



ASSOCIATION OF  
CHIEF POLICE OFFICERS



# European Criminal Records Information System

# ECRIS Non-Binding Manual for Practitioners

Council of the European Union

## Document Information

AUTHOR	ECRIS Support Programme
OWNER	Council of the European Union
ISSUE DATE	08/10/2013
VERSION	1.2
APPROVAL STATUS	FINAL

## Authors

NAME	ACRONYM	ORGANISATION	ROLE
Jessica FRASER	JF	ESP/ACRO - ECRIS Support Programme	Author
Gary LINTON	GL	ESP/ACRO - ECRIS Support Programme	Contributor Reviewer
Anja HARRIS	AH	ESP/ACRO - ECRIS Support Programme	Contributor
Sarah BRAVO-SEGURA	SBS	ESP/ACRO - ECRIS Support Programme	Contributor Reviewer
Jessica PAY	JP	ESP/ACRO - ECRIS Support Programme	Contributor Reviewer
Andrea JACKSON	AJ	ESP/ACRO - ECRIS Support Programme	Contributor Reviewer
Dennis STEPHENS	DS	ESP/ACRO – ECRIS Support Programme	Reviewer
Nicholas APPS	NA	ESP/ACRO – ECRIS Support Programme	Reviewer
Claire WILLS	CW	UKCA-ECR – United Kingdom Central Authority for the Exchange of Criminal Records	Reviewer
Philippa TUNSTALL	PT	UKCA-ECR – United Kingdom Central Authority for the Exchange of Criminal Records	Reviewer
Ludovic COLACINO DIAS	LCD	iLICONN – Intrasoft International S.A.	Reviewer
Jaime LOPEZ-LOOSVELT	JLL	COM – European Commission	Reviewer
Jorge RIBEIRO-JORDAO	JRJ	COM – European Commission	Reviewer
Christina STROMHOLM	CS	Council of the European Union	Reviewer
Elise THEVENIN-SCOTT	ETS	ESP/ACRO Partner Country, France	Reviewer
Janika TIKERPERI	JT	ESP/ACRO Partner Country, Estonia	Reviewer
Arno PARDLA	AP	ESP/ACRO Partner Country, Estonia	Reviewer
Raimonds KOKAREVICS	RK	ESP/ACRO Partner Country, Latvia	Reviewer
Alexandrs GROMOVŠ	AG	ESP/ACRO Partner Country, Latvia	Reviewer
Aiste RAUDONIUTE	AR	ESP/ACRO Partner Country, Lithuania	Reviewer
Lina SVISCIAUSKAITE	LS	ESP/ACRO Partner Country, Lithuania	Reviewer
The ESP/ACRO team acknowledge and are grateful for the group review by all Member States.			

## Document History

VERSION	DATE	AUTHOR	DESCRIPTION
0.1	14/11/2012	JF	First draft Contributions from JF, AH, SBS, JP and AJ
0.2	16/11/2012	JF	Additions to all sections Contributions by JF, SBS, JP and AJ
0.3	04/12/2012	JF	Third draft, incorporating feedback from ESP/ACRO conference
0.4	06/12/2012	JF	Review by GL with CW Contributions from SBS and JF
0.41	12/12/2012	JF	Removal of embedded documents to separate Annex folder.
0.42	02/01/2013	JF	Addition of SBS comments in line with the Business Analysis
0.43	11/01/2013	JF	Addition of JF, JLL, JRJ and CS comments
0.5	18/02/2013	JF	Addition of Member State comments
0.6	19/02/2013	JF	Draft agreed by ECRIS Expert in Brussels- Expert Meeting 19/20 <sup>th</sup> February 2013
1.0	18/04/2013	JF / GL / SBS	Review and proof read
1.0	19/04/2013	JF / GL	Final draft
1.1	12/06/2013	JF	Inclusion of comments from Friends of the Presidency Group Meeting
1.2	08/10/2013	JF	Additions to sections 2.2, 3.7, 3.1.3, 3.4.1, 4.3.1, 4.1, 4.3.1, 4.8.

This document is a revised version of the Non-Binding Manual for Practitioners, hereinafter referred to as the Manual. The first version was agreed at a COPEN meeting on 9th March 2011. Further COPEN meetings considered the content and purpose of this Manual as it developed. This revised version has been expanded further, designed to address the frequent practical occurrences of ECRIS and country specific themes which may arise during the use of ECRIS.

# ECRIS NON-BINDING MANUAL FOR PRACTITIONERS

## TABLE OF CONTENTS

<b>AUTHORS .....</b>	<b>2</b>
<b>DOCUMENT HISTORY .....</b>	<b>3</b>
<b>1. DOCUMENT .....</b>	<b>6</b>
1.1. Purpose.....	6
1.2. Procedure for Providing Updated Information .....	6
1.3. CIRCABC .....	6
<b>2. INTRODUCTION .....</b>	<b>8</b>
2.1. Background .....	8
2.2. Legal Provisions and Obligations .....	9
2.3. Helpdesk .....	10
<b>3. ECRIS INFORMATION EXCHANGE PROCESSES .....</b>	<b>11</b>
3.1. Requests .....	11
<b>3.1.1. Request Deadline.....</b>	<b>14</b>
<b>3.1.2. Request Denial.....</b>	<b>14</b>
<b>3.1.3. Request Problem .....</b>	<b>15</b>
<b>3.1.4 Requests for Additional Information.....</b>	<b>15</b>
<b>3.1.5 Request Response.....</b>	<b>17</b>
3.2. Notifications.....	18
<b>3.2.1. Notification Message.....</b>	<b>18</b>
<b>3.2.2. Notifying Subsequent Changes .....</b>	<b>19</b>
<b>3.2.3. End of Retention Period Message.....</b>	<b>19</b>
<b>3.2.4. Notifying the Formation Overall Sanction .....</b>	<b>20</b>
<b>3.2.5. Notification Receipt .....</b>	<b>21</b>
<b>3.2.6. Notification Problem.....</b>	<b>21</b>
<b>3.2.7. Cancellation Message.....</b>	<b>22</b>
3.3. Obligatory Information Required and Optional Data for Exchange, Storage	

and Retransmission .....	22
3.4. Use of Parameters .....	24
<b>3.4.1. Use of “UNKNOWN” Values.....</b>	<b>26</b>
3.5. Use of the Remarks Field.....	26
3.6. Fingerprint Exchange.....	26
3.7. Third Country Nationals .....	27
3.8. Making a Request for a National of another EU Member State .....	28
3.9. Requests under Directive 2011/93/EU.....	29
3.10. Conditions for the Use of Personal Data.....	31
3.11. Translation .....	32
<b>4. COUNTRY SPECIFIC INFORMATION .....</b>	<b>34</b>
4.1. Contact Details of Central Authorities.....	34
4.2. Use of Languages.....	34
4.3. Identification of Offenders.....	35
<b>4.3.1. Country Requirements for Identification .....</b>	<b>35</b>
<b>4.3.2. Process for Confirming Identity .....</b>	<b>36</b>
4.4. Obtaining Copies of Convictions.....	37
4.5. Retention and Deletion Rules .....	37
4.6. Exchange for Purposes Other than Criminal Proceedings .....	38
4.7. Public Holidays .....	39
4.8. Common Reference Tables.....	39
4.9. Lists of National Offences and Sanctions .....	40
<b>5. ACRONYMS AND ABBREVIATIONS .....</b>	<b>41</b>

## **ECRIS NON-BINDING MANUAL FOR PRACTITIONERS**

### **1. DOCUMENT**

#### **1.1. Purpose**

The purpose of this document is to provide the ECRIS user community with practical operational support and guidance for the use of the criminal record exchange mechanism. As outlined in the Council Decision 2009/316/JHA, this Manual includes information concerning the identification of offenders and the lists of offences and sanctions provided by Member States. As the title suggests, this Manual is not legally binding, but does reference other binding documents. The ECRIS Technical Specifications Business Analysis, which provides more detailed technical information on ECRIS, is referenced in this Manual and has been made available to the Central Authorities of all Member States.

This Manual is intended for ECRIS end users from the Central Authorities of all Member States of the European Union, hereafter referred to as the EU, legal practitioners, judicial staff and administrative authorities. It is envisaged that such practitioners will benefit from understanding the processes of obtaining previous criminal convictions from other Member States in which an individual has been convicted. This information is detailed in Chapter 3. In addition, this Manual includes Member State responses to common queries and practical experiences in the form of country specific information in Chapter 4, which may be of particular assistance to Central Authority staff.

