **Member State or prosecuting** Member State concerning convictions of third country nationals

Or. fr

Amendment 36
Jan Philipp Albrecht

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 1

Text proposed by the Commission

1. The Member State where a conviction is handed down against a third country national shall store the following information, unless, in exceptional individual cases, this is not possible:

- (a) information on the convicted person (full name, date of birth, place of birth (town and country), gender, nationality and – if applicable – previous name(s);
- (b) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);
- (c) information on the offence giving rise

Amendment

1. The Member State where a conviction is handed down against a third country national shall **always** store the following information, unless, in exceptional individual cases, this is not possible (**obligatory information**):

- (a) information on the convicted person (full name, date of birth, place of birth (town and country), gender, nationality and – if applicable – previous name(s);
- (b) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);
- (c) information on the offence giving rise

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

(d) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);

(e) the convicted person's parents' names;

(f) the reference number of the conviction;

(g) the place of the offence;

(h) if applicable, disqualifications arising from the conviction;

(i) the convicted person's identity number, or the type and number of the person's identification document;

(j) fingerprints of the person;

(k) if applicable, pseudonym and/or alias name(s).

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

(d) information on the contents of the conviction (notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence);

1b. The Member State where a conviction is handed down against a third country national may store the following information, if available (optional information):

(a) the convicted person's parents' names;

(b) the reference number of the conviction;

(c) the place of the offence;

(d) if applicable, disqualifications arising from the conviction;

(e) the convicted person's identity number, or the type and number of the person's identification document;

(f) fingerprints of the person ***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;***

(g) if applicable, pseudonym and/or alias name(s).

Or. en

Justification

This amendment makes sure that the data stored at the national level regarding convicted TCNs is categorised in the same way as for convicted EU nationals, with "obligatory information" and "optional information" in order to avoid any unnecessary discrimination.

Amendment 37
Sophia in 't Veld

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the convicted person's parents' names; ***deleted***

Or. en

Amendment 38

Anna Hedh, Birgit Sippel, Emilian Pavel

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the convicted person's parents' names; ***deleted***

Or. en

Amendment 39

Sophia in 't Veld

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 1 – point j

Text proposed by the Commission

Amendment

(j) fingerprints of the person;

(j) only when the national law of the convicting Member State allows for the storage of fingerprints on convicted Union citizens, the fingerprints of the person;

Or. en

Amendment 40

Dennis de Jong

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 1 – point j

Text proposed by the Commission

(j) fingerprints of the person;

Amendment

(j) fingerprints of the person, ***if the convicting Member State also includes fingerprints of its own convicted nationals and of convicted nationals of other Member States for similar offences;***

Or. en

Amendment 41

Jan Philipp Albrecht

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 2

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

This amendment ensures that the correct word "pseudonymisation" is used instead of anonymisation in line with the newly adopted Data Protection Directive which defines "pseudonymisation" as "the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional information, as long as such additional information is kept separately and subject to technical and

organisational measures to ensure non-attribution to an identified or identifiable person".

Amendment 42
Gérard Deprez

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A Member State which, in connection with criminal proceedings, has knowledge of convictions for acts of terrorism or of serious crime handed down by one or more third countries against the third-country national against whom the criminal proceedings have been brought shall, in accordance with paragraph 2, create an index-filter and transmit it to the other Member States.

Or. fr

Amendment 43
Timothy Kirkhope

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 3

Text proposed by the Commission

Amendment

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

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

Amendment 44

Anna Hedh

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 4

Text proposed by the Commission

Amendment

4. Paragraph 2 and paragraph 3 apply with respect to the index-filter also regarding third country nationals who hold the nationality of a Member State, to the extent that the information referred to in points (a), (e), (i), (j) and (k) of paragraph 1 is stored by the central authority in respect of nationals of Member States.

deleted

Or. en

Amendment 45

Jan Philipp Albrecht

Proposal for a directive

Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA

Article 4 a – paragraph 4

Text proposed by the Commission

Amendment

4. Paragraph 2 and paragraph 3 apply with respect to the index-filter **also** regarding third country nationals who hold the nationality of a Member State, to the extent that the information referred to in points (a), (e), (i), (j) and (k) of paragraph 1 is stored by the central authority in respect of nationals of Member States.

