Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.



Number 51 *of* 2019

CRIMINAL RECORDS (EXCHANGE OF INFORMATION) ACT 2019

REVISED

Updated to 2 April 2025

This Revised Act is an administrative consolidation of the *Criminal Records (Exchange of Information) Act 2019*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Merchant Shipping (Investigation of Marine Accidents) Act 2025* (2/2025), enacted 14 April 2025, and all statutory instruments up to and including the *Policing, Security and Community Safety Act 2024 (Commencement) Order 2025* (S.I. No. 107 of 2025), made 2 April 2025, were considered in the preparation of this Revised Act.

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CRIMINAL RECORDS (EXCHANGE OF INFORMATION) ACT 2019

REVISED

Updated to 2 April 2025

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Number 51 *of* 2019

CRIMINAL RECORDS (EXCHANGE OF INFORMATION) ACT 2019

REVISED

Updated to 2 April 2025

An Act to give effect to Council Framework Decision 2009/315/JHA[1] of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States; to give effect to Council Decision 2009/316/JHA[2] of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA; and to provide for related matters.

[26*th December*, 2019]

Be it enacted by the Oireachtas as follows:

Interpretation

1. (1) In this Act—

"Central Authority" means the central authority designated in the State under *section 2*;

"central authority", in relation to a Member State, means a central authority designated in that Member State in accordance with Article 3 of the Framework Decision;

"conviction", in relation to a person, means the conviction by a court of a natural person of an offence or, in the case of an appeal (whether against conviction or sentence, or both), the final decision of a court of the appeal or the withdrawal of the appeal, as recorded in the Criminal Records Database or, as the case may be, the criminal record of a Member State;

"court" means—

(a) in relation to a conviction of a person in the State, any court in the State exercising criminal jurisdiction and includes a Special Criminal Court but does not include a court martial, or

(b) in relation to a conviction of a person in a Member State or a third country, any court in the Member State or, as the case may be, third country exercising criminal jurisdiction;

"criminal record", in relation to a Member State, means, subject to *section 6(5)*, the national register or registers in the Member State containing a record of convictions in accordance with its national law;

"Criminal Records Database" means the database maintained by the Garda Síochána that contains a record of convictions;

[1] OJ No. L 93, 7.4.2009, p. 23.
[2] OJ No. L 93, 7.4.2009, p. 33.

"enactment" has the same meaning as it has in the Interpretation Act 2005;

"Framework Decision" means 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, the text of which in the English language is for convenience of reference set out in *Schedule 1*;

"Member State" means a Member State of the European Union other than the State;

"requesting Member State" shall be construed in accordance with *section 7*;

"third country" means a country or territory other than the State or a Member State.

(2) A word or expression that is used in this Act and is also used in the Framework Decision has, unless the context otherwise requires, the same meaning in this Act as it has in the Framework Decision.

Central Authority in State

2. (1) The Garda Commissioner is designated as the Central Authority in the State for the purposes of this Act and the Framework Decision.

(2) The Garda Commissioner may delegate in writing (in this section referred to as a "delegation") such functions of the Central Authority as may be specified in the delegation to—

(a) members of the Garda Síochána specified by rank or name, or

F1**[**(b) members of garda staff (within the meaning of the Policing, Security and Community Safety Act 2024) specified by grade, position, name or otherwise,**]**

and different functions may be so delegated to different persons.

(3) A delegation may—

(a) relate to the performance of a function either generally or in a particular case or class of case or in respect of a particular matter,

(b) be made subject to conditions or restrictions, and

(c) be revoked or varied by the Garda Commissioner at any time.

(4) A delegation does not preclude the Garda Commissioner from performing the function or functions to which the delegation relates.

(5) While a delegation is in force, a reference in this Act to the Central Authority, in so far as it relates to the performance of a function specified in the delegation, shall be construed as a reference to the person to whom the function is so delegated.

(6) An act or thing done by a person pursuant to a delegation has the same force and effect as if done by the Garda Commissioner.

(7) In this section, "Garda Commissioner" means the Commissioner of the Garda Síochána.

Recording of nationality of convicted persons

3. The Central Authority shall take such steps as may be necessary to ensure that when information relating to a conviction in the State of a person is recorded on the Criminal Records Database, it shall be accompanied by information, where available, in respect of the nationality or nationalities of the convicted person.

Information relating to conviction in State of person who is national of Member State

4. (1) Where a person is—

(a) convicted in the State of an offence, and

(b) a national of one or more Member States,

the Central Authority shall, as soon as practicable, inform the central authority of the Member State, or of each Member State of which it is known that the convicted person is a national, of the conviction by transmitting to such central authority or central authorities concerned the information specified in *Schedule 2* in relation to that conviction.

(2) When transmitting information to a central authority under *subsection (1)*, the Central Authority may include any other information contained in the Criminal Records Database relating to the conviction that is in addition to the information specified in *Schedule 2*.

(3) Where information transmitted to a central authority under *subsection (1)* or *(2)* is subsequently altered or deleted in the Criminal Records Database, the Central Authority shall, as soon as practicable, transmit the information as so altered or deleted to the central authority concerned.

(4) Where information is transmitted to a central authority under *subsection (1)* or *(2)* the Central Authority shall, on the request of the central authority concerned in an individual case, transmit to such central authority a copy of the conviction and any sentence imposed, or related order of a court, in respect of the conviction and any other information relevant thereto, for the purpose of enabling that central authority to consider whether any measures are necessitated in the Member State of the person's nationality.

(5) When transmitting information to the central authority of a Member State in accordance with this section, the Central Authority may inform the central authority concerned that the information transmitted may not be retransmitted for any purposes other than for the purpose of criminal proceedings.

(6) This section applies irrespective of whether or not the person referred to in *subsection (1)* is also a national of the State.

Information received under Article 4 of Framework Decision

5. (1) Where the Central Authority receives information from a central authority of a Member State under Article 4(2) or (3) of the Framework Decision relating to a conviction in a Member State of a person who is national of the State, the Central Authority—

(a) shall store such of the information as falls within the categories of information to which *paragraphs 1* and *2* of *Schedule 2* apply, and

(b) may store such of the information as falls within the categories of information to which *paragraph 3* of *Schedule 2* applies or any other information transmitted to it concerning the conviction,

for the purpose of retransmitting such information in accordance with *section 7*.

(2) Where the Central Authority receives information from a central authority of a Member State under Article 4(3) of the Framework Decision in relation to the alteration or deletion of information stored in accordance with *subsection (1)*, the Central Authority shall alter or delete the stored information accordingly and shall retransmit such information in accordance with *section 7*.

(3) Upon receiving information referred to in *subsections (1)* or *(2)* from a central authority of a Member State, the Central Authority may, in individual cases, request from the central authority concerned a copy of the conviction and any sentence imposed, or any related order of a court, in respect of the conviction, and any other information relevant thereto, in order to enable it to consider whether any measures are necessitated in the State.

Request for information under Article 6 of Framework Decision

6. (1) Where information from the Criminal Records Database in relation to a person is required—

(a) for the purposes of criminal proceedings against the person in the State, or

(b) by or under any enactment or rule of law for a purpose specified in *Schedule 3*,

the Central Authority may, in accordance with *subsection (4)*, submit a request under Article 6 of the Framework Decision to the central authority of a Member State for information contained in the criminal record of the Member State in relation to the person for that purpose.

(2) Where a person who is a national of a Member State makes a request to the Garda Síochána for a copy of his or her criminal record, the Central Authority shall submit a request to the central authority of the Member State for information contained in the criminal record of that Member State in relation to the person, for the purpose of including the information in the information provided by it to the person.

(3) Where a person makes a request to the Garda Síochána for a copy of his or her criminal record, the Central Authority may, for the purposes of including the information in the information provided by the Central Authority to the person—

(a) in the case of a person who is or was a national or a resident of the State, submit a request to the central authority of a Member State, for information contained in the criminal record of the Member State in relation to the person, or

(b) in the case of a person who is or was a national or a resident of a Member State, submit a request to the central authority of a Member State, for information contained in the criminal record of the Member State in relation to the person.

(4) A request made under this section by the Central Authority shall be made using the form set out in the Annex to the Framework Decision in the official language, or one of the official languages, of the Member State to whom the request is submitted.

(5) In *subsections (2)* and *(3)*, "criminal record", in relation to a person and his or her own criminal record, means a record of the person's convictions, whether within or outside the State.

Reply to request for information under Article 6 of Framework Decision in relation to person who is national of State

7. (1) This section applies to a request made to the Central Authority by a central authority of a Member State (in this Act referred to as the "requesting Member State") under Article 6 of the Framework Decision for information contained in the Criminal Record Database in relation to a person who is a national of the State.

