

Basic information	
1999/0116(CNS) CNS - Consultation procedure Regulation	Procedure completed
Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention	
Repealed by 2008/0242(COD) Subject 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)	

Key players			
European Parliament	Committee responsible		Rapporteur
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs		PIRKER Hubert (PPE-DE)
	Former committee responsible		Former rapporteur
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs		PIRKER Hubert (PPE-DE)
	Former committee for opinion		Former rapporteur for opinion
	JURI Legal Affairs and Internal Market		THORS Astrid (ELDR)
	Council configuration		Date
Council of the European Union	Justice and Home Affairs (JHA)		1999-12-02
	Justice and Home Affairs (JHA)		1999-10-29
	Health		2000-12-11

Key events			
Date	Event	Reference	Summary
26/05/1999	Legislative proposal published	COM(1999)0260 	Summary
13/09/1999	Committee referral announced in Parliament		

29/10/1999	Debate in Council		Summary
09/11/1999	Vote in committee		Summary
09/11/1999	Committee report tabled for plenary, 1st reading/single reading	A5-0059/1999	
18/11/1999	Decision by Parliament	T5-0110/1999	Summary
18/11/1999	Debate in Parliament		
15/03/2000	Modified legislative proposal published	COM(2000)0100 	Summary
11/05/2000	Amended legislative proposal for reconsultation published	84717/2000	Summary
25/05/2000	Formal reconsultation of Parliament		
29/08/2000	Vote in committee		Summary
29/08/2000	Committee report tabled for plenary, reconsultation	A5-0219/2000	
20/09/2000	Debate in Parliament		
21/09/2000	Decision by Parliament	T5-0399/2000	Summary
11/12/2000	Act adopted by Council after consultation of Parliament		
11/12/2000	End of procedure in Parliament		
15/12/2000	Final act published in Official Journal		

Technical information	
Procedure reference	1999/0116(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealed by 2008/0242(COD)
Legal basis	EC Treaty (after Amsterdam) EC 063-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/12800 LIBE/5/12072

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0059/1999 OJ C 189 07.07.2000, p. 0005	09/11/1999	
Text adopted by Parliament, 1st reading/single reading		T5-0110/1999 OJ C 189 07.07.2000, p. 0105-0227	18/11/1999	Summary
Committee final report tabled for plenary, reconsultation		A5-0219/2000 OJ C 135 07.05.2001, p. 0012	29/08/2000	

Text adopted by Parliament after reconsultation		T5-0399/2000 OJ C 146 17.05.2001, p. 0018-0087	21/09/2000	Summary
Council of the EU				
Document type	Reference	Date	Summary	
Amended legislative proposal for reconsultation	84717/2000	11/05/2000	Summary	
European Commission				
Document type	Reference	Date	Summary	
Legislative proposal	COM(1999)0260  OJ C 337 28.11.2000, p. 0037 E	26/05/1999	Summary	
Modified legislative proposal	COM(2000)0100  OJ C 029 30.01.2001, p. 0001 E	15/03/2000	Summary	
Follow-up document	SEC(2004)0557 	05/05/2004	Summary	
Follow-up document	SEC(2005)0839 	20/06/2005	Summary	
Follow-up document	SEC(2006)1170 	15/09/2006	Summary	
Follow-up document	COM(2007)0299 	06/06/2007	Summary	
Follow-up document	SEC(2007)0742 	06/06/2007	Summary	
Follow-up document	SEC(2007)1184 	11/09/2007	Summary	
Follow-up document	COM(2009)0013 	26/01/2009	Summary	
Follow-up document	COM(2009)0494 	25/09/2009	Summary	
Follow-up document	COM(2010)0415 	02/08/2010	Summary	
Follow-up document	COM(2011)0549 	12/09/2011	Summary	
Follow-up document	COM(2012)0533 	21/09/2012	Summary	
Follow-up document	COM(2013)0485 	28/06/2013	Summary	
Follow-up document	SWD(2015)0150	28/05/2015	Summary	
National parliaments				

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT__PARLIAMENT	COM(2010)0415	15/04/2011	
Contribution	PT__PARLIAMENT	COM(2011)0549	17/02/2012	
Contribution	PT__PARLIAMENT	COM(2012)0533	24/04/2013	
Contribution	PT__PARLIAMENT	COM(2013)0485	05/10/2015	
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
EU	Implementing legislative act	32002R0407 OJ L 062 05.03.2002, p. 0001-0005	28/02/2002	Summary

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
Regulation 2000/2725 OJ L 316 15.12.2000, p. 0001	Summary

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 21/09/2012 - Follow-up document

In accordance with the requirements of Council Regulation EC/2725/2000, the Commission presents its ninth annual report on the EURODAC Regulation. The report includes information on the management and the performance of the system in 2011. It assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service.

Legal and policy developments: recasts of the EURODAC Regulation in 2008 and 2009 were followed by an [amended proposal](#), which was discussed by the legislators in early 2011. An orientation vote in the European Parliament's LIBE committee took place on 03.02.2011 at which the Rapporteur's draft report was adopted. Two Council preparatory body meetings took place to discuss the proposal.

The Polish Presidency noted on 21 October 2011 that work on the Eurodac Regulation is on hold. The overwhelming majority of delegations maintains its support for inserting a clause in the EURODAC Regulation enabling Member States to allow their law enforcement authorities' access to the EURODAC central database under strict conditions for the purposes of fighting terrorism and organised crime. The 2010 proposal did not include law enforcement access and the Commission has decided to table again a [new proposal](#) permitting law enforcement access to EURODAC.

The EURODAC Central Unit: in general, the report finds that the EURODAC Central Unit provided satisfactory results throughout 2011 in terms of speed, output, security and cost-effectiveness.

Management of the system: the EURODAC PLUS system was formally accepted in April 2011, after completion of the final acceptance test which consisted of 3 consecutive months of trouble free operations. The old EURODAC IT infrastructure was decommissioned in November 2011.

Quality of service and cost-effectiveness: overall, in 2011 the EURODAC Central Unit was available 99.82% of the time.

The expenditure for maintaining and operating the Central Unit in 2011 was EUR 1,040,703.82 and marked a decrease in the expenditure compared to previous years, which was, mainly due to the upgrade of the EURODAC system. Some savings were made by the efficient use of existing resources and infrastructures managed by the Commission, such as the use of the s-TESTA network.

Data protection and data security: in 2011, a total of 226 special searches were conducted which represents a large increase in comparison with 2010 (66) and 2009 (42). However, the vast majority of these cases were conducted by Spain, which accounted for 79% of all special searches.

In order to better monitor this phenomenon, the Commission has included in its proposal for the amendment of the EURODAC Regulation a requirement for Member States to send a copy of the data subject's request for access to the competent national supervisory authority.

Successful transactions: in 2011, the Central Unit received a total of 412,303 successful transactions, which represents an increase of 37.7% compared with 2010 (299,459). This is in contrast with the trend from the previous year, which had seen a decrease in the number of successful transactions. The biggest increases were in Malta (582.4%) and Italy (559.1%) and can be attributed to the Arab Spring.

- **Category 1:** the trend in the number of transactions of data of asylum seekers increased by 28% in 2011.
- **Category 2:** there was a change in trend regarding the number of persons who were apprehended in connection with an irregular crossing of an external border. After falling in 2009 and 2010, the **number of transactions increased significantly in 2011** to 57,693 (417.1%). Italy introduced by far the majority of these transactions (50,555 or 88%), followed at some distance by Spain (4,204 or 7%).

The issue of **divergence** between the number of category 2 data sent to EURODAC and other sources of statistics on the volume of irregular border crossings in the Member States, highlighted by the EURODAC statistics, is due to the definition in Article 8(1) of the EURODAC Regulation. This issue will be clarified in the framework of the on-going revision of the EURODAC Regulation.

- **Category 3:** the total number of 'category 3' transactions (data of persons apprehended when illegally present on the territory of a Member State) rose slightly by 8.1% in 2011 compared with 2010. Ireland remains the only Member State which did not send any 'category 3' transactions.

Even though 'category 3' searches are not obligatory under the EURODAC Regulation, the Commission encourages Member States to use this possibility before initiating return procedures under Directive 2008/115/EC. The largest number of 'category 3' transactions in 2011 was from Germany (22,851 or 29%), the UK (12,859 or 16%) and The Netherlands (11,154 or 14%). This is consistent with the trend in 2010.

'Hits': the report analysis the figures on multiple asylum applications ('Category 1 against category 1' hits), noting that from a total of 275,857 asylum applications recorded in EURODAC in 2011, 22.40% were recorded as 'multiple asylum applications', which means that in 61,819 cases, the fingerprints of the same person had already been recorded as a 'category 1' transaction in the same or another Member State. It notes, however, that the practice of some Member States to fingerprint upon take back under the Dublin Regulation results in a distortion of the statistics on multiple applications: taking and transmitting again the fingerprints of the applicant upon arrival after a transfer under the Dublin Regulation falsely indicates that the applicant applied again for asylum.

The report also looks at figures on "Category 1" against "category 2" hits, which give an indication of routes taken by persons who irregularly entered the territories of the Member States before applying for asylum. Whilst most hits occurred against data sent by Italy (4,268), it is striking that 85.9% of these hits were in fact local hits.

Lastly, the report examines the figures on 'Category 3 against category 1' hits, which give indications as to where illegal migrants first applied for asylum before travelling to another Member State. The available data indicate that the flows of persons apprehended when illegally residing in another Member State from the one in which they claimed asylum mostly end up in a few Member States, in particular Germany (7,749), Switzerland (2,225), the Netherlands (3,418), France (2,255), Austria (1,739) and Norway (1,612).

Transaction delay: noting that the EURODAC Regulation currently only provides a very vague deadline for the transmission of fingerprints, the report states that contrary to previous years, **2011 saw an overall decrease in the average delay of transmissions**. Due to this general improvement, the total number of hits missed because of a delay in the transmission of fingerprints declined from 362 in 2010 down to only 9 in 2011.

As in the previous year, it is noteworthy that the overwhelming majority of missed hits can be attributed to a delay in transmission by Greece (66.6%). The Commission again urges the Member States to make all necessary efforts to send their data promptly.

Quality of transactions: in 2011, the average rate of rejected transactions for all Member States and Associated Countries decreased to 5.87%, down from 8.92% in 2010. The following Member States had a rejection rate of 10% or above: Estonia (21.65%), France (13.41%), Malta (13.31%), Portugal (15.42%), and the UK (11.08%). In total, 10 Member States had an above-average rejection rate.

The causes of the rejection rate were mainly related to the low quality of the fingerprints images submitted by Member States, human error or the wrong configuration of the sending Member State's equipment. The Commission again urges Member States to provide specific training of national EURODAC operators, as well as to configure their equipment correctly in order to reduce the rejection rate.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

This report concerns the activities of the EURODAC Central Unit in 2012.

To recall: Council Regulation EC/2725/2000 concerning the establishment of 'EURODAC' stipulates that the Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit.

The present **10th annual report** includes information on the management and the performance of the system in 2012. It assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service. This is the last Annual Report that will be presented by the Commission – future Annual Reports will be presented by the eu-LISA.

