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## **Main characteristics of the Hungarian criminal records system**

**ABSTRACT:** The aim of this study is to present the development of the Hungarian criminal records system, to examine the general principles of the existing Hungarian framework and criminal data management. Moreover, it aims to analyse how the present Hungarian legal system meets the requirements of applicable EU legislation.

**KEYWORDS:** criminal records, Hungarian criminal records system, Hungarian Criminal Records Act, criminal data management.

### **1. Introduction**

The importance of criminal records is generally recognised. Using criminal records is essential for detecting and proving criminal offences, uncovering the perpetrators and prosecuting them, as well as for crime prevention. Criminal records are an important tool to law enforcement, providing a growing set of information on crime, offenders and all other circumstances that can make this work more effective and efficient.<sup>1</sup> The need for criminal records in law enforcement is unquestionable. Their crucial role has been confirmed by numerous studies.<sup>2</sup>

In my belief the most comprehensive definition of criminal records can be found in the Hungarian Constitutional Court's Decision No. 144/2008 (XI.26.). According to this document, a criminal record is a set of interrelated and interconnected public records (databases), organised according to different organisational principles and requirements, which can be used for criminal (criminal, law enforcement, investigative) purposes in the broadest sense. These criminal databases contain personal and sensitive

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<sup>1</sup> Szigetvári, 2018, p. 171.

<sup>2</sup> See: Finszter, 2006; Herke, 2005; Jánosi, 2014; Jánosi, 2020; Kármán, 1908; Lázár, 1970; Rudas, 1959; Szigetvári, 2018.

data on offenders in a structured order, but in a way that is determined by the specific purpose of each dataset.<sup>3</sup>

The aim of this study is to highlight the main cornerstones of the establishment of the Hungarian criminal records system, to examine the general principles of the existing Hungarian legislation and to examine how it meets the requirements of EU legislation.

## **2. The process of creation and development of the Hungarian criminal records**

According to a study written in 1959 by Dr. György Rudas, a police officer, the punishment of stigmatisation<sup>4</sup>, which was popular in the Middle Ages and during the absolutist period, as a form of marking the perpetrators of crimes, was abolished in the first half of the 19th century in Europe in general and in Hungary as well. The need to develop a reliable, modern form of criminal records system has been a major concern for crime-fighters since the second half of the 19th century. In the past, it was common practice to rely on the lists of individual prisons and the memories of older, experienced officials and police commissioners. These officials, who had a great deal of personal knowledge, used so-called ‘identification tests’, relying on their memory, to declare whether the person in front of them had already been convicted and was the same person they said they were. After the Austrian-Hungarian Compromise in 1867 the role of these officers in identification diminished, while police reports and records containing descriptions of offenders became more valuable. Later, in the 1880s, there were already a considerable number of criminal records available containing details of recidivists, their grouping places or the items they stole. These served as the basis for the first official register in Hungary, which was established in the building of Budapest Police Station in 1885. However, this form of criminal register was only used in Budapest and a few other large cities, but it did not meet the needs of the police, and the need for a unified, nationwide criminal record became more and more urgent.<sup>5</sup>

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<sup>3</sup> HCC Decision No. 144/2008 (XI. 26.) AB, ABH 2008. pp. 1107-1178.

<sup>4</sup> The *Sanctio Criminalis Josephina* of 1787 still included stigmatisation as an additional penalty, the function of which was to operate a kind of criminal register. However, the possibility of marking the face or forehead was abolished in 1763. See: Mezey, 2018, pp. 288-289. and p. 358.

<sup>5</sup> Rudas, 1959, pp. 22-24.

The next step in this process was the Act XXXIV of 1897 on the enactment of the Code of Criminal Procedure, which provided for the establishment of a register of convicted persons by final decision.<sup>6</sup> However, its implementation took an unduly long time.<sup>7</sup> There were also jurisdictional disputes as to whether the office to be created should fall under the competence of the Ministry of the Interior or the Ministry of Justice. Finally, the National Criminal Records Office was established under the Decree No. 24.300/1908 IM. It started its operations on 1 January 1909 in the building of the Budapest Police Headquarters. This register was not only a ‘casier judiciaire’, but also served the investigations and the executions of sentences. One part of the record was related to identification, consisting of fingerprints and photographs.<sup>8</sup> With the appearance of these central registries, criminal records became the primary tool of criminalistics.<sup>9</sup>