(2) Where a request to which this section applies is made for the purposes of criminal proceedings in the requesting Member State, the Central Authority shall transmit to the central authority of the requesting Member State the following information (if any) in relation to the person who is the subject of the request:

(a) information relating to convictions in the State contained in the Criminal Records Database;

(b) information relating to convictions in a Member State transmitted to the Central Authority after 27 April 2012 under Article 4 of the Framework Decision and stored in accordance with *section 5*;

(c) information relating to convictions in a Member State transmitted to the Central Authority on or before 27 April 2012 and contained in the Criminal Records Database;

(d) information relating to convictions in a third country transmitted to the Central Authority and contained in the Criminal Records Database.

(3) Where a request to which this section applies is made for a purpose specified in *Schedule 3*, the Central Authority shall, subject to *subsection (4)*, transmit to the central authority of the requesting Member State the following information (if any) in relation to the person the subject of the request:

(a) information relating to convictions in the State contained in the Criminal Records Database;

(b) information relating to convictions in a Member State transmitted to the Central Authority after 27 April 2012 under Article 4 of the Framework Decision and stored in accordance with *section 5*;

(c) information relating to convictions in a Member State transmitted to the Central Authority on or before 27 April 2012 and contained in the Criminal Records Database;

(d) information relating to convictions in a third country transmitted to the Central Authority and contained in the Criminal Records Database.

(4) (a) The Central Authority shall not transmit information under *subsection (3)(b)* relating to convictions in a Member State (in this subsection referred to as the "convicting Member State") where the central authority of the convicting Member State who transmitted that information to the Central Authority informed it that the information may not be retransmitted for any purposes other than the purpose of criminal proceedings.

(b) In a case to which *paragraph (a)* applies, the Central Authority shall inform the central authority of the requesting Member State of the

convicting Member State who transmitted the information concerned to it under Article 4 of the Framework Decision, so as to enable the central authority of the requesting Member State to submit a request for such information directly to the convicting Member State.

(5) The Central Authority shall ensure that any information transmitted under *subsection (2)(b)* or *(3)(b)* has been updated (if applicable) in accordance with *section 5(2)*.

(6) (a) The Central Authority shall reply to a request referred to in *subsection (1)* using the form set out in the Annex to the Framework Decision.

(b) The reply shall be—

(i) in one of the official languages of the State or in any other language accepted by the requesting Member State, and

(ii) accompanied by a list of the convictions (if any) referred to in *subsection (2)* or *(3)*, as the case may be.

Reply to request for information under Article 6 of Framework Decision in relation to person who is not national of State

8. (1) The Central Authority, upon receipt of a request from a central authority of a Member State under Article 6 of the Framework Decision for any information contained in the Criminal Records Database in relation to a person who is not a national of the State shall, where the request is for—

(a) the purposes of criminal proceedings in the requesting Member State, or

(b) a purpose specified in *Schedule 3*,

transmit to the central authority of the requesting Member State any information relating to convictions in the State contained in the Criminal Records Database in relation to the person who is the subject of that request.

(2) (a) The Central Authority shall reply to a request referred to in *subsection (1)* using the form set out in the Annex to the Framework Decision.

(b) The reply referred to in *paragraph (a)* shall be—

(i) in one of the official languages of the State or in any other language accepted by the requesting Member State, and

(ii) accompanied by a list of the convictions (if any) referred to in *subsection (1)*.

Time limits for replies to requests under Article 6 of Framework Decision

9. (1) The Central Authority shall, subject to *subsection (2)*, transmit replies to requests referred to in Article 6(1) of the Framework Decision as soon as practicable and in any event not later than 10 working days from the date the request is received.

(2) Where, upon receipt of a request referred to in Article 6(1) of the Framework Decision, the Central Authority requires further information to identify the person the subject of the request, it shall, as soon as practicable, consult the central authority that made the request for the purposes of enabling the Central Authority to provide a reply to the request concerned within 10 working days from the date on which the additional information is received.

(3) The Central Authority shall transmit replies to requests referred to in Article 6(2) of the Framework Decision within 20 working days from the date the request was received by the Central Authority.

Transmission of information in accordance with Council Decision

10. (1) The Central Authority shall transmit electronically, in the standardised format required by the Council Decision the following:

(a) information in accordance with *section 4*;

(b) requests in accordance with *section 6*;

(c) replies in accordance with *section 7* or *8*;

(d) all other relevant information in relation to the information, requests and replies referred to in *paragraphs (a)*, *(b)* and *(c)*.

(2) When transmitting information in accordance with *section 4(1)*, *(2)* or *(3)*, *7* or *8* relating to the name or legal classification of an offence, the Central Authority shall, in respect of each offence referred to in the transmission, refer to the code opposite the category of offences set out in Annex A to the Council Decision to which the offence corresponds in accordance with Article 4(1) of that Decision.

(3) When transmitting information in accordance with *section 4(1)*, *(2)* or *(3)*, *7* or *8* relating to a sentence, penalty or measure imposed in respect of a conviction, or any subsequent decision modifying the enforcement of the sentence, the Central Authority shall, in respect of each of the penalties and measures referred to in the transmission—

(a) refer to the code opposite the category of penalties and measures set out in Annex B to the Council Decision to which the penalty or measure corresponds in accordance with Article 4(2) of the Council Decision, and

(b) provide, where applicable, in accordance with Article 4(2) of, and Annex B to, the Decision, available information relating to the nature and conditions of the execution of the penalty or measure imposed.

(4) In this section, "Council Decision" means Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA, the text of which in the English language is for convenience of reference set out in *Schedule 4*.

Conditions for use of personal data

11. (1) Subject to *subsection (3)*, personal data transmitted under Article 7(1) or (4) of the Framework Decision to the Central Authority for the purposes of criminal proceedings may be used only for the purposes of the criminal proceedings for which it was requested by the Central Authority as specified in the form referred to in *section 6(4)*.

(2) Subject to *subsection (3)*, personal data transmitted under Article 7(2) or (4) of the Framework Decision to the Central Authority for a purpose specified in *Schedule 3* may be used only for the purposes for which it was requested by the Central Authority, as specified in the form referred to in *section 6(4)*, and subject to the limitations specified by the central authority who transmitted such information.

(3) Personal data transmitted under Article 7(1), (2) and (4) of the Framework Decision to the Central Authority may be used for the purpose of preventing an immediate and serious threat to public security.

(4) Where personal data, received by the Central Authority from a central authority of a Member State under Article 4 of the Framework Decision, is transmitted in accordance with *section 12* to a third country, the Central Authority shall, when transmitting such information to the third country, specify that such personal data—

(a) if transmitted for the purposes of criminal proceedings, may only be used by that third country for the purposes of the criminal proceedings for which it was requested, and

(b) if transmitted for a purpose specified in *Schedule 3*, may only be used by that third country for the purposes for which it was requested and subject to any limitations specified by the central authority who originally transmitted such information to the Central Authority.

(5) This section does not apply to personal data obtained by the Central Authority under the Framework Decision that originated from the State.

(6) This section is without prejudice to—

(a) Part 5 of the Act of 2018 insofar as it applies to personal data (within the meaning of that Part) referred to in this section in respects other than those related to the use of such data, and

(b) the Data Protection Regulation and the Act of 2018 (other than Part 5) insofar as that Regulation and, as the case may be, that Act apply to personal data (within the meaning of that Regulation) referred to in this section.

(7) In this section—

"Act of 2018" means the Data Protection Act 2018;

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)[3].

Limitations on transmission of certain information to third country

12. Where the Central Authority receives a request from a third country for information contained in the Criminal Records Database in relation to a person who is a national of the State, the Central Authority may, in respect of information relating to convictions in a Member State transmitted to it under Article 4 of the Framework Decision, reply only within the limitations that apply to the transmission of such information to other Member States in accordance with *section 7(2)*, *(3)* and *(4)*.

Disclosure of information under other enactments, etc.

13. This Act is without prejudice to an obligation or power to provide or request information under any other enactment or rule of law.

[3] OJ No. L 119, 4.5.2016, p.1

Expenses

14. The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Short title and commencement

15. (1) This Act may be cited as the Criminal Records (Exchange of Information) Act 2019.

(2) This Act shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

SCHEDULE 1

Section 1

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2)(b) thereof,

Having regard to the proposal from the Commission and the initiative of the Kingdom of Belgium,

Having regard to the opinion of the European Parliament ([1]),

Whereas:

(1) The European Union has set itself the objective of providing citizens with a high level of safety within the area of freedom, security and justice. This objective presupposes the exchange between the competent authorities of the Member States of information extracted from criminal records.