#### **1.2. Procedure for Providing Updated Information**

The procedure for providing updated information to the Manual for Practitioners can be found on CIRCABC at <https://circabc.europa.eu>

The Manual is available in electronic format at the following location:  
CIRCABC at <https://circabc.europa.eu>

A central document store allows for the efficient updating of the Manual in one central location. The document can then be downloaded and each Member State can take action to make it available to relevant practitioners.

#### **1.3. CIRCABC**

CIRCABC is a European Commission led website that creates shared workspaces to which users can register and access the content of specific interest groups. ESP has an interest group on this site, which is restricted and registration must be requested and authorised.

Chapter 4 of this Manual references the following documents which are held on the ESP interest group on CIRCABC:

- Contact Details of Central Authorities
- Accepted Languages Matrix
- Process for Confirming Identity
- Requests for Further Information
- Retention of Criminal Record Information
- Reference Guide for Request Purposes other than Criminal Proceedings
- Public Holidays in EU Member States
- ECRIS Management of Common Reference Tables (CRT)
- Folder: Tables of Offences.
- Folder: Tables of Sanction.

Registration to CIRCABC is required to access these documents and is strongly advised. Registration is done by navigating to the CIRCABC website, selecting “not yet registered” on the login page and following the on screen prompts.

For registration to CIRBCABC, please contact the European Commission.

**Access only:** access to all spaces within the interest group with the exception of the environment parameters and statistics folders. The restricted spaces require separate permission from the ECRIS Business Support Team in order to access the information and this can be requested from the European Commission. Access only allows you to download and view documents in the group, no editing rights are granted.

**Country page editor** the same access rights as “access only” are provided, in addition to admin permissions to the spaces where there are specific country pages that are updated by countries directly. These spaces include the areas holding the Non-Binding Manual for Practitioners, the Common Reference Tables and the National Reference Tables.

Permission can also be given to access certain restricted folders on CIRCABC, for the management of technical and statistical information.

## 2. INTRODUCTION

### 2.1. Background

The exchange of criminal records between EU Member States was first regulated by the 1959 European Convention on Mutual Assistance in Criminal Matters, specifically in Articles 13 and 22. Prior to this, Member States did exchange information, but this was mostly undertaken on a bilateral basis. Whilst the Convention placed some structure around the exchange of this information, including an annual exchange of convictions, it did not clarify response times to requests for mutual assistance and there was no automation with information sent on paper. In addition, the Convention did not place any enforcement measure on the contracting parties.

The proposal of interconnecting the European criminal registers and using automated exchanges of information arose in January 2003 as a result of the Franco German summit. At this summit, both the French and German Ministers of Justice were asked to examine ways and means of facilitating access by the national judges to information on criminal records of natural persons. Shortly after this, France and Germany were joined by Spain and Belgium and the Network of Judicial Registers was set up. The interconnection and the automated exchange of notices of conviction and criminal record extracts became effective on 31 March 2006 between the four States.<sup>1</sup>

In 2005, a Commission White Paper was published followed by Council Decision 2005/876/JHA. This new Framework Decision required every country to set up a Central Authority, which would be the designated contact point for criminal record exchange, in addition to introducing turnaround times for responses to requests.

Following Council recommendations and Member State consultation, Member States agreed Council Framework Decision 2008/675/JHA, which stipulated that foreign convictions should be taken into account to the same effect that national convictions would be considered. Following negotiations in 2007, Council Framework Decision 2009/315/JHA and Council Decision 2009/316/JHA were agreed. Council Framework Decision 2009/315/JHA placed an obligation for Member States to exchange conviction information under specific circumstances<sup>2</sup> and Council Decision 2009/316/JHA focussed on the introduction of ECRIS, which is an electronic system for the exchange of criminal records, replacing the NJR pilot system and involving all Member States.

---

<sup>1</sup> The following States later joined the project: Luxembourg, Poland and the Czech Republic in 2008; Slovakia and Bulgaria in 2009; Italy in 2010; United Kingdom in 2011, followed by Portugal, the Netherlands, Lithuania, Sweden and Slovenia.

<sup>2</sup> See Chapter 2.2.



ECRIS is based on a decentralised IT architecture whereby criminal record data is stored solely in national databases and exchanged electronically between the Central Authorities of EU countries through a standardised European template. General principles governing the exchange of information and the functioning of the system are regulated in the Council Framework Decision 2009/315/JHA on exchange of information on criminal records and in the Council Decision 2009/316/JHA on the establishment of ECRIS.

The exchange of conviction information using ECRIS as a common mechanism provides several benefits for those connected Member States. The speed, efficiency and automation of transmitting information will lead to improved public safety and societal benefits for an estimated 500 million EU Citizens. The system will also give judges and prosecutors easier access to comprehensive information on the offending history of any convicted EU citizen, no matter where in the EU they have previously been convicted. Through removing the possibility for convicted persons to escape their criminal past by moving from one EU country to another, the system could also serve to prevent crime.

The security of the data is also increased as sTESTA is a secure backbone network. All messages from the Central Authority of a Member State are sent through the sTESTA channel and according to the technical specifications of ECRIS.

## **2.2. Legal Provisions and Obligations**

The Council Framework Decision 2009/315/JHA imposes the following obligations of the convicting Member State:

- Each Member State shall take the necessary measures to ensure that the nationality of an individual is recorded if he is a national of another Member State(s),
- The convicting Member State shall, as soon as possible, transmit any convictions as entered in their criminal register to the Member State(s) of that person's nationality,
- If a person convicted in a Member State is a national of several other Member States, each shall be informed of the conviction(s),
- Subsequent alterations or deletions by the convicting Member State shall be immediately transmitted to the Member State(s) of nationality,
- A copy of the conviction, subsequent measures and any other relevant information shall be sent to the requested Member State in individual cases in order to enable it to consider whether they necessitate any measure at national level,
- When conviction information is requested for the purposes of criminal proceedings from the Member State of the person's nationality, the requested Member State shall transmit information on convictions stored in the criminal register.

The Council Framework Decision 2009/315/JHA imposes the following obligations of the Member State of the person's nationality:

- All information transmitted on criminal convictions shall be stored for the purpose of retransmission,
- Any alteration or deletion made in the convicting Member State shall entail an identical alteration or deletion in the criminal register of that person's nationality,
- For the purposes of retransmission, only updated information (where applicable) shall be sent.

The Council Framework Decision 2009/315/JHA also enables a Member State to:

- Make a request for information from the criminal record for the purposes of criminal proceedings,
- Make a request for purposes other than that of criminal proceedings in accordance with its national law,
- Reply to a request for purposes other than that of criminal proceedings in accordance with its national law.

### **2.3. Helpdesk**

Article 3 of the Council Decision 2009/316/JHA requires the European Commission to provide general support and technical assistance for ECRIS. The European Commission may decide on the organisation of expert meetings devoted to ECRIS matters, which should be convened as often as important matters arise in order to ensure the continued performance of the system. Any issues proposed for discussion at an ECRIS expert meeting should be submitted to the European Commission.

### **3. ECRIS INFORMATION EXCHANGE PROCESSES**

The information in this section of the Manual concerns the practicalities of information exchange and the general use of ECRIS.

The content of the specific messages that can be sent in ECRIS are defined in the ECRIS Technical Specifications Business Analysis and the Annex to Council Framework Decision 2009/315/JHA. The information is to be transmitted by Member States in accordance with the structures, rules and standardised formats and must be as complete as possible so as to allow the receiving Member State to properly process the information.

#### **3.1. Requests**

Article 6 of the Council Framework Decision 2009/315/JHA sets out the procedure for making requests for conviction information. The Annex attached to this decision presents a template for the purpose of sending and responding to requests.

Requests for information on past convictions can be submitted both for the purposes of criminal proceedings and for purposes other than that of criminal proceedings. In the case of criminal proceedings a Member State is legally bound to reply to the request. In cases where requests are made for any other purposes than criminal proceedings, the requested Central Authority replies in accordance with its own national law. Requests are identified by competent authorities, and are directed to and processed by Central Authorities. Requests can fall into the following categories:

- Criminal proceedings,
- Request for non-criminal proceedings from a competent administrative authority,
- Request for employment vetting,
- Request for non-criminal proceedings from the person concerned for information on own criminal record,
- Request for obtaining a permit to stand for elections.

Please note, this list is non-exhaustive and requests for purposes other than that of criminal proceedings are subject to the provisions of national law.