In 1944, a large part of the criminal register was transferred abroad, where it was destroyed. In 1950, the National Criminal Records Office was abolished and the police criminal records continued to operate under the control of the Ministry of Interior.<sup>10</sup> In 1965 a comprehensive scrapping of the register was ordered. During this period, the central register lost its homogeneity and the data processing activity was no longer merely a tool to support investigations.<sup>11</sup> In 1969, the Registry Centre of the Ministry of Interior was created to manage centralised registers (containing data on specific persons, objects, vehicles, offences), to control local registers and to monitor the exchange of information based on these registers.<sup>12</sup> In 1970, the register consisted of 12 sub-registers (such as: description of criminals, specific identifier, pseudonym, nickname, *modus operandi*, dactyloscopic records, etc.), for which computerised data processing was becoming increasingly important.<sup>13</sup> During this period, in addition to the central

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<sup>6</sup> Section 26 of Act XXXIV of 1897 on the Enactment of the Code of Criminal Procedure.

<sup>7</sup> Kármán, 1908, p. 377; Pálvölgyi, 2018, p. 150.

<sup>8</sup> Kármán, 1908, pp. 377-378; Pálvölgyi, 2018, pp. 152-153.

<sup>9</sup> Finszter, 2006, p. 39.

<sup>10</sup> Rudas, 1959, pp. 25-26. and pp. 30-31.

<sup>11</sup> Finszter, 2006, p. 40.

<sup>12</sup> An interview on the situation and perspectives of criminal records with Dr. Károly Fekete, Head of the Criminal Records Department, Ministry of Interior, 1975, p. 30.

<sup>13</sup> Lázár, 1970, pp. 36-38.

registers, there were also local registers, which were not interconnectable, but were useful for local law enforcement authorities.<sup>14</sup>

From 1990 onwards, a new internal affairs structure was established, and the two most important sources of police data management became Act XXXIV of 1994 on the Police and Act LXXXV of 1999 on Criminal Records.<sup>15</sup> On the basis of these acts, the criminal records system was divided into (1) offenders, (2) persons under coercive measures, (3) persons under criminal proceedings, (4) fingerprints and palm prints, (5) DNA profile records.<sup>16</sup> By Decision No. 144/2008 (XI. 26.) of 30 June 2009, the Constitutional Court declared unconstitutional and annulled certain provisions of Act LXXXV of 1999 on Criminal Records. The constitutional petitioners argued, among other things, that the restrictions on the transfer of data after the conclusion of criminal proceedings, the principles of data security and data economy – in particular with regard to the unreasonably long and undifferentiated retention periods – are not enforced, and the authorisation of external users to request data is too broad. Therefore, unjustified restrictions on the right to informational self-determination and the protection of personal data have been highlighted.<sup>17</sup> The Act XLVII of 2009 on the Criminal Records System, on the Register of Convictions of Hungarian Citizens by the Courts of the Member States of the European Union and on the Register of Biometric Data in Criminal and Law Enforcement Matters (hereinafter referred to as: Hungarian Criminal Records Act) entered into force on 30 June 2009.

### 3. Main principles of the present system in Hungary

The main features of the new system are set out in the explanatory memorandum to the Hungarian Criminal Records Act.

- The two main units of the criminal records system, which are also separated by their nature and data content, are (1) the records of personal identification data and photographs, and (2) criminal records. The separate and unrelated sub-registry units of the current criminal records system are: (1) the register of offenders, (2) the register of persons with clean criminal record, but subject to detrimental

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<sup>14</sup> Finszter, 2006, p. 40.

<sup>15</sup> Finszter, 2006, p. 41.

<sup>16</sup> Herke, 2005, p. 229.