(2) On 29 November 2000 the Council, in accordance with the conclusions of the Tampere European Council of 15 and 16 October 1999, adopted a programme of measures to implement the principle of mutual recognition of decisions in criminal matters ([2]). This Framework Decision contributes to achieving the goals provided for by measure 3 of the programme, which calls for the establishment of a standard form like that drawn up for the Schengen bodies, translated into all the official languages of the Union, for criminal records requests.

(3) The Final Report on the first evaluation exercise on mutual legal assistance in criminal matters ([3]) called on the Member States to simplify the procedures for transferring documents between States, using, if necessary, standard forms to facilitate mutual legal assistance.

(4) The need to improve the quality of information exchanged on convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was reiterated in the Hague Programme ([4]), adopted by the European Council on 4 and 5 November 2004, which called for greater exchange of information from national conviction and disqualification registers. These objectives are reflected in the Action Plan jointly adopted by the Council and the Commission on 2 and 3 June 2005 with a view to carrying out the Hague Programme.

(5) With a view to improving the exchange of information between Member States on criminal records, projects developed with the aim to achieve this objective are welcomed, including the existing project for the interconnection of national criminal registers. The experience gathered from these activities has encouraged the Member States to further enhance

[1] Opinion delivered on 17 June 2008 (not yet published in the Official Journal).
[2] OJ C 12, 15.1.2001, p. 10.
[3] OJ C 216, 1.8.2001, p. 14.
[4] OJ C 53, 3.3.2005, p. 1.

their efforts and showed the importance to continue streamlining the mutual exchange of information on convictions between the Member States.

(6) This Framework Decision is a response to the wishes expressed by the Council on 14 April 2005, following the publication of the White Paper on exchanges of information on convictions and the effect of such convictions in the European Union and the subsequent general discussion thereof. Its main aim is to improve the exchange of information on convictions and, where imposed and entered in the criminal records of the convicting Member State, on disqualifications arising from criminal conviction of citizens of the Union.

(7) The application of the mechanisms established by this Framework Decision only to the transmission of information extracted from criminal records concerning natural persons should be without prejudice to a possible future broadening of the scope of application of such mechanisms to the exchange of information concerning legal persons.

(8) Information on convictions handed down in other Member States is currently governed by Articles 13 and 22 of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959. These provisions are not, however, sufficient to meet the present requirements of judicial cooperation in an area such as the European Union.

(9) As between the Member States, this Framework Decision should replace Article 22 of the European Convention on Mutual Assistance in Criminal Matters. In addition to the obligations of a convicting Member State to transmit information to the Member States of the person's nationality concerning convictions handed down against their nationals which this Framework Decision incorporates and further defines, an obligation on the Member States of the person's nationality to store information so transmitted is also introduced, in order to ensure that they are able to reply fully to requests for information from other Member States.

(10) This Framework Decision should be without prejudice to the possibility of judicial authorities' directly requesting and transmitting information from criminal records pursuant to Article 13 in conjunction with Article 15(3), of the European Convention on Mutual Assistance in Criminal Matters and without prejudice to Article 6(1) of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, established by Council Act of 29 May 2000 ([1]).

(11) Improving the circulation of information on convictions is of little benefit if Member States are not able to take transmitted information into account. On 24 July 2008, Council adopted Framework Decision 2008/675/JHA on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings ([2]).

(12) The main objective of the initiative of the Kingdom of Belgium is attained by this Framework Decision to the extent that the central authority of every Member State should request and include all information provided from the criminal records of the Member State of the person's nationality in its extract from criminal records when it replies to a request from the person concerned. Awareness of the existence of the conviction as well as, where imposed and entered in the criminal record, of a disqualification arising from it, is a prerequisite for giving them effect in accordance with the national law of the Member State in which the person intends to perform professional activity related to supervision of children. The mechanism established by this Framework Decision aims at inter alia ensuring that a

[1] OJ C 197, 12.7.2000, p. 3.
[2] OJ L 220, 15.8.2008, p. 32.

person convicted of a sexual offence against children should no longer, where the criminal record of that person in the convicting Member State contains such conviction and, if imposed and entered in the criminal record, a disqualification arising from it, be able to conceal this conviction or disqualification with a view to performing professional activity related to supervision of children in another Member State.

(13) This Framework Decision establishes rules on the protection of personal data transmitted between the Member States as a result of its implementation. Existing general rules on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are complemented by the rules established in this Framework Decision. Furthermore, the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data applies to the personal data handled on the basis of this Framework Decision. This Framework Decision also incorporates the provisions of Council Decision 2005/876/JHA of 21 November 2005 on the exchange of information extracted from the criminal record ([3]) which limit the use the requesting Member State can make of information asked for. This Framework Decision supplements such provisions with specific rules applying where the Member State of the person's nationality forwards information on convictions transmitted to it by the convicting Member State.

(14) This Framework Decision does not modify obligations and practices established in relation to third States under the European Convention on Mutual Assistance in Criminal Matters, in so far as that instrument remains applicable.

(15) Under Council of Europe Recommendation No R (84) 10 on criminal records and rehabilitation of convicted persons, the main aim of establishment of criminal records is to inform the authorities responsible for the criminal justice system of the background of a person subject to legal proceedings with a view to adapting the decision to be taken to the individual situation. Since all other use of criminal records that might compromise the chances of social rehabilitation of the convicted person must be as limited as possible, the use of information transmitted under this Framework Decision for purposes other than that of criminal proceedings can be limited in accordance with the national law of the requested Member State and the requesting Member State.

(16) The aim of the provisions of this Framework Decision concerning the transmission of information to the Member State of the person's nationality for the purpose of its storage and retransmission is not to harmonise national systems of criminal records of the Member States. This Framework Decision does not oblige the convicting Member State to change its internal system of criminal records as regards the use of information for domestic purposes.

(17) Improving the circulation of information on convictions is of little benefit if such information cannot be understood by the Member State receiving it. Mutual understanding may be enhanced by the creation of a 'standardised European format' allowing information to be exchanged in a uniform, electronic and easily machine-translatable way. Information on convictions sent by the convicting Member State should be transmitted in the official language or one of the official languages of that Member State. Measures should be taken by Council to set up the information exchange system introduced by this Framework Decision.

[3] OJ L 322, 9.12.2005, p. 33.

(18) This Framework Decision respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and reflected by the Charter of Fundamental Rights of the European Union.

(19) This Framework Decision respects the principle of subsidiarity referred to in Article 2 of the Treaty on European Union and set out in Article 5 of the Treaty establishing the European Community since the improvement of systems for the transmission of information on convictions between Member States cannot be carried out adequately by the Member States unilaterally and requires coordinated action in the European Union. In accordance with the principle of proportionality, as set out in the Article 5 of the Treaty establishing the European Community, this Framework Decision does not go beyond what is necessary in order to achieve that objective,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Objective

The purpose of this Framework Decision is:

(a) to define the ways in which a Member State where a conviction is handed down against a national of another Member State (the 'convicting Member State') transmits the information on such a conviction to the Member State of the convicted person's nationality (the 'Member State of the person's nationality');

(b) to define storage obligations for the Member State of the person's nationality and to specify the methods to be followed when replying to a request for information extracted from criminal records;

(c) to lay down the framework for a computerised system of exchange of information on convictions between Member States to be built and developed on the basis of this Framework Decision and the subsequent decision referred to in Article 11(4).

Article 2

Definitions

For the purposes of this Framework Decision:

(a) 'conviction' means any final decision of a criminal court against a natural person in respect of a criminal offence, to the extent these decisions are entered in the criminal record of the convicting Member State;

(b) 'criminal proceedings' means the pre-trial stage, the trial stage itself and the execution of the conviction;

(c) 'criminal record' means the national register or registers recording convictions in accordance with national law.

Article 3

Central authority

1. For the purposes of this Framework Decision, each Member State shall designate a central authority. However, for the transmission of information under Article 4 and for replies under Article 7 to requests referred to in Article 6, Member States may designate one or more central authorities.

2. Each Member State shall inform the General Secretariat of the Council and the Commission of the central authority or authorities designated in accordance with paragraph 1. The General Secretariat of the Council shall notify the Member States and Eurojust of this information.

Article 4

Obligations of the convicting Member State

1. Each Member State shall take the necessary measures to ensure that all convictions handed down within its territory are accompanied, when provided to its criminal record, by information on the nationality or nationalities of the convicted person if he is a national of another Member State.

