










# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2016/0132(COD)</a> Regulation</p>	<p>Awaiting committee decision</p> <p>14/06/2017 Decision to enter into interinstitutional negotiations confirmed by plenary (Rule 69c)</p>
<p>Eurodac system for the comparison of fingerprints of applicants for international protection and for identifying illegally staying third-country nationals or stateless persons; requests for the comparison with Eurodac data. Recast</p> <p>Repealing Regulation (EU) No 603/2013 <a href="#">2008/0242(COD)</a> See also <a href="#">2016/0133(COD)</a></p> <p>Subject</p> <p>7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)</p> <p>7.30 Police, judicial and customs cooperation in general</p> <p>8.40.08 Agencies and bodies of the EU</p> <p>Legislative priorities</p> <p><a href="#">Joint Declaration 2017</a></p> <p><a href="#">Joint Declaration 2018</a></p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs		12/09/2019
		 <a href="#">BUXADÉ VILLALBA Jorge</a>	
	Former committee responsible		
	 Civil Liberties, Justice and Home Affairs		15/06/2016
		ECR <a href="#">KIRKHOPE Timothy</a>	03/10/2016
		ECR <a href="#">MACOVEI Monica</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Foreign Affairs		
	 Budgets		
Former committee for opinion			
 Foreign Affairs			
 Budgets		15/09/2016	
	ALDE <a href="#">DEPREZ Gérard</a>		
Committee for opinion on the recast technique	Rapporteur for opinion	Appointed	
 Legal Affairs			
Former committee for opinion on the recast technique			
 Legal Affairs		24/01/2017	
	ENF <a href="#">BOUTONNET Marie-Christine</a>		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3545</a>	09/06/2017

## Key events

04/05/2016	Legislative proposal published	<a href="#">COM(2016)0272</a>	Summary
12/09/2016	Committee referral announced in Parliament, 1st reading/single reading		
09/06/2017	Debate in Council	<a href="#">3545</a>	
09/06/2017	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0212/2017</a>	Summary

## Technical information

Procedure reference	2016/0132(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Regulation
	Repealing Regulation (EU) No 603/2013 <a href="#">2008/0242(COD)</a> See also <a href="#">2016/0133(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 188-p2; Treaty on the Functioning of the EU TFEU 078-p2; Treaty on the Functioning of the EU TFEU 079-p2; Treaty on the Functioning of the EU TFEU 087-p2
Stage reached in procedure	Awaiting committee decision
Committee dossier	LIBE/9/00158

## Documentation gateway

Legislative proposal		<a href="#">COM(2016)0272</a>	04/05/2016	EC	Summary
Document attached to the procedure		N8-0002/2017 <a href="#">OJ C 009 12.01.2017, p. 0003</a>	21/09/2016	EDPS	
Economic and Social Committee: opinion, report		<a href="#">CES2981/2016</a>	19/10/2016	ESC	
Reasoned opinion	CZ_CHAMBER	<a href="#">PE592.323</a>	25/10/2016	NP	
Committee of the Regions: opinion		<a href="#">CDR3267/2016</a>	08/12/2016	CofR	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0212/2017</a>	09/06/2017	EP	Summary

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

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

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

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

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

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

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

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

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

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

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

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

A summary of the main provisions is as follows:

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

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

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

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

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

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

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

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

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

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

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

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

Sanctions applicable to irregular third-country nationals or asylum applicant if they refuse to give their fingerprints: the new proposal permits Member States to introduce sanctions, in accordance with their national law, for those individuals who refuse to comply with the fingerprinting

procedure. It is up to the Member State to decide the form of penalties or sanctions to be introduced, as long as it does not breach the fundamental rights of the individual concerned. The use of detention or any form of coercion should only be used as a means of last resort.

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

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

## 2016/0132(COD) - 09/06/2017 Committee report tabled for plenary, 1st reading/single reading

---

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Monica MACOVEI (ECR, RO) on the proposal for a regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast).

The committee recommended that the European Parliaments position adopted at first reading should take into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission. However, it made some amendments to the recast proposal which may be summarised as follows:

Extension of the system of comparison of Eurodac data to third-country nationals or "resettled" stateless persons: Members called for Eurodac to be extended to resettled third-country nationals and stateless persons for the purposes of identifying secondary movements of such persons.

The registration in Eurodac of information on resettled third-country nationals or stateless persons is designed to ensure that such persons enjoy the same level of protection and the same rights applicable to other beneficiaries of international protection as regards the processing of their data. This should also enable Member States to verify whether or not a third-country national or stateless person has already been resettled in another Member State.

Alphanumeric and biometric data: Members wanted to compare the biometric or alphanumeric data of the persons concerned with Eurodac data rather than fingerprints as proposed by the Commission in its proposal for the purposes of the prevention, detection or investigation of terrorist offences or other serious criminal offences.

In addition, Members considered that fingerprints should always be preferred over facial images. Where it is impossible to take the fingerprints of the third-country national or stateless person because his or her fingertips are damaged, either intentionally or not, or amputated, this Regulation should also permit the comparison of a facial image without fingerprints.