<sup>17</sup> HCC Decision 144/2008. (XI. 26.) AB, ABH 2008. pp. 1107-1178.

consequences attached to prior convictions, (3) the register of persons subject to criminal proceedings, and (4) the register of persons subject to travel restrictions abroad. The latter has been part of the criminal records system since 1 January 2013 and aims to facilitate the enforcement of the travel restrictions and preventing foreign travel despite travel restrictions.<sup>18</sup>

- The criminal record also includes a register of convictions of Hungarian citizens by the courts of other Member States of the European Union. In Hungary, like only a few Member States (like Bulgaria, Finland and Portugal), a separate register has been created to store national convictions.<sup>19</sup>
- A register of biometric data in criminal and law enforcement matters, consisting of dactyloscopic and DNA profile register, is a separate unit from the records of personal identification data and criminal records. These can be further divided into three registers, namely (1) the register of fingerprints and palm prints/DNA profiles recorded at the scene of the crime and on objects bearing traces of the crime, (2) the register of fingerprints and palm prints/DNA profiles of persons prosecuted for a criminal offence, and (3) the register of fingerprints and palm prints/DNA profiles of convicted persons.
- Different organisations perform the tasks of data management related to the units of registry. In the case of criminal records and register of convictions of Hungarian citizens by the courts of the Member States, the data management body belongs to the Ministry of the Interior, while in the case of biometric data, the data manager is the Hungarian Institute of Forensic Sciences.
- Data stored in criminal records or in the criminal and law enforcement biometric data registers can be matched with the identity data on the basis of a so-called contact code, which ensures the separate processing of the identity data.
- In the Hungarian Criminal Records Act, the previous concerns of the Constitutional Court have been addressed by separating the register of

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<sup>18</sup> Section 30/A of the Hungarian Criminal Records Act.

<sup>19</sup> Report from the Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from criminal record between Member States. COM/2016/06 final. (Hereinafter referred to as COM/2016/06 final) 4. Obligations of the Member State of nationality.

persons with clean criminal record, but subject to detrimental consequences attached to prior convictions from the register of offenders. The register of offenders shall only include the data of a person against whom a court has issued a final decision of conviction and who, on the date on which the decision becomes final, has not yet been exempted from the detrimental consequences attached to prior convictions.<sup>20</sup> The register of persons with clean criminal record, but subject to detrimental consequences attached to prior convictions includes, among others, all those whose data have been removed from the register of offenders as a result of exoneration, or in whose cases exoneration shall take effect on the day when the peremptory decision becomes final.<sup>21</sup> According to the Explanatory Memorandum of the Hungarian Criminal Records Act, the purpose of this register is primarily to establish recidivism and to ensure for example the enforcement of employment rules relating to convictions.

- For the reasons set out in the Constitutional Court's Decision,<sup>22</sup> the period for which data are recorded in the criminal register has also been redefined along the following main principles: (1) as a general rule, the minimum period of registration is 3 years from exoneration; (2) maximum duration is 12 years from exoneration; (3) the duration of registration is increased according to the seriousness of the offence; (4) the registration period is differentiated for intentionally and negligent crimes; (5) judgement of acquittal and decisions to dismiss criminal proceedings are not part of the register.<sup>23</sup>
- From 1 January 2022, the so-called 'elimination register' was introduced as part of the criminal record<sup>24</sup> to exclude innocent trace contamination. In essence, this means that this register contains the personal identification data, fingerprints, palm prints and DNA profiling samples of persons who are involved in activities that may give the risk of contaminating evidence in the context of criminal proceedings. The possibility of innocent contamination at the scene of

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<sup>20</sup> Section 10 of the Hungarian Criminal Records Act.

<sup>21</sup> Section 15 of the Hungarian Criminal Records Act.

<sup>22</sup> HCC Decision 144/2008. (XI. 26.) AB, ABH 2008. pp. 1107-1178.

<sup>23</sup> An exception to this is, for example, if the court applied involuntary treatment in a mental institution in addition to an acquittal. Section 30/B(d) of the Hungarian Criminal Records Act.

<sup>24</sup> Act XXXI of 2020 amending several acts to strengthen the security of citizens.

the offence or on the person, object or evidence bearing traces of the offence. The data processing will be limited if the person concerned opposes the processing of his or her personal data in the elimination register. The comparison with the data recorded in the elimination register may only be made in relation to the offence in connection with which the prosecution or investigating authority conducting the criminal proceedings has provided the data of the person concerned. If the person concerned does not object to the processing, his or her data will have to be deleted from the register after ten years.<sup>25</sup>

The supervision of the legality of the records covered by the Hungarian Criminal Records Act falls within the competence of the Prosecutor General.<sup>26</sup> In this context, the legality of the criminal records system and of the registration of convictions of Hungarian citizens by the courts of the Member States of the European Union is constantly monitored. If they detect a breach of law, they must take immediate action to correct it.<sup>27</sup>