2. The central authority of the convicting Member State shall, as soon as possible, inform the central authorities of the other Member States of any convictions handed down within its territory against the nationals of such other Member States, as entered in the criminal record.

If it is known that the convicted person is a national of several Member States, the relevant information shall be transmitted to each of these Member States, even if the convicted person is a national of the Member State within whose territory he was convicted.

3. 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.

4. 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 the 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.

Article 5

Obligations of the Member State of the person's nationality

1. The central authority of the Member State of the person's nationality shall store all information in accordance with Article 11(1) and (2) transmitted under Article 4(2) and (3), for the purpose of retransmission in accordance with Article 7.

2. 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 regarding information stored in accordance with paragraph 1 of this Article for the purpose of retransmission in accordance with Article 7.

3. For the purpose of retransmission in accordance with Article 7 the Member State of the person's nationality may only use information which has been updated in accordance with paragraph 2 of this Article.

Article 6

Request for information on convictions

1. When information from the criminal record of a Member State is requested for the purposes of criminal proceedings against a person or for any

purposes other than that of criminal proceedings, the central authority of that Member State may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record.

2. When a person asks for information on his own criminal record, the central authority of the Member State in which the request is made may, in accordance with its national law, submit a request to the central authority of another Member State for information and related data to be extracted from the criminal record, provided the person concerned is or was a resident or a national of the requesting or requested Member State.

3. Once the time limit set out in Article 11(7) has elapsed, whenever a person asks the central authority of a Member State other than the Member State of the person's nationality for information on his own criminal record, the central authority of the Member State in which the request is made shall submit a request to the central authority of the Member State of the person's nationality for information and related data to be extracted from the criminal record in order to be able to include such information and related data in the extract to be provided to the person concerned.

4. All requests from the central authority of a Member State for information extracted from the criminal record shall be submitted using the form set out in the Annex.

Article 7

Reply to a request for information on convictions

1. When information extracted from the criminal record is requested under Article 6 from the central authority of the Member State of the person's nationality for the purposes of criminal proceedings, that central authority shall transmit to the central authority of the requesting Member State information on:

   (a) convictions handed down in the Member State of the person's nationality and entered in the criminal record;

   (b) 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);

   (c) any convictions handed down in other Member States which were transmitted to it by 27 April 2012, and entered in the criminal record;

   (d) any convictions handed down in third countries and subsequently transmitted to it and entered in the criminal record.

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

In respect of information on convictions handed down in another Member State, which have been transmitted to the Member State of the person's nationality, the central authority of the latter Member State shall in accordance with its national law transmit to the requesting Member State the information which has been stored in accordance with Article 5 (1) and

(2) as well as the information which has been transmitted to that central authority by 27 April 2012, and has been entered in its criminal record.

When transmitting the information in accordance with Article 4, the central authority of the convicting Member State may inform the central authority of the Member State of the person's nationality that the information on convictions handed down in the former Member State and transmitted to the latter central authority may not be retransmitted for any purposes other than that of criminal proceedings. In this case, the central authority of the Member State of the person's nationality shall, in respect of such convictions, inform the requesting Member State which other Member State had transmitted such information so as to enable the requesting Member State to submit a request directly to the convicting Member State in order to receive information on these convictions.

3. When information extracted from the criminal record is requested from the central authority of the Member State of the person's nationality by a third country, the Member State of the person's nationality may reply in respect of convictions transmitted by another Member State only within the limitations applicable to the transmission of information to other Member States in accordance with paragraphs 1 and 2.

4. When information extracted from the criminal record is requested under Article 6 from the central authority of a Member State other than the Member State of the person's nationality, the requested Member State shall transmit information on convictions handed down in the requested Member State and on convictions handed down against third country nationals and against stateless persons contained in its criminal record to the same extent as provided for in Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

5. The reply shall be made using the form set out in the Annex. It shall be accompanied by a list of convictions, as provided for by national law.

Article 8

Deadlines for replies

1. Replies to the requests referred to in Article 6(1) shall be transmitted by the central authority of the requested Member State to the central authority of the requesting Member State immediately and in any event within a period not exceeding ten working days from the date the request was received, as provided for by its national law, rules or practice, using the form set out in the Annex.

When the requested Member State requires further information to identify the person involved in the request, it shall immediately consult the requesting Member State with a view to providing a reply within ten working days from the date the additional information is received.

2. Replies to the request referred to in Article 6(2) shall be transmitted within twenty working days from the date the request was received.

Article 9

Conditions for the use of personal data

1. Personal data provided under Article 7(1) and (4) 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, as specified in the form set out in the Annex.

2. Personal data provided under Article 7(2) and (4) for any purposes other than that of criminal proceedings may be used by the requesting Member State in accordance with its national law only for the purposes for which it was requested and within the limits specified by the requested Member State in the form set out in the Annex.

3. Notwithstanding paragraphs 1 and 2, personal data provided under Article 7(1), (2) and (4) may be used by the requesting Member State for preventing an immediate and serious threat to public security.

4. Member States shall take the necessary measures to ensure that personal data received from another Member State under Article 4, if transmitted to a third country in accordance with Article 7(3), is subject to the same usage limitations as those applicable in a requesting Member State in accordance with paragraph 2 of this Article. 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.

5. This Article does not apply to personal data obtained by a Member State under this Framework Decision and originating from that Member State.

Article 10

Languages

When submitting a request referred to in Article 6(1), the requesting Member State shall transmit to the requested Member State the form set out in the Annex in the official language or one of the official languages of the latter 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.

Any Member State may, at the time of the adoption of this Framework Decision or at a later date, indicate, in a statement to the General Secretariat of the Council, which are the official languages of the institutions of the European Union that it accepts. The General Secretariat of the Council shall notify the Member States of this information.

Article 11

Format and other ways of organising and facilitating exchanges of information on convictions

1. When transmitting information in accordance with Article 4(2) and (3), the central authority of the convicting Member State shall transmit the following information:

   (a) information that shall always be transmitted, unless, in individual cases, such information is not known to the central authority (obligatory information):

      (i) information on the convicted person (full name, date of birth, place of birth (town and State), gender, nationality and - if applicable - previous name(s));

      (ii) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);

      (iii) information on the offence giving rise to the conviction (date of the offence underlying the conviction and name or legal classification of

the offence as well as reference to the applicable legal provisions); and

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

(b) information that shall be transmitted if entered in the criminal record (optional information):

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

(ii) the reference number of the conviction;

(iii) the place of the offence; and

(iv) disqualifications arising from the conviction;

(c) information that shall be transmitted, if available to the central authority (additional information):

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

(ii) fingerprints, which have been taken from that person; and

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

In addition, the central authority may transmit any other information concerning convictions entered in the criminal record.

2. The central authority of the Member State of the person's nationality shall store all information of the types listed in points (a) and (b) of paragraph 1, which it has received in accordance with Article 5(1) for the purpose of retransmission in accordance with Article 7. For the same purpose it may store the information of the types listed in point (c) of the first subparagraph and in the second subparagraph of paragraph 1.

3. Until the time limit set out in paragraph 7 has elapsed, central authorities of Member States which have not carried out the notification referred to in paragraph 6 shall transmit all information in accordance with Article 4, requests in accordance with Article 6, replies in accordance with Article 7 and other relevant information by any means capable of producing a written record under conditions allowing the central authority of the receiving Member State to establish the authenticity thereof.

Once the time limit set out in paragraph 7 of this Article has elapsed, central authorities of Member States shall transmit such information electronically using a standardised format.

4. The format referred to in paragraph 3 and any other means of organising and facilitating exchanges of information on convictions between central authorities of Member States shall be set up by the Council in accordance with the relevant procedures of the Treaty on the European Union by 27 April 2012.

Other such means include:

(a) defining all means by which understanding and automatically translating transmitted information may be facilitated;

(b) defining the means by which information may be exchanged electronically, particularly as regards the technical specification to be used and, if need be, any applicable exchange procedures;

(c) possible alterations to the form set out in the Annex.

5. If the mode of transmission referred to in paragraphs 3 and 4 is not available, the first subparagraph of paragraph 3 shall remain applicable for the entire period of such unavailability.

6. Each Member State shall carry out the necessary technical alterations to be able to use the standardised format and electronically transmit it to other Member States. It shall notify the Council of the date from which it will be able to carry out such transmissions.

7. Member States shall carry out the technical alterations referred to in paragraph 6 within three years from the date of adoption of the format and the means by which information on convictions may be exchanged electronically.