Legal and policy developments: the Commission tabled a [new proposal permitting law enforcement access to EURODAC](#), presented on 30 May 2012. It first adopted a Recast of the EURODAC Regulation in 2008 that did not permit for law enforcement. Amended proposals were adopted in 2009 to allow for law enforcement (that lapsed with the entry into force of the Treaty on the Functioning of the European Union (TFEU)); and in 2010 again without law enforcement. It became clear that law enforcement access would be an essential element of the Common European Asylum System for the Council and therefore the Commission adopted its 2012 proposal.

The EURODAC Central Unit:

- **Management of the system:** the "IT Agency Regulation" states that the new Agency would take over the management of EURODAC from 1 December 2012. However, in order to ensure the continuity of services as foreseen in the Regulation, a transition period is necessary to complete the transfer of the management of EURODAC from the existing sites in Brussels (Belgium) and Luxembourg to the new sites in Strasbourg (France) and Sankt Johann im Pongau (Austria). Consequently, management of EURODAC is expected to move to the Agency over the course of 2013.
- **Quality of service and cost-effectiveness:** overall, in 2012 the EURODAC Central Unit was available 99.98% of the time. The expenditure for maintaining and operating the Central Unit in 2012 was €421,021.75 and marked a decrease in the expenditure compared to previous years which was, mainly due to the upgrade of the EURODAC system (EURODAC PLUS).
- Some savings were made by the efficient use of existing resources and infrastructures managed by the Commission, such as the use of the s-TESTA network. In terms of cost-effectiveness, the EURODAC system enables Member States to compare both the data originally transmitted by other Member States and the data they themselves originally transmitted in order to establish whether an applicant has previously applied for asylum (either in another State or in their own). Consequently, this permits important savings for national budgets as Member States do not have to procure a national automated fingerprint identification system (AFIS) for the purpose of comparing the fingerprints of asylum applicants within that State.
- **Data protection and data security:** in 2012, a total of 111 'special' searches were conducted which represents a 50.9% decrease in comparison with 2011 (226) but is still much higher than the 2010 (66) or 2009 (42). 51 of the special searches in 2012 (46%) were from France. By contrast, in 2011 Spain had accounted for 79% of all special searches. In order to better monitor this phenomenon, the Commission has included in its proposal for the amendment of the EURODAC Regulation a **requirement for Member States to send a copy of the data subject's request for access to the competent national supervisory authority**.

Figures and findings: the annex attached to the present annual report contains tables with factual data produced by the Central Unit for the period 1 January 2012 to 31 December 2012.

The EURODAC statistics are based on records of (1) fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States ('category 1'), (2) fingerprints of persons who were apprehended when crossing a Member State's external border irregularly ('category 2'), or (3) persons who were found illegally present on the territory of a Member State (in case the competent authorities consider it necessary to check a potential prior asylum application) ('category 3').

Successful transactions (or correctly processed by the Central Unit): in 2012, the Central Unit received a total of 411,236 successful transactions, which represents a decrease of 0.26% compared with 2011 (412,303). At first glance, this implies remarkable stability compared with the differences in previous years. However, for some Member States the numbers varied very considerably compared with the previous year. The most notable case was Italy, where transactions fell from 96,685 in 2011 to 30,616 (-68.33%) in 2012. Moreover, the number of transactions in Germany, Sweden, Bulgaria, Poland and Greece all increased somewhat. Greece saw the highest percentage increase from 12,469 in 2011 to 34,294 (175%).

- **Category 1 :** the trend in the number of transactions of data of asylum seekers ('category 1') increased slightly in 2012 to 285,959, up from 275,857 (3.66%) in 2011 and 215,463 in 2010.
- **Category 2 :** notwithstanding the increase in Greece, there was a general reduction regarding the number of persons who were apprehended in connection with an irregular crossing of an external border ('category 2') from 57,693 in 2011 down to 39,300 in 2012 (-31.88%).
- **Category 3 :** the total number of 'category 3' transactions (data of persons apprehended when illegally present on the territory of a Member State) rose by 9.17% to 85,976 in 2011.
- Even though 'category 3' searches are not obligatory under the EURODAC Regulation, the Commission encourages Member States to use this possibility before initiating return procedures under Directive 2008/115/EC. Such a search could help establish whether the third country national has applied for asylum in another Member State where he/she should be returned in application of the Dublin Regulation. The largest number of 'category 3' transactions in 2012 was from Germany.

'Hits' (Multiple asylum applications): from a total of 285,959 asylum applications recorded in EURODAC in 2012, 27.48% were recorded as 'multiple asylum applications' (i.e. second or more), which means that in 78,591 cases, the fingerprints of the same person had already been recorded as a 'category 1' transaction in the same or another Member State. In 2011, the same figure was 61,819 (22.4%). However, the practice of some Member States to fingerprint upon take back under the Dublin Regulation results in a distortion of the statistics on multiple applications: taking and transmitting again the fingerprints of the applicant upon arrival after a transfer under the Dublin Regulation falsely indicates that the applicant applied again for

asylum. The Commission intends to solve this problem and, in its proposal for the amendment of the EURODAC Regulation, has introduced the requirement that transfers should not be registered as new asylum applications.

As in previous years, the statistics confirm that the secondary movements witnessed do not necessarily follow the 'logical' routes between neighbouring Member States. For instance, France continued to receive the highest number of foreign hits from asylum seekers who previously lodged an application in Poland (2,498). Germany and Switzerland received a high number of asylum seekers who had previously lodged an application in Sweden (2,567 and 1,050 respectively).

Delays and quality of transactions: as in 2011, the average delay of transmissions i.e. the time elapsed between the taking and sending of fingerprints to the Central Unit of EURODAC was relatively low in 2012. Most of the Member States and Associated Countries delay in transmitting fingerprints to the EURODAC Central Unit is between 0 and 4 days. The Commission must reiterate that a delayed transmission can result in the incorrect designation of a Member State.

New transmission deadlines have been included in the Commission's EURODAC Recast proposal with a view to resolving the issue of delays in transmission.

Conclusions: the EURODAC Central Unit provided good results throughout 2012 in terms of speed, output, security and cost-effectiveness.

In 2012, the overall volume of transactions decreased by 0.26% to 411,236. CAT-1 transactions increased by 3.66% to 285,959; CAT-2 transactions decreased by 31.88% to 39,300 (notwithstanding a massive increase in Greece of 4042% to 21,951); CAT-3 transactions increased by 9.17% to 85,976.

The average rate of rejected transactions for all Member States increased to 6.63% in 2012, from 5.87% in 2011. There was a further general improvement concerning delays in the transmission of data to the EURODAC Central Unit, although further improvements could still be made.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 28/05/2015 - Follow-up document

The Commission's European Agenda on Migration (EAM) adopted on 13 May 2015 highlighted the need to ensure that all Member States comply with their legal obligation to fingerprint under the Eurodac Regulation (Council Regulation (EC) No 2725/2000). In doing so, the Commission emphasised the need to provide guidance to Member States to facilitate systematic fingerprinting in **full respect of fundamental rights** and more specifically of the right to data protection.

As regards the issue of migrants from Eritrea and Syria: over the past year, it has become apparent that irregular migrants and asylum seekers from certain countries of origin, notably Eritreans and Syrians, have been refusing to cooperate in being fingerprinted by Member State authorities. Consequently, a large number of asylum applications appear then to be made in Member States in circumstances where it was thought likely that the applicant had entered the EU via another Member State (often after being rescued at sea).

In order to establish existing practices the European Commission carried out a long enquiry to find out how Member States were dealing with the fingerprint situation (including how and if they used coercion for this purpose).

Purpose of the report: this paper presents possible best practices for Member States to follow in order to ensure that their obligations under the Eurodac Regulation are fulfilled. It provides guidance to facilitate systematic fingerprinting, in full respect of fundamental rights. The Commission services recommend the following best practices, which are in line with the provisions of the EU Charter of Fundamental Rights. They should serve as a basis for discussions with Member States to agree on a coherent common approach. Depending on the outcome of these discussions, the Commission will reflect on the need to propose additional steps.

Best practices are set out in the document as a graduated approach ranging from cooperation measures to restrictive coercive measures.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 26/05/1999 - Legislative proposal

PURPOSE : to establish "Eurodac" for the comparison of the fingerprints of applicants for asylum and certain other aliens. **CONTENT :** the Eurodac system would function through the collection of fingerprint data by Member States and their transmission to a central unit, which would compare individual sets of fingerprints against the data retained in the system. This proposal for a Regulation is the first Commission proposal in the field of asylum under Title IV of the Treaty of the European Union. Its purpose is to assist in determining the Member State which is responsible pursuant to the Dublin Convention for examining an application for asylum lodged in a Member State and otherwise to facilitate the application of the Dublin Convention under the conditions set out in the proposal. A Regulation is warranted in view of the need to apply strictly defined and harmonised rules in

relation to the storage, comparison and erasure of fingerprints, for otherwise the system would not work. These rules constitute a set of precise, unconditional provisions that are directly and uniformly applicable in a mandatory way, and by their very nature, require no action by the Member States to transpose them into national law. The new Title IV of the EU Treaty, which applies to the matters covered by this proposal for a Regulation, is not applicable to the United Kingdom and Ireland, unless they "opt in". However, these 2 Member States have announced their intention of being fully involved with activities in this field. Denmark, on the other hand, has not given notice of an intention to participate in the Eurodac system. The proposal provides for the establishment of a Central Unit within the Commission which will be equipped with a computerized central database for the comparing of fingerprints of asylum applicants and certain other persons. The draft regulation provides for the fingerprints of 3 different groups to be transmitted to the Central Unit : a) applicants for asylum (data stored for 10 years); b) persons apprehended in connection with the irregular crossing of an external border (data stored for 2 years); c) persons found illegally present within the territory of a Member State (destroyed as soon as the comparison within Eurodac has been carried out). The rules governing Eurodac shall also apply to operations effected by the Member States as from the transmission of data to the Central Unit until use is made of the results of the comparison. Without prejudice to the use of data intended for the Member State of origin in databases set up under the latter's national law, fingerprints and other personal data may be processed in Eurodac only for the purposes set out in Article 15 (1) of the Dublin Convention. Collection : each Member State shall promptly take the fingerprints of every applicant for asylum of at least 14 years of age and shall promptly transmit the data. Transmission : fingerprint data transmitted by any Member State shall be compared by the Central Unit with the fingerprint data transmitted by other Member States and already stored in the central database. Direct transmission to the Member State of origin of the results of the comparison shall be permissible where the technical conditions for such purpose are met. Responsibility : the Member State of origin shall be responsible for ensuring that : - fingerprints are taken lawfully; - fingerprints and other data are lawfully transmitted to the Central Unit; - data are accurate and up-to-date when they are transmitted to the Central Unit; - data are lawfully recorded, stored, corrected and erased; - the results of fingerprint comparisons transmitted by the Central Unit are lawfully used. It is necessary that the Member State of origin : - prevents any unauthorized person from having access to national installations in which the Member State carries out operations in accordance with the aim of Eurodac; - prevents data from being read, copied, modified, recorded or erased by unauthorized persons. Liability : any person who, or Member State which, has suffered damage, whether physical or moral, as a result of an unlawful processing operation or any act incompatible with the provisions laid down in this Regulation shall be entitled to receive compensation from the Member State responsible for that damage suffered. Claims for compensation against a Member State shall be governed by the provisions of national law of the defendant Member State. In accordance with Article 12 of the Directive 95/46/EC, the person shall obtain communication of the data relating to him or her recorded in the central database and of the Member State which transmitted them to the Central Unit. An independent joint authority shall be set up, consisting of a maximum of 2 representatives from the supervisory authorities of each Member State. Each delegation shall have 1 vote. The joint supervisory authority shall be responsible for the examination of implementation problems in connection with the operation of Eurodac. The Commission shall assist it in the performance of its tasks. The costs incurred by the national units and the cost for their connection to the central database shall be borne by each Member State. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission. The Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 11/09/2007 - Follow-up document

Council Regulation 2725/2000/EC stipulates that the Commission is obliged to submit an annual Report to the European Parliament and to the Council on the activities of EURODAC's Central Unit. This is the fourth such Report prepared by the Commission and includes information on the management and performance of the system in 2006. It assesses the outputs and the cost-effectiveness of EURODAC as well as the quality of its service. The main findings of the Report are as follows:

Legal Background: Important changes to the geographical scope of the EURODAC Regulation have taken place in 2006. Denmark began participating in both the Dublin and EURODAC Regulations as from 1 April 2006. Similarly, negotiations were held in 2006 between the Community, Switzerland and Liechtenstein to allow Liechtenstein to participate in the two Regulations.