In 2022, a new constitutional complaint was submitted claiming that certain provisions of the Hungarian Criminal Records Act are in conflict with the Hungarian Fundamental Law and seeking their annulment. The complaint concerned the disclosure of data relating to persons who have committed an offence against the freedom of sexual life or sexual morality which is harmful to children. From 1 February 2022 the provisions of the Hungarian Criminal Records Act created a register containing personal data of persons who have committed an offence against the freedom of sexual life or sexual morality which is harmful to children. The purpose of this register is to provide a new possibility to request data whether a person who has direct contact with the child (e.g. school staff, babysitters, coaches) has been convicted of a sexual offence against a child, in order to protect the child's best interests. The Hungarian Constitutional Court declared<sup>28</sup> that 'to the extent possible' phrase in paragraph 75/C(3) of the Hungarian Criminal Records Act is contrary to the Fundamental Law and therefore annulled it.<sup>29</sup>

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<sup>25</sup> Section 94 of the Act XXXI of 2020 amending several acts to strengthen the security of citizens; Section 66/A-66/F of the Hungarian Criminal Records Act.

<sup>26</sup> Section 1(2) of the Hungarian Criminal Records Act.

<sup>27</sup> Section 22(1) of Decision No. 20/2014 (XII. 23.) of the Prosecutor General of Hungary.

<sup>28</sup> HCC Decision 17/2023. (VIII. 3.) AB, ABH 2023. pp. 2215-2227.

<sup>29</sup> The original text of paragraph 75/C(3) of the Hungarian Criminal Records Act was as follows:

"The criminal records body shall ensure, as far as possible, through appropriate technical and organisational measures, that the interface

In its reasoning, the Constitutional Court explained that the contested provision of the Hungarian Criminal Records Act prescribes that the criminal records authority, as data controller, to ensure ‘to the extent possible’ that no copies of the data can be made and that it is clearly identifiable that the data originated from the platform. The Constitutional Court clarified that restrictions of personal data and the right to privacy are only constitutional if the data controller bears objective responsibility. This means that it is therefore liable for any incident arising from the improper processing of data, or from access by unauthorised persons.<sup>30</sup>

#### **4. Adaptation of EU legal sources into the Hungarian Criminal Records Act**

The Hungarian Criminal Records Act contains several provisions to comply with EU legislation, the most important of them are listed below.

##### ***4.1. Provisions in the Hungarian Criminal Records Act on the exchange of information related to criminal convictions - European Criminal Records Information System (ECRIS)***

The Hungarian Criminal Records Act already contained provisions implementing Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States,<sup>31</sup> when it entered into force on 30 June 2009. This was much earlier than it was originally expected. (27 April 2012). The Framework Decision imposes obligations on the Member State of conviction and the Member State of nationality. This is also consistently implemented into the Hungarian Criminal Records Act. The convicting Member State is obliged to: (1) to indicate information on nationality when recording the conviction in the criminal record if the convicted person is a national of another Member State; (2) to inform the central authority of the

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a) no textual copy can be made of the data which can be accessed pursuant to Section 75/B(1); and [...].”

<sup>30</sup> Available at:

<https://hunconcourt.hu/datasheet/?id=6D990A64C8E5BEBCC125889B003A09E1>  
(Accessed: 15 August 2024).

<sup>31</sup> 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. OJ L 93, 07/04/2009, p. 23–32 (Hereinafter referred to as Council Framework Decision 2009/315/JHA.)



Member State of nationality of the conviction recorded in the criminal record and of any modification or deletion of the recorded data; (3) in order to ascertain what action is necessary in the Member State of nationality, forward – on request – a copy of the judgement and subsequent measures in individual cases, and any other relevant information.<sup>32</sup> The Member State of nationality shall retain the information transmitted and shall amend or delete it from its register in accordance with the information provided by the convicting Member State.<sup>33</sup> The fundamental purpose of this system is therefore to ensure that Member States are informed of the content of convictions handed down against their nationals in another Member State and that, if a Member State authority authorised to do so wishes to obtain information on the criminal record of a national of another Member State, the Member State of nationality can provide the relevant information.<sup>34</sup> The provisions of the Framework Decision are to be found in the following parts of the Hungarian Criminal Records Act: (A) Chapter III: Register of convictions handed down by the courts of the Member States of the European Union against Hungarian nationals; (B) Chapter VI: Exchange of data within the framework of the European Criminal Records Information System.

