

Asylum: Eurodac system for the comparison of fingerprints of third-country nationals or stateless applicants; requests for comparison with Eurodac data. Recast

2008/0242(COD) - 03/12/2008 - Legislative proposal

PURPOSE: recast of Council Regulation (EC) No 2725/2000/EC for the establishment of 'EURODAC' ("EURODAC Regulation").

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: as announced in the Policy Plan on Asylum, this proposal is part of a first package of proposals which aim to ensure a higher degree of harmonisation and better standards of protection for the Common European Asylum System (CEAS). It is adopted at the same time as the recast of the Dublin Regulation and the Reception Conditions Directive. EURODAC, a Community-wide information technology system, was created to facilitate the application of the Dublin Convention. The Convention was replaced by a Community law instrument Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ("the Dublin Regulation"). EURODAC allows Member States to determine whether an asylum applicant or a foreign national illegally present in a Member State has previously applied for asylum in another Member State. Among other criteria, the Dublin Regulation allocates responsibility for the assessment of an asylum claim on the basis of which Member State allowed the applicant to the territory of the Member States. EURODAC allows Member States to verify whether the asylum-seeker was previously apprehended when crossing irregularly the border of a Member State coming from a third country.

The EURODAC Regulation lays down strictly defined and harmonised rules regarding the storage, comparison and erasure of fingerprints, while it also provides for data protection and data security safeguards.

It provides for the implementation of a Central Unit (CU) managed by the European Commission containing an Automated Fingerprint Identification System (AFIS). Fingerprints taken by Member States are sent to this system which indicates whether the same fingerprints are already stored in the database and if this is the case, which Member State sent them in.

In addition to fingerprints, the central database also keeps record of the place and date of the application for asylum, the Member State which entered the data and its reference number, the gender of the applicant, the date on which the fingerprints were taken and when they were transmitted to the CU. These data are collected for any asylum applicant and any third country national or stateless person apprehended in connection with the irregular crossing of an external border at least 14 years of age. The data can be kept for up to 10 years and up to 2 years respectively, unless the individual obtains the citizenship of one of the Member States, receives a residence permit or leaves the territory of the Member States (at which point the data is erased).

In its evaluation report, the Commission acknowledged that the Regulation is applied in a generally satisfactory way, but identified certain issues related to the efficiency of the current legislative provisions which have to be tackled in order to improve EURODAC's support of the Dublin Regulation. These

include the continuing late transmission of fingerprints by a number of Member States; inefficient management of data deletions; unclear specification of national authorities having access to EURODAC, which hinders the monitoring role of the Commission and the European Data Protection Supervisor (EDPS); and the fact that some persons already granted asylum in a Member State nevertheless apply again in another.

Regarding the more **efficient use of the EURODAC database**, the proposal aims to:

- establish rules to ensure truly prompt transmission of fingerprints to the Central Unit of EURODAC in order to ensure that the Member State responsible under the Dublin Regulation for examining the application is correctly identified;
- update and clarify definitions of the different stages of management of the database, also in line with the objective to house all large-scale IT systems under Title IV of the TEC in one location under one management and running on the same platform (enabling to improve productivity and reduce operational costs);
- to unblock data on recognised refugees and to make them searchable by national asylum authorities, in order to avoid a situation where recognised refugee in one Member State applies for protection in another Member State .

Regarding **data protection concerns**, the proposal aims to:

- establish technical rules to ensure that Member States delete data which is no longer necessary for the purpose for which were collected and to ensure that Commission can better monitor the respect of the data protection principles;
- clarify the provisions ensuring effective monitoring by the Commission and the European Data Protection Supervisor (EDPS) of access to data in EURODAC by national authorities.

Since it has not been used, the Commission proposes to abolish the committee provided for by the Regulation.