Management of the system: The Management of the EURODAC Central Unit by the Commission continued in 2006 without major changes. The Commission services helped prepare Romania and Bulgaria to link up with the EURODAC system commencing 1 January 2007. To recall, in 2005 the Commission services carried out a technical assessment study as part of the EURODAC Global Evaluation, which concluded that the EURODAC system needed to be updated. The planned evolution of the system has been temporarily suspended in 2006 due to the upcoming Biometric Matching System (BMS) and the integration of EURODAC with the BMS.

Figures and findings: EURODAC statistics are based on records of fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States, who were apprehended when crossing a Member States' external border irregularly or who were found illegally present on the territory of a Member State. In 2006, the Central Unit received a total of 270 611 successful transactions, which reveals an overall increase compared to 2005 when 258 684 successful transactions were recorded. The other statistics for 2005 reveal that the Central Unit received the following sub-division of categories:

- 165 958 asylum seekers (category 1) – an 11% decrease;
- 41 312 crossing the border illegally (category 2) – a 64% increase; and
- 63 341 persons apprehended when illegally residing on the territory of a Member State (category 3), compared to 46 299 in 2005.

These figures show that the number of persons who are apprehended in connection with an irregular border-crossing continues to increase significantly. The same trend goes for the number of persons apprehended when residing illegally on the territory of a Member State. Italy, Spain and

Greece share the vast majority of irregular entrants (17 953, 17 595 and 3 985 respectively), followed by the United Kingdom (546); Malta (418) and the Slovak Republic (411). Surprisingly many countries did not send any "category 2" transactions.

Successful transactions: In 2006, the Central Unit received a total of 270 611 successful transactions, which is an overall increase compared to 2005.

Transaction delay: The issue of exaggerated delays between taking fingerprints and sending them to the EURODAC Central Unit is no longer a generalised problem and is a problem which has been reported on extensively in previous reports. Some Member States continue to encounter problems in sending their transactions the result of which is long delays. The Commission reminds the Member States that a delayed transmission might result in the incorrect designation of a Member State.

Rejected transactions: In 2006, the average rate of rejected transactions for all Member States was 6,03%, which is much the same as for 2005 (6,12%).

Cost effectiveness: After four years of operations, Community expenditure on all externalised activities specific to EURODAC, totalled EUR 7.8 million. The executed payments for maintaining and operating the Central Unit amounted to EUR 244 240, 73 in 2006.

Quality of service: There was no unscheduled Central Unit down-times in 2006. The Central Unit was unable to process transactions for 1 hour on 22 September 2006 due to an unscheduled reboot of the fingerprint matching subsystem. No transactions were lost and all received transactions were replied to within the 24 hour deadline, as foreseen in the Regulation. In 2006 the EURODAC Central Unit was available 99.99% of the time. No Member State has notified the Commission of a false hit.

Data Protection: As was the case in 2005, the Commission services have become aware of the surprisingly high number of "special searches". The number of such transactions in 2006 vary from zero to 488 per Member State. The Commission has alerted the EDPS and contacted, on a bilateral basis, the Member States concerned.

Security: Following the first phase of the EDPS security audit on the EURODAC Central Unit in 2005, the second phase (specific to IT security) was launched in 2006. It was agreed that the TESTA II connections would not be part of the audit and that the scope of the audit would be limited to the EURODAC Central Unit. Further audit actions are planned for the first quarter of 2007. In addition, the Commission services launched a risk analysis of the EURODAC premises in 2006. The findings of the exercise show that existing measures to protect the EURODAC installations comply with Commission policy.

Conclusions: The 2006 annual report concludes that the EURODAC Central Unit has, once again, performed highly satisfactorily in terms of speed, output, security and cost-effectiveness. The real impact of the EURODAC system on the efficient application of the Dublin Regulation has been assessed in the overall evaluation of the Dublin system, which was adopted on 6 June 2007.

As a logical consequence of the overall decrease of asylum applications in the EU in 2006, the amount of "category 1" transactions has continued to decrease. On the other hand, "category 2" and "category 3" transactions have increased. The number of multiple applications tends to stabilise, with only a 1% increase compared to the previous year.

An analysis of hits between data of irregular entrants and data of asylum applications shows that more than half of those apprehended in connection with an irregular border-crossing and who decide to lodge an asylum claim, so in the same Member State that they entered irregularly.

On a final point, concern remains on the excessive delay for the transmission of data to the EURODAC central Unit, as well as on the low quality of data sent by some Member States. The Commission services insist, as in previous reports, on the proper respect of data protection rules.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 11/05/2000 - Amended legislative proposal for reconsultation

On 10 May 2000, the Permanent Representatives Committee recorded an Agreement on a new text of the draft Eurodac Regulation which will be forwarded to the European Parliament for reconsultation on the question of comitology. It should also be noted that the European Parliament shall express its opinion on the whole text which was forwarded to it (and not just on the single question of comitology).

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 28/02/2002 - Implementing legislative act

PURPOSE : to establish rules for processing the fingerprints of asylum seekers. COMMUNITY MEASURE : Council Regulation 407/2002/EC laying down certain rules to implement Regulation 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention. PURPOSE : This Regulation lays down rules for processing and transmitting fingerprints in digital format between the relevant authorities of the Member States for the purpose of identifying the Member State responsible for examining an asylum application lodged

in the EU and avoiding multiple claims by the same person. Member States must ensure the transmission of data in an appropriate quality by means of the computerised fingerprint recognition system. The Central Unit at Eurodac will carry out comparisons in the order of arrival of the requests. Each request must be dealt with within 24 hours, unless it is a matter of urgency. Data transmitted will use IDA generic services referred to in Decision No 1719/1999/EC. The Council will review the application of this regulation within four years following the start of Eurodac's activities. ENTRY INTO FORCE : 05/03/02. The Council shall review the application of this Regulation within 4 years following the start of Eurodac's activities.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 18/11/1999 - Text adopted by Parliament, 1st reading/single reading

The Parliament adopted its opinion drafted by Mr. Hubert PIRKER (EPP, D) approving the Commission's proposal subject to a number of proposals. The following were the main amendments adopted: - only applicants for asylum of over 18 years old would be finger-printed, as opposed to over 14 years old in the Commission's proposal; - should the results of a fingerprint comparison made by the Central Unit not reveal a clear match of the fingerprints, the Member State which asked for the comparison shall be considered the Member State of origin and shall initiate the asylum procedure; - once someone has been granted refugee status or a subsidiary or complementary form of protection or any other legal status, his or her data will be erased from the EURODACE central database; - the term 'alien' has been changed to 'third country national' throughout the text; - no data shall be transferred or made accessible to the authorities of any third country, nor to any agency or authority in a Member State other than that which collects the original data except with the express written agreement of the joint supervisory authorities.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 15/03/2000 - Modified legislative proposal

The Commission's amended proposal concerning the establishment of "Eurodac" for the comparison of the fingerprints of applicants for asylum and certain other third-country nationals takes into consideration the amendments proposed by the European Parliament and accepted by the Commission and also amendments brought about by the Commission following discussions in the Council on this issue. The Parliament's amendments which were accepted by the Commission include: - the use of the term "third country national" instead of "alien" (the addition of a definition of the term "third country national" to make it clear that the scope of the instrument includes stateless persons); - an exclusive link with the Dublin Convention, a reference to the Dublin Convention should be inserted in the title; - the erasure of data from the central databases : the Parliament considered that the data of applicants for asylum and of persons apprehended at the external border should be erased from the central database when the persons concerned has been granted refugee status or a subsidiary or complementary form of protection or any other legal status; - the taking of fingerprints should be in accordance with the safeguards laid down in the European Convention on Human Rights and Fundamental Freedoms and the United Nations Convention on the Rights of the Child; - the need for a clear fingerprint match; - the prohibition on the transfer of data to third countries and to other agencies with a view to prevent data being sent to the authorities of the asylum applicant's country of origin, which could put the applicant at risk. On the other hand, the Commission did not accept the main amendment of the Parliament relating to the minimum age for fingerprinting (18 years old instead of 14). The Commission recalls that within the Council, the pressure has been for a lower rather than a higher minimum age limit. With regard to the amendments brought about by the Commission in order to take account of the developments which have occurred since the original proposal, these relate to: - comitology: the Commission envisages recourse to a comitology procedure, and to replace the procedure contained in each proposal with the procedure of the same type contained in Decision 1999/468/EEC; - territorial scope: the United Kingdom and Ireland have notified the President of the Council that they wish to take part in the adoption and application of the Eurodac Regulation. In the interests of transparency, a recital has been added to make it clear that the Regulation applies to these two Member States. The territorial application has also been adapted with a view to fully aligning the territorial scope on that of the Dublin Convention. A recital has also been added on the position of Denmark. In relation to the amendments accepted by the Commission after negotiations with the Council, the revised text includes a number of amendments which have been agreed in the Council, most of which are of a technical nature. These include in particular amendments concerning the processing of personal data, statistical requirements, specification of fingerprints of which fingers are required, the results of fingerprint comparison, erasure and destruction of data media relating to persons found illegally present in a Member State, provisions relating to the Secretariat to the joint supervisory authority, the costs of the Central Unit (borne by the budget of the European Communities), the penalties relating to the use contrary to the purpose of Eurodac of data recorded in the central database. Finally, a certain number of amendments have been proposed by the Council however not accepted by the Commission. The amendments deal with: - the deletion of the term "citizenship of the Union": the Commission has objected this term and prefers the term "nationality of a Member State", first on the grounds that citizenship of the Union is not a clear legal concept and secondly on the grounds that it undermines the concept of national of a Member State; - implementing powers: the Council proposes to reserve the implementing powers under the Eurodac Regulation to itself rather than to delegate them to the Commission. The Commission considers that the justification given by the Council for this is totally inadequate. The Commission has noted that the retention of implementing powers by the Council would affect the roles of both the Commission and the Parliament. The Parliament would lose its right of information in relation to the implementing measures which it possesses by virtue of Article 7 of the new comitology decision. Furthermore, the Commission has also noted that in the nearest comparable case, the Customs Information System, a regulatory committee procedure was used. The European Parliament shall have to be consulted on any substantial change to the Commission's original position; - penalties: the council proposes to replace this Article with the following wording taken from the frozen Eurodac Convention text: "Member States shall ensure that the use of data recorded in the central database contrary to the purpose of Eurodac as laid down in Article 1 (1) shall be subject to appropriate penalties". Whilst the Commission can agree that penalties should relate specifically to the use contrary to

the purpose of Eurodac of data recorded in the central database, it has three difficulties with the proposed text. First, the language used is not appropriate in a binding Community regulation. Secondly, it is regrettable that the Council should seek to delete the reference to penalties being effective, proportionate and dissuasive, since the jurisprudence of the Court of Justice is clear on this point. Thirdly, it is regrettable that the Council should seek to remove the duty to notify the Commission of the relevant national rules relating to penalties.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 11/12/2000 - Final act

