

Eurodac Regulation

2016/0132(COD) - 04/05/2016 - Legislative proposal

PURPOSE: to amend the current EURODAC Regulation (EU) No. 603/2013 in order to better manage the asylum system and to help tackle irregular migration.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: EURODAC is the European fingerprint database for identifying asylum seekers and irregular border-crossers.

In the [European agenda on migration](#), the Commission announced that it will have to evaluate the Dublin system and determine whether a revision of the legal parameters of Dublin will be needed to achieve a fairer distribution of asylum seekers in Europe.

The Commission also proposed to look into the possibility of adding **additional biometric identifiers** to EURODAC, such as facial images and the use of facial recognition software. The refugee crisis has exposed significant structural weaknesses and shortcomings in the design and implementation of European asylum and migration policy, including the Dublin and EURODAC systems, which prompted calls for reform.

On 6 April in its [Communication](#) "Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe", the Commission considered it a priority to bring forward a reform of the Dublin Regulation and establish a sustainable and fair system for determining the Member State responsible for asylum seekers ensuring a high degree of solidarity and a fair sharing of responsibility between Member States by proposing a corrective allocation mechanism.

As part of this, the Commission considered that EURODAC should be reinforced to reflect changes to the Dublin mechanism and to make sure that it continues to provide the fingerprint evidence it needs to function. It was also considered that EURODAC could contribute to the fight against irregular migration by storing fingerprint data under all categories and allowing comparisons to be made with all stored data for that purpose.

More specifically, this proposal is part of a **first set of legislative proposals** the Commission is presenting in the context of a major reform of the Common European Asylum System. These proposals include:

- **this draft Regulation** which aims to extend the scope of the Eurodac Regulation to include the possibility for Member States to store and search data belonging to third-country nationals or stateless persons who are not applicants for international protection and found irregularly staying in the EU;
- a [draft Regulation](#) on the European Union Agency for Asylum which aims to strengthen the mandate of the European Asylum Support Office (EASO);
- a [draft Regulation](#) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

CONTENT: this proposal amends the current EURODAC Regulation (EU) No. 603/2013, and extends its scope for the purposes of identifying illegally staying third-country nationals and those who have entered the European Union irregularly at the external borders, with a view to using this information to assist a Member State to **re-document** a third-country national for **return purposes**.

A summary of the main provisions is as follows:

Scope: the scope of the new EURODAC Regulation has been extended to include the possibility for Member States to **store and search data belonging to third-country nationals or stateless persons who are not applicants for international protection** and found irregularly staying in the EU, so that they can be identified for return and readmission purposes.

Storing data: storing more personal information centrally in Eurodac will allow the immigration and asylum authorities to easily identify an irregular third-country national or asylum applicant without the need to request this information from another Member State.

The proposal establishes strict access rules to the Eurodac system and the necessary safeguards - ensuring the respect of data protection requirements.

Data retention: the data retention period for personal data taken from asylum applicants will be **10 years**. This is to ensure that Member States can track secondary movements within the European Union following the granting of international protection status. This data can now be used to transfer refugees or persons granted subsidiary protection back to the Member State that granted them protection.

Fingerprint data for irregularly staying third-country nationals who do not claim asylum will be retained for **five years**. This will ensure that illegal immigration and secondary movements within and to the EU can be sufficiently monitored. This storage period is aligned with other EU legislation

Facial image: it has been proposed to add additional biometric identifiers to EURODAC in order to mitigate some of the challenges Member States were facing with damaged fingertips and non-compliance with the fingerprinting process. This proposal inserts a requirement for Member States to **take a facial image of the data-subject** for transmission to the Central System.

Age for taking fingerprints and facial images: many applicants for international protection and third-country nationals arriving irregularly to the European Union travel with families and in many cases very young children. It is proposed that the taking of fingerprints and facial images of minors for EURODAC should be changed to **six years old** which will help identify children in cases where they are separated from their families by allowing a Member State to follow up a line of inquiry where a fingerprint match indicates that they were present in another Member State.

It will also strengthen the protection of **unaccompanied minors**, who do not always formally seek international protection and who can risk harm when absconding from care institutions or child social services. Under the current legal and technical framework their identity cannot be established, making it harder to prevent them from ending up in situations which endanger their well-being.

The proposal provides safeguards in order to ensure that the taking of biometrics for minors will be carried out in full respect for their rights and will take into account their **best interests**.

Sharing information on the identity of a third-country national with a non-EU country: identifying and re-documenting an illegally staying third-country national for return and readmission purposes will require **data sharing in some circumstances with third countries** - for the purpose of returns. Strict conditions are set out under which this data can be shared.

Eurodac cannot be directly accessed by third countries and Member States cannot check data on behalf of a third country. This proposal aligns Eurodac with other databases such as the Visa Information System and the proposed Entry/Exit System

Access to EURODAC by law enforcement authorities: law enforcement authorities and Europol will continue to be able to search Eurodac to prevent, detect or investigate a serious crime or **terrorist offence**. Minor amendments have been made to the provisions for law enforcement access to make sure that all three categories of data stored in the Central System can be checked when a law enforcement search is carried out.

Sanctions applicable to irregular third-country nationals or asylum applicant if they refuse to give their fingerprints: the new proposal permits Member States to introduce sanctions, in accordance with their national law, for those individuals who refuse to comply with the fingerprinting procedure. It is up to the Member State to decide the **form of penalties or sanctions to be introduced**, as long as it does not breach the fundamental rights of the individual concerned. The use of detention or any form of coercion should only be used as a means of last resort.

Territorial provisions: the United Kingdom and Ireland may participate in this proposal, but are not required to do so, in accordance with the relevant Protocols attached to the Treaties.

BUDGETARY IMPLICATIONS: the cost estimate of EUR 29.872 million includes costs for the **technical upgrade and increased storage** and throughput of the Central System. It also reflects the additional staffing costs required by eu-LISA.