Requests can also be received from the following authority types:

- Judicial authority,
- Competent administrative authority,
- Person concerned for information on own criminal record,
- Employer.

The request message consists of the following elements:

- Information on the requesting authority,
- Identification information of the person concerned,
- The purpose of the request,

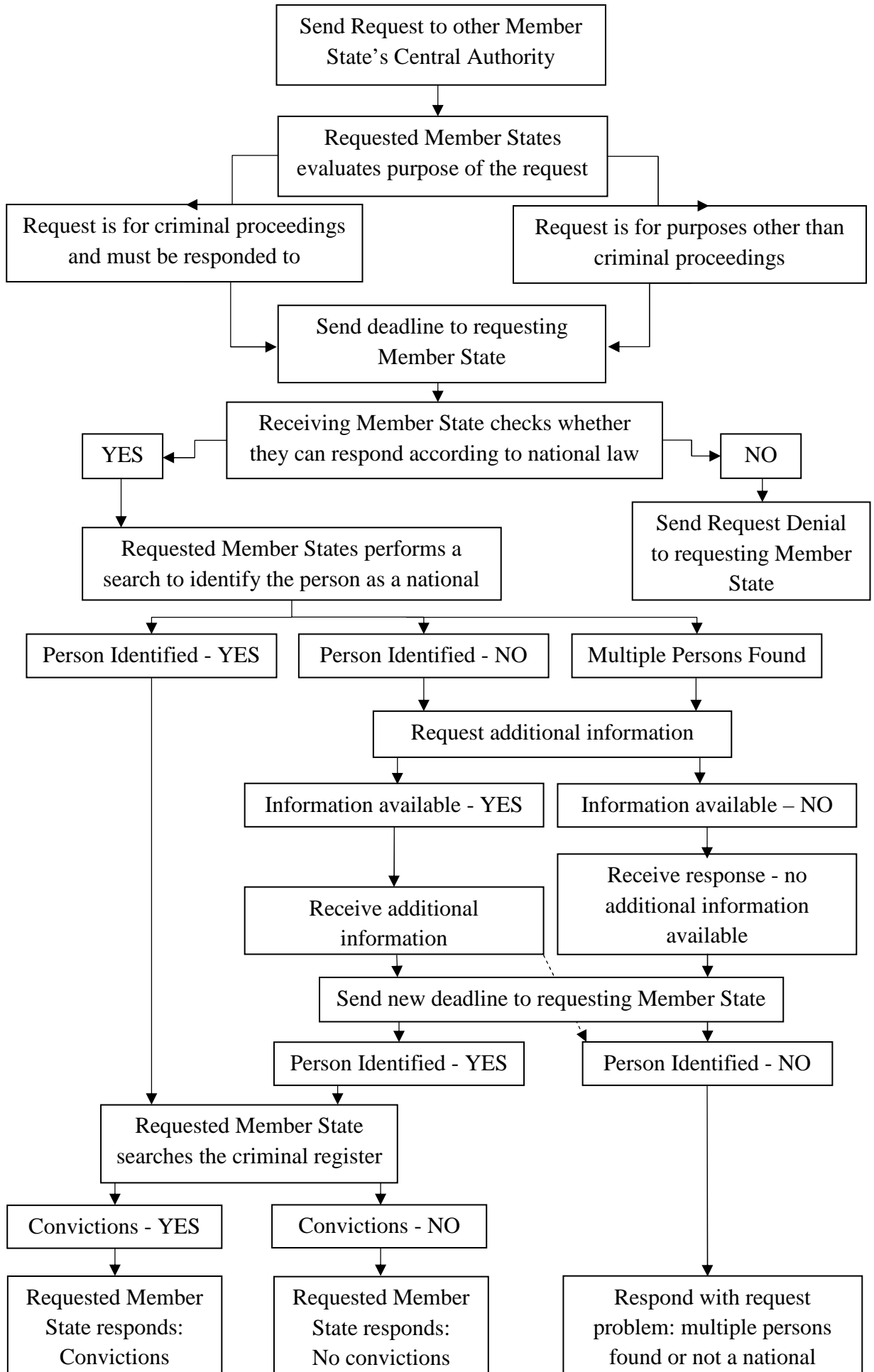
- Additional information such as the case number, the consent of the person referred to in the request (if necessary), the urgency of the request, miscellaneous remarks.

The information provided should be as complete as possible so as to allow the requested Member State to properly process the request. Before submitting the request, it may be advisable to check whether the requested Member State requires specific details and to consider which procedures are used for the verification of an identity.<sup>3</sup>

Request messages should be sent according to the flowcharts mentioned in paragraph 5.3 of ECRIS Technical Specifications Business Analysis. The following flowchart presents a simplified version which supposes that there is "National Register" allowing to verify the identity of the person and that the person is a "National" of the requested country. The ECRIS Technical Specifications Business Analysis contains further information on each request message, and the key message types have been elaborated further in this document.

---

<sup>3</sup> See Chapter 4.3.



It is important that Member States send message in the correct order in order to comply with the technical specifications of ECRIS (Business Analysis and Detailed Technical Specifications) and avoid the occurrence of functional errors.

Note that this flowchart and ECRIS Detailed Technical Specifications do not foresee the case mentioned in paragraph 6.1.1 of ECRIS Business Analysis that "if the additional information is not provided on due time, the requested Member State may reply that the matching process was not successful and that no further response can be provided so as to respect the legal deadline". So until the ECRIS Detailed Technical Specifications and the different ECRIS implementation have been updated to support this exceptional flow, it is recommended to follow this flowchart and to wait for the response on a Request for additional information before sending a request response and this even if the deadline is reached or exceeded.

### **3.1.1. Request Deadline**

In accordance with Article 8 of the Framework Decision 2009/315/JHA, responses to requests for any purpose by a judicial or administrative authority shall be transmitted to the Central Authority of the requesting Member State immediately and in any case no later than 10 working days from the date the request is received. If the request originates from an individual wishing to receive information contained in their criminal record, the deadline is set to 20 working days from the date the request is received. The above deadlines apply to requests for both the purposes of criminal proceedings and purposes other than that of criminal proceedings. The deadlines are based on the requested Member States' own calendar, taking into account public holidays and office closing days. A table of the public holidays in each Member State can be found on CIRCABC.

The "Request Deadline" message allows the requested Member State to transmit the legal deadline for response to the requesting Member State. The same type of message is used for sending the initial legal deadline as well as a new deadline by the requested Member State if applicable.

Further information on managing deadlines within ECRIS can be found in the ECRIS Technical Specifications Business Analysis at sections 5.3.5, 6.1 and 6.1.2.

### **3.1.2. Request Denial**

The "Request Denial" message can only be used to respond to requests made for purposes other than that of criminal proceedings. It is sent when the requested Member State cannot provide a response based on their national legislation or guidelines.<sup>4</sup>

---

<sup>4</sup> There are a number of Member States who apply their own internal guidelines when responding to requests for purposes other than criminal proceedings.

- Example: based on the national legislation or guidelines of the requested Member State, they cannot respond to the request for purposes other than that of criminal proceedings because they require the consent of the person concerned.

### **3.1.3. Request Problem**

When a request can be processed, Member States should carry out a search of their systems in order to identify the requested individual. The “Request Problem” message is used by the requested Member State in order to inform the requesting Member State that the request cannot be answered. A “Request Problem” message can be sent when the following circumstances apply:

- If the person is not a national of the Member State (the requested Member State has the absolute certainty that the person is not one of its nationals or that the person does not exist),
- If the personal data transmitted in the request does not allow the Member State to identify unambiguously a person (multiple persons have been found on the basis of personal data),
- If the person is deceased,
- If the fingerprints sent (where available) do not match the nominal identity information.

When sending a “Request Problem” message, one of the above reasons must be transmitted to the requesting Member State. These are mandatory fields that have pre-defined values, of which one must be selected.

The Request Response “Person is not a national of the Member State” should not be interpreted that the individual does not have any convictions, but that a response cannot be provided because the Member State(s) requested is not the Member State of nationality or is not or has never been a country resident in case of other EU Nationals or third countries Nationals.

### **3.1.4 Requests for Additional Information**

When receiving notifications or requests it is important to identify, univocally and unambiguously, one single person matching the identification data provided in the notification or request message. In cases where a person cannot be identified, the notified or requested Member State may request additional identification data from the convicting or requesting Member State by sending a “Request Additional ID Info” message.