Article 12

Relationship to other legal instruments

1. In relations between the Member States, this Framework Decision supplements the provisions of Article 13 of the European Convention on Mutual Assistance in Criminal Matters, its additional Protocols of 17 March 1978 and 8 November 2001, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and its Protocol of 16 October 2001 ([1]).

2. For the purposes of this Framework Decision, Member States shall waive the right to rely among themselves on their reservations to Article 13 of the European Convention on Mutual Assistance in Criminal Matters.

3. Without prejudice to their application in relations between Member States and third States, this Framework Decision replaces in relations between Member States which have taken the necessary measures to comply with this Framework Decision and ultimately with effect from 27 April 2012 the provisions of Article 22 of the European Convention on Mutual Assistance in Criminal Matters, as supplemented by Article 4 of said Convention's additional Protocol of 17 March 1978.

4. Decision 2005/876/JHA is hereby repealed.

5. This Framework Decision shall not affect the application of more favourable provisions in bilateral or multilateral agreements between Member States.

Article 13

Implementation

1. Member States shall take the necessary measures to comply with the provisions of this Framework Decision by 27 April 2012.

2. Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision.

3. On the basis of that information the Commission shall, by 27 April 2015, present a report to the European Parliament and the Council on the

[1] OJ C 326, 21.11.2001, p. 1.

application of this Framework Decision, accompanied if necessary by legislative proposals.

Article 14

Entry into force

This Framework Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 February 2009.

For the Council

The President

I. LANGER

ANNEX

Form referred to in Articles 6, 7, 8, 9 and 10 of the Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States

Request for information extracted from the criminal record

Members States are to consult the Manual of Procedures for assistance in filling in this form correctly

(a) Information on the requesting Member State:

Member State:

Central authority(ies):

Contact person:

Telephone (with STD code):

Fax (with STD code):

E-mail address:

Correspondence address:

File reference, if known:

(b) Information on the identity of the person concerned by the request (*):

Full name (forenames and all surnames)

Previous names:

Pseudonym and/or alias, if any:

Gender: M ☐ F ☐

Nationality:

Date of birth (in figures: dd/mm/yyyy):

Place of birth (town and State):

Father's name:

Mother's name:

Residence or known address:

Person's identity number or type and number of the person's identification document:

Fingerprints:

Other available identification information:

(*) To facilitate the identification of the person as much information as possible is to be provided.

(c) Purpose of the request:

Please tick the appropriate box

(1)☐ criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number) .....
.....

(2)☐ request outside the context of criminal proceedings (please identify the authority before which the proceedings are pending and, if available, the case reference number, while ticking the relevant box):

(i) ☐ from a judicial authority .....
.....

(ii) ☐ from a competent administrative authority .....
.....

(iii) ☐ from the person concerned for information on own criminal record .....
.....

Purpose for which the information is requested:

Requesting authority:

☐ the person concerned does not consent for this information to be divulged (if the person concerned was asked for its consent in accordance with the law of the requesting Member State).

Contact person for any further information needed:

Name:

Telephone:

E-mail address:

Other information (e.g. urgency of the request):

Reply to the request

Information relating to the person concerned Please tick the appropriate box The undersigned authority confirms that: ☐ there is no information on convictions in the criminal record of the person concerned ☐ there is information on convictions entered in the criminal record of the person concerned; a list of convictions is attached ☐ there is other information entered in the criminal record of the person concerned; such information is attached (optional) ☐ there is information on convictions entered in the criminal record of the person concerned but the convicting Member State intimated that the information about these convictions may not be retransmitted for any purposes other than that of criminal proceedings. The request for more information may be sent directly to ..... (please indicate the convicting Member State) ☐ in accordance with the national law of the requested Member State, requests made for any purposes other than that of criminal proceedings may not be dealt with.

Contact person for any further information needed: Name: Telephone: E-mail address: Other information (limitations of use of the data concerning requests outside the context of criminal proceedings): Please indicate the number of pages attached to the reply form:
Done at on Signature and official stamp (if appropriate): Name and position/organisation:

If appropriate, please attach a list of convictions and send the complete package to the requesting Member State. It is not necessary to translate the form or the list into the language of the requesting Member State.

SCHEDULE 2

Sections 4 and *5*

Information relating to conviction

1. The following information unless, in individual cases, the information is not known to the Central Authority:

(a) information on the convicted person (full name, date of birth, place of birth (town and State), gender, nationality and, if applicable, previous name or names);

(b) information on the nature of the conviction (date of conviction, name of the court, date on which the decision became final);

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

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

2. The following information if entered on the Criminal Records Database:

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

(b) the reference number of the conviction;

(c) the place of the offence;

(d) disqualifications arising from the conviction.

3. The following information if available to the Central Authority:

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

(b) fingerprints which have been taken from that person;

(c) if applicable, pseudonym or alias name or names, or both.

SCHEDULE 3

Sections 6(1)(b), *7(3)*, *8(1)(b)* and *11(2)* and *(4)(b)*

Other purposes for which information may be requested

1. A request for information in respect of a person for the purposes of the following:

(a) his or her application for Irish citizenship;

(b) his or her application for an airport identification card, a crew identification card, a certificate for training of security staff or other persons employed or contracted to work in a designated security role pursuant to national civil aviation security programme (within the meaning of the European Communities (Civil Aviation Security) Regulations 2003 (S.I. No. 226 of 2003));

(c) his or her application for a firearm certificate under the Firearms Acts 1925 to 2009;

(d) court proceedings in connection with child care or child protection to which he or she is a party (other than for the purposes of criminal proceedings against the person in the State, a Member State or a third country);

(e) without prejudice to *paragraphs (a)* to *(d)*, Article 10(3) of the Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation

of children and child pornography, and replacing Council Framework Decision 2004/68/JHA[1].

2. A request for information in respect of a person made by a central authority of another Member State, or a third country, as the case may be, under the law of the other Member State or third country, as the case may be, the purpose of which request corresponds under the law of the Member State or third country, as the case may be, to any of the purposes referred to in *paragraph 1*, where that request concerned would, if made in the State, constitute a request made under the law of the State.

SCHEDULE 4

Section 10

Council Decision 2009/316/JHA

of 6 April 2009

on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31 and 34(2) (c) thereof,

Having regard to the 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 ([1]), and in particular Article 11(4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ([2]),

Whereas:

(1) Article 29 of the Treaty on European Union states that the Union's objective is to provide citizens with a high level of safety in the area of freedom, security and justice. This objective presupposes the systematic exchange between the competent authorities of the Member States of information extracted from criminal records in a way that would guarantee its common under-standing and the efficiency of such exchange.

(2) Information on convictions handed down against Member States' nationals by other Member States does not circulate efficiently on the current basis of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959. Therefore, there is a need for more efficient and accessible procedures of exchange of such information at European Union level.

(3) The need to improve the exchange of information on convictions was prioritised in the European Council Declaration on Combating Terrorism of 25 and 26 March 2004 and was subsequently reiterated in the Hague

[1] OJ No. L 13, 20.1.2004, p.44
[1] See page 23 of this Official Journal.
[2] Opinion delivered on 9 October 2008 (not yet published in the Official Journal)

Programme ([3]) and in the Action Plan ([4]) on its implementation. Furthermore, the computerised interconnection of criminal records at European Union level was recognised as a political priority by the European Council in its Conclusions of 21 and 22 June 2007.

(4) The computerised interconnection of criminal records is part of the E-Justice project, which was acknowledged as a priority by the European Council several times in 2007.

(5) A pilot project is currently being developed with a view to interconnecting criminal records. Its achievements constitute a valuable basis for further work on computerised exchange of information at the European Union level.

(6) This Decision aims to implement Framework Decision 2009/315/JHA in order to build and develop a computerised system of exchange of information on convictions between Member States. Such a system should be capable of communicating information on convictions in a form which is easily understandable. Therefore, a standardised format allowing information to be exchanged in a uniform, electronic and easily computer-translatable way as well as any other means of organising and facilitating electronic exchanges of information on convictions between central authorities of Member States should be set up.

(7) This Decision is based on the principles established by Framework Decision 2009/315/JHA and applies and supplements those principles from a technical standpoint.

(8) The categories of data to be entered into the system, the purposes for which the data is to be entered, the criteria for its entry, the authorities permitted to access the data, and some specific rules on protection of personal data are defined in the Framework Decision 2009/315/JHA.

(9) Neither this Decision nor Framework Decision 2009/315/JHA establishes any obligation to exchange information about non-criminal rulings.

(10) Since the objective of this Decision is not to harmonise national systems of criminal records there is no obligation for a convicting Member State to change its internal system of criminal records as regards the use of information for domestic purposes.