PURPOSE: to compare fingerprints for the effective application of the Dublin Convention. COMMUNITY MEASURES: Council Regulation 2725/2000 /EC. CONTENT: For the purpose of applying the Dublin Convention, it is necessary to establish the identity of applicants for asylum and of persons apprehended in connection with the unlawful crossing of the external borders of the Community. To this end, it is necessary to set up a system known as 'Eurodac', consisting of a Central Unit, to be established within the Commission and which will operate a computerised central database of fingerprint data, as well as of the electronic means of transmission between the Member States and the central database. The main provisions of the Regulation with regard to applicants for asylum are as follows: - each Member State shall promptly take the fingerprints of all fingers of every applicant for asylum of at least 14 years of age and shall promptly transmit this data to the Central Unit of Eurodac. This data will be compared to the Member State of origin; - only certain information shall be recorded in the central database; - each set of data shall be stored in the central database for ten years from the date on which the fingerprints were taken. As regards aliens apprehended in connection with the irregular crossing of an external border, the following provisions apply: - each Member State shall promptly take the fingerprints of all fingers of every alien of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back; - the Member State shall promptly transmit certain data to the Eurodac Central Unit; - each set of data relating to an alien shall be stored in the central database for two years from the date on which the fingerprints of the alien were taken. As regards aliens found illegally present in a Member State, the following provisions apply: - each Member State may transmit to the Central Unit any fingerprint data relating to fingerprints which it may have taken of any such alien of at least 14 years of age together with the reference number used by that Member State; - the fingerprint data of an alien shall be transmitted to the Central Unit solely for the purpose of comparison with the fingerprint of applicants for asylum transmitted by other Member States and already recorded in the central database. As regards recognised refugees, the following provisions will apply: - data relating to an applicant for asylum which have been recorded shall be blocked in the central database if that person is recognised and admitted as a refugee in a Member State. Such blocking shall be carried out by the Central Unit on the instruction of the Member State of origin; - five years after Eurodac starts operations, it shall be decided what to do with the data. In conclusion, the remaining provisions of the Regulation relate to data use, data protection and liability. ENTRY INTO FORCE: 15.12.2000

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 25/09/2009 - Follow-up document

This is the **sixth annual report** presented by the Commission as required by Council Regulation (EC) No 2725/2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention ("EURODAC Regulation"). It includes information on the management and the performance of the system in 2008, and assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service.

The Commission put forward a [proposal for amending the EURODAC Regulation](#) on 3 December 2008. In 2008, the geographical scope of the EURODAC Regulation was expanded to cover Switzerland which connected to EURODAC on 12 December 2008.

The EURODAC Central Unit

- **Management of the system:** given the increasing amount of data to manage (some categories of transactions have to be stored for 10 years), the natural obsolescence of the technical platform (delivered in 2001) and the unpredictable trends of the EURODAC transaction volume due to the accession of new Member States, an upgrading of the EURODAC system is being carried out and is planned to be finalised in the first quarter of 2010. In 2008, the "secure- Trans European Services for Telematics between Administrations (s-TESTA) network" was completed. As regards the quality, the Commission has taken the utmost care to deliver a high quality service to the Member States, who are the final end-users of the EURODAC Central Unit. During 2008 the EURODAC Central Unit was available 99.84% of the time. Only two "false hits", i.e. wrong identification performed by the AFIS, were reported to the Commission in 2008, following the one notified in 2007. However, with a total of three false hits reported out of more than 1.5 million searches and more than 300 000 hits the system can still be considered extremely accurate.
- **Data protection and data security:** the Commission welcomes the fact that the number of Member States using special searches almost halved (8, compared to 15 of the previous year). However, as discussed in previous annual reports as well as in the Evaluation Report, the Commission is still concerned about the use of such searches and considers its number still too high. To better monitor this phenomenon, the Commission has included in its proposal for amendment of the EURODAC Regulation a requirement for Member States to send a copy of the data subject's request for access to the competent national supervisory authority. In consultation with the European Data Protection

Supervisor (EDPS), the Commission is committed to taking steps against Member States which persist in misusing this important data-protection related provision.

Figures and findings: the annex attached to the present annual report contains tables with factual data produced by the Central Unit for the period 01.01.2008 – 31.12.2008. The EURODAC statistics are based on records of fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States, who were apprehended when crossing a Member State's external border irregularly, or who were found illegally present on the territory of a Member State.

The main findings of this report are as follows:

- **Successful transaction:** is a transaction which has been correctly processed by the Central Unit. In 2008, the Central Unit received a total of 357 421 successful transactions, which is an overall increase of 19.1% compared to 2007 (300 018). Regarding the number of transactions of data of asylum seekers ("category 1"), the increasing trend of 2007 continued in 2008: the EURODAC statistics reveal a 11.3% rise (to 219 557) compared to 2007 (197 284). Such an increase reflects the **general rise in the number of asylum applications in the EU in 2008**. After a drop of 8% between 2006 and 2007, the number of transactions rose by 62.3% in 2008 (to 61 945). Italy (32 052 compared to 15 053 in 2007), Greece (20 012 compared to 11 376 in 2007) and Spain (7 068, compared to 9 044 in 2007) introduce the vast majority of the category 2 fingerprints, followed by Hungary (1 220), the United Kingdom (344) and Bulgaria (307). In 2008, 7 Member States (the Czech Republic, Estonia, Ireland, Iceland, Luxembourg, Norway and Portugal) did not send any "category 2" transactions. The option of sending "**category 3**" transactions (data of persons apprehended when illegally residing on the territory of a Member State) experienced a significant rise in 2008. After the slight increase between 2006 and 2007 (to 64 561) the number of transactions rose to 75 919 in 2008, meaning **an increase of 17.6%**.
- **"Hits":** apart from the 'logical' routes between neighbouring Member States, one can note that a high number of asylum applicants in France and in Belgium previously lodged their application in Poland, or that the highest amount of foreign hits in Greece and in Italy were found against data of asylum applicants previously recorded in the United Kingdom.
- **Multiple asylum applications:** from a total of 219.557 asylum applications recorded in EURODAC in 2008, 38.445 applications were 'multiple asylum applications', which means that in 38 445 cases, the fingerprints of the same person had already been recorded as a "category 1" transaction (in the same or in another Member State). The first reading of the statistics of the system would therefore suggest that 17.5% of the asylum applications in 2008 were subsequent (i.e. second or more) asylum applications, representing a rise of 1.5% compared to the previous year. The practice of some Member States to fingerprint upon take back under the Dublin Regulation results in a distortion of the statistics on multiple applications: taking and transmitting again the fingerprints of the applicant upon arrival after a transfer under the Dublin Regulation falsely indicates that the applicant applied again for asylum. The Commission intends to solve this problem and, in its proposal for the amendment of the EURODAC Regulation, has introduced the requirement that transfers should not be registered as new asylum applications.
- **"Category 1 against category 2" hits:** these hits give an indication of routes taken by persons who irregularly entered the territory of the European Union, before applying for asylum. The majority of those who **entered the EU illegally via Greece and then travel further, head mainly to United Kingdom, Norway, Italy and the Netherlands**. Those entering via Italy proceed mainly to the United Kingdom Norway, Switzerland and Sweden. Those who entered via Spain most often leave for France and Italy, while those who entered via Hungary travel on mainly to Austria.
- **"Category 3 against category 1" hits:** these hits give indications as to where illegal migrants first applied for asylum before travelling to another Member State. The data available suggest that, as during the previous year, persons apprehended when illegally residing in Germany often had previously claimed asylum in Sweden or in Austria, and that those apprehended when illegally residing in France often had previously claimed asylum in the United Kingdom or in Italy. As a recent development, asylum seekers who first applied in Italy are found staying illegally in larger numbers in Norway. It is worth noting that on average around 19.6% of the persons found illegally on the territory had previously applied for asylum in a Member State.

Delays and quality of transactions: the EURODAC Regulation currently only provides a very vague deadline for the transmission of fingerprints, which can cause significant delays in practice. This is a crucial issue since a delay in transmission may lead to results contrary to the responsibility principles laid down in the Dublin Regulation. In 2008, the Central Unit detected 450 "missed hits", which is a 7.5 multiplication of the figure of 2007. On the basis of the above results, the Commission again urges the Member States to make all necessary efforts to send their data as quickly as possible. In its proposal for the amendment of the EURODAC Regulation, the Commission has proposed a deadline of **48 hours** for transmitting data to the EURODAC Central Unit. The average rate in 2008 of rejected transactions for all Member States is 6.4%, which is almost the same as in the previous years. The Commission urges Member States to provide specific training of national EURODAC operators, as well as to configure correctly their equipment in order to reduce this rejection rate.

Conclusions: in 2008, the EURODAC Central Unit continued to provide very satisfactory results in terms of speed, output, security and cost-effectiveness. As a logical consequence of the overall increase in asylum applications in the EU in 2008, the amount of 'category 1 transactions' introduced in EURODAC has also increased. The number of 'category 2 transactions' rose by 62.3%, while the number of 'category 3 transactions' increased by 17.6%. Concerns remain about the recently risen excessive delay in the transmission of data to the EURODAC Central Unit.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 20/06/2005 - Follow-up document

PURPOSE: To present the second annual report on the activities of the EURODAC central unit.

CONTENT: Provisions in Regulation 2725/2000, establishing the EURODAC Central Unit, state that the Commission shall submit an annual report to the European Parliament and Council on its activities. This is the second such annual report. It focuses largely on the management and performance of the system, as well as assessing the outputs and the cost-effectiveness of EURODAC. The quality of service provided by the Central Unit is similarly analysed. The main findings of the Commission's annual report are as follows:

- On the question of cost effectiveness, the Commission notes that EURODAC has been allocated a total of EUR 13 67 million between the year 2000 and 2004 from the EU budget. Given that the running of the Central Unit has been extremely stable some of this money has not been spent. After operating for two years, Community expenditure on all externalised activities specific to EURODAC totals EUR 7.5 million. The expenditure for maintaining and operating the Central Unit in 2004, totalled EUR 257 163. Within this context the Report proposes that savings could be made by the efficient use of existing resources and infrastructures managed by the Commission such as the use of the TESTA network.