The request for additional information may be submitted on receipt of either a notification or a request. A request message asking for further information will require a reply from the convicting / requesting Member State, either providing additional information or indicating that additional information is unavailable. Additional dialogue between the two concerned Member States should be encouraged

so as to increase the probability of finding the person.

- Example: The most common request for additional information is for identification data. In order to identify, univocally and unambiguously, one single person in the requested / notified Member State's database, the Central Authority shall indicate, in the request for further information, the list of identification elements that would be useful for uniquely and unambiguously identifying the person.
- The originating Member State can then reply with either:
  - "Additional ID Info Message". This is sent when additional information is available, and allows the Member State that requested the information to continue performing a search of the person,
  - Or "Additional ID Info Unavailable Message". This is sent when there is no additional information available, and the Member State that requested the information will have to make a decision on how to proceed based on the original message received.

If the requesting Member State receives an "Additional ID Info Unavailable" message in response to their request for additional information and the notification or request can therefore not be processed, a "Notification Problem" message should be used to respond. It is not advised to send a functional error in place of the notification problem message.<sup>5</sup>

If additional data can be provided, the search process needs to be performed again. The user will then reply to the request with one of the following:

- Request response, whether or not there are no convictions to be sent,
- The person is not a national of the Member States, in which case the request shall be rejected and a request problem issued,
- The person is deceased, in which case the request shall be rejected and a request problem issued,
- The fingerprints provided (where available) do not match the nominal identity information, in which case the request shall be rejected and a request problem issued,
- Multiple persons have been found matching the identity information that was provided, in which case the request shall be rejected and a request problem issued.

The ECRIS legal basis and the technical specifications state that a new deadline will be provided only if additional information is provided. In the case where no additional information is available, a new deadline message will be sent by the system but with the same initial deadline date.

The end user(s) in the Central Authorities should not send multiple requests for the same type of additional information. However sending multiple requests for different

---

<sup>5</sup> See Chapter 3.2.6



types of additional information is supported and can be used.

- Example: a request for additional information regarding a possible alias or pseudonym could be sent, which could then be followed by a second request to ask for additional information on the purpose of the request.

### **3.1.5 Request Response**

A “Request Response” message is sent by the requested Member State to the requesting Member State to provide the information on convictions extracted from the national criminal records register. A “Request Response” message should only be sent if the request can be processed and a single person matching the identification data has been found.

If a Request Response can be sent, it should contain the indication that either there are no convictions in the requested Member States criminal register or that convictions are stored in the requested Member States criminal register. If a check is done in a population register before searching in the criminal register, the response “No Convictions” should only be used to indicate that the requested Member State does not hold convictions and should not be used where an individual cannot be identified within a requested Member State’s population register. In that latest case, the response should be a Request problem "person is not a national of the Member State" or "multiple persons found"

A response with convictions to a request made for the purposes of criminal proceedings should contain:

- The personal identification information as found in the criminal records register of the requested Member State (if available),
- Convictions handed down in the Member State of the person’s nationality and entered in the criminal records,
- Any convictions handed down in other Member States which were transmitted to it after 27 April 2012, in application of Article 4, and stored in accordance with Article 5 (1) and (2),
- Any convictions handed down in other Member States which were transmitted to it by 27 April 2012, and entered in the criminal record,
- Any convictions handed down in third countries and subsequently transmitted to it and entered in the criminal record.

The Council Framework Decision 2009/315/JHA states that following the ECRIS implementation deadline of 27th April 2012, Member States are required to reply to requests “using the form set out in the Annex” of the Council Decision. The ECRIS RI supports this format. However, the ECRIS Framework decision also specifies in Article 11(3, 6, 7) that as from end April 2012 all transmissions shall be done electronically according to the ECRIS decision 2009/316/JHA.

The case may arise where two Member States are not yet connected through ECRIS,

so a convicting country sends a notification to the Central Authority of the person's nationality in paper format as a temporary measure until the connection can be established. If this occurs, the Member State of nationality is advised to record all information in their criminal register for the purposes of retransmission in accordance with Article 5(1) of Council Framework Decision 2009/315/JHA. If a Member State then makes a request from the Member States of nationality who holds paper convictions not electronically entered in the criminal register, bilateral discussion can be undertaken to agree a mutually convenient way to send the content of the paper notification.

### **3.2. Notifications**

Articles 4, 5 and 11 of the Council Framework Decision 2009/315/JHA stipulate the procedure for the transmission of notifications. It provides an obligation for the convicting Member State to inform the Central Authority of the Member State(s) of the person's nationality of any convictions that have been handed down within its territory against this person, as well as any subsequent alterations or removal of information affecting the information on these convictions. If the conviction relates to a person having multiple nationalities, the notification process should be made to each Member State of which the person is a national.

Council Framework Decision 2009/315/JHA also provides an obligation for the Member State(s) of nationality to store the notification details for retransmission, however it does not specify where this information should be recorded. The convictions do not necessarily need to be stored within a Member State's criminal register if the conviction would not normally be stored in the criminal register on a national basis.

All messages will be entered and transmitted in accordance with a Member State's national ECRIS software. The information must be as complete and accurate as possible so as to allow the receiving Member State to properly process the information.

Although there is no legal basis for deadlines when transmitting notifications, a rule within the ECRIS software sets a limit of 30 calendar days by which point the dialogue for the notification message can be considered finished by the convicting Member State. This avoids dialogues remaining without responses indefinitely and allows monitoring of ECRIS exchanges and collecting statistics in the case of notifications.

Detailed workflows for the notification process can be found in the ECRIS Technical Specifications Business Analysis at sections 5.2.1 and 5.2.8.

#### **3.2.1. Notification Message**

The "Notification Message" is the first message in the notifications process. It carries

information on convictions as well as information on subsequent alterations and deletions. It is sent by the convicting Member State to the Member State(s) of nationality. It relates to a single person being convicted and contains information on one single conviction. The obligatory information required for the transmission of notifications can be found in Article 11 of the Council Framework Decision 2009/315/JHA and is detailed in section 3.3 of this Manual. Other information may also be useful to aid Member States identifying an individual univocally and unambiguously. This can be found at Section 4.3 of this Manual.

### **3.2.2. Notifying Subsequent Changes**

Whenever information contained in the criminal records register of the convicting Member State is subject to subsequent modifications such as amnesty, conversion, revocation of a suspension or remission and this conviction information concerns a person being a national of one or more other Member States, the Member State(s) of nationality should be notified, without exception. This is outlined in Article 5(2) of the Council Framework Decision 2009/315/JHA.

The notification must state that it is an update of a conviction previously notified, either manually, through NJR or through ECRIS. Such subsequent modifications of a conviction must be notified using the appropriate ECRIS decision and “change type” parameter. It is advised to avoid the use of unstructured remarks.

Updates may be done in:

- Snapshot Mode: Where only the most recent update to the conviction information is shown,
- History Mode: Where the full history of the conviction to which the update applies, including the most current update, is transmitted to the Member State(s) of nationality.

When a convicting Member State notifies the Member State of nationality that a person has been rehabilitated, the parameter “r- rehabilitation” should be used to indicate this change. The rehabilitation of a person means the conviction should no longer be retransmitted to other Member States, but can be used on a national level. The field “transmittable” is a mandatory field within ECRIS and should be used to inform the receiving Member State whether the conviction can be sent on to other Member States for purposes other than that of criminal proceedings. In cases where the conviction update contains a rehabilitation, the conviction can no more be retransmitted and this takes precedence over the information selected in the field “transmittable”.

### **3.2.3. End of Retention Period Message**

The end date of the retention period can be indicated in the first notification message informing of a conviction using the property “Retention Period End Date”. When the

retention period has expired, the convicting Member State may inform the Member State(s) of nationality of this fact using the parameter “ERP – End of Retention Period”. Further details on this can be found in the ECRIS Technical Specifications Business Analysis at section 8.10.

Most Member States have indicated that they will send this notification on the first day that the conviction no longer appears in the criminal record.

- Example: if the conviction is retained until 10<sup>th</sup> July 2025, the “End of Retention Period” message will be sent on 11<sup>th</sup> July 2025.

### **3.2.4. Notifying the Formation Overall Sanction**

The formation of an overall sanction is a change that groups multiple sanctions and replaces them with a single sanction which may relate to several convictions. Multiple convictions are not to be grouped into a single notification message and the following process should be observed:

- A notification message on this new conviction is sent (with or without offences) indicating the formation of the overall sanction, linking to previous convictions using the relevant unique technical identifier,
- Each conviction being referred to by the formation of the overall sanction is then notified by sending one separate notification message for each such conviction.