Derogation: Member States may derogate from in the case of illegally residing third-country nationals who entered the territory of the Union by lawfully crossing the external borders of the Schengen area and have overstayed the authorised period of stay by no more than 15 days.

Interoperability of data collection systems and the role of European agencies in the area of freedom, security and justice: given that the European Border and Coast Guard Agency plays a key role in the Unions efforts for a better management of external borders, and the prevention of illegal immigration and secondary movements, Members requested that it also have access to Eurodac data in order to be able to undertake risk analyses to the highest possible standard and to assist Member States with return related tasks. Those data should be processed in compliance with the data protection safeguards provided for in that Regulation.

As one of the tasks of the European Border and Coast Guard Agency and the [European Union Agency for Asylum](#), is the taking and transmitting of biometric data, the European Border and Coast Guard Agency and the European Union Agency for Asylum should also be provided with their own interfaces so that they no longer need to rely on national infrastructures. In the long run, those interfaces could be used as a single search interface.

Therefore, technological solutions should be developed to ensure the interoperability of Eurodac with the Schengen Information Systems (SIS), the Visa Information Systems (VIS), Europol, and any new relevant information systems developed in the area of freedom, security and justice, in order to enhance effective cooperation among Member States in managing external borders and combatting serious crime, including the system of entry/exit ([EES](#)) currently under construction.

Eu-LISA and Dublinet: in addition to the interoperability principles defined above, eu-LISA shall establish a secure communication channel between the EES Central System and Eurodac in order to allow full interoperability between both systems. A connection between the two systems is necessary in order for the biometric data of a third-country national registered in the EES to be transferred to Eurodac when registration of such biometric data is foreseen under this Regulation.

This specific channel, whose name would be Dublinet, would be managed by eu-LISA and would provide direct linkage and secure electronic transmission between the authorities of the Member States. The operational management of Dublinet shall consist of all the tasks necessary to ensure its availability five days a week during normal business hours.

Specific role of Europol: the future Regulation shall lay down the conditions under which the European Police Office (Europol) may request comparisons with Eurodac data for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences falling within its mandate.

Europol shall designate an authority which is authorised to request comparisons with Eurodac data through its designated Europol access point in order to prevent, detect and investigate terrorist offences or other serious criminal offences. The designated authority shall be an operating unit of Europol.

Unaccompanied minors and minors: with a view to strengthening the protection of all migrant and refugee children, including unaccompanied minors who have not applied for international protection and children at risk of being separated from their families, Members requested that their biometric data can be retrieved for storage in the Central System and assist a Member State to find a family member or to identify possible links that these children may have with another Member State.

In the performance of those tasks, Member States should observe the principles laid down in the United Nations Convention on the Rights of the Child of 1989.

The biometric data of minors from the age of six shall be taken by officials trained specifically to enrol minor's fingerprints and to capture facial images in full respect of the best interests of the child.

The minor shall be informed in an age-appropriate manner, both orally and in writing, using leaflets and infographics and demonstrations specifically designed to explain the fingerprinting and facial image procedure to minors in a language he or she can understand.

Where a minor, in particular an unaccompanied or separated minor, refuses to give his or her fingerprints or facial image and there are reasonable grounds for believing that there are child safeguarding or protection risks, that minor should be referred to the competent national child protection authorities, national referral mechanisms, or both. Those authorities should undertake an assessment of the minor's special needs in accordance with the relevant law with a view to finding a sustainable solution for the minor in full respect of the best interests of the child. Detention of minors shall be prohibited.

Application of sanctions in case of refusal to collect data: in order to ensure that all the persons concerned by the Regulation are registered in Eurodac, Member States may introduce, where appropriate, well justified administrative sanctions, in accordance with their national law and with full respect for the Charter of Fundamental Rights of the European Union, for non-compliance with the process of taking biometric data. Member States shall ensure that an opportunity for counselling has been provided to those persons in order to persuade them to cooperate with the procedure and to inform them of the possible implications of non-compliance. The administrative sanctions shall be effective, proportionate and dissuasive. Detention should only be used as a means of last resort.

Data retention period: Members considered that the maximum period for which the biometric data of third-country nationals or stateless persons who have applied for international protection may be kept in the central system should be limited to a maximum of 5 years.

Transfer of data collected from third countries: Members request that personal data obtained as a result of a search in the Central System shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union unless such a transfer is strictly necessary and proportionate in cases falling within Europol's mandate.

Personal data which originated in a Member State and are exchanged between Member States shall not be transferred to third countries, including if there is a real risk that as a result of such transfer the data subject may be subjected to torture, inhuman and degrading treatment or punishment or any other violation of his or her fundamental rights.

Study on the possibility of introducing facial recognition software to current Eurodac data: lastly, Members requested that, by 2020, eu-LISA should carry out a study on the technical feasibility and reliability of adding facial recognition software to the Central System currently planned.