



11.10.2017

DRAFT OPINION

of the Committee on Budgets

for the Committee on Civil Liberties, Justice and Home Affairs

on the 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
(COM(2017)0344 – C8-0217/2017 – 2017/0144(COD))

Rapporteur: Bernd Kölmel

PA_Legam

SHORT JUSTIFICATION

The European Criminal Records Information System (ECRIS) was successfully established in April 2012 and facilitates the exchange of information on criminal convictions against individuals by criminal courts in the EU. The Member State of nationality must store this information. Criminal record information is exchanged between Member States upon request, both for EU nationals and for third-country nationals and stateless persons (TCN). However, information regarding TCN is currently hardly exchanged through ECRIS due to the absence of an efficient, dedicated procedure. Until now, Member States had to send ‘blanket requests’ to all other Member States, thus creating a considerable administrative burden for those authorities not holding the requested information (estimated at EUR 78 million per year). This constitutes an important deterrent from using ECRIS for TCN, resulting in the system being used in only 5% of such cases.

In 2016, the Commission made a proposal for a directive amending the ECRIS Framework Decision to improve this situation. A decentralised system to identify the Member State(s) holding criminal record information through a hit/no hit search mechanism was considered the most proportionate and cost-effective solution. However, in the meantime, in response to the current security situation and recent terrorist attacks in several Member States, the Council has prioritised sharing information on criminal convictions as a strategy to combat crime and counter terrorism, and has requested the Commission to submit an ambitious proposal for the extension of ECRIS to TCN, in order to use ECRIS to its full potential.

The new proposal focuses on a centralised system, set up and managed by eu-LISA, whereby the alphanumeric data, fingerprints and, where available, facial images of TCN are stored at EU-level. The rapporteur welcomes this proposal, which he considers well-structured, and acknowledges that this set-up has the advantage of facilitating direct access by Eurojust, Europol and the future EPPO in support of their statutory tasks.

The rapporteur agrees with the Commission’s proposal to entrust the development, operational management and maintenance of ECRIS-TCN to eu-LISA, which is well placed given its extensive experience managing other large centralised databases in the Justice and Home Affairs area.

The Commission estimates that the total cost for developing and operating ECRIS-TCN in the period 2018-2020 will be around EUR 13 million (one-off cost), including the cost to eu-LISA for hiring five contract agents during the development phase. The ongoing cost to the EU budget of maintaining the system is estimated at EUR 2.1 million per year. The one-off cost to the Member States is estimated at EUR 13.3 million, with the recurring annual cost to Member States expected to grow over time (from around EUR 6 million at the entry into force to a maximum of EUR 15.4 million) as the number of searches increases.

The cost to the EU budget, to be covered under the Justice programme for the period 2018-2020 and in large part transferred to the eu-LISA budget line, is compatible with the current Multiannual Financial Framework (MFF). From 2021 onwards, the budgetary impact is expected to be limited to the recurring costs for system maintenance, to be included in the budget of eu-LISA under the next MFF. Each Member State should bear its own costs for the

implementation, administration, use and maintenance of both ECRIS-TCN and its national criminal records and fingerprint databases.

The rapporteur considers the estimated cost to the EU budget of this proposal to be reasonable and proportionate. Although the price tag of the new proposal is significantly higher than the 2016 proposal, both to the EU budget and to Member States, significant savings in terms of administrative burden on Member State authorities (estimated at up to EUR 78 million) should also be taken into account. Nonetheless, the rapporteur urges the Commission, eu-LISA and the Member States to ensure the highest degree of cost efficiency possible throughout the roll-out and implementation of ECRIS-TCN.

Furthermore, the rapporteur emphasises that ECRIS-TCN should be designed in such a way as to facilitate future participation in a shared automated biometric matching service, using facial recognition software for more effective identification at a later stage. He also underlines the need to future-proof the system for further interoperability with other EU level databases.

Finally, the rapporteur strengthens a number of provisions on reporting and evaluation, in order to enable the budgetary authority to follow closely the development and early functioning of the new ECRIS-TCN in view of future budgetary decisions.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

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.

Amendment

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. ***The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework.***

Or. en

Amendment 2

Proposal for a regulation Article 34 – paragraph 3

Text proposed by the Commission

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

Amendment

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. ***That report shall include an overview of the budgetary and cost developments with a detailed technical and financial assessment, as well as information on any risks which could impact the overall costs of the***

divergences.

system to be borne by the general budget of the Union in accordance with Article 31. Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining *in detail* how the objectives, in particular relating to planning and costs, were achieved, as well as justifying any divergences.

Or. en

Justification

Experience with the development of other large-scale IT systems at EU-level, like the SIS II and VIS systems, revealed that these initiatives often experience long delays and escalating costs. To ensure full parliamentary scrutiny and oversight of the process and to minimise the risk of cost overruns and delays, it is suggested that eu-LISA's reporting back to the Parliament and the Council during the development of ECRIS-TCN should include an obligatory update on budgetary and cost developments.

Amendment 3

Proposal for a regulation Article 34 – paragraph 4

Text proposed by the Commission

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 functioning and use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.

Amendment

4. **One year** 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 **costs and the** security thereof, based in particular on the statistics on the functioning and use of ECRIS-TCN system and on the exchange, through the ECRIS reference implementation, of information extracted from the criminal records.

Or. en

Justification

To ensure full parliamentary scrutiny, budgetary oversight and planning and in order to detect possible changes with a budgetary impact as early as possible, it is suggested that eu-

LISA report annually on the functioning of the ECRIS-TCN, including on the cost of operations and maintenance.

Amendment 4

Proposal for a regulation Article 34 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. **One year** after the start of operations of the ECRIS-TCN system and every **two** 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, **as well as the costs**, 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, **including a detailed assessment of their budgetary implications**. The Commission shall transmit the evaluation report to the European Parliament and the Council.

Or. en

Justification

To ensure full parliamentary scrutiny, budgetary oversight and planning and in order to detect possible changes with a budgetary impact as early as possible, it is suggested that the overall evaluations take place after one year and then every two years and include an assessment of the cost of operating and maintaining the ECRIS-TCN, as well as an overview of possible budgetary implications of future operations and any proposed modifications to the system.