For example: Nominal X had one conviction, covering 2 offences for which he received 5 sanctions. A subsequent 6 decisions were then made which were related to the 5 sanctions as follows:

1. i- Subsequent formation of an overall penalty
2. h- Revocation of suspended penalty/measure
3. j- Interruption of enforcement/postponement of the penalty/measure
4. q- Release on parole (liberation of a person before end of the sentence under certain conditions)
5. n- End of penalty
6. r- Rehabilitation (with or without the deletion of penalty from criminal records)

When sending a notification through ECRIS which contains a conviction, the following applies:

- The DECISION must link to the CONVICTION if one exists (dummy decisions can be sent for a first notification),
- The OFFENCE(S) must link to the DECISION,
- The SANCTION(S) must link to the OFFENCE(S).

Note: this is a fictional example based on a possible overall sanction scenario and does not relate to a real person.

If the overall sanction was sent without containing any offence details, it would have

to be sent as an update notification linking to the ECRIS ID for the previous notification. However, there are occasions where a country may wait (perhaps knowing a person will go to court within a month) and send all the information at once. In this case, the notification would be sent containing all the original conviction, decision, offence and sanctions details, but also include a further decision date with a final sanction that replaces the sanctions given before it.

### **3.2.5. Notification Receipt**

The “Notification Receipt” message is used by the Member State of the person’s nationality to inform the convicting Member State that the information notified has been successfully received. If applicable, the “Notification Receipt” will also inform the convicting Member State that an individual has been univocally and unambiguously identified by matching the identification details provided. In these circumstances the Member State(s) of nationality will store the notification details for the purposes of retransmission and inform the convicting Member State that the information has been successfully received.

When sending a “Notification Receipt” the personal identification data relating to the individual with whom a Member State has associated a conviction notification may be included. This allows the convicting Member State to be informed of the nominal identification being used in the Member State(s) of nationality, and may be useful where incorrect or incomplete details were provided in the original notification message.

### **3.2.6. Notification Problem**

The “Notification Problem” message is used by the Member State of the person’s nationality in order to inform the convicting Member State that the information notified previously cannot be processed, and in particular that it cannot be stored for the purpose of retransmission due to a problem. When a “Notification Problem” message is sent, a cause should be selected from one of four pre-defined values:

- The person is not a national of the Member State,
- The person is deceased,
- The fingerprints provided (where available) do not match the nominal identity provided,
- Multiple persons are identified.

The “Notification Problem” message should only be sent when a Member State intends not to store the notification details for the purposes of retransmission. A notification problem message is an end message and therefore no notification receipt should be expected. Sending information detailing why a notification cannot be stored allows the convicting Member State to consider this for future occurrences. This may decrease the number of notifications that get rejected. If no reason is sent, whilst it is still possible to send a modification, a problem is caused if the original notification

was not stored by the receiving Member State.

Using the function error message and code « MAN-1 » to reject a notification means that the data received is unusable. These cases are problematic as they do not provide sufficient information on the cause of the rejection. If a notification cannot be processed, this should be advised with a structured “Notification Problem” message, choosing one of the pre-defined causes.

A Functional Error with « MAN-1 » code should only be used in extremely rare cases where the data in the notification message does not make sense, with the remarks field used to explain the problem further.

### **3.2.7. Cancellation Message**

A “Cancellation Message” is the annulment of an ECRIS message that has been sent in error. The reasons for sending a “Cancellation Message” include:

- A message was sent by mistake to the wrong Member State,
- A user has created and sent a request response with conviction information of another person than the one requested for,
- A user has created and sent a message with the incorrect personal data,
- A user has sent a notification problem message indicating that the person is deceased and realises later that this is incorrect.

The timeframes for sending a “Cancellation Message” are dependent on the message type that needs to be cancelled. A request can be cancelled within the defined deadline of 10 or 20 working days dependant on the reason for the request. A request response can be cancelled up to 7 days after the deadline has elapsed. Notifications and notification responses can be cancelled within 30 days<sup>6</sup>

### **3.3. Obligatory Information Required and Optional Data for Exchange, Storage and Retransmission**

Article 11 of the Council Framework Decision 2009/315/JHA requires the Central Authority of the convicting Member State to transmit the obligatory information outlined below unless, in individual cases, such information is not known to the Central Authority. In addition, the Council Framework Decision 2009/315/JHA also lists the additional and optional information that can also be transmitted if available.

Obligatory information on the convicted person -

- Full name,
- Date of birth,
- Place of birth (town and State),
- Gender,

---

<sup>6</sup> See Chapter 3.1.1.

- Nationality,
- Previous name(s) (if applicable).

Obligatory information on the nature of the conviction -

- Date of conviction,
- Name of the court,
- Date on which the decision became final.

Obligatory information on the offence giving rise to the conviction -

- Date of the offence underlying the conviction,
- Name or legal classification of the offence as well as reference to the applicable legal provisions.

Obligatory information on the contents of the conviction -

- Sentence,
- Any supplementary penalties,
- Security measures,
- Subsequent decisions modifying the enforcement of the sentence.

Optional information that may be transmitted if it is entered in the criminal record is as follows:

- Convicted person's parents' names,
- Reference number of the conviction,
- Place of the offence,
- Disqualifications arising from the conviction.

Additional information that may be transmitted if it is available to the Central Authority is as follows:

- Convicted person's identity number, or the type and number of the person's identification document,
- Fingerprints, which have been taken from that person,
- Pseudonym and / or alias details (if applicable).

In accordance with Council Framework Decision 2009/315/JHA Member States may also indicate when transmitting data whether the information may be retransmitted by the receiving Member State to other Member States for purposes other than criminal proceedings.

Other information that may be useful to the requested Member State can be found on CIRCABC which details the country requirements for identification. Further details on searching national registers based on identity information provided can be found in paragraphs 5.4 to 5.4.8 of the ECRIS Technical Specifications Business Analysis.

### 3.4. Use of Parameters

Parameters are used to facilitate a fully automated exchange, and should be used wherever it is necessary and applicable. This will avoid the need to include additional information in the remarks field which in turn avoids the need for manual intervention. Parameters are, for example, used to express certain “conditions” applying to offences and sanctions, either when initially given, or as a “change type” when using the notification process to advise of subsequent alterations to a decision.

In the case of subsequent changes, the change should be added to the previous conviction information which is identified using the unique identifier in ECRIS, adding a new “decision” entity, and adding the appropriate relations to the offences and sanctions. This is preferable rather than submitting a new notification message which could give the false impression that it is an entirely new conviction. Full examples on this process are given in the ECRIS Technical Specifications Business Analysis at sections 8.1.2.

- Example: Where an individual has aided and abetted in an offence of Robbery, the corresponding offence of Robbery should be entered in ECRIS, with parameter “H” (aider and abettor or instigator / organiser, conspirator) linked to it.
  - This individual receives a prison sentence of 2 years for the robbery, suspended for a term of 6 months. At this point parameter “a” (suspended penalty / measure) should be linked to the sentence. The sentence would then be read in 2 parts as:
    - Sentence - 2 years imprisonment
    - Parameter - Suspended for 6 months

At a later date, the individual receives a pardon for this offence. This should be notified using parameter “o”, linked to the initial conviction.

It is important to understand the difference between sanctions and parameters, and ensure that parameters are not incorrectly transmitted as sentences. A further example of this is the definition of whether a sanction is a penalty or a measure. As detailed in the table below, parameter “ø” should be used to define a penalty, and “m” to define a measure. These parameters are used to qualify the type of sanction.

Annex B of the Council Decision 2009/316/JHA provides a list of parameters which can be applied to properties within ECRIS where it is necessary to give further information on certain details. The table below outlines these parameters. Paragraphs 3.7 to 3.13 and 7.3.10 to 7.3.14 of the ECRIS Technical Specifications Business Analysis describe examples of where parameters are applied to sanctions, and apply these to specific scenarios. A table listing these parameters is included below.



