

EURODAC REGULATION

State of play

The recast EURODAC Regulation has been adopted on 26 June 2013 and published in the Official Journal of the European Union. It entered into force on 19 July 2013 (date of publication +20 days) and will be applicable starting from 20 July 2015.

The new Regulation aims to, on the one hand, improve the regular functioning of EURODAC and, on the other hand, allows national police forces and Europol to compare fingerprints with those stored in EURODAC, for the single purpose of the prevention, detection and investigation of serious crimes and terrorism and under very strict conditions regarding access and personal data protection. Also, some changes are implemented for the sake of compatibility with the recast EU asylum acquis.

What's new?

- The revised regulation allows **national law enforcement authorities and Europol** to access this central EU-wide fingerprint database, subject to strict conditions on data protection, for the single purpose of the prevention, detection and investigation of serious crimes and terrorism.
- The recast also **improves the practical application** of the regulation on several aspects. For example, delay of collection and transmission of data is tackled by putting down strict time-limits, automatic comparison of incoming data, shorter periods of storage of data, communication mechanisms between Member States and the European Systems, involved in EURODAC.
- The new regulation contains a much more elaborate set of rules, regarding **data processing and data protection**.

Background information

EURODAC Regulation of 11 December 2000

- **Official name:** [Council regulation](#) No 2725/2000 of 11 December 2000 concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of the Dublin Convention
- **Objective of the regulation:** The EURODAC regulation is the legal base for a biometric database for comparing fingerprints, which helps EU States to verify whether an asylum applicant has previously claimed asylum in another EU State, or whether an asylum applicant has been previously apprehended when entering EU territory unlawfully. It aims to make it easier for EU States to determine responsibility for examining an asylum application and facilitates the application of the Dublin II regulation. [More information](#).
- **Remark:** All EU States, as well as Norway, Iceland, Switzerland and Liechtenstein apply the EURODAC Regulation.

Improving regulation 2725/2000: Ongoing negotiations on a recast proposal of the regulation

- **3 December 2008 – Commission proposal on recast**
 - This proposal was designed to
 - ensure a more efficient support to the application of the Dublin Regulation and to properly address data protection concerns.

- align the IT management framework to that of the SIS II and VIS Regulations (by providing for the taking over of the tasks of the operational management for EURODAC by the future Agency for the operational management of large-scale IT systems in the area of freedom, security and justice).
 - repeal the Implementing Regulation and to include its content in the EURODAC Regulation.
 - take into account developments in the asylum acquis and technical progress which took place since the adoption of the Regulation in 2000.
- **10 September 2009 – Amended proposal on recast**
 - The amended proposal aimed at, on the one hand, take into account the position of the EP and the results of negotiations in the Council, and, on the other hand, introduce 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.
- **11 October 2010 –New proposal on recast (similar to the 2008 recast)**
 - With the entry into force of the Treaty of Lisbon, the proposal for a Council Decision lapsed. Usually such proposals would be formally withdrawn and replaced with a new proposal to take account of the new framework of the TFEU. 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 in 2010 to **withdraw from the EURODAC Regulation those provisions referring to the access for law enforcement purposes** and presented a new proposal on 11.10.2010 similar to the 2008 recast of the EURODAC Regulation.
 - The Commission also argued that enabling the 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 to become responsible for the management of EURODAC as from 1 December 2012.
- **30 May 2012 – [New proposal](#) on recast**
 - Since the 2010 proposal, it has become clear that **including law enforcement access for EURODAC is needed** as part of a balanced deal on the negotiations of the CEAS package. Accordingly the Commission proposed this and merged it into a single new EURODAC Regulation (as this is now possible since the entry into force of the TFEU). [More information](#).
- **Progress of negotiations:**
 - [Procedure file](#) of the Legislative Observatory of the European Parliament.
 - *JHA Council 8 November 2010*: All Member States that took the floor voiced their disappointment that the provision for law enforcement access to the Eurodac data had been omitted from the latest Commission proposal. In the course of the debate, the Commission indicated that it was ready to reconsider the question of law enforcement access in the context of the EURODAC Regulation. [More information](#).
 - *JHA Council 8 March 2012*: discussions on amendments to the rules regulating this fingerprint database are on hold pending a revised Commission proposal. Member States have requested additional provisions which would allow their law enforcement authorities to access the EURODAC central database under strict conditions on data protection for the purposes of fighting terrorism and organised crime.
 - *JHA Council 6 and 7 December 2012*: A state of play is given: In October 2012 the Council adopted its position in view of the negotiations with the European Parliament.

- *LIBE Committee 19 December 2012*: The Parliamentary Committee adopted [the report](#) on the amended proposal, recommending that the EP's position, adopted at first reading, should be to amend the Commission's proposal on several issues.
- *JHA Council 7 March 2013*: Another state of play is given. The legislative proposal has entered into the final phase of negotiations with the EP; only remaining issue to be solved concerns the access of law enforcement authorities to EURODAC data.
- **12 June 2013 – Parliament adopts [resolution](#)**
 - The EP adopts a resolution, deciding to amend the legislative proposal, reflecting a compromise reached between the EP and the Council. Amendments concern the purpose of EURODAC, designation (conditions) of law enforcement authorities, tasks devolved to Europol, time-limits and conditions for collection, transmission, storage and erasure of fingerprint data, marking of data, personal data protection and some other provisions.
- **20 June 2013 – Act adopted by Council**
- **26 June 2013 – Final act signed**
- **29 June 2013 – Publication in the Official Journal of the European Union, L 180, 1-30.**

The recast Regulation

- **Full name:** [Regulation \(EU\) No 603/2013](#) of the European Parliament and of the Council of 26 June 2013 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 and on requests for the comparison with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operation management of large-scale IT systems in the area of freedom, security and justice.
- The former EURODAC Regulation will be repealed on the day of entry into effect of the new Regulation, more precisely on 20 July 2015.
- **Content:** The new Regulation aims to establish a system 'EURODAC' to assist in determining which Member State is to be responsible to examine an application by third-country nationals or stateless persons for international protection pursuant to the Dublin II-Regulation and facilitate the application of Dublin II. Additionally, it lays down the conditions under which Member States' designated authorities and Europol may request the comparison of fingerprint data with those stored in the Central System for law enforcement purposes.

Regarding collection, transmission and comparison of fingerprints, a division is made between data concerning applicants for asylum, third-country nationals and stateless who irregularly cross external borders and third-country nationals and stateless who illegally stay in a the territory of a Member State. A wide set of rules defines the situations in which and the conditions under which data may be collected and stored and settles the procedures to be followed for transmitting and comparing those data.

Further, procedures for comparison and data transmission for law enforcement are set very strictly, with special attention to prevention of misuse of data.

In general, a broad set of rules concerning data processing, data protection and liability is elaborated, ensuring a high level of security and confidentiality towards

collected and stored data, providing also procedural remedies for persons who are object of the data concerned.

More information:

- Positions taken by other stakeholders on the matter: Position paper from [UNHCR](#),
- General information on the content of the Regulation on the website of the European Commission. [Link](#)
- [Procedure file](#) of the Legislative Observatory (European Parliament).