4. Paragraph 2 and paragraph 3 **shall not** apply with respect to the index-filter regarding third country nationals who hold the nationality of a Member State. **Any third country national also holding the nationality of a Member State shall be treated as a national of that Member State in accordance with Article 4**, to the extent that the information referred to in points (a), (e), (i), (j) and (k) of paragraph 1 is stored by the central authority in respect of

nationals of Member States. ***Member States shall ensure that any third country national who subsequently obtains the nationality of a Member State is treated as a national of that Member State as soon as he obtains that nationality and that information referred to in paragraph 1 is corrected in line with paragraph 3.***

Or. en

Justification

The proposal creates discrimination between EU citizens with one nationality and EU citizens who have the nationality of a Member State and the nationality of a third country. The latter would be treated as TCNs even though they are first and foremost EU citizens. The amendment ensures that those citizens are considered as EU citizens. It also clarifies that the criminal records information of a TCN, who obtains after some time the nationality of a Member State, which is already stored in the TCN index-filters, will be corrected adequately and stored in the Member State of his new nationality.

Amendment 46 **Sophia in 't Veld**

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall not enter information on convictions related to irregular entry or stay into the index-filter.

Or. en

Amendment 47 **Sophia in 't Veld**

Proposal for a directive
Article 1 – paragraph 1 – point 4

Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States shall not enter information in the index-filter on convictions of third country national minors other than those relating to serious crime, punishable by a maximum deprivation of liberty of at least four years.

Or. en

Amendment 48
Jan Philipp Albrecht

Proposal for a directive
Article 1 – paragraph 1 – point 4
Council Framework Decision 2009/315/JHA
Article 4 a – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. This Article shall not apply to convictions relating to irregular entry and stay of a person in the territory of any Member State for purposes other than criminal proceedings.

Or. en

Justification

This amendment is intended to avoid that the information on criminal records of TCNs is used to withdraw or to refuse the issuance or extension of a residence permit, for example.

Amendment 49
Anna Hedh

Proposal for a directive
Article 1 – paragraph 1 – point 5

Text proposed by the Commission

Amendment

2. This Article applies also regarding a third country national who holds the nationality of a Member State.

deleted

Or. en

Amendment 50
Jan Philipp Albrecht

Proposal for a directive
Article 1 – paragraph 1 – point 5
Council Framework Decision 2009/315/JHA
Article 4 b – paragraph 2

Text proposed by the Commission

Amendment

2. This Article **applies also** regarding a third country national who holds the nationality of a Member State.

2. This Article **shall not apply** regarding a third country national who holds the nationality of a Member State. **Any third country national also holding the nationality of a Member State shall be treated as a national of that Member State in accordance with Article 4.**

Or. en

Justification

The proposal creates discrimination between EU citizens who have only one nationality and EU citizens who have the nationality of a Member State and also the nationality of a third country. EU citizens with dual nationality would be treated as TCNs even though they are first and foremost EU citizens. This amendment eliminates the risk of discrimination by making sure that citizens with two nationalities (one EU, one TCN) are considered as EU citizens.

Amendment 51
Pál Csáky, Monika Hohlmeier

Proposal for a directive

Article 1 – paragraph 1 – point 5 a (new)

Council Framework Decision 2009/315/JHA

Article 4 c (new)

Text proposed by the Commission

Amendment

(5a) The following article is inserted:

"Article 4c

Information obtained from third countries

Where information has been obtained by a Member State on a bilateral basis regarding a third country national and having previous criminal convictions handed down by a judicial authority in a third country, the Member State shall enter and store this information in its national criminal records database, and thus make it available to other Member States."

Or. en

Amendment 52

Jan Philipp Albrecht

Proposal for a directive

Article 1 – paragraph 1 – point 6 – point b

Council Framework Decision 2009/315/JHA

Article 6 – paragraph 3 – subparagraph 3 (new)

Text proposed by the Commission

Amendment

Where applicable, if a search on the index-filters returns no hits, the third country national asking for information on his own criminal record shall receive a statement certifying that the search on the index-filters returned no hits.

Or. en

Justification

This amendment ensures that TCNs requesting a criminal records extract shall receive, if they

have committed no offences, a certificate that there was no hit on ECRIS, which proves that they have no criminal records in the 28 MS. This can be extremely useful for TCNs for employment purposes.