**Table 1. Parameters.**

<b>Offences Parameters</b>	
<b>M</b>	Perpetrator
<b>H</b>	Aider and abettor or instigator / organiser, conspirator
<b>C</b>	Completed Act
<b>A</b>	Attempt or preparation
<b>Ø</b>	Non-transmitted element
<b>S</b>	Exemption from criminal responsibility / Insanity or diminished responsibility
<b>R</b>	Recidivism
<b>Sanctions Parameters</b>	
<b>ø</b>	Penalty
<b>m</b>	Measure
<b>a</b>	Suspended penalty / measure
<b>b</b>	Partially suspended penalty / measure
<b>c</b>	Suspended penalty / measure with probation / supervision
<b>d</b>	Partially suspended penalty / measure with probation / supervision
<b>e</b>	Conversion of penalty / measure
<b>f</b>	Alternative penalty/measure imposed as principal penalty
<b>g</b>	Alternative penalty/measure imposed initially in case of non-respect of the principal penalty
<b>h</b>	Revocation of suspended penalty/measure
<b>i</b>	Subsequent formation of an overall penalty
<b>j</b>	Interruption of enforcement/postponement of the penalty/measure (1)
<b>k</b>	Remission of the penalty
<b>l</b>	Remission of the suspended penalty
<b>n</b>	End of penalty
<b>o</b>	Pardon
<b>p</b>	Amnesty
<b>q</b>	Release on parole (liberation of a person before end of the sentence under certain conditions)
<b>r</b>	Rehabilitation (with or without the deletion of penalty from criminal records)
<b>s</b>	Penalty or measure specific to minors
<b>t</b>	Non-criminal ruling ( 2 )
<b>erp</b>	End of Retention Period

Note:

(1) Does not lead to avoidance of enforcement of penalty.

(2) This parameter will be indicated only when such information is provided in reply to the request received by the Member State(s) of nationality of the person concerned.

### **3.4.1. Use of “UNKNOWN” Values**

The “UNKNOWN” value, also referred to as a “dummy” value can be used in all mandatory fields, however, should be avoided as much as possible. ECRIS has been designed to include significant amounts of codified and standard information, based on common factors required by each Member State to ensure successful exchange.

Although there may be occasional and unusual circumstances where the “UNKNOWN” value must be used, Member States should endeavour to provide the information required in each ECRIS field where they are able to do so.

The most frequent use of the “UNKNOWN” value is in the fields where a place name is required. These fields include town of birth and country of birth. It has been the case where some Member States do not specifically collect town of birth and thus resort to entering the country name in the field as an alternative. In this scenario, the dummy value “UNKNOWN” should be entered as sending an incorrect value can result in the need for manual intervention. Entering an incorrect value where the dummy value “UNKNOWN” is appropriate also interferes with the ECRIS statistics which results in a misleading figure for the use of the “UNKNOWN” value.

### **3.5. Use of the Remarks Field**

The remarks fields available in ECRIS are a simple free text element that allows carrying any additional miscellaneous information that the sending Central Authority wishes to transmit to the receiving Central Authority about the message or entity and that could not be entered in any of the other information elements.

It is important that remarks are not misused. Member States must use the structured data elements and use remarks only for information that does not have an appropriate foreseen placeholder. Remarks should only be used for further refining or clarifying the specific subsequent decision if the Member State feels that the “change type” parameter is not sufficiently precise.

- Example: for a subsequent decision to pardon an individual the most appropriate “change type” parameter “o” defined for ECRIS should be used.
- Example: when applying the sanction “2001- Prohibition from frequenting some places” the remarks field should be used to provide details of the places from which the individual has been prohibited.

### **3.6. Fingerprint Exchange**

In accordance with Article 11 of Council Framework Decision 2009/315/JHA, fingerprints shall be transmitted if available to the Central Authority. Fingerprints are optional information and thus not all Member States will be actively sending

fingerprints. Through ECRIS, fingerprints are exchanged using NIST (National Institute of Standards and Technology) files.

If a Member State indicates that they are exchanging fingerprints using the “push” approach, then this means that the target Member State’s end-point fully supports the exchange of fingerprints. Therefore NIST files are included directly in all outgoing ECRIS messages sent to that Member State.

If a Member State indicates that they are exchanging fingerprints using the “pull” approach, this means the target Member State’s end-point supports the exchange of fingerprints, but can only accept NIST files after an explicit request for this. In this case, the NIST files are not directly included in all outgoing ECRIS messages sent to that Member State. NIST files will be transmitted to the receiving Member State only after it has explicitly requested the electronic fingerprints using the “Request for Additional Information” message.

- Example 1: Member State 1 sends a notification with the fingerprints attached to the message to Member State 2. Member State 2 has fingerprints set to “pull”, so when the notification is received, they receive the indication of available fingerprints. Later in a reply to a request for additional information, Member State 2 can receive the attached fingerprints.
- Example 2: Member State 2 sends a notification to Member State 1 who has fingerprints set to “push” so when the notification is received, they then automatically receive the file.

### **3.7. Third Country Nationals**

The term Third Country National (TCN) relates to any person who is not a national of any one of the 28 EU Member States or, by extension, a citizen of the EU. The use of this terminology may also refer to an individual who is deemed to be “stateless”, whereby the relevant country of nationality cannot be identified.

Article 7(4) of the Council Framework Decision 2009/315/JHA on replying to requests for information on convictions implies that requests are not restricted to EU nationals and can be made for TCNs or nationals of another EU Member State. The requirement for a Member State to make such a request may arise in some circumstances. A Member State may deem it appropriate to make a request for a TCN when the subject of the request is known to have either resided in or have substantial links to that country. Importantly, it is assumed that the requesting authorities of Member States will only submit requests for TCNs in cases that they reasonably expect that the requested Member State may have information on the given person.

- Example: A non-EU national is convicted in EU Member State 1 and informs the police that they lived in another EU Member State 2 for 5 years. Member State 1 can use this information to make a request to Member State 2 on the

basis that during the substantial time they lived there, they may have been convicted.

The Common Reference Tables listing the pre-defined values for countries includes all known countries and a special value that can be used for stateless persons. This will allow the correct nationality to be entered when dealing with TCNs.

The format for replies to requests of this nature has previously been discussed by Member States. It has been suggested that replying using the “Request Problem-Person is not a National of the Member State” message does not sufficiently indicate to Judges whether the requested Member State has convictions for the individual. In order to overcome this problem, it has been proposed that if there are convictions for a TCN request, the response should include information on convictions handed down in the requested Member State. If no convictions are found for a TCN request, a response should be sent indicating that there are no convictions for that individual. Bilateral communication is encouraged to ensure the appropriate response is sent and understood correctly.

The European Commission are in the process of carrying out an impact assessment to evaluate the impact on the exchanges of criminal record information for TCN’s. More examination is needed and work is now being undertaken on a proposal due to be completed by the end of 2014.

### **3.8. Making a Request for a National of another EU Member State**

The ECRIS Technical Specifications Business Analysis section 5.3.2 explains that a request can be made to the Central Authority of a Member State not of the person’s nationality. This could occur when, following a request for purposes other than criminal proceedings, the Member State of the person’s nationality responds informing the requesting country that there are convictions in another Member State.

Prior to the implementation of ECRIS, the 1959 European Convention on Mutual Assistance in Criminal Matters placed an obligation for Member States to send notifications once a year and Council Decision 2005/876/JHA stated conviction information should be sent without delay. There was, however, limited enforcement powers. It is therefore possible that some notifications would not have been sent to the Member State of the person’s nationality, including the updates that would be associated with them.

- Example: a national from Member State 1 is convicted in Member State 2. They are now the subject of criminal proceedings in Member State 3, who believe there are convictions from Member State 2. When a request is made to Member State 1, the country of nationality, they return a “no convictions” response.

This highlights a scenario where a Member State may wish to make a request for

convictions from a Member State where a person was convicted, when the Member State of the person's nationality has not been sent the information. This type of request is not foreseen in the ECRIS Technical Specifications Business Analysis, the Council Decision 2009/316/JHA or Council Framework Decision 2009/315/JHA.

This is a difficult area and two possible solutions were discussed at the ECRIS Expert meeting in February 2013:

- Option 1- in the case that the requesting Member State reasonably expects the convicting country to have information on the given person, a request can be made to that convicting country. The convicting country then replies with the conviction and sends a new notification to the Member State of nationality.
- Option 2- the requesting Member State informs the country of nationality that they reasonably expect another country to have convictions on their national that they are missing. The Member State of nationality then makes a request to the convicting country, and subsequently sends the information to the initial requesting country.

Bilateral communication is encouraged in order to ascertain the most appropriate way to receive the conviction information.

### **3.9. Requests under Directive 2011/93/EU**

Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography “establishes minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It also introduces provisions to strengthen the prevention of those crimes and the protection of the victims thereof”. The deadline for compliance is 18<sup>th</sup> December 2013.