- (A) Chapter III contains the provisions where Hungary appears as a Member State of nationality. Thus, in the register of convictions of the Member States, the data of the Hungarian national whose guilt has been finally convicted by a court of another Member State of the European Union must be recorded.<sup>35</sup>
- (B) Chapter VI defines the forms of data exchange within the framework of the European Criminal Records Information System. This includes:
  - (1) *Automatic transmission* applies when Hungary, as the convicting Member State, appears in the proceedings and is obliged to inform the Member State of the person's nationality without delay of the data contained in the final decision of conviction entered in the register of convicted persons and in the register of persons with clean criminal record, but subject to detrimental consequences attached to prior

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<sup>32</sup> Art. 4 of Council Framework Decision 2009/315/JHA. See: Jánosi, 2019, p. 416.

<sup>33</sup> Art. 5 of Council Framework Decision 2009/315/JHA. See: Jánosi, 2019, p. 416.

<sup>34</sup> Explanatory memorandum of the Hungarian Criminal Records Act. Detailed explanatory memorandum to Sections 31-34.

<sup>35</sup> Section 32 of the Hungarian Criminal Records Act.

convictions.<sup>36</sup> (2) The *request for information from the criminal records of another Member State* covers the cases of requests for information on convictions provided for in Article 6 of the Framework Decision. This includes when a competent authority requests data from the criminal records of another Member State and when an EU citizen applies data relating to him or her held in the criminal records system.<sup>37</sup> It should be mentioned that in the first case, the data received may only be used for the purposes of the criminal proceedings specified in the request.<sup>38</sup> (3) *Transmission on request to another Member State and to a third country* essentially contains provisions on the transfer of data processed in the criminal records system at the request of the central authority of another Member State. It is important to note that the data can only be transferred for the purpose of criminal proceedings. The only exception to this rule from 1 January 2016 is if the request is made for the purpose of employing a person to work with children, with the consent of the person concerned. If the request concerns a non-Hungarian national, it can only be executed on the basis of the European Convention on Mutual Assistance in Criminal Matters.<sup>39</sup> A further special rule applies if the request is from a third country for the transmission of data from the register of convictions of a Member State. The data may then only be transferred for use in criminal proceedings, within the limits set by the Member State that sent the data to the criminal records body.<sup>40</sup>

#### **4.2. Provisions related to the creation and functioning of ECRIS-TCN**

The Regulation establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System was published in the Official Journal of the

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<sup>36</sup> Section 78(1) of the Hungarian Criminal Records Act.

<sup>37</sup> Art. 6(1-3) of Council Framework Decision 2009/315/JHA. Section 79-79/A of the Hungarian Criminal Records Act.

<sup>38</sup> Section 79(2) of the Hungarian Criminal Records Act.

<sup>39</sup> Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union. OJ C 197, 12.7.2000, p. 3–23.

<sup>40</sup> Section 80 and 80/C of the Hungarian Criminal Records Act.

European Union on 22 May 2019.<sup>41</sup> The purpose of this new centralised information system is to ensure that decisions made by Member States in relation to third-country nationals can be taken into account in other Member States in new criminal proceedings and to prevent new criminal offences. Although ECRIS has already provided the possibility for Member States to exchange information on third country nationals, it failed to provide an adequate procedure. Judgments concerning third-country nationals were registered only in the Member State of conviction. The consequence was that full information on the criminal history of third country nationals could only be obtained by contacting all other Member States.<sup>42</sup> This Regulation applies to third-country nationals and stateless persons and EU citizens who also hold the nationality of a third country.<sup>43</sup>

In addition to this Regulation, the legislative package for the creation of ECRIS-TCN also includes a Directive amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA.<sup>44</sup> In summary, this Directive implements the necessary amendments to Framework Decision 2009/315/JHA which allow for an effective exchange of information on convictions of third-country nationals through ECRIS.<sup>45</sup>

In accordance with the provisions of the Regulation, the Hungarian Criminal Records Act contains rules on the transmission of data to and requests for data from ECRIS-TCN.<sup>46</sup>

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<sup>41</sup> Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726. OJ L 135, 22/05/2019, p. 1–26 (Hereinafter referred to as Regulation 2019/816.)

