

Proposal for a Regulation of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation (EU) No. 1077/2011 (COM (2017) 344)

Final document approved by the Committee on Justice of Italy's Chamber of Deputies

The Committee on Justice of Italy's Chamber of Deputies,

Having examined, pursuant to Rule 127 of the Rules of Procedure of the Chamber of Deputies, the proposal for a Regulation of the European Parliament and of the Council establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system) and amending Regulation EU 1077/2011 (COM (2017) 344);

Considering that:

the statistical report on the use of ECRIS by Member States has highlighted certain procedural and organisational flaws in the current functioning of the system that impair its usefulness as a means for the exchange of information on the criminal records of third-country nationals;

The flaws need to be addressed as soon as possible to strengthen this instrument and thus make full use of its notable potential as an effective means for the prevention and combating of transnational phenomena such as organised crime and terrorism, which have become a source of considerable concern in Europe in recent years;

The proposal for a Regulation would restore functionality to the current system, which is at the moment unable to determine ex-ante which Member State is in possession of the criminal records of an offender who is a national of a third country;

The Commission is proposing to improve ECRIS by supplementing it with a centralised information system capable of immediately ascertaining when a Member State holds conviction information on third-country nationals;

Observing that:

The European Commission is to be commended for its effort to enhance ECRIS by endowing it with an instrument that will help the authorities of a Member State identify which other Member States hold data on the criminal records of third-country nationals. The instrument has the potential to bring about a significant reduction of the risk that offenders (including those posing an extreme societal risk through the organisation and execution of terrorist attacks) will continue to operate in different Member States by exploiting the current difficulties of the competent authorities in looking up past criminal records;

We agree with the European Commission's plan to add fingerprint records and, hopefully in the near future, also the facial images of offenders to the existing alphanumeric data contained in the system. The hope is that the ECRIS-TCN system, once it has been thus enhanced and centralised, can be linked up with a future common system for the exchange of biometric data and with a common database for the identification of third-country offenders. The new mechanism would mark another step towards the objective, espoused alike by Italy in all EU fora, of interoperability among the information systems used by the criminal police and the judiciary. The new system would also complement other extant and planned EU instruments, such as the SIS database and the European Union Agencies for Law Enforcement Cooperation (Eurojust, Europol and the future European Public Prosecutor's Office);

The proposed Regulation strives to balance the need, on the one hand, to prevent and control the commission of new crimes by convicted offenders against the need, on the other, to respect the fundamental rights enshrined in the European Charter and in the constitutions of Member States, with particular regard to the protection of personal data;

Expresses a favourable opinion, with the following remarks:

- a) No time should be lost in rolling out a centralised ECRIS-TCN system that will enable the optimal deployment of the existing network of information exchanges relating to the criminal records of third-country nationals;
- b) Consideration should be given to the possibility of granting Member States greater latitude on when they must enact the Regulation and, especially, on when they should fulfil the challenging task of entering the records of definitive convictions of third-country nationals that were handed down before its entry into force. It is worth noting in this regard that fingerprint data cannot be entered into the system if it relates to court sentences handed down before the coming into force of the Regulation: only fingerprint data acquired after the enactment of the Regulation may be added;
- c) An evaluation needs to be made of whether the upgrading and updating of ECRIS in the manner envisaged will entail financial and administrative burdens for the competent authorities of the Member States, in which case it might be appropriate for the EU to allocate specific resources to them;

and makes the following recommendation:

The Ministries of Home Affairs and Justice should be as co-operative as possible in the management of profiles with the central authorities mentioned in the proposed Regulation so that

the latter may access the EDRIS-TCN system and enter biometric data, particularly the fingerprint data, of third-country offenders.