With regard to the national budgets, the EURODAC Central Unit enables the Member States to use the Central Unit for comparing the data submitted to them with their own data already stored in EURODAC in order to find out whether the applicant has already applied for asylum before in their own country. This represents important savings for the national budgets as Member States do not have to procure a national system (AFIS) for that purpose. The Community also provided, via the IDA Programme, a communication and security services for exchange of data between the Central and National Units. These costs, initially to be borne by each Member State, were finally covered by the Community making use of common available infrastructures and generating savings for national budgets.

- On the question of quality of service, the Report finds that the Commission services have taken the utmost care to deliver a high quality service to the Member States, who are the end-users of the EURODAC Central Unit. These services include, not only those provided directly by the Central Unit, but also communication and security services for the transmission of data between the Central Unit and the national access points. Regarding the Central Unit, the Commission has set out very stringent availability requirements as far as public procurement is concerned. In the case of an incident, very short deadlines from two to four hours have been recorded. As such the Central Unit has been available 99.9% of the time. Moreover, no Member State has notified the Commission of a false hit or wrong identification performed by the AFIS.

- Regarding data protection issues, the Commission notes that the Central Unit registered a surprisingly high number of 'special searches', for the setting up of their NAPs. The number ranges from 1 to 611 across all Member States. As in 2003, some Member States continued to use practically the same (or at least a smaller range of identifiers) for their electronic transactions with the Central Unit.

To conclude, the Commission considers that the EURODAC Central Unit is efficient, offers a good service in terms of speed, output and security as well as being cost-effective. This assertion is backed up with statistical data. EURODAC plays an essential role in the application of a common European asylum system. A pilot project managed by the Commission, indicates that around 67% of total requests to take back an asylum seeker were a direct result of data collected by the Dublin Regulation. As such, EURODAC has established itself as an essential tool for a faster and more efficient application of the Dublin Regulation as well as a good indicator of the phenomenon of 'asylum shopping' in Member States. While the number of multiple applications appears to be on the rise, the work of EURODAC should ensure an eventual decline in this phenomenon.

Where there are concerns, these relate primarily to the excessive delay of transmitting data by some Member States to the Central Unit. The Commission, therefore, urges Member States to speed up their internal procedures and improve upon the quality of the data submitted.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 15/09/2006 - Follow-up document

Council Regulation 2725/2000/EC stipulates that the Commission is obliged to submit an annual Report to the European Parliament and to the Council on the activities of EURODAC's Central Unit. This is the third such Report prepared by the Commission and includes information on the management and performance of the system in 2005. It assesses the outputs and the cost-effectiveness of EURODAC as well as the quality of its service. The main findings of the Report are as follows:

Management of the system

The Management of the EURODAC Central Unit by the Commission continued in 2005 without major changes although some studies indicate that it may need to be developed in the coming years to take account of the new Member States. In addition, the Commission held several meetings and informal contacts with the European Data Protection Supervisor, which is the competent authority to monitor the activities of the Central Unit.

Figures and findings

EURODAC statistics are based on records of fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States, who were apprehended when crossing a Member States' external border irregularly or who were found illegally present on the territory of a Member State. In 2005, the Central Unit received a total of 258 684 successful transactions, which reveals only a slight decrease compared to the previous year of 287 938. The other statistics for 2005 reveal that the Central Unit received the following sub-division of categories:

- 187 223 asylum seekers (category 1);
- 25 162 crossing the border illegally (category 2); and

- 46 299 persons apprehended when illegally residing on the territory of a Member State (category 3).

This shows that whilst category 1 transactions have decreased by 20%, category 2 transactions have increased by 36% and category 3 transactions have increased by 15%.

Average time between the date of the prints and the date of sending

Some Member States are much faster than others in sending fingerprints to the Central Unit. Greece, Iceland and Italy take on average more than 10 days before sending their mandatory transactions. Germany, the UK, Spain, France and Estonia take more than 2 days, whilst it took only from two hours to one and a half days for the other Member States to forward the Central Unit their finger prints. The Commission urges the Member States to forward their data promptly and in accordance with Article 4 and 8 of the Regulation.

Cost effectiveness.

After three years of operations, Community expenditure on all externalised activities specific to EURODAC, totalled EUR 7.8 million. The executed payments for maintaining and operating the Central Unit amounted to EUR 132 675 82 in 2005.

Quality of service

There was no unscheduled Central Unit down-times in 2005. In January 2005 the CU was unreachable for about nine hours owing to a technical problem linked to a failure on one of the power supplies on the Disk Array Subsystem. No Member State has notified the Commission of a false hit.

Data Protection Issues

As was the case in 2004, the Commission services have become aware of the surprisingly high number of "special searches". The number of such transactions varies from zero in some Member States to 781 in another Member State. The Commission has alerted the EDPS and contacted, on a bilateral basis, the Member States concerned.

Conclusions

The 2005 annual report concludes that the EURODAC Central Unit has, once again, performed highly satisfactorily in terms of speed, output, security and cost-effectiveness. EURODAC has established itself as an essential tool for a faster and more efficient application of the Dublin Regulation. It also provides good indicators regarding the phenomenon of "asylum shopping" in the Member States.

The excessive delay for the transmission of data to the EURODAC Central Unit, as well as the low quality of the data sent by some Member States, remains a matter of concern within the Commission. After three years of operations, the national administrations should now make an all out effort to transmit their data in a reasonable time. The Commission continues to insist upon the proper application of Article 18 of the EURODAC Regulation and reiterates that this provisions should be used for data protection purposes only.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 06/06/2007 - Follow-up document

The Dublin and EURODAC Regulations require the Commission to report to the European Parliament and to the Council on their application after three years of operation. Since the EURODAC Regulation establishes a tool for the efficient application of the Dublin Regulation, it was decided to merge the two evaluations in one comprehensive report. This report aims to assess the application of both Regulations, from their respective entry into force until the end of 2005 (2th reference period2.) It further seeks to measure Dublin flows in comparison to the overall asylum seekers' population in the Member States.

Application of the Dublin system: the report warns that the analysis of the **statistics** provided by the Member States proved extremely difficult. Using only the outgoing data, according to Member States, more than 55 300 **requests** for transfer were sent out. Of the requests, 72% were **accepted**; in other words, in 40 180 cases another Member State accepted to take responsibility for an asylum applicant. However, only 16 842 asylum applicants were actually **transferred** by the Member States. The issue of transfers of asylum seekers could, therefore, be regarded as one of the main problems for the efficient application of the Dublin system. As far as EURODAC is concerned, the statistics are much more reliable. In the reference period, data on 657 753 asylum applicants ("**category 1 transactions**") were successfully sent. The number of such transactions has consistently decreased. This decrease is even more significant when one considers that as of 1 May 2004, 10 new Member States started applying the EURODAC Regulation and that these numbers do not include only "new" asylum applications (multiple applications are also included). This reflects the general drop of asylum applications observed in the EU for some years.

In 2005, a comparison of new asylum applicant data with stored asylum applicant data, showed that 16% of the cases were "**multiple applications**", i.e. an asylum applicant had previously lodged an asylum application either in the same or another Member State.

In the same reference period, data on 48 657 third-country nationals apprehended in connection with the irregular crossing of an external border ("**category 2 transactions**") were registered in the Central database. The number of such transactions has been considerably increasing each year, but it is still surprisingly low when one considers the strong irregular migratory pressures at the external borders of the EU. Again for the reference period, data on 101,884 third-country nationals found illegally present on the territory of a Member State ("**category 3 transactions**") were registered. This

figure has been increasing each year. The **evaluation** has shown that the **Dublin Regulation** is in general being applied in a satisfactory manner and that it does provide a workable system for determining responsibility for the examination of asylum applications. However, the report identifies certain issues in its application, inter alia:

- uniform application of the rules and criteria established by the Dublin Regulation is not always applied;

- the evidence required for taking charge of an asylum seeker is often difficult to provide. This has had particularly negative effects on the application of the family unity criteria, thus undermining the practical implementation of one of the most important provisions of the Dublin Regulation. A similar difficulty has been observed regarding the application of the criterion of illegal entry to the EU territory, where only EURODAC evidence tends to be accepted. While understanding the importance of clear evidence in order to avoid abuse of the system, the Commission considers that Member States should apply the Dublin Regulation and its Implementing Rules in their entirety, using all means of proofs foreseen, including credible and verifiable statements of the asylum seeker;

- Member States increasingly introduce custodial measures for persons subject to a transfer decision in order to prevent them from absconding before the transfer is carried out. The Commission recalls that while recognising the need to find ways of improving the effectiveness of transfers, custodial measures should be only used as a last resort, when all other non-custodial measures are not expected to bring satisfactory results and because there are objective reasons to believe that there is a high risk of the asylum seeker absconding. In any event, due account should always be taken of the situation of families, persons with medical needs, women and unaccompanied minors.

As far as the **EURODAC Regulation** is concerned, while all Member States apply it in a generally satisfactory manner, the practical application of some provisions remains problematic. The Commission discusses the following: the need for a clear deadline for transmitting data to the EURODAC Central Unit; systematic non compliance with the obligation to fingerprint illegal entrants; the need to improve the quality of the data sent to the EURODAC Central Unit; the need to respect the obligation to delete certain data e.g. in cases where an asylum seeker acquires citizenship; and data protection. It adds that it will propose the storage of data of persons apprehended when illegally staying on the EU territory.

Analysis of Dublin flows: contrary to a widely shared supposition that the majority of transfers are directed towards the Member States located at an external border, it appears that the overall allocation between border and non-border Member States is actually balanced. In 2005, the total number of all transfers to EU external border Member States was 3 055, while there were 5 161 transfers to non-border Member States. The Commission's working document contains a detailed analysis attempting to determine to what extent these Dublin flows have affected the overall asylum seeker population in the Member States. In brief, it appears that Dublin transfers did not increase or decrease the total number of asylum seekers by more than 5% in most Member States. However, in the case of Poland, the increase was around 20% and in the case of Slovakia, Lithuania, Latvia, Hungary and Portugal, around 10%. On the other hand, in the case of Luxembourg and Iceland, the number of asylum seekers decreased by around 20%. The majority of transfers correspond to "take back" cases, which, for the most part, do not correspond to new asylum applications for the destination Member States, since the applications were already registered in the asylum statistics and the examination of the application had already started.

It is worth noting also that results of searches of "category 1 transactions" against "category 2 transactions" show that those asylum seekers who had entered EU territory illegally before lodging their application, transited mainly via Spain, Italy and Greece. However, most persons apprehended at the border of these Member States subsequently applied for asylum in the same state they entered irregularly. On the other hand, those who did not apply for asylum and travelled further, headed mainly for the UK and France.