<sup>42</sup> Preamble (2–5) of Regulation 2019/816.

<sup>43</sup> Art. 2 of Regulation 2019/816.

<sup>44</sup> Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019 amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA. OJ L 151, 7.6.2019, p. 143–150 (Hereinafter referred to as Directive 2019/884.)

<sup>45</sup> Preamble (11) of Directive 2019/884.

<sup>46</sup> Section 78/A-79/A and 83 of the Hungarian Criminal Records Act.

### **4.3. Data transfer under the Prüm Decision**

The rules on the international transfer of data include the provisions on automatic access to search data and the procedure for the follow-up of a hit during automatic access to search data, which essentially means the implementation of the provisions of the Prüm Convention<sup>47</sup> and the Council Decision 2008/615/JHA<sup>48</sup> into the Hungarian legal framework. The Prüm Convention was signed by seven European countries on 27 May 2005 and subsequently joined by other states. The Council Decision integrated the main parts of the Convention into EU law. Main parts of the Prüm Decision are: (1) the automated search of data, (2) information exchange for the prevention of offences, (3) police cooperation and (4) relevant data protection provisions.<sup>49</sup> On this basis, Member States provide each other with access to their automated DNA analysis files, automated dactyloscopic files and vehicle registration data.<sup>50</sup> The Hungarian Criminal Records Act regulates the rules of comparison with the data processed in the register of biometric data in criminal and law enforcement matters in the framework of automatic access to search data. Fingerprints and palm prints can be searched for the purposes of crime prevention and criminal proceedings, but DNA profiles can only be searched for the purposes of criminal proceedings. The system works on a hit/no hit basis.<sup>51</sup> This means that anonymous profiles are compared. Personal data can only be exchanged after matching, in accordance with national law. In Hungary, the transmission of personal data and the sending of a request for the transmission of personal identification data may be based on acts of mutual legal assistance in criminal matters or on international cooperation between

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<sup>47</sup> Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration (Prüm Convention) of 27 May 2005. (Hereinafter referred to as Prüm Convention.)

<sup>48</sup> Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. OJ L 210, 6.8.2008, p. 1–11 (Hereinafter referred to as Council Decision 2008/615/JHA.)

<sup>49</sup> Report from the Commission to the European Parliament and the Council on the implementation of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the ‘Prüm Decision’). COM/2012/0732 final.

<sup>50</sup> Preamble (10) of Council Decision 2008/615/JHA.

<sup>51</sup> Jánosi, 2014, p. 299.

law enforcement authorities.<sup>52</sup> Under the Hungarian Criminal Records Act, comparisons may be made in the records of a cooperating Member State only on the basis of an order of the body conducting the preparatory procedure, the investigating authority, the prosecutor's office, the court or the body responsible for law enforcement in an individual case. In the case of fingerprints and palm prints, the search may be carried out for the purpose of the prevention, detection of crimes or criminal proceedings, but in the case of DNA profiles, the search may only be carried out for the purpose of criminal proceedings.<sup>53</sup> The Hungarian Criminal Records Act has also transposed the provisions on DNA and dactyloscopic data and common provisions on data exchange of the Decision implementing Decision 2008/615/JHA.<sup>54</sup>

On 5 April 2024, a new Regulation on the automated search and exchange of data for police cooperation<sup>55</sup> was published in the Official Journal of the European Union. It is also known as the 'Prüm II' Regulation. This Regulation sets out the conditions and procedures for automated searches and exchanges of DNA profiles, dactyloscopic data, vehicle registration data, facial images and police records. The purpose of this is to improve, streamline and facilitate the exchange of criminal information. It establishes a framework for the exchange of information between authorities responsible for the prevention, detection and investigation of criminal offences.<sup>56</sup> The development of the new framework will consist of different phases, during which the relevant provisions of the Hungarian Criminal Records Act will be also amended.

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<sup>52</sup> Preamble (18) of Council Decision 2008/615/JHA. Section 86/A(3) and 86/B(2) of the Hungarian Criminal Records Act.

<sup>53</sup> Section 85 of the Hungarian Criminal Records Act. Art. 4 of Council Decision 2008/615/JHA.

<sup>54</sup> Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. OJ L 210, 06/08/2008, p. 12–72.