Article 10(2) outlines the entitlement for employers to request relevant criminal convictions of those seeking employment with children and Article 10(3) obliges requested Member States to respond with the below information:

*Article 10(2): “Member States shall take the necessary measures to ensure that employers, when recruiting a person for professional or organised voluntary activities involving direct and regular contacts with children, are entitled to request information in accordance with national law by way of any appropriate means, such as access upon request or via the person concerned, of the existence of criminal convictions for any of the offences referred to in Articles 3 to 7 entered in the criminal record or of the existence of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions.”*

*Article 10(3): “Member States shall take the necessary measures to ensure that,*

*for the application of paragraphs 1 and 2 of this Article, information concerning the existence of criminal convictions for any of the offences referred to in Articles 3 to 7, or of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions, is transmitted in accordance with the procedures set out in 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 ( 2 ) when requested under Article 6 of that Framework Decision with the consent of the person concerned.”*

The information extracted from the criminal register sent in response to requests made under this Directive shall include the sexual offences referred to in the Directive accompanied by the disqualifications that arise from those criminal convictions. It may be the case that disqualifications are not recorded in the criminal register, thus Member States are advised to ensure all relevant registers are checked for information.

In the current situation, all ECRIS requests are to be responded within 10 working days at the exception of requests issued on behalf of the person itself for information on his/her own criminal records. It is considered that requests made under the Directive 2011/93/EU should be responded to within 10 working days (article 8(1) of ECRIS framework) as those requests fall under the ECRIS Framework Decision Article 6(1) – Requests that are for criminal proceeding or other purposes but are not for "own criminal records by the person himself”.

Information sent in accordance with Article 10(2) and Article 10(3) should be transmitted in accordance with the procedures set out in Council Framework Decision 2009/315/JHA. This refers to the form in the Annex of the Council Framework Decision. However, the ECRIS Framework decision also specifies in Article 11(3, 6, 7) that as from end April 2012 all transmissions shall be done electronically according to the ECRIS decision 2009/316/JHA. So, all transmissions must be done via ECRIS. Transmission of information by any other means including paper format, is possible for Member not yet connected to ECRIS but is subjected to mutual bilateral agreement between Member States.

The ECRIS request message already includes the flag “Consent” that can be used by the central authority for indicating explicitly whether the request is issued with the consent of the person concerned or not. In ECRIS the general principle followed is that the central authority issuing the request must specify using this flag whether the person concerned by the request has given its consent or not. The requesting central authority is responsible for ensuring that the consent of the person has been asked and has been granted. The requested central authority shall not ask for additional proof of

this consent but shall trust the requesting central authority that such consent has been granted if it has been indicated so in the request message. This principle is also to be applied in the case covered by the EU directive 2011/93/EU..

In order to streamline the electronic exchange process, the ECRIS RI is undergoing technical developments to allow information to be sent through this channel. The following amendments have been made to the ECRIS Technical Specifications with a view to inclusion in the next version of the ECRIS national implementation and the ECRIS RI:

- It is proposed to replace the request purpose category “003 001 - Request for employment in relation with children” with “003 101 – Request for professional or organised voluntary activities involving direct and regular contacts with children”.
- It is proposed to define a series of new common sub-categories of offences so as to be able to more precisely inform a Member State of the type of offence that has been perpetrated. A list of the sub-categories proposed can be found in the ECRIS Maintenance 2013 Proposal for implementation of EU Directive 2011/93/EU in ECRIS.
- It is proposed to also forbid the rejection of requests if the request has been issued for the new specific purpose “003 101 – Request for professional or organised voluntary activities involving direct and regular contacts with children” and the request indicates that the person concerned by the request has given their consent. Please note however that Denmark is not taking part in the adoption of the 2011/93/EU Directive and is not bound by it or subject to its application. Therefore this restriction does not apply to any request messages with purpose 003 101 – Request for professional or organised voluntary activities involving direct and regular contacts with children” that is sent to or received from the Danish Central Authority.
- It is proposed to add new statistical indicators to monitor the number of requests made under the new request purpose category, the number of late responses, the number of requests that remain unanswered, the number of requests made without the consent of the person concerned and the number of requests that are rejected.

### **3.10. Conditions for the Use of Personal Data**

Article 9 of the Council Framework Decision 2009/315/JHA includes a number of principles regarding the further use of personal data acquired through the exchange of conviction information. These principles relate to three main areas:

- 1) The use of personal data acquired for the purposes of criminal proceedings and for purposes other than criminal proceedings,
- 2) The use of personal data in preventing an immediate and serious threat to public security,
- 3) The transmission of personal data to third countries.

The primary stipulations of Article 9 are as follows:

- Personal data provided for the purposes of criminal proceedings may be used by the requesting Member State only for the purposes of the criminal proceedings for which it was requested,
- Personal data provided for any purpose other than that of criminal proceedings may be used by the requesting Member State in accordance with its national law and only for the purpose for which it was requested,
- Data acquired by Member States for purposes other than that of criminal proceedings must be used within the limits specified by the requested Member State,
- Notwithstanding the above mentioned points, personal data may be used by the requesting Member State for preventing an immediate and serious threat to public security,
- Member States shall take the necessary measures to ensure that personal data received from another Member State under Article 4 (“Obligations of the convicting Member State”), if transmitted to a third country in accordance with Article 7 (“Reply to a request for information on convictions”), is subject to the same usage limitations as those applicable in a requesting Member State,
- Member States shall specify that personal data, if transmitted to a third country for the purposes of a criminal proceeding, may be further used by that third country only for the purposes of criminal proceedings.

The conditions for the use of personal data as set out in Article 9 do not apply to personal data obtained by a Member State under the Framework if the information originated from that Member State.

### **3.11. Translation**

The inclusion of Reference Tables and Standardised Information Elements within ECRIS provides capacity for the automatic translation of some details.

Where the ECRIS system does not accommodate automatic translation, notifications may be received from the convicting Member State in a language that is not one of the official languages of the Member State(s) of nationality. The notification may need to be translated by the receiving Member State before its Central Authority can use it, for example before registering the information in the national criminal register.

Notifications are to be made in the official language or one of the official languages of the convicting Member State.

Requests are to be sent in one of the official languages of the requested Member State. The requested Member State shall reply either in one of its official languages or in any other language accepted by both Member States. Where criminal convictions from a third Member State are stored in the Member State(s) of nationality, these may



need to be translated into an official language of the requested Member State, or any other language accepted by both the requested and requesting Member States, before they are retransmitted.

A matrix showing the languages that will be accepted by each Member State can be found on CIRCABC. English has become an increasingly accepted language used across EU Member States, which is reflected in the matrix.<sup>7</sup>

---

<sup>7</sup> See Chapter 4.2.

## 4. COUNTRY SPECIFIC INFORMATION

The information in this section of the Manual has been provided by Member States and is intended for information purposes only. Each document outlined in this Chapter has been included as an embedded document and all are living documents for which each Member State is responsible for updating their individual sections.

The documents described in this Chapter can also be found on the ESP interest group on CIRCABC.

The procedure detailing how to make updates or amendments to your respective country section can be found on CIRCABC.

### 4.1. Contact Details of Central Authorities

In accordance with Article 3 of the Council Framework Decision 2009/315/JHA, Member States are obliged to designate a Central Authority. The Central Authority of each Member State ensures the exchange of information on convictions in accordance with the rules set out in the Council Framework Decision 2009/315/JHA. Each Member State shall inform the General Secretariat of the Council and the Commission of the Central Authority or Authorities designated. Subsequently, the General Secretariat of the Council shall notify the Member States of this information.

Contact details for each Member State can be used for example, in the case of specific enquiries or bi-lateral communication.

Document: Contact Details of Central Authorities.



Annex 1 Contact  
details of Central Au

### 4.2. Use of Languages

As described in Chapter 3.10, requests and responses to requests should be sent in one of the official languages of the requesting or the requested Member State.

A table is available on CIRCABC outlining Member States positions regarding the use of languages when receiving requests. This details the languages countries will accept when receiving requests, and use when responding to requests.

Document: Accepted Languages Matrix.



Z:\Information  
Centre\Manual for Pr

### **4.3. Identification of Offenders**

Each Member State uses a variety of personal data in order to identify persons in their national and criminal registers. Council Decision 2009/316/JHA foresees that the Manual sets out the procedure for the exchange of information through ECRIS, addressing in particular the different methods used to identify offenders.