Lastly, the Commission states that, owing to the lack of precise data, it was not possible to evaluate one important element of the Dublin system, namely its cost. However, Member States consider the fulfilling of the political objectives of the system as very important, regardless of its financial implications.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 12/09/2011 - Follow-up document

In accordance with the requirements of Council Regulation EC/2725/2000, the Commission presents the eighth annual report on EURODAC, which includes information on the management and the performance of the system in 2010. It assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service.

Legal and policy developments: on 11 October 2010, the Commission adopted the [amended proposal for a Regulation of the European Parliament and of the Council concerning the establishment of 'EURODAC'](#) which replaced the proposal adopted by the Commission proposal of September 2009, which lapsed with the entry into force of the TFEU and the abolition of the pillar system. However, with a view to progressing on the negotiations on the asylum package and facilitating the conclusion of an agreement on the EURODAC Regulation, the Commission considered it more appropriate not to replace the lapsed September 2009 proposal for a Council Decision. For these reasons, the Commission also withdrew, from the EURODAC proposal, those provisions dealing with access for law enforcement purposes. Furthermore, it considered that a swifter adoption of the new EURODAC Regulation would facilitate the timely set up of the Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, since that Agency is intended to be responsible for the management of EURODAC. The amended proposal of October 2010 is currently being discussed by the Council and the European Parliament.

The EURODAC Central Unit.

Management of the system: an upgrading of the EURODAC system has been carried out by the Commission. The IT project, called EURODAC PLUS, was aimed at a) replacing the obsolete IT infrastructure, b) increasing the overall system capacity and performance, c) ensuring a faster, more secure and more reliable data synchronisation between the Production System and the Business Continuity System. In 2010, the Provisional Acceptance Tests (PAT) and the Operational Acceptance Test (OAT) were successfully completed. The last phase of the project – the Final Acceptance Test – involved the parallel operations of the old and the new system for 3 consecutive months and the comparison of the results on a daily basis. The Final Acceptance Test started in November and was completed in February 2011.

Quality of service and cost-effectiveness: overall, in 2010 the EURODAC Central Unit was available 99.76% of the time. The expenditure for maintaining and operating the Central Unit in 2010 was EUR 2 115 056.61. The increase in the expenditure compared to previous years is explained by the upgrade of the EURODAC system (EURODAC PLUS).

Data protection and data security: the EURODAC Regulation establishes a category of transactions which provides for the possibility of conducting 'special searches' on the request of the person whose data are stored in the central database in order to safeguard his/her rights as the data subject to access his/her own data. As pointed out in previous annual reports, during the first years of operation of EURODAC, high volumes of 'special searches' triggered concerns about possible misuse of the purpose of this functionality by national administrations.

In 2010, a total of 66 such searches were conducted which represents a slight increase in comparison with 2009 (42) and 2008 (56). This figure nevertheless indicates that the volume of special searches seems to have stabilised at an acceptable level when compared with the most recent high in 2007 (195). In order to better monitor this phenomenon, the Commission has included in its proposal for the amendment of the EURODAC Regulation a requirement for Member States to send a copy of the data subject's request for access to the competent national supervisory authority.

Successful transactions: in 2010, the Central Unit received a total of 299 459 successful transactions, which represents a decrease of 15.3% compared with 2009 (353 561). The increasing trend of the previous years with regard to the number of transactions of data of asylum seekers ('category 1') was broken in 2010, which saw a decrease to 215 463 (9%) requests compared with 2009 (236 936) and 2008 (219 557).

The trend regarding the number of persons who were apprehended in connection with an irregular crossing of an external border ('category 2') followed the same pattern as in 2009. After reaching 61 945 in 2008, the number of transactions fell to 31 071 in 2009, and in 2010 the number fell to 11 156 transactions. Greece, Italy and Spain continue to be the Member States that introduced by far the most such transactions.

The total number of 'category 3' transactions (data of persons apprehended when illegally residing on the territory of a Member State) fell in 2010 (to 72 840) compared with 2009 (85 554). Ireland remains the only Member State which did not send any 'category 3' transactions.

'Hits': the report analysis the figures on multiple asylum applications ('Category 1 against category 1' hits), noting that from a total of 215,463 asylum applications recorded in EURODAC in 2010, 24.16% were recorded as 'multiple asylum applications', which means that in 52 064 cases, the fingerprints of the same person had already been recorded as a 'category 1' transaction in the same or another Member State. It also looks at figures on "'Category 1" against "category 2" hits, which give an indication of routes taken by persons who irregularly entered the territories of the Member States before applying for asylum. Lastly, it examines the figures on 'Category 3 against category 1' hits, which give indications as to where illegal migrants first applied for asylum before travelling to another Member State. The available data indicate that the flows of persons apprehended when illegally residing in another Member State from the one in which they claimed asylum mostly end up in a few Member States, in particular Germany (6 652), Switzerland (2 542), the Netherlands (3 415), France (2 232) and Austria (1 668).

Transaction delay: the EURODAC Regulation currently only provides a very vague deadline for the transmission of fingerprints, which can cause significant delays in practice. This is a crucial issue since a delay in transmission may lead to results contrary to the responsibility principles laid down in the Dublin Regulation.

Just as in the previous year, 2010 saw a further overall increase in the average delay of transmissions, i.e. the time elapsed between the taking and sending of fingerprints to the Central Unit of EURODAC. The total number of hits missed because of a delay in the transmission of fingerprints declined between 2009 (1 060) and 2010 (362). As in the previous year, it is noteworthy that the overwhelming majority of missed hits can be attributed to a delay in transmission by Greece, namely 353 (97.5%).

Quality of transactions: in 2010, the average rate of rejected transactions for all Member States increased to 8.92%, up from 7.87% in 2009. 12 Member States had an above-average rejection rate. The rejection rate did not depend on technology or weaknesses in the system, but mainly relate to the low quality of the fingerprints images submitted by Member States, human error or the wrong configuration of the sending Member State's equipment. The Commission urges Member States to provide training to national EURODAC operators, as well as to configure their equipment correctly in order to reduce the rejection rate.

Conclusion: the EURODAC Central Unit provided satisfactory results throughout 2010 in terms of speed, output, security and cost-effectiveness. In 2010, the overall volume of transaction fell by 15.3% (to 299,459), with decreases in all 3 categories of transactions.

Concerns remain about the persisting and in some cases even increasing delays in the transmission of data to the EURODAC Central Unit.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

PURPOSE: to establish a fifth annual report from the Commission on the activities of the EURODAC Central Unit in 2007.

CONTENT: Council Regulation (EC) No 2725/2000 stipulates that the Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit. The present fifth annual report includes information on the management and the performance of the system in 2007. It assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service.

On the whole, this report identifies certain issues related to the efficiency of the current legislative provisions and announces measures to be taken in order to improve EURODAC's support to facilitate the application of the Dublin Regulation.

In order to address these issues, the Commission put forward a proposal for amending the Eurodac Regulation on 3 December 2008 (see [COD/2008/0242](#)).

In 2007, important changes in the geographical scope of the EURODAC Regulation took place: Bulgaria and Romania acceded to the European Union and connected to EURODAC on 1st January 2007.

The report's other main conclusions can be summarised as follows:

- **Management of the system:** given the increasing amount of data to manage (some categories of transactions have to be stored for 10 years), the natural obsolescence of the technical platform (delivered in 2001) and the unpredictable trends of the EURODAC transaction volume due to the accession of new Member States, an upgrading of the EURODAC system has to be carried out, which is planned to be finalised in the second half of 2009. However, the essential upgrades have already been implemented.
- **Quality of service and cost-effectiveness:** the new sTESTA network (replacing TESTA II) provides a higher level of security and availability. In 2007, the EURODAC Central Unit was available 99.43% of the time. After five years of operation, Community expenditure on all externalised activities specific to EURODAC totalled EUR 8.1 million. The expenditure for maintaining and operating the Central Unit in 2007 was EUR 820 791.05. The increase on this expenditure compared to the previous years is mainly due to increasing system maintenance costs and an essential upgrade of the capacity of the Business Continuity System.
- **Data protection and data security:** although statistics show a clear decrease in the number of cases where the unique search function of "special searches" were run by Member States, the Commission is still concerned about its use and considers the number of such searches (195 in 2007, varying from zero to 88 (per Member State) still too high. As discussed in previous annual reports as well as in the Evaluation Report, this category of transactions is established by Article 18 paragraph 2 of the EURODAC Regulation. Reflecting the data protection rules to safeguard the rights of the data subject to access his/her own data, this provision provides for a possibility to conduct such "special searches" on the request of the person whose data are stored in the central database. To better monitor this phenomenon, the Commission has included in its proposal for amendment of the EURODAC Regulation a requirement for Member States to send a copy of the data subject's request for access to the competent national supervisory authority. In consultation with the European Data Protection Supervisor (EDPS), the Commission is committed to taking steps against Member States which persist in misusing this important data-protection related provision.
- **Figures and findings:** in 2007, the Central Unit received a total of 300 018 successful transactions, which is an overall increase compared to 2006 (270 611). After a drop between 2005 and 2006, the 2007 EURODAC statistics reveal a 19% rise (197 284 compared to 165 958 in 2006) in the number of transactions of data of asylum seekers ("category 1"). Such an increase reflects the general rise in the number of asylum applications in the EU in 2007. The trend regarding the number of persons who were apprehended in connection with an irregular crossing of an external border ("category 2") also changed in 2007. After a significant increase between 2004 and 2006, a drop of 8% was experienced in 2007 (38 173). One can note that Italy (15 053), Greece (11 376) and Spain (9 044) introduce the vast majority of the category 2 fingerprints, followed by Hungary (894), the United Kingdom (480) and Malta (384). However, the problem of Member States' reluctance to systematically send "category 2" transactions pointed out in the Evaluation Report still prevails. Eight Member States (Cyprus, the Czech Republic, Denmark, Estonia, Iceland, Latvia, Luxemburg and Portugal) did not send any "category 2" transactions in 2007. No major changes in the use of the option of sending "category 3" transactions (data of persons apprehended when illegally residing on the territory of a Member State) were noted in 2007. Moreover, the report also details certain so-called "hits" from the comparison of fingerprints in EURODAC. Some of these hits give an indication of the secondary movements of asylum seekers in the EU, of multiple asylum applications (31 910 cases in 2007) representing 16% of the asylum applications in 2007 - although this result must be qualified - and of routes taken by persons who irregularly entered the territory of the European Union, before applying for asylum (63.2% of the persons apprehended in connection with an irregular border-crossing and who decide to lodge an asylum claim, do so in the same Member State they entered irregularly). The majority of those who entered the EU illegally via Greece and then travel further, head mainly to Italy, Sweden and the United Kingdom. Those entering via Italy proceed mainly to the United Kingdom and Sweden and those who entered via Spain most often leave for Italy and Austria. Those who entered via Slovakia travel on mainly to Austria and France. Lastly, EURODAC gives indications as to where illegal migrants first applied for asylum before travelling to another Member State (on average, around 18% of the persons found illegally on the territory of the EU had previously applied for asylum in a Member State).
- **Transaction delay:** once again, the report notes long delays in the transmission of EURODAC's results. According to the Commission, this is a crucial issue since a delay in transmission may lead to results contrary to the responsibility principles laid down in the Dublin Regulation. Therefore, the Commission services again urge the Member States to make all necessary efforts to send their data in accordance with Articles 4 and 8 of the EURODAC Regulation. In its proposal for the amendment of the EURODAC Regulation, the Commission has proposed a deadline of 48 hours for transmitting data to the EURODAC Central Unit.
- **Quality of transactions:** the average rate in 2007 of rejected transactions for all Member States is 6.13%, which is almost the same as in 2006 (6.03%). It has to be highlighted that the rejection rate does not depend on technology or system weaknesses. The causes of this rejection rate are mainly the low quality of the fingerprints images submitted by Member States, human error or the wrong configuration of the sending Member State's equipment.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 29/10/1999

