

## European Criminal Records Information System

During March, the European Parliament is due to vote in plenary on two legislative proposals to upgrade the European Criminal Records Information System (ECRIS). ECRIS allows judges and prosecutors to request information on the criminal history of any EU national. However, the current system does not allow easy access to information on third-country nationals convicted within the EU. The new rules aim to close this gap.

### Background

Like any EU citizen, convicted individuals can enjoy freedom of movement, and go to another EU Member State to live or work. When a person is subject to an investigation or prosecution, or intends to work with children, relevant authorities need to be able to check information on previous convictions not only in their own country, but also in all other Member States. In this context, the [European Criminal Records Information System](#) (ECRIS) was established in April 2012. It is a decentralised system, allowing the exchange of criminal records stored in national databases, upon request. Each Member State keeps a record of all convictions against its nationals, including those in other Member States, and the system works well. However, when a third-country national (TCN) is convicted, the record is stored only in the convicting Member State and there is no mechanism to identify if any holds such a record. The only way to find out is to send 'blanket' requests to all Member States. This procedure represents a huge burden and has a deterrent effect – only [10 % of all requests](#) sent through ECRIS concern TCN.

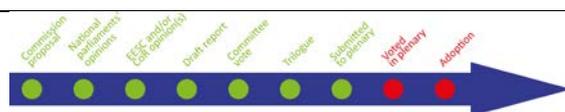
### European Commission proposals

In January 2016, the Commission adopted a proposal for a [directive](#) to improve ECRIS by setting up a search mechanism (hit/no-hit) to identify Member States that hold criminal record information on a TCN subject to criminal proceedings or background checks (i.e. for recruitment). And in June 2017, the Commission presented a supplementary proposal for a [regulation](#) creating a centralised ECRIS-TCN system, instead of a decentralised mechanism. It considers a centralised system technically more suitable for the future [interoperability](#) of EU databases. The system would contain information to identify a person and the convicting Member State, although the full criminal records would still have to be obtained through the existing ECRIS. Moreover, the Commission proposes that information on TCN should contain biometric data, and that the new rules should also apply to TCNs holding an EU nationality ('dual nationals').

### European Parliament position

Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its reports on the proposed [directive](#) and [regulation](#) in May 2016 and in January 2018 respectively. It voted amendments to ensure that the new rules respect fundamental rights (fair trial, presumption of innocence, equality before the law) and that the use of biometric data complies with the 2016 '[Data Protection Police Directive](#)'. The most controversial issue was the inclusion of dual nationals in the ECRIS-TCN system. The co-legislators reached a [provisional agreement](#) in December 2018. It was decided that ECRIS-TCN would include data on 'dual nationals'. However, at the Parliament's request, they would not be subject to the same fingerprinting requirements as TCNs, and the need for including their data would be assessed under the revision clause. Europol, Eurojust and the European Public Prosecutor's Office would have direct access to the system. The agreed text now needs to be formally adopted by Parliament, and is due to be voted in plenary in March.

First-reading reports: [2016/0002\(COD\)](#) and [2017/0144\(COD\)](#);  
Committee responsible: LIBE; Rapporteur: Daniel Dalton (ECR, United Kingdom).



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Author: Sofija Voronova, Members' Research Service  
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[eprs@ep.europa.eu](mailto:eprs@ep.europa.eu) (contact) <http://www.eprs.ep.parl.union.eu> (intranet) <http://www.europarl.europa.eu/thinktank> (internet) <http://epthinktank.eu> (blog)