#### **4.3.1. Country Requirements for Identification**

The ECRIS Technical Specifications Business Analysis, section 3.15 defines the obligatory and mandatory identification requirements for use in ECRIS, which relate to the identification fields used to send notifications and requests:

- **Obligatory:** Member States have a legal obligation to provide this information unless not available in individual cases.
- **Mandatory:** an operational necessity to provide the information and that a value must be provided from a technical stand-point, but this does not imply a legal obligation or duty. Dummy values are available if mandatory information is not known.

The following enumerative list of data, taken from the ECRIS Technical Specifications Business Analysis can be used to identify a convicted person in each Member State's criminal register. The following obligatory information is contained in mandatory ECRIS fields:

- Forename,
- Surname,
- Sex,
- Birth date,
- Birth place (town and state),
- Nationality.

The following non-mandatory fields are additional identification that can be transmitted:

- Second surname,
- Full name in an unstructured format,
- Former forename,
- Former surname,
- Former second surname,
- Mother forename,

- Mother surname
- Mother second surname,
- Father forename,
- Father surname,
- Father second surname,
- Identity number,
- Identification document,
- Address,
- Pseudonym or Alias details (name and date of birth),
- Fingerprints.

In the case where an individual has more than one last name, it is important that a Member State records all of these last names. The information should be presented in the order that it appears on the individual's relevant identity documents, if available, or the correct order ascertained from the individual themselves.

Member States are advised to familiarise themselves with the specific identification procedure of other Member States to ensure that criminal record exchange is as efficient as possible.

In the unusual circumstance that not all the identification data is available when sending a request or notification, it is advisable to approach the receiving country as it may still be possible to process the information without all the identification information.

The below document lists the information that is regarded as “useful”. The document is intended to be a guide for Member States to review the information collected from a convicted person to increase the likelihood of a positive identification match to requests and notifications through ECRIS. It should not deter Member States from making requests if they do not have all the information outlined in the table, but serve to inform as to what information the convicting Member State could endeavour to collect from foreign nationals.



Annex 11 Country  
Requirements for Id

#### **4.3.2. Process for Confirming Identity**

Information on the registers that are used to identify a person, for instance the criminal register or a national record of citizens can be found using the link below.

Document: Process for Confirming Identity.



Z:\Information  
Centre\Manual for Pr

#### **4.4. Obtaining Copies of Convictions**

Article 4(4) of Council Framework Decision 2009/315/JHA states that:

*“Any Member State which has provided information under paragraphs 2 and 3 shall communicate to the Central Authority of the Member State of the person’s nationality, on the latter’s request in individual cases, a copy of convictions and subsequent measures as well as any other information relevant thereto in order to enable it to consider whether they necessitate any measure at national level.”*

In practice, it is not always the Central Authority who is able to obtain a copy of the original conviction requested by another Member State. A guidance document provides information on the procedures in each country, in regards to a Central Authority making a request for further information on the convictions of an individual. This document includes details of the processes that Central Authorities follow when this information is requested, and the steps that Member States should follow when requesting further information on convictions.

Document: Requests for Further Information.



Z:\Information  
Centre\Manual for Pr

#### **4.5. Retention and Deletion Rules**

Article 4(3) of the Council Framework Decision 2009/315/JHA states that:

*“Information on subsequent alteration or deletion of information contained in the criminal record shall be immediately transmitted by the central authority of the convicting Member State to the central authority of the Member State of the person’s nationality”*

Article 5(2) states that:

*“Any alteration or deletion of information transmitted in accordance with Article 4(3) shall entail identical alteration or deletion by the Member State of the person’s nationality.”*

Although the term “immediate” has not been defined in this context, it is recommended that Member States consider the risks of not sending expired

convictions soon after the alteration has been applied. It is therefore advisable that the convicting Member State informs the Member State(s) of nationality as quickly as is practically possible that a conviction has been altered.

It is the obligation of the convicting Member State to inform the Member State(s) of nationality when a conviction is to be deleted. Once the Member State(s) of nationality has been notified of the deletion, the relevant conviction information must not be retransmitted to other Member States. A guidance document has been produced describing the retention and deletion rules and guidelines across Europe.

Document: Retention of Criminal Record Information.



Z:\Information  
Centre\Manual for Pr

#### **4.6. Exchange for Purposes Other than Criminal Proceedings**

Article 6(2) of the Council Framework Decision 2009/315/JHA allows for a request to be made for conviction information for any purpose other than that of criminal proceedings. Requests of this nature should be made in accordance with the national law of the requesting Member State and responses should be issued in line with the national law of the requested Member State, as detailed in Article 7(2).

When responding, Member States may wish to send a list of Member States that can be contacted for receiving additional convictions as described in the ECRIS Technical Specifications Business Analysis at section 5.3.13 and 5.3.14.

The following information has been captured in a Reference Guide for Request Purposes Other Than Criminal Proceedings:

- Member States who can accept requests,
- Legislation that enables conviction information to be shared,
- Bi-lateral arrangements with other Member States,
- Charges applied to providing responses to requests,
- Requirement for the consent of the individual,
- Legislation that allows an individual to obtain a copy of their criminal record,
- Organisations which carry out domestic checks,
- Level of disclosure provided to requesting Member States,
- Requirement for the reason a request has been made and if this affects the level of disclosure,
- Specific purposes for which a response to a request can be sent.

A report entitled “Report on the Exchange of Criminal Records for Purposes Other Than Criminal Proceedings” is available on CIRCABC. This contains findings

regarding the procedural diversity across Member States when exchanging criminal records for purposes other than criminal proceedings. For example, details are given regarding whether consent is required from the individual concerned, and whether Member States provide a full or redacted extract of the criminal record.

Neither the Council Decision 2009/316/JHA nor Council Framework Decision 2009/315/JHA establish any obligation to exchange information about non-criminal rulings, nor do they mandate a charging regime for exchange.

The Reference Guide for Request Purposes Other Than Criminal Proceedings is available on CIRCABC.

#### **4.7. Public Holidays**

As detailed in chapter 3.1.3 responses to requests are based on the requested Member State's own calendar, taking into account public holidays and office closures. A table detailing the public holidays in each Member State can be found using the link below.

Document: Public Holidays in EU Member States.



Z:\Information  
Centre\Manual for Pr

#### **4.8. Common Reference Tables**

The ECRIS software includes built in Common Reference Tables. These are a list of pre-determined values which are common to all Member States. The information provided by each Member State has been translated by some Member States into their official language(s).

From a technical point of view, the information for such standardised elements is transmitted by the sending Member State using a technical code so that the receiving Member State's ECRIS software can automatically handle the information, reducing the need for translation or transliteration.

The Common Reference Tables are maintained by the European Commission. The procedure for updating Common Reference Tables can be found on CIRCABC and in the ECRIS Technical Specifications Business Analysis at section 7.1.4.

When the Common Reference Tables are updated by Member States, the European Commission will manage the distribution of a new version. It is advised that Member States install the new versions of the Common Reference Table at the earliest opportunity. This will avoid the occurrence of functional errors when information contained in an updated table is sent to a country using an older version without this information.

Document: ECRIS Management of Common Reference Tables (CRT).



Annex 8 ECRIS  
Management of CRT

#### **4.9. Lists of National Offences and Sanctions**

In line with Article 5 of the Council Decision 2009/316/JHA, Member States are required to transmit lists of national offences and sanctions assigned to particular codes from Annexes A and B of the Council Decision.

The information referenced in Annex A shall include the name or legal classification of the offence and reference to the applicable legal provisions. The information referenced to Annex B shall include the list of types of sentences, possible supplementary penalties and security measures and possible subsequent decisions modifying the enforcement of the sentence as defined in national law.

Member States can include a short description of the consecutive elements of offences and sanctions. The lists of national offences and sanctions are attached below, and should be updated by Member States on a regular basis in consultation with technical staff and the European Commission.

Folder: Tables of Offences.



Annex 9 Tables of  
Offences.zip

Folder: Tables of Sanction.



Annex 10 Tables of  
Sanctions.zip



## 5. **ACRONYMS AND ABBREVIATIONS**

CIRCABC- Communication and Information Resource Centre Administration for Businesses and Citizens

COPEN- Working Party on Co-operation in Criminal Matters

CRT- Common Reference Tables

ECRIS- European Criminal Records Information System

ECRIS RI- ECRIS Reference Implementation

EJN- European Judicial Network

**ESP- ECRIS Support Programme**

**EU- European Union**

NIST- National Institute of Standards and Technology

NJR- Network of Judicial Registers

sTESTA- Secure Trans European Services for Telematics between Administrations

TCN- Third Country Nationals