The Council took note of the state of work on the draft Regulation proposed by the Commission in July 1999, following the entry into force of the Amsterdam Treaty, aimed at transposing into a Community instrument the texts of the "frozen" draft Eurodac Convention and Protocol. The Council had reached agreement on these texts respectively in December 1998 and March 1999. The Council took note of an intervention by the Danish delegation announcing Denmark's wish to take part in the Eurodac Regulation on an intergovernmental basis, in full respect of its Protocol to the Amsterdam Treaty. It should be noted that, in application of their respective Protocols to the Treaty, both Ireland and the United Kingdom have already notified their wish to take part in the adoption and application of the Eurodac Regulation. The Council mandated its competent bodies to finalise work on the outstanding issues in sticking as closely as possible to the agreed text of the "frozen" draft Convention and Protocol, in order to reach agreement on this regulation by the end of this year. Due account will also be taken of the Opinion of the European Parliament, expected in November. It should be noted that the two main outstanding questions concern the possibility of granting certain implementing powers to the Commission (comitology) and the territorial scope of the draft Regulation.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 02/08/2010 - Follow-up document

[This document comprises the Annual report to the European Parliament and the Council on the activities of the EURODAC Central Unit in 2009.](#)

To recall: Council Regulation EC/2725/2000 of 11 December 2000, concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention, stipulates that the Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit. The present **seventh annual report** includes information on the management and the performance of the system in 2009. It assesses the output and the cost-effectiveness of EURODAC, as well as the quality of its Central Unit's service.

Legal and policy developments: on 10 September 2009, the Commission adopted the [Amended proposal for a Regulation of the European Parliament and of the Council concerning the establishment of 'EURODAC'](#). The purpose of this proposal was to take into account the resolution of the European Parliament and the results of negotiations in the Council concerning the proposal for amending the EURODAC Regulation which was adopted on 3 December 2008. At the same time, it also introduced the possibility for Member States' law enforcement authorities and Europol to access the EURODAC central database for the purposes of prevention, detection and investigation of terrorist offences and other serious criminal offences.

The EURODAC Central Unit

Management of the system: given the increasing amount of data to manage (some categories of transactions have to be stored for 10 years), the natural obsolescence of the technical platform (delivered in 2001) and the unpredictable trends of the EURODAC transaction volume, an upgrading of the EURODAC system is being carried out. The Commission has taken the utmost care to deliver a high quality service to the Member States, who are the final end-users of the EURODAC Central Unit. During 2009 the EURODAC Central Unit was available 99.42% of the time. The expenditure for maintaining and operating the Central Unit in 2009 was €1 221 183.83. The increase in the expenditure compared to previous years is explained by the first instalment for the ongoing upgrade of the EURODAC system combined with increased system maintenance costs. At the same time, some savings were made by the efficient use of existing resources and infrastructures managed by the Commission, such as the use of the S-TESTA network. The Commission also provided (via the IDABC Programme) the communication and security services for exchange of data between the Central and National Units.

Data protection and data security: the EURODAC Regulation establishes a category of transactions which provides for the possibility to conduct so called "special searches" on the request of the person whose data are stored in the central database in order to safeguard his/her rights as the data subject to access his/her own data. As pointed out in previous annual reports, during the first years of operation of EURODAC, high volumes of "special searches" triggered concerns about **possible misuse of this functionality by national administrations**. Following a steep decrease in the relevant figures in 2008 (from 195 in 2007 to 56), a further drop is observed in 2009: only 42 such searches were conducted, 10 which volume no longer, in itself, raise concerns.

Figures and facts: the annex attached to the present annual report contains tables with factual data produced by the Central Unit for the period 01.01.2009 – 31.12.2009. The EURODAC statistics are based on records of fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States, who were apprehended when crossing a Member State's external border irregularly, or who were found to be illegally present on the territory of a Member State (where the competent authorities consider it necessary to check whether there has been a prior asylum application). In this regard, the report states the following:

Successful transactions: a "successful transaction" is a transaction which has been correctly processed by the Central Unit, without rejection due to a data validation issue, fingerprint errors or insufficient quality. In 2009, the Central Unit received a total of 353.561 successful transactions, which

represents only a slight decrease of 1% compared to 2007 (357 421). Regarding the number of transactions of data of asylum seekers ("**category 1**"), the increasing trend of the previous two years continued in 2009: the EURODAC statistics reveal a 8% rise (to 236 936) compared to 2008 (219 557).

Multiple asylum applications: of a total of 236 936 asylum applications recorded in EURODAC in 2009, 23.3% were 'multiple asylum applications' (i.e. second or more), which means that, in 55 226 cases, the fingerprints of the same person had already been recorded as a "category 1" transaction in the same or another Member State, representing a rise of 5.8% compared to the previous year. This does not however mean that in each and every case the person in question made a new asylum application. In fact, the practice of some Member States to fingerprint upon "take back" under the Dublin Regulation results in a distortion of the statistics on multiple applications: taking and transmitting again the fingerprints of the applicant upon arrival after a transfer under the Dublin Regulation falsely indicates that the applicant applied again for asylum. The Commission intends to solve this problem and, in its proposal for the amendment of the EURODAC Regulation, has introduced the requirement that transfers should not be registered as new asylum applications.

"Category 1 against category 2" hits: these hits give an indication of routes taken by persons who irregularly entered the territory of the European Union, before applying for asylum. As in the previous year, most hits occur against data sent by Greece and Italy and to a much lesser extent, Hungary and Spain. Taking all Member States into consideration, in 65.2% of the cases, persons apprehended in connection with an irregular border-crossing who later decide to lodge an asylum claim, do so in a Member State different from the one they entered irregularly. This results in 20 363 applications, which corresponds to a rise from last year, when 35.6% constituted such a "foreign hit", i.e. 10 571 applications were submitted in a Member State different from the one where the person entered irregularly. The majority of those who entered the EU illegally via Greece and then travelled further (12.192), headed mainly to Norway (2223), United Kingdom (1805) or Germany (1516). Those having entered via Italy and having moved on (6.398) proceeded mainly to Switzerland (1422), the Netherlands (1075),

Norway (1041), or Sweden (911).

"Category 3 against category 1" hits: these hits give indications as to where illegal migrants first applied for asylum before travelling to another Member State. It has to be borne in mind, however, that submitting "category 3" transactions is not mandatory and that not all Member States use the possibility for this check systematically. The data available suggest that, as in the previous years, persons apprehended when illegally residing in Germany most often had previously claimed asylum in Sweden or in Austria, and that those apprehended when illegally residing in France often had previously claimed asylum in the United Kingdom or in Italy. After lodging an asylum claim in Italy, a significant number of persons stay illegally in Norway, Germany, France and the Netherlands. Similar flows seem to occur from Greece, Spain and Malta towards Norway, Germany and the Netherlands. It is worth noting that on average **around 25% of the persons found illegally on the territory had previously applied for asylum in a Member State.**

Transaction delay: the EURODAC Regulation currently only provides a vague deadline for the transmission of fingerprints, which can cause significant delays in practice. This is a crucial issue since a delay in transmission may lead to results contrary to the responsibility principles laid down in the Dublin Regulation. The issue of significant delays between taking fingerprints and sending them to the EURODAC Central Unit was pointed out in the previous annual reports and highlighted as a problem of implementation in the Evaluation Report. Continuing the increasing trend of the previous year, 2009 saw a further overall increase in the delay of transmission, i.e. the time elapsed between the taking and sending of fingerprints to the Central Unit of EURODAC. The longest delay is 36.35 days for the transmission of "category 2" data by Greece. On the basis of the above results, the Commission again urges the Member States to make all necessary efforts to send their data promptly.

Conclusions: in 2009, the EURODAC Central Unit continued to provide very satisfactory results in terms of speed, output, security and cost-effectiveness. The amount of 'category 1 transactions' introduced in EURODAC has also increased. The number of 'category 2 transactions' dropped by 50%, while the number of 'category 3 transactions' increased by 12.7%. Concerns remain about persisting excessive delays in the transmission of data to the EURODAC Central Unit.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 21/09/2000 - Text adopted by Parliament after reconsultation

Parliament made a number of amendments to the common position. MEPs did not approve proposals to transfer from the Commission to the Council the implementation of the Eurodac system for collecting and comparing asylum seekers' fingerprints. The Eurodac database is used to determine which EU country has been the point of entry for an asylum seeker and must thus process his or her asylum application. In a resolution drafted by Hubert PIRKER (EPP-ED/A), Parliament pointed out that, according to Article 202 of the EC Treaty, the Council in principle confers powers of implementation on the Commission. Only in 'specific cases' can the Council reserve the right to exercise implementing powers itself, and this is clearly not such a case. Moreover, Parliament would lose its right to information and be utterly dependent on the Council's goodwill. The proposed new wording of Articles 22 and 23 of the Eurodac Regulation - over which Parliament is now being consulted - was therefore rejected and replaced by an amendment conferring the implementing powers unreservedly on the Commission.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

The Council reached a political orientation on the draft Eurodac Regulation with the exception of its provisions on the territorial scope of the text. In particular, the Council reached an agreement on the procedure for approving implementing measures of the Regulation (comitology question). Under the agreed procedure, certain implementing powers will be reserved for the Council, in particular those that would affect the direct responsibility of the Member States and those that would also have financial implications for the Member States. The Council will vote on the first category by qualified majority, on the second group by unanimity. All of the other implementing measures will be decided upon in the framework of a regulatory committee composed of representatives from the Member States. Commissioner VITORINO expressed his institution's disagreement with this arrangement recalling that it had proposed a regulatory committee responsible for all implementing measures. The Council decided to reconsult the European Parliament on this arrangement, given that it substantially amended the previous text, on which the Parliament had already given its opinion on 18 November 1999. Furthermore, it should also be noted that the Regulation will apply both to Ireland and the UK, as they have notified, on the basis of their respective Protocols to the Amsterdam Treaty, that they wish to take part in the adoption and application of this Regulation. Denmark will, at this stage, be excluded, according to its Protocol, it has not the possibility to join up only to a single act in the area of asylum and migration when it is not Schengen-related, unless it concludes an intergovernmental agreement with the Community. It has, however, already indicated that it wishes to take part in the Eurodac system and that, to that end, an arrangement should be drawn up.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 05/05/2004 - Follow-up document

To recall, Council Regulation 2725/2000 of 11 December 2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention stipulates that one year after the EURODAC starts operations, the Commission shall produce an evaluation report on the Central Unit, focusing on the level of demand compared with expectation and on operational and management issues in the light of experience. This is the aim of this report.