(11) The European Criminal Records System (ECRIS) is a decentralised information technology system. The criminal records data should be stored solely in databases operated by Member States, and there should be no direct online access to criminal records databases of other Member States. Member States should bear the responsibility for the operation of national criminal records databases and for the efficient exchanges of information between themselves. The common communication infrastructure of ECRIS should be initially the Trans European Services for Telematics between Administrations (S-TESTA) network. All expenditure concerning the common communication infrastructure should be covered by the general budget of the European Union.

(12) The reference tables of categories of offences and categories of penalties and measures provided for in this Decision should facilitate the automatic translation and should enable the mutual understanding of the information transmitted by using a system of codes. The content of the tables is the result of the analysis of the needs of all 27 Member States. That analysis took into account the pilot project categorisation and the results of the

[3] OJ C 53, 3.3.2005, p. 1.
[4] OJ C 198, 12.8.2005, p. 1.

clustering exercise of various national offences and penalties and measures. Moreover, in case of the table of offences, it also took into consideration the existing harmonised common definitions on the European and international level as well as the Eurojust and Europol data models.

(13) In order to ensure the mutual understanding and transparency of the common categorisation, each Member State should submit the list of national offences and penalties and measures falling in each category referred to in the respective table. Member States may provide a description of offences and penalties and measures and, given the usefulness of such description, they should be encouraged to do so. Such information should be made accessible to Member States.

(14) The reference tables of categories of offences and categories of penalties and measures provided for in this Decision are not designed to set up legal equivalences between offences and penalties and measures existing at national level. They are a tool aimed at helping the recipient to gain better understanding of the fact(s) and type of penalty(ies) or measure(s) contained in the information transmitted. The accuracy of the codes mentioned cannot be fully guaranteed by the Member State supplying the information and it should not preclude the competent authorities in the receiving Member State from interpreting the information.

(15) The reference tables of categories of offences and categories of penalties and measures should be revised and updated in accordance with the procedure for the adoption of implementing measures for decisions provided for in the Treaty on European Union.

(16) Members States and the Commission should inform and consult one another within the Council in accordance with the modalities set out in the Treaty on European Union, with a view to drawing up a non-binding manual for practitioners which should address the procedures governing the exchange of information, in particular modalities of identification of offenders, common understanding of the categories of offences and penalties and measures, and explanation of problematic national offences and penalties and measures, and ensuring the coordination necessary for the development and operation of ECRIS.

(17) In order to accelerate the development of ECRIS, the Commission should adopt a number of technical measures to assist Member States in preparing the technical infrastructure for interconnecting their criminal records databases. The Commission may provide reference implementation software, namely appropriate software enabling Member States to make this interconnection, which they may choose to apply instead of their own interconnection software implementing a common set of protocols enabling the exchange of information between criminal records databases.

(18) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters ([1]) should apply in the context of computerised exchange of information extracted from criminal records of Member States, providing for an adequate level of data protection when information is exchanged between Member States, whilst allowing for Member States to require higher standards of protection to national data processing.

(19) Since the objective of this Decision, namely the development of a computerised system for the exchange of information on convictions between Member States, cannot be adequately achieved by the Member States unilaterally, and can therefore, by reason of the necessity for

[1] OJ L 350, 30.12.2008, p. 60.

coordinated action in the European Union, be better achieved at the level of the European Union, the Council may adopt measures, in accordance with the principle of subsidiarity referred to in Article 2 of the Treaty on European Union and set out in Article 5 of the Treaty establishing the European Community. In accordance with the principle of proportionality, as set out in the Article 5 of the Treaty establishing the European Community, this Decision does not go beyond what is necessary in order to achieve that objective.

(20) This Decision respects fundamental rights and observes the principles recognised in particular by Article 6 of the Treaty on European Union and reflected by the Charter of Fundamental Rights of the European Union,

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

This Decision establishes the European Criminal Records Information System (ECRIS).

This Decision also establishes the elements of a standardised format for the electronic exchange of information extracted from criminal records between the Member States, in particular as regards information on the offence giving rise to the conviction and information on the content of the conviction, as well as other general and technical implementation means related to organising and facilitating the exchange of information.

Article 2

Definitions

For the purposes of this Decision, the definitions laid down in Framework Decision 2009/315/JHA shall apply.

Article 3

European Criminal Records Information System (ECRIS)

1. ECRIS is a decentralised information technology system based on the criminal records databases in each Member State. It is composed of the following elements:

   (a) an interconnection software built in compliance with a common set of protocols enabling the exchange of information between Member States' criminal records databases;

   (b) a common communication infrastructure that provides an encrypted network.

2. This Decision is not aimed at establishing any centralised criminal records database. All criminal records data shall be stored solely in databases operated by the Member States.

3. Central authorities of the Member States referred to in Article 3 of Framework Decision 2009/315/JHA shall not have direct online access to criminal records databases of other Member States. The best available techniques identified together by Member States with the support of the Commission shall be employed to ensure the confidentiality and integrity of criminal records information transmitted to other Member States.

4. The interconnection software and databases storing, sending and receiving information extracted from criminal records shall operate under the responsibility of the Member State concerned.

5. The common communication infrastructure shall be the S-TESTA communications network. Any further developments thereof or any alternative secure network shall ensure that the common communication infrastructure in place continues to meet the conditions set out in paragraph 6.

6. The common communication infrastructure shall be operated under the responsibility of the Commission, and shall fulfil the security requirements and thoroughly respond to the needs of ECRIS.

7. In order to ensure the efficient operation of ECRIS, the Commission shall provide general support and technical assistance, including the collection and drawing up of statistics referred to in Article 6(2) (b) (i) and the reference implementation software.

8. Notwithstanding the possibility of using the European Union financial programmes in accordance with the applicable rules, each Member State shall bear its own costs arising from the implementation, administration, use and maintenance of its criminal records database and the interconnection software referred to in paragraph 1.

The Commission shall bear the costs arising from the implementation, administration, use, maintenance and future developments of the common communication infrastructure of ECRIS, as well as the implementation and future developments of the reference implementation software.

Article 4

Format of transmission of information

(1) When transmitting information in accordance with Article 4(2) and (3) and Article 7 of Framework Decision 2009/315/JHA relating to the name or legal classification of the offence and to the applicable legal provisions, Member States shall refer to the corresponding code for each of the offences referred to in the transmission, as provided for in the table of offences in Annex A. By way of exception, where the offence does not correspond to any specific sub-category, the 'open category' code of the relevant or closest category of offences or, in the absence of the latter, an 'other offences' code, shall be used for that particular offence.

Member States may also provide available information relating to the level of completion and the level of participation in the offence and, where applicable, to the existence of total or partial exemption from criminal responsibility or to recidivism.

(2) When transmitting information in accordance with Article 4(2) and (3) and Article 7 of Framework Decision 2009/315/JHA relating to the contents of the conviction, notably the sentence as well as any supplementary penalties, security measures and subsequent decisions modifying the enforcement of the sentence, Member States shall refer to the corresponding code for each of the penalties and measures referred to in the transmission, as provided for in the table of penalties and measures in Annex B. By way of exception, where the penalty or measure does not correspond to any specific subcategory, the 'open category' code of the relevant or closest category of penalties and measures or, in the absence of the latter, an 'other penalties and measures' code, shall be used for that particular penalty or measure.

Member States shall also provide, where applicable, available information relating to the nature and/or conditions of execution of the penalty or measure imposed as provided for in the parameters of Annex B. The parameter "non-criminal ruling" shall be indicated only in cases where information on such a ruling is provided on a voluntary basis by the Member State of nationality of the person concerned, when replying to a request for information on convictions.

Article 5

Information on national offences and penalties and measures

1. The following information shall be provided by the Member States to the General Secretariat of the Council, with a view in particular to drawing up the non-binding manual for practitioners referred to in Article 6(2)(a):

   (a) the list of national offences in each of the categories referred to in the table of offences in Annex A. The list shall include the name or legal classification of the offence and reference to the applicable legal provisions. It may also include a short description of the constitutive elements of the offence;

   (b) 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, in each of the categories referred to in the table of penalties and measures in Annex B. It may also include a short description of the specific penalty or measure.

2. The lists and descriptions referred to in paragraph 1 shall be regularly updated by Member States. Updated information shall be sent to the General Secretariat of the Council.

3. The General Secretariat of the Council shall communicate to the Member States and to the Commission the information received pursuant to this Article.

Article 6

Implementing measures

1. The Council, acting by a qualified majority and after consulting the European Parliament, shall adopt any modifications of Annexes A and B as may be necessary.

