

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) - 18/02/2009 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the proposal for a Regulation of the European Parliament and of the Council concerning the recast of the ‘Eurodac’ Regulation.

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) was sent by the Commission to the EDPS for consultation on 3 December 2008. This consultation should be explicitly mentioned in the preamble of the Regulation.

It is recalled that the EDPS has contributed to this proposal at an earlier stage, and many of the points he raised informally have been taken into account in the final text of the Commission's Proposal.

His main conclusion may be summarised as follows :

- the EDPS supports the proposal and welcomes the supervision model proposed as well as the role and tasks he has been entrusted with in the new system. The model envisaged reflects the current practice which proved efficient;
- the EDPS notes that the proposal strives to consistency with other legal instruments governing the establishment and/or use of other large-scale IT systems;
- he welcomes considerable attention devoted in the proposal to the respect of fundamental rights, and in particular the protection of personal data. As also mentioned in the opinion on the revision of the Dublin Regulation, the EDPS considers this approach as an essential prerequisite to the improvement of the asylum procedures in the European Union.

The EDPS draws attention to the following points:

- the need to ensure full consistency between the EURODAC and Dublin Regulations;
- the need for a better coordination and harmonization at EU level of the procedures for fingerprinting whether they concern asylum seekers or any other persons subject to the Eurodac procedure. He draws special attention to the question of the age limits for fingerprinting, and in particular the difficulties occurring in several Member States to determine the age of young asylum seekers;
- the need for clarification of the provisions regarding the rights of the data subjects, and in particular he underlines that the national data controllers are primarily responsible to ensure the application of these rights.