The present report will therefore be limited to an objective evaluation of the activities of the EURODAC Central Unit. Following a detailed description of the established system, the factual data produced during the first year of activity will be highlighted and analysed. The Central Unit will be evaluated, in the light of its cost-effectiveness, the quality of its service and its respect for data protection regulations.

The report states that Dublin Regulation and the application of the EURODAC system constitute an important building block in the construction of a Common European Asylum system. The EURODAC Central Unit is not only an essential tool for a faster and more efficient application of the Dublin II Regulation, but also a good indicator of the phenomenon of multiple asylum applications. Its impact should gradually be to discourage those who are tempted by "asylum shopping" in the EU. This should lead to a more orderly and cost-effective management of asylum flows in Member States.

The produced statistics are proof enough to show the efficiency of the EURODAC Central Unit. However, one of the most important criteria for the evaluation of the EURODAC system is its application within the frame of the Dublin Convention and the Dublin II Regulation. In a second stage, the Commission services will therefore analyse statistics gathered by Member States in the application of the Dublin Regulation, in order to draw conclusions concerning the added value of EURODAC.

Some issues, such as the excessive delay in transmission of fingerprints to the Central Unit and the too high of rejection of transactions rate due to insufficient quality need to be addressed in certain Member States. The Commission services are aware that the Member States concerned are working on finding satisfactory solutions.

Also the amount of "category 2" transactions – fingerprints of illegal border-crossers – will hopefully become more realistic once all Member States have equipped themselves with the necessary resources for carrying out their legal obligations.

Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

1999/0116(CNS) - 06/06/2007 - Follow-up document

Both the Dublin and the EURODAC Regulations require the Commission to prepare reports on the application of these Regulations following their entry into force and to propose, if necessary, amendments. In order to give a complete picture of the overall functioning of the Dublin system and EURODAC the Commission has decided to present a single evaluation that comprises their respective Implementing Regulations. The report has been divided into four parts: introduction; a practical review of the Dublin Regulation; the practical application of the EURODAC Regulation; and the extent to which Dublin flows have affected the overall asylum seekers population in the Member States.

1. Introduction: The report is based on a number of sources. In July 2005, a detailed questionnaire was sent to all the Member States participating in the Dublin system and the EURODAC Regulation. Information was also obtained from experts and other Commission services. Statistical data was also an essential source for the evaluation – though the differing approach to reporting statistics did create some confusion particularly as far as the Dublin Regulation is concerned. Such differences make comparisons and analysis very difficult. For EURODAC the Commission has relied, in the

main, on the past three annual reports as well as reports from the European Data Protection Supervisor. As far as statistical data on the practical application of the EURODAC system are concerned, they are fully reliable since this data was provided by automatic reports from the Central Unit.

2. Overview of the Dublin System and the application of the Dublin Regulation: To recall, the main objective of the Dublin Regulation is to have a clear and workable mechanism for determining responsibility for asylum applications lodged in the Member States of the European Union. In other words, addressing the phenomenon of “refugees in orbit” is one of the Dublin systems main objectives. It also seeks to prevent asylum shopping by preventing abuse of asylum procedures in the form of multiple applications for asylum submitted simultaneously or successively by the same person in several Member States. Responsibility for examining an asylum application lies with the Member State which played the greatest part in the applicant’s entry into, or residence on, the territories of the Member States, subject to exceptions designed to protect family unity. The readmission criteria, contained in the Dublin Regulation, provides for arrangements whereby an applicant can be readmitted or “taken back” by the Member State considered most “responsible”.

The general figures and findings given in the report cover the implementation of the Dublin system from September 2003 until December 2005 for the 14 “old” Member States, Iceland and Norway and from May 2004 until December 2005 for the ten “new” Member States. Since the entry into force of the Dublin Regulation in 2003 the Member States report having received nearly 72 300 requests compared to having sent out more than 55 300 requests. Since the introduction of EURODAC, requests based on the fingerprint hits have constituted more than 50% of all incoming and outgoing requests. Nevertheless, it appears that the impact of the new tool on the number of acceptances has been limited, since the level of acceptances, as a share of the total number of requests, has only modestly increased, from 69% of incoming requests under the Convention to 73% under the Regulation.

A substantial increase of transfers as the percentage of the acceptances has been noted – from 27% of out coming acceptances under the Dublin Convention to 52.28% under the Dublin Regulation and from 25.62% to 40.04% respectively in the case of incoming transfers. The increase is even more apparent in the context of general asylum flows in the EU. Transferred asylum applicants under the Convention amounted to 1.66% (incoming transfers) and 1.67% (outgoing transfers) of the overall number of asylum applications lodged in the given period. Under the Regulation, the proportion has doubled and in the surveyed period it reached 4.05% and 4.28% respectively. Against this background it would appear that the performance of the system in regard to the determination of the responsible Member State has improved since the Dublin Regulation entered into force. Nevertheless, despite the sizeable increase, the rate of transfers remains at a fairly low level. The issue of transfers should therefore be considered as the main problem for the efficient application of the Dublin system

As far as the application of the Dublin Regulation is concerned the Commission reports that it has been applied, with general satisfaction by all the participating Member States as well as by Norway and Iceland. The report devotes a whole section to the most important provisions of the Dublin Regulations. Particular emphasis is put on the problematic issues which have been identified and appropriate solutions are consequently proposed – ranging from simple interpretive guidelines to suggestions for improvement. This section, in summary, makes some of the following suggestions:

- **Scope of the Dublin Regulation:** The Commission intends to extend the scope of the Dublin Regulation to include subsidiary protection.
- **Application of the general principles:** The Commission proposes to better specify the circumstances and procedures for applying the Sovereignty clause, notably to introduce the condition of consent of the asylum seeker concerned by the application of the sovereignty clause.
- **The Humanitarian clause:** The Commission proposes to clarify the circumstances and procedures for the application of the humanitarian clauses. This would include the issue of consent and information transmission between the Member States.
- **Requests for taking back or taking charge of an asylum seeker:** The Commission intends to propose the introduction of time-limits for “take-back” requests.
- **Cessation of responsibility:** The Commission intends to propose: clarifying the circumstances under which the cessation clause should apply; better defining the relevant provisions; and clarifying which Member State bears the burden of proof.
- **Information sharing:** The Commission intends to propose shortening the deadline for replying to request for information to four weeks.
- **Practical arrangements between the Member States:** The Commission proposes allowing Member States to conclude bilateral arrangements concerning “annulment” of the exchange of equal numbers of asylum seekers in well-defined circumstances.

3. Application of the EURODAC Regulations: All Member States have successfully implemented the EURODAC system in their national infrastructure. The accession of ten new Member States did not give rise to any problems – all but two of them began operations on time. Since operations began in 2003, the EURODAC Central Unit has always managed to meet time-limit requirements.

As far as the matter of Member State data transmission is concerned, the Commission urges the Member States to abide by the rules set in the EURODAC Regulation. Systematic non compliance with the obligation to fingerprint illegal entrants could be taken into account by the Commission when reviewing the implementation of the “Solidarity and Management Migration Flows Framework Programme” in 2010 – and in particular the relevant distribution criteria applicable for the different funds. In addition, the Commission urges the Member States to send their data promptly to the EURODAC Central Unit in accordance with Article 4 and 8 of the EURODAC Regulation. Within this context the Commission proposes to set a clearer deadline for transmitting data to the EURODAC Central Unit.

- **Category 1 against Category 1:** The annual reports on the activities of the EURODAC Central Unit give an indication of the secondary movements of asylum seekers through the EU. Such flows primarily occur between neighbouring states. One striking finding is that during the whole reference period, in Member States such as Italy and Cyprus, asylum seekers tend to apply a second time more in the same State rather than applying in another Member State.
- **Multiple applications:** The number of multiple applications – i.e. the number of cases where an asylum applicant has at least applied once before, in the same or in another Member State, is constantly increasing – from 7% of the asylum applications in 2003 to 16% in 2005. In 2005, for example, four persons lodged an asylum application eleven times. This increasing trend is not unusual given that the Central database began empty. It is, however, a clear indication that an important number of asylum seekers try to have their asylum claim examined in more than one Member State or more than once by the Same Member State.
- **Category 1 against Category 2:** In the first year of application, it was impossible to draw any conclusions due to the low number of category 2 transactions registered. From 2004 on, however, there is clear evidence that most hits of category 1 transactions against category 2 transactions occurred against data sent previously by Spain, Italy and Greece. In those three Member States, a large part of the hits were

“local”, which means that persons apprehended in connections with the irregular crossing of their external border subsequently applied for asylum in the same Member State they entered. In Italy this was the case for as much as 73% of the cases recorded.

- **Category 3 against Category 1:** Category 3 transactions are not obligatory and as a result not all of the Member State use the possibility of using this check. Noteworthy is the fact that in a number of Member States, aliens whose claim for asylum has been rejected, do not move to another Member State later. This is particularly the case in Poland and the Slovak Republic. In four Member States with the highest record of category 3 transactions (namely Germany, the Netherlands, Norway and the Czech Republic) around 19% of persons apprehended when illegally staying on their territory had previously lodged an asylum claim.
- On the question of “deleting” i.e. instructing the Central Unit to delete data on an asylum seeker as soon as they have acquired citizenship or as soon as they have been issued with a residence permit, the report notes that the introduction of a specific code for each type of deletion would help assessing if the obligation of advance erasure is fully respected.

4. Analysis of Dublin Flows: In order to give a more comprehensive picture of the extent to which Dublin flows have affected the overall asylum seekers population of the Member States, the Commission has looked at both the real number of Dublin transfers – i.e. taking into account the transfers which actually took place, as well as the potential number of transfers – i.e. the situation if all accepted transfers were effected. The Dublin flows were compared first in absolute terms (the number representing net volumes of acceptances and transfers) and in relative terms (as a share of the overall number of asylum applications in a given Member State).

Of the respective total numbers of sent and received requests, *outgoing* “take back” requests amounted to nearly 75% and *incoming* “take back” requests to more than 70%. Given that “take back” requests are usually based on strong evidence produced by EURODAC it can be assumed that the total level of acceptance of such request is high. It can also be assumed that a high proportion of transfers will be based on take back requests.

The report also finds that, contrary to the widely shared supposition that the majority of transfers are directed towards the Member States located at an external border, it appears that the overall allocation between border and non-border countries is actually fairly balanced. In 2005, the number of all incoming transfers to EU external border countries was 3055, while there were 5161 incoming transfers to Member States without an EU external border.

It can also be concluded that, in real terms, the Dublin mechanism did not increase or decrease the total number of asylum seekers by more than 5% in most Member States. However, in the case of Poland, the increase was around 20% and in the case of Slovakia, Lithuania, Latvia, Hungary and Portugal, around 10%. On the other hand, in the case of Luxembourg and Iceland the number of asylum seekers decreased by around 20%.