<sup>55</sup> Regulation (EU) 2024/982 of the European Parliament and of the Council of 13 March 2024 on the automated search and exchange of data for police cooperation, and amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, (EU) No 2019/817 and (EU) 2019/818 of the European Parliament and of the Council (the Prüm II Regulation). OJ L, 2024/982, 5.4.2024 (Hereinafter referred to as Regulation 2024/982.)

<sup>56</sup> Preamble (1-5) of Regulation (EU) 2024/982.

#### ***4.4. Taking account of convictions in the Member States of the European Union in the course of new criminal proceedings***

The purpose of the Framework Decision on the taking account of convictions in the Member States of the European Union in the course of new criminal proceedings<sup>57</sup> is to establish a minimum obligation for Member States to take into account convictions handed down in other Member States.<sup>58</sup> During the implementation of this Framework Decision the Hungarian Criminal Records Act was also necessarily amended. For example, the register of offenders and the register of persons with a criminal record who are subject to detrimental legal consequences must record the fact of the matching and the related data must record the fact of the recognition of judgement and the related data.<sup>59</sup>

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Our existing criminal register is a highly complex system, which is constantly evolving, partly to comply with EU standards. These changes are a constant challenge for legislators and practitioners as well, but they guarantee that it is and will remain an effective tool for law enforcement.

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<sup>57</sup> Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings. OJ L 220, 15/08/2008, p. 32–34 (Hereinafter referred to as Council Framework Decision 2008/675/JHA.)

<sup>58</sup> Preamble (3) of Council Framework Decision 2008/675/JHA.

<sup>59</sup> Section 11(1) k) and 16(1) j) of the Hungarian Criminal Records Act.

**Bibliography**

- [1] Finszter, G. (2006) 'A bűnügyi nyilvántartás helyzete és fejlesztési lehetőségei' *Kriminológiai tanulmányok*, 43. pp. 39-62.
- [2] Herke, Cs. (2005) 'Bűnügyi nyilvántartás' in Tremmel, F., Fenyvesi, Cs., Herke, Cs. (eds) *Kriminalisztika Tankönyv és Atlasz*. Budapest – Pécs: Dialóg Campus, pp. 229-250.
- [3] Jánosi, A. (2014) 'Bűnüldözési célú adatkezelés Magyarországon az Európai Unió által megfogalmazott elvárások tükrében', *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, Tomus XXXII, pp. 293-303.
- [4] Jánosi, A. (2019) 'Az Európai Bűnügyi Nyilvántartási Információs Rendszer alkalmazásának eredményei és tapasztalatai', *Miskolci Jogi Szemle*, 14(2) Special Edition, pp. 413-427.
- [5] Jánosi, A. (2020) 'A hazai bűnügyi nyilvántartási rendszer evolúciója', *Miskolci Jogi Szemle*, 15(3) Special Edition, pp. 75-86.
- [6] Kármán, E. (1908) 'A bűnügyi nyilvántartás és büntető igazságszolgáltatásunk', *Jogtudományi Közöny*, 1908/47, pp. 377-380.
- [7] Lázár, B. (1970) 'A bűnügyi nyilvántartás korszerűsítésének egyes kérdéseiről', *Belügyi Szemle*, 1970/2, pp. 36-38.
- [8] Mezey, B. (2018) *Börtönügy a 17- 19. században. A börtön európai útja*. Budapest: Gondolat.
- [9] Pálvögyi, Á (2018) 'A feltételes elítélés XIX. századi kodifikációjának akadályai a Csemegi Kódex alkalmazásában', *Jog, állam, politika*, 10(3), pp. 137-158.
- [10] Rudas, Gy. (1959) 'A bűnügyi nyilvántartás fejlődése', *Rendőrségi Szemle*, 1959/1, pp. 22-31.

- 
- [11] Szigetvári, O. (2018) 'A magyar bűnügyi nyilvántartás kezdete' in *Ünnepi parergák Boda József 65. születésnapja tiszteletére. Salutem* (4). Budapest: Szemere Bertalan Magyar Rendvédelem-történeti Tudományos Társaság, pp. 169-180; <https://doi.org/10.31626/HU-EISSN2560-094XTOMIV.169-180.p>.
- [12] 'An interview on the situation and perspectives of criminal records with Dr. Károly Fekete, Head of the Criminal Records Department, Ministry of Interior', *Belügyi Szemle*, 1975/3, p. 30.