Amendment 53

Pál Csáky, Monika Hohlmeier

Proposal for a directive

Article 1 – paragraph 1 – point 6 a (new)

Council Framework Decision 2009/315/JHA

Article 7 – paragraph 2 – subparagraph 1

Present text

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

Amendment

(6a) In Article 7(2) the first subparagraph is replaced by the following:

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

Or. en

Amendment 54

Pál Csáky, Monika Hohlmeier

Proposal for a directive

Article 1 – paragraph 1 – point 7 a (new)

Council Framework Decision 2009/315/JHA

Article 7 a (new)

Text proposed by the Commission

Amendment

(7a) The following article is inserted:

"Article 7a

Access to ECRIS database by Europol

1. Europol shall be entitled to access the ECRIS database for the performance of its tasks.

2. Europol may submit, on a case-by-case basis, an electronic and duly reasoned request to the central authority of any Member State through the Europol National Unit for the transmission of information from the criminal record of a Member State using the form set out in the annex.

3. Europol may submit such a request when this is necessary to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

4. Exchange of information under this Article shall take place through SIENA.";

Or. en

Amendment 55

Pál Csáky, Monika Hohlmeier

Proposal for a directive

Article 1 – paragraph 1 – point 7 b (new)

Council Framework Decision 2009/315/JHA

Article 7 b (new)

Text proposed by the Commission

Amendment

(7b) The following article is inserted:

"Article 7b

Access to ECRIS database by Frontex

1. Frontex shall be entitled to access the ECRIS database for the performance of its tasks.

2. Frontex may submit, on a case-by-case basis, an electronic and duly reasoned request to the central authority of any Member State for the transmission of information from the criminal record of a Member State using the form set out in the annex.";

Or. en

Amendment 56

Pál Csáky, Monika Hohlmeier

Proposal for a directive

Article 1 – paragraph 1 – point 10

Council Framework Decision 2009/315/JHA

Article 11 a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall consider centralising the European Criminal Records Information System (ECRIS) for third country nationals. Member States shall upload the information on convicted third country nationals into this system, making it thus directly available to all Member States.

Or. en

Amendment 57

Anna Hedh

Proposal for a directive

Article 1 – paragraph 1 – point 10

Council Framework Decision 2009/315/JHA

Article 11 a – paragraph 2

Text proposed by the Commission

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

Amendment

2. All criminal records data shall be stored solely in databases operated by the Member States ***within the territory of the Union.***

Or. en

Amendment 58

Anna Hedh

Proposal for a directive

Article 1 – paragraph 1 – point 11

Council Framework Decision 2009/315/JHA

Article 11 b – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 59

Sophia in 't Veld

Proposal for a directive

Article 1 – paragraph 1 – point 11

Council Framework Decision 2009/315/JHA

Article 11 b – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 60
Sophia in 't Veld

Proposal for a directive

Article 1 – paragraph 1 – point 13

Council Framework Decision 2009/315/JHA

Article 13 a – paragraph 1

Text proposed by the Commission

1. By [24 months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.

Amendment

1. By [24 months after implementation], the Commission shall submit a report on the application of this Framework Decision, to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation, ***and shall include an assessment of the impact of this Framework Decision on fundamental rights.***

Or. en

Amendment 61
Anna Hedh

Proposal for a directive

Article 1 – paragraph 1 – point 13

Council Framework Decision 2009/315/JHA

Article 13 a – paragraph 1

Text proposed by the Commission

1. By [24 months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including the technical implementation.

Amendment

1. By [**12** months after implementation], the Commission shall submit a report on the application of this Framework Decision to the European Parliament and the Council. The report shall assess ***the fundamental rights implications of the legislation, in particular the effects to the protection of personal data and the principle of non-discrimination*** and the extent to which the Member States have taken the necessary measures to comply with this Framework Decision, including

the technical implementation.

Or. en

Amendment 62
Jan Philipp Albrecht

Proposal for a directive
Article 1 – paragraph 1 – point 13
Council Framework Decision 2009/315/JHA
Article 13 a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Every two years, the Commission shall publish an assessment of the compliance with and impact on fundamental rights of this Framework Decision. Such assessment shall evaluate the effects of ECRIS on the fundamental rights of third-country nationals in comparison with its effects on the fundamental rights of Union citizens. This assessment shall be published for the first time on [24 months after implementation] and be transmitted to the Council and the European Parliament.

Or. en

Justification

This amendment ensures that a fundamental rights assessment is carried out by the Commission 2 years after implementation and every 2 years after that.