2. The representatives of the relevant departments of the administrations of the Member States and the Commission shall inform and consult one another within the Council with a view to:

   (a) drawing up a non-binding manual for practitioners setting out the procedure for the exchange of information through ECRIS, addressing in particular the modalities of identification of offenders, as well as recording the common understanding of the categories of offences and penalties and measures listed respectively in Annexes A and B;

   (b) coordinating their action for the development and operation of ECRIS, concerning in particular:

      (i) the establishment of logging systems and procedures making it possible to monitor the functioning of ECRIS and the establishment of non-personal statistics relating to the exchange through ECRIS of information extracted from criminal records;

(ii) the adoption of technical specifications of the exchange, including security requirements, in particular the common set of protocols;

(iii) the establishment of procedures verifying the conformity of the national software applications with the technical specifications.

Article 7

Report

The Commission services shall regularly publish a report concerning the exchange, through ECRIS, of information extracted from the criminal record based in particular on the statistics referred to in Article 6(2)(b)(i). This report shall be published for the first time one year after submitting the report referred to in Article 13(3) of Framework Decision 2009/315/JHA.

Article 8

Implementation and time limits

1. Member States shall take the necessary measures to comply with the provisions of this Decision by 7 April 2012.

2. Member States shall use the format specified in Article 4 and comply with the means of organising and facilitating exchanges of information laid down in this Decision from the date notified in accordance with Article 11(6) of Framework Decision 2009/315/JHA.

Article 9

Taking of effect

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 6 April 2009.

For the Council

The President

J. POSPÍŠIL

ANNEX A

Common table of offences categories referred to in Article 4

Parameters		
Level of completion:	Completed act	C
	Attempt or preparation	A
	Non-transmitted element	Ø
Level of participation:	Perpetrator	M
	Aider and abettor or instigator/organiser, conspirator	H
	Non-transmitted element	Ø
Exemption from criminal responsibility:	Insanity or diminished responsibility	S
Recidivism		R

Code	Categories and sub-categories of offences
0100 00	Crimes within the jurisdiction of the International Criminal Court
open category	
0101 00	Genocide
0102 00	Crimes against humanity
0103 00	War crimes
0200 00	Participation in a criminal organisation
open category	
0201 00	Directing a criminal organisation
0202 00	Knowingly taking part in the criminal activities of a criminal organisation
0203 00	Knowingly taking part in the non-criminal activities of a criminal organisation
0300 00	Terrorism
open category	
0301 00	Directing a terrorist group
0302 00	Knowingly participating in the activities of a terrorist group
0303 00	Financing of terrorism
0304 00	Public provocation to commit a terrorist offence
0305 00	Recruitment or training for terrorism
0400 00	Trafficking in human beings
open category	
0401 00	Trafficking in human beings for the purposes of labour or services exploitation
0402 00	Trafficking in human beings for the purposes of the exploitation of the prostitution of others or other forms of sexual exploitation
0403 00	Trafficking in human beings for the purposes of organ or human tissue removal

0404 00	Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude
0405 00	Trafficking in human beings for the purposes of labour or services exploitation of a minor
0406 00	Trafficking in human beings for the purposes of the exploitation of the prostitution of minors or other forms of their sexual exploitation
0407 00	Trafficking in human beings for the purposes of organ or human tissue removal of a minor
0408 00	Trafficking in human beings for the purpose of slavery, practices similar to slavery or servitude of a minor
0500 00 open category	**Illicit trafficking** (1) **and other offences related to weapons, firearms, their parts and components, ammunition and explosives**
0501 00	Illicit manufacturing of weapons, firearms, their parts and components, ammunition and explosives
0502 00	Illicit trafficking of weapons, firearms, their parts and components ammunition and explosives at national level (2)
0503 00	Illicit exportation or importation of weapons, firearms, their parts and components, ammunition and explosives
0504 00	Unauthorised possession or use of weapons, firearms, their parts and components, ammunition and explosives
0600 00 open category	Environmental crime
0601 00	Destroying or damaging protected fauna and flora species
0602 00	Unlawful discharges of polluting substances or ionising radiation into air, soil or water
0603 00	Offences related to waste, including hazardous waste
0604 00	Offences related to illicit trafficking (1) in protected fauna and flora species or parts thereof
0605 00	Unintentional environmental offences
0700 00 open category	Offences related to drugs or precursors, and other offences against public health
0701 00	Offences related to illicit trafficking (3) in narcotic drugs, psychotropic substances and precursors not exclusively for own personal consumption
0702 00	Illicit consumption of drugs and their acquisition, possession, manufacture or production exclusively for own personal consumption
0703 00	Aiding or inciting others to use narcotic drugs or psychotropic substances illicitly

0704 00	Manufacture or production of narcotic drugs not exclusively for personal consumption
0800 00	Crimes against the person
open category	
0801 00	Intentional killing
0802 00	Aggravated cases of intentional killing (4)
0803 00	Unintentional killing
0804 00	Intentional killing of a new-born by his/her mother
0805 00	Illegal abortion
0806 00	Illegal euthanasia
0807 00	Offences related to committing suicide
0808 00	Violence causing death
0809 00	Causing grievous bodily injury, disfigurement or permanent disability
0810 00	Unintentionally causing grievous bodily injury, disfigurement or permanent disability
0811 00	Causing minor bodily injury
0812 00	Unintentionally causing minor bodily injury
0813 00	Exposing to danger of loss of life or grievous bodily injury
0814 00	Torture
0815 00	Failure to offer aid or assistance
0816 00	Offences related to organ or tissue removal without authorisation or consent
0817 00	Offences related to illicit trafficking (3) in human organs and tissue
0818 00	Domestic violence or threat
0900 00	Offences against personal liberty, dignity and other protected interests, including racism and xenophobia
open category	
0901 00	Kidnapping, kidnapping for ransom, illegal restraint
0902 00	Unlawful arrest or deprivation of liberty by public authority
0903 00	Hostage-taking
0904 00	Unlawful seizure of an aircraft or ship
0905 00	Insults, slander, defamation, contempt
0906 00	Threats
0907 00	Duress, pressure, stalking, harassment or aggression of a psychological or emotional nature
0908 00	Extortion
0909 00	Aggravated extortion
0910 00	Illegal entry into private property
0911 00	Invasion of privacy other than illegal entry into private property

0912 00	Offences against protection of personal data
0913 00	Illegal interception of data or communication
0914 00	Discrimination on grounds of gender, race, sexual orientation, religion or ethnic origin
0915 00	Public incitement to racial discrimination
0916 00	Public incitement to racial hatred
0917 00	Blackmail
1000 00	Sexual offences
open category	
1001 00	Rape
1002 00	Aggravated rape (5) other than rape of a minor
1003 00	Sexual assault
1004 00	Procuring for prostitution or sexual act
1005 00	Indecent exposure
1006 00	Sexual harassment
1007 00	Soliciting by a prostitute
1008 00	Sexual exploitation of children
1009 00	Offences related to child pornography or indecent images of minors
1010 00	Rape of a minor
1011 00	Sexual assault of a minor
1100 00	**Offences against family law**
open category	
1101 00	Illicit sexual relations between close family members
1102 00	Polygamy
1103 00	Evading the alimony or maintenance obligation
1104 00	Neglect or desertion of a minor or a disabled person
1105 00	Failure to comply with an order to produce a minor or removal of a minor
1200 00	Offences against the State, public order, course of justice or public officials
open category	
1201 00	Espionage
1202 00	High treason
1203 00	Offences related to elections and referendum
1204 00	Attempt against life or health of the Head of State
1205 00	Insult of the State, Nation or State symbols
1206 00	Insult or resistance to a representative of public authority
1207 00	Extortion, duress, pressure towards a representative of public authority

1208 00	Assault or threat on a representative of public authority
1209 00	Public order offences, breach of the public peace
1210 00	Violence during sports events
1211 00	Theft of public or administrative documents
1212 00	Obstructing or perverting the course of justice, making false allegations in the course of criminal or judicial proceedings, perjury
1213 00	Unlawful impersonation of a person or an authority
1214 00	Escape from lawful custody
1300 00	Offences against public property or public interests
open category	
1301 00	Public, social security or family benefit fraud
1302 00	Fraud affecting European benefits or allowances
1303 00	Offences related to illegal gambling
1304 00	Obstructing of public tender procedures
1305 00	Active or passive corruption of a civil servant, a person holding public office or public authority
1306 00	Embezzlement, misappropriation or other diversion of property by a public official
1307 00	Abuse of a function by a public official
1400 00	Tax and customs offences
open category	
1401 00	Tax offences
1402 00	Customs offences
1500 00	**Economic and trade related offences**
open category	
1501 00	Bankruptcy or fraudulent insolvency
1502 00	Breach of accounting regulation, embezzlement, concealment of assets or unlawful increase in a company's liabilities
1503 00	Violation of competition rules
1504 00	Laundering of proceeds from crime
1505 00	Active or passive corruption in the private sector
1506 00	Revealing a secret or breaching an obligation of secrecy
1507 00	'Insider trading'
1600 00	Offences against property or causing damage to goods
open category	
1601 00	Unlawful appropriation
1602 00	Unlawful appropriation or diversion of energy
1603 00	Fraud, including swindling
1604 00	Dealing in stolen goods

