

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

2008/0242(COD) - 27/04/2009

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drawn up by Nicolae Vlad POPA (EPP-ED, RO) amending, under the first reading of codecision procedure, the proposal for a regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No [...] [establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person] (recast).

The main amendments are as follows:

**Operational management by the Management Authority:** the committee clarified that the Management Authority must be competent for EURODAC, as well as SIS II and VIS. It added that the setting-up of the Management Authority and the interoperability of the several databases for which it has competence shall be without prejudice to the separate and discrete operation of those databases.

**Statistics:** these must include the number of hits for persons granted international protection.

**Collection, transmission and comparison of fingerprint data:** the report stated that although it is of the utmost importance to introduce a specific deadline for the transmission of the fingerprint data, the deadline of 48 hours seems to be too short for taking and transmitting the fingerprint data to the Central System. A deadline of 48 hours for taking the fingerprints and a deadline of 24 hours for transmitting the fingerprint data is more appropriate while still tackling the problem of late transmission of fingerprints by Member States. By way of exception, in cases when the fingerprints are seriously, but only temporarily, damaged and cannot provide suitable fingerprint data or in cases when there is a need to enforce a quarantine period because of severe contagious disease, the period of 48 hours for taking the fingerprints of applicants for international protection, may be extended up to a maximum of 3 weeks. Member States may also extend the period of 48 hours in well-founded and proven cases of force majeure for as long as those circumstances persist. The period of 24 hours for transmitting the required data shall apply accordingly.

There are similar provisions for taking the fingerprints of the third-country national or stateless person.

**Advance data erasure:** data relating to a person who has acquired citizenship of any Member State or has been issued a long-term residence permit by a Member State in accordance with Directive 2003/109/EC before expiry of the relevant period shall be erased from the Central System.

**Transmission:** since data are only transmitted electronically, references to paper form or other means of data support have been deleted in the Commission proposal. Accordingly, the electronic transmission of data should be obligatory.

**Carrying out comparisons:** in the interests of data protection the European Data Protection Supervisor should also be informed of inaccurate identifications.

**Joint supervisory authority:** the committee noted that the provision of data recorded in the EURODAC system to the authorities of any unauthorised third country, especially to the state of origin of the persons covered by the present Regulation, could trigger severe consequences for the family members of the persons covered by the EURODAC Regulation. Accordingly it provided that all the authorities that participate in the EURODAC system shall prevent the access to or the transfer of data recorded in EURODAC to the authorities of any unauthorised third country, especially to the State of origin of the persons covered by this Regulation.

It also added that the Management Authority shall lay down a common set of requirements to be fulfilled by persons in order to be granted authorisation to access EURODAC.

**Changes to the list of authorities:** an explicit deadline is needed, in which changes made to the list of the authorities, that have access to data recorded in the Central System, are communicated to the Commission and the Management Authority. The committee inserted 30 days.

**Rights of the data subject:** the report noted that it should be clarified that the data subject should be informed about the content and not only the existence of the right of access to data and the rights to correction or erasure of data as well as, separately, on the procedural steps he/she may take. The addition of the contact details of the relevant authorities takes account of the fact that the data controller is primarily responsible for ensuring the application of the rights of the data subject. Reference is made to the provisions regarding supervision by the National Supervisory Authorities.

Furthermore, Members noted that the obligation to provide information in an age-appropriate manner should apply to all categories of persons subject to the EURODAC procedure who are minors and not only to applicants for international protection.

**Supervision by the European Data Protection Supervisor:** the European Data Protection Supervisor may request any information from the Management Authority considered necessary to carry out the functions entrusted to it under that Regulation.

**Transitional period:** during the transitional period, references in the Regulation to the Management Authority shall be construed as references to the Commission.