

Frequently asked questions: The new EURODAC proposal

What is EURODAC?

EURODAC is a biometric database aimed at facilitating the application of the Dublin Regulation, which determines which Member State is responsible for the assessment of an asylum claim presented in the European Union and the Associated Dublin States (Norway, Iceland, Switzerland and Liechtenstein).

Under the EURODAC system, participating States must take the fingerprints of each asylum seeker over the age of 14. The procedure for taking fingerprints has been agreed in accordance with the safeguards laid down in the European Convention on Human Rights and in the United Nations Convention on the Rights of the Child. These fingerprints are then compared with fingerprint data transmitted by other participating States stored in the central database. If EURODAC shows that the fingerprints have already been recorded, the asylum seeker might be sent back to the country where his/her fingerprints were originally taken.

All EU States, as well as the Associated Dublin States apply the EURODAC Regulation ([Regulation 2725/2000/EC](#)).

Why is the Commission proposing a new Regulation?

The EURODAC database has been operating since 2003, with a view to facilitating the determination of the Member State responsible for the assessment of an asylum claim. It has been a success, but it needs updating.

In the past, the Commission already proposed to amend the EURODAC Regulation but the negotiations in the Council and the European Parliament on these proposals stalled.

The Commission has a political responsibility to act in order to achieve a Common European Asylum System (CEAS) by 2012.

The new EURODAC proposal is aimed at facilitating the negotiations between the two co-legislators and enable progress on the other remaining instruments of the CEAS. It takes into account the work already done by the European Parliament and the Council, as well as issues voiced by other actors (such as the European Economic and Social Committee, the Committee of the Regions, national administrations, the European Data Protection Supervisor, UNHCR or NGOs working in the area of fundamental rights).

What are the main elements of the proposal?

The proposal will:

- Ensure a more efficient use of the EURODAC database so as to better ensure the application of the Dublin Regulation;
- Better address data protection concerns;
- Authorise the comparison of fingerprints which are contained in EURODAC with fingerprints held by national law enforcement authorities or Europol for the fight against terrorism and serious crime;
- Regulate the procedure by which law enforcement authorities request comparisons with the EURODAC database and the conditions under which such requests can be made;
- Provide a series of effective safeguards to ensure the protection of the personal data of the persons concerned and the right to asylum.

How will Member States' law enforcement authorities be able to consult EURODAC?

Under current rules, Member States' law enforcement authorities have to contact bilaterally all other Member States participating in EURODAC to determine if another Member State holds data on an asylum seeker. This inefficient crime resolution under the current rules requires that law enforcement authorities access more personal data or data on more persons than is necessary to establish whether relevant information exists. The new proposal provides for a more effective and less intrusive measure for competent law enforcement authorities to determine if another Member State holds data on an asylum seeker.

The new proposal introduces the possibility for Member States' law enforcement authorities and Europol to request comparison of fingerprint data with those stored in the EURODAC central database in a specific case when they seek to establish the exact identity of or get further information about a person who is suspected of a serious crime or is a victim of crime. Law enforcement authorities may only request the comparison with EURODAC data if there are reasonable grounds to consider that such comparison will substantially contribute to the prevention, detection or investigation of the serious criminal offence in question.

The proposal makes clear that the comparison of fingerprint data using EURODAC may only be made after national fingerprint databases and the Automated Fingerprint Databases of other Member States under [Council Decision 2008/615/JHA](#) (the Prüm Agreements) were consulted and have returned negative results.

A comparison using the EURODAC database will provide result on a 'hit'/'no hit' basis. Following that comparison, the requesting law enforcement authority will be informed whether information on the person is available ('hit') or not ('no hit') in the national asylum database of another Member State. If this is the case, the available information on the person (related to his/her asylum application) can then be requested from that Member State by using existing instruments for information exchange, such as [Framework Decision 2006/960/JHA](#) on simplifying the exchange of information and intelligence between law enforcement authorities. The proposal therefore does not provide for new possibilities to process additional personal information in the follow-up to a 'hit'.

In case a person suspected to have committed an act of terrorism or a serious crime has been previously registered as an asylum seeker or as an irregular migrant but is not in any other database, the only information available to identify him/her might indeed be the biometric information contained in EURODAC.

How are personal data protected?

The database does not contain details such as the name of a person because it relies only on biometric comparison, the safest and most accurate available identification method. Each participating State ensures that the national supervisory authority on data protection independently monitors the lawfulness of the processing of the data.

The comparison with the EURODAC database for law enforcement purposes is strictly limited to the prevention, detection or investigation of terrorist offences as defined in the Council Framework Decision on combating terrorism ([2002/475/JHA](#)) and of other serious criminal offences as defined in the Council Framework Decision on the European Arrest Warrant ([2002/584/JHA](#)). It excludes that the EURODAC database be searched by law enforcement authorities on a systematic basis and prohibits them from sharing personal data obtained with third countries, organisations or entities. It also lays down strict security measures to ensure the security of personal data processed and establishes supervision of the processing activities by independent public data protection authorities. In addition, an extensive monitoring and evaluation mechanism of the proposal is foreseen.

The proposal provides the necessary safeguards to ensure the respect of fundamental rights and thus fully complies with the Charter of Fundamental Rights of the European Union.

CEAS: What is the state of play?

The EU is working towards the establishment of a comprehensive Common European Asylum System (CEAS) by 2012 (a deadline set by the Stockholm Programme). The CEAS aims to set up a common area of protection and solidarity based on a common asylum procedure and a uniform status for people who have been granted international protection.

The Commission has proposed to reform the legislative framework which will form the basis of the CEAS- It consists of three Directives and two Regulations. The European Parliament and the Council adopted the first of these proposals, the Qualification Directive, on 24 November 2011.

The other instruments (the Asylum Procedures Directive, the Reception Conditions Directive, the Dublin II Regulation and the latest EURODAC Regulation) are still under intense negotiations in the European Parliament and in the Council.

Progress has been made under the Danish Presidency and discussions in trilogue between the Council, the European Parliament and the European Commission are under way, which makes a global deal feasible by the end of the year.

For more information

Homepage of Cecilia Malmström, Commissioner for Home Affairs:

http://ec.europa.eu/commission_2010-2014/malmstrom/welcome/default_en.htm

DG Home Affairs Newsroom:

http://ec.europa.eu/home-affairs/news/intro/news_intro_en.htm