1605 00	Illicit trafficking (6) in cultural goods, including antiques and works of art
1606 00	Intentional damage or destruction of property
1607 00	Unintentional damage or destruction of property
1608 00	Sabotage
1609 00	Offences against industrial or intellectual property
1610 00	Arson
1611 00	Arson causing death or injury to persons
1612 00	Forest arson
1700 00	**Theft offences**
open category	
1701 00	Theft
1702 00	Theft after unlawful entry into property
1703 00	Theft, using violence or weapons, or using threat of violence or weapons against person
1704 00	Forms of aggravated theft which do not involve use of violence or weapons, or use of threat of violence or weapons, against persons.
1800 00	Offences against information systems and other computer-related crime
open category	
1801 00	Illegal access to information systems
1802 00	Illegal system interference
1803 00	Illegal data interference
1804 00	Production, possession, dissemination of or trafficking in computer devices or data enabling commitment of computer-related offences
1900 00	**Forgery of means of payment**
open category	
1901 00	Counterfeiting or forging currency, including the euro
1902 00	Counterfeiting of non-cash means of payment
1903 00	Counterfeiting or forging public fiduciary documents
1904 00	Putting into circulation/using counterfeited or forged currency, non-cash means of payment or public fiduciary documents
1905 00	Possession of a device for the counterfeiting or forgery of currency or public fiduciary documents
2000 00	Falsification of documents
open category	
2001 00	Falsification of a public or administrative document by a private individual
2002 00	Falsification of a document by a civil servant or a public authority

2003 00	Supply or acquisition of a forged public or administrative document; supply or acquisition of a forged document by a civil servant or a public authority
2004 00	Using forged public or administrative documents
2005 00	Possession of a device for the falsification of public or administrative documents
2006 00	Forgery of private documents by a private individual
2100 00	Offences against traffic regulations
open category	
2101 00	Dangerous driving
2102 00	Driving under the influence of alcohol or narcotic drugs
2103 00	Driving without a licence or while disqualified
2104 00	Failure to stop after a road accident
2105 00	Avoiding a road check
2106 00	Offences related to road transport
2200 00	Offences against labour law
open category	
2201 00	Unlawful employment
2202 00	Offences relating to remuneration, including social security contributions
2203 00	Offences relating to working conditions, health and safety at work
2204 00	Offences relating to access to or exercise of a professional activity
2205 00	Offences relating to working hours and rest time
2300 00	Offences against migration law
open category	
2301 00	Unauthorised entry or residence
2302 00	Facilitation of unauthorised entry and residence
2400 00	Offences against military obligations
open category	
2500 00	Offences related to hormonal substances and other growth promoters
open category	
2501 00	Illicit importation, exportation or supply of hormonal substances and other grown promoters
2600 00	Offences related to nuclear materials or other hazardous radioactive substances
open category	
2601 00	Illicit importation, exportation, supply or acquisition of nuclear or radioactive materials
2700 00	Other offences

open category	
2701 00	Other intentional offences
2702 00	Other unintentional offences

(1) Unless otherwise specified in this category, 'trafficking' means import, export, acquisition, sale, delivery, movement or transfer.

(2) For the purpose of this sub-category trafficking includes acquisition, sale, delivery, movement or transfer.

(3) For the purpose of this sub-category trafficking includes import, export, acquisition, sale, delivery, movement or transfer.

(4) For example: particularly grave circumstances.

(5) For example rape with particular cruelty.

(6) Trafficking includes import, export, acquisition, sale, delivery, movement or transfer.

ANNEX B

Common table of penalties and measures categories referred to in Article 4

Code	Categories and sub-categories of offences
1000	Deprivation of freedom
open category	
1001	Imprisonment
1002	Life imprisonment
2000	Restriction of personal freedom
open category	
2001	Prohibition from frequenting some places
2002	Restriction to travel abroad
2003	Prohibition to stay in some places
2004	Prohibition from entry to a mass event
2005	Prohibition to enter in contact with certain persons through whatever means
2006	Placement under electronic surveillance (1)
2007	Obligation to report at specified times to a specific authority
2008	Obligation to stay/reside in a certain place
2009	Obligation to be at the place of residence on the set time
2010	Obligation to comply with the probation measures ordered by the court, including the obligation to remain under supervision
3000	Prohibition of a specific right or capacity
open category	

3001	Disqualification from function
3002	Loss/suspension of capacity to hold or to be appointed to public office
3003	Loss/suspension of the right to vote or to be elected
3004	Incapacity to contract with public administration
3005	Ineligibility to obtain public subsidies
3006	Cancellation of the driving licence (2)
3007	Suspension of driving licence
3008	Prohibition to drive certain vehicles
3009	Loss/suspension of the parental authority
3010	Loss/suspension of right to be an expert in court proceedings/witness under oath/juror
3011	Loss/suspension of right to be a legal guardian (3)
3012	Loss/suspension of right of decoration or title
3013	Prohibition to exercise professional, commercial or social activity
3014	Prohibition from working or activity with minors
3015	Obligation to close an establishment
3016	Prohibition to hold or to carry weapons
3017	Withdrawal of a hunting/fishing license
3018	Prohibition to issue cheques or to use payment/credit cards
3019	Prohibition to keep animals
3020	Prohibition to possess or use certain items other than weapons
3021	Prohibition to play certain games/sports
4000	Prohibition or expulsion from territory
open category	
4001	Prohibition from national territory
4002	Expulsion from national territory
5000	Personal obligation
open category	
5001	Submission to medical treatment or other forms of therapy
5002	Submission to a social-educational programme
5003	Obligation to be under the care/control of the family
5004	Educational measures
5005	Socio-judicial probation
5006	Obligation of training/working
5007	Obligation to provide judicial authorities with specific information
5008	Obligation to publish the judgment

5009	Obligation to compensate for the prejudice caused by the offence
6000	Penalty on personal property
open category	
6001	Confiscation
6002	Demolition
6003	Restoration
7000	Placing in an institution
open category	
7001	Placing in a psychiatric institution
7002	Placing in a detoxification institution
7003	Placing in an educational institution
8000	Financial penalty
open category	
8001	Fine
8002	Day-fine (4)
8003	Fine for the benefit of a special recipient (5)
9000	Working penalty
open category	
9001	Community service or work
9002	Community service or work accompanied with other restrictive measures
10000	Military penalty
open category	
10001	Loss of military rank (6)
10002	Expulsion from professional military service
10003	Military imprisonment
11000	Exemption/defermentofsentence/penalty,warning
open category	
12000	Other penalties and measures
open category	

(1) Fixed or mobile placement.

(2) Reapplication in order to obtain a new driving licence is necessary.

(3) Legal guardian for a person who is legally incompetent or for a minor.

(4) Fine expressed in daily units.

(5) E.g.: for an institution, association, foundation or a victim.

(6) Military demotion.

Parameters (to be specified where applicable)	
ø	Penalty
m	Measure
a	Suspended penalty/measure
b	Partially suspended penalty/measure
c	Suspended penalty/measure with probation/supervision
d	Partially suspended penalty/measure with probation/supervision
e	Conversion of penalty/measure
f	Alternative penalty/measure imposed as principal penalty
g	Alternative penalty/measure imposed initially in case of non-respect of the principal penalty
h	Revocation of suspended penalty/measure
i	Subsequent formation of an overall penalty
j	Interruption of enforcement/postponement of the penalty/measure (1)
k	Remission of the penalty
l	Remission of the suspended penalty
n	End of penalty
o	Pardon
p	Amnesty
q	Release on parole (liberation of a person before end of the sentence under certain conditions)
r	Rehabilitation (with or without the deletion of penalty from criminal records)
s	Penalty or measure specific to minors
t	Non-criminal ruling (2)

(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 of nationality of the person concerned.



Number 51 *of* 2019

CRIMINAL RECORDS (EXCHANGE OF INFORMATION) ACT 2019

REVISED

Updated to 2 April 2025

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.