



# Registration and identity management of irregular migrants in the EU

## Summary

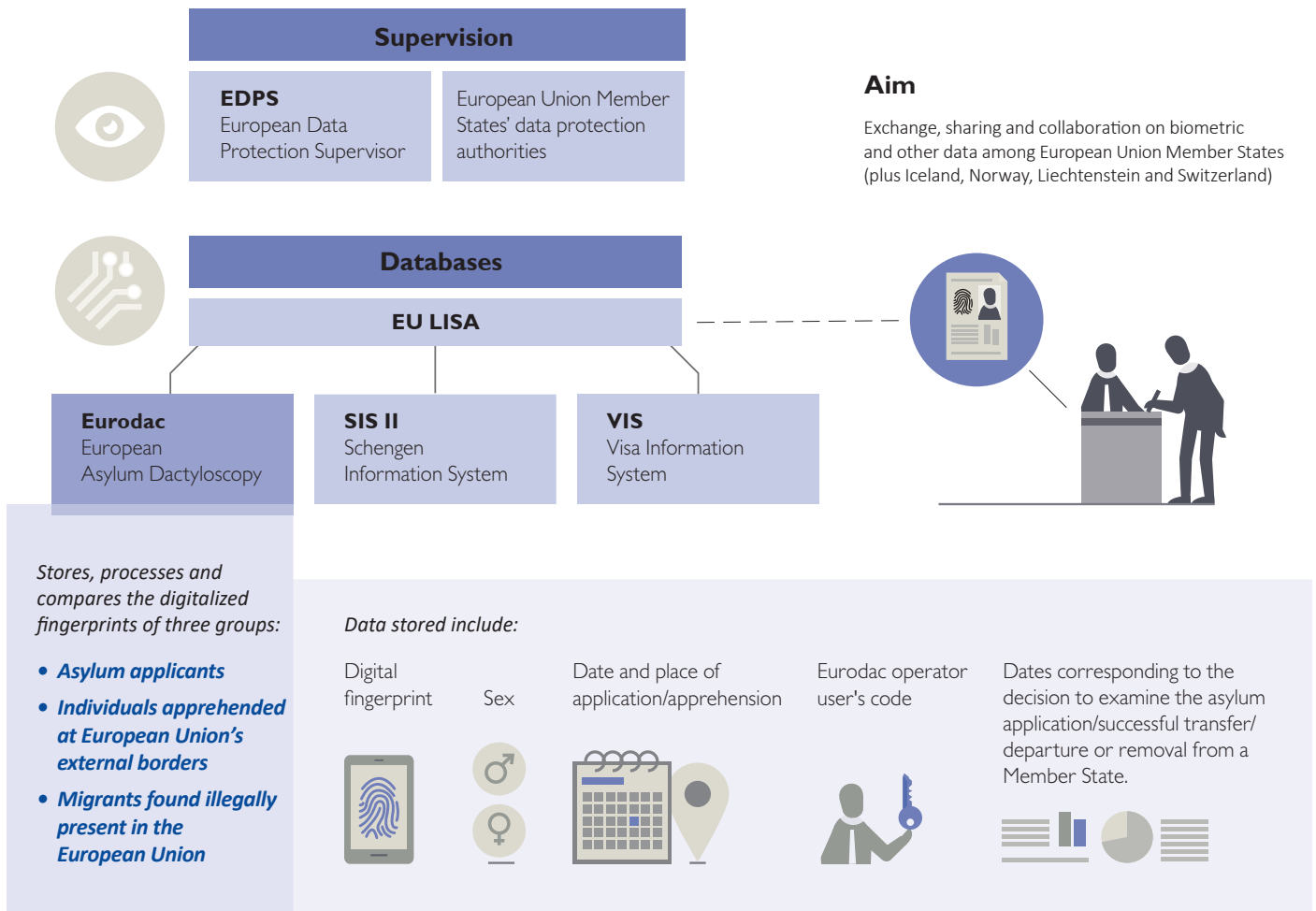
- The registration of irregular migrants and asylum seekers and collection of biometric data in European Union Member States has become increasingly relevant for migration and border management in the European Union.
- Exchange of data between national authorities in the European Union is facilitated by three main databases – (a) European Asylum Dactyloscopy (Eurodac); (b) Schengen Information System (SIS II); and (c) Visa Information System (VIS) – and supervised by the European Data Protection Supervisor (EDPS) and data protection authorities of European Union Member States.
- Eurodac stores, processes and compares the digitalized fingerprints of asylum seekers, migrants apprehended at the European Union external border and undocumented migrants apprehended within European Union Member States (the latter are not stored). The Eurodac regulation requires all countries to comply with their obligation to collect and transmit biometric data of undocumented migrants and asylum seekers to allow for a robust asylum process, according to European Union data protection legislation and the European Union Charter of Fundamental Rights.
- The introduction of the “hotspot” approach with the European Agenda on Migration (May 2015) – aimed to facilitate registration and identification of large numbers of migrants and asylum seekers arriving to Europe – contributed to a substantial increase of registration rates in Greece and Italy in 2016, relative to previous years.
- Facilitating the functioning of the asylum, emergency relocation and return process in full compliance with fundamental rights, the “hotspot” approach seems to be a model for effective migration data management, highlighting the benefits of collaboration between relevant agencies and the existence of harmonized procedures.
- The proposal, currently under scrutiny, to expand the functions of the Eurodac system beyond asylum processing to irregular migration and return – as set out in two recent Communications by the European Commission – will imply the need for careful consideration of data protection and fundamental rights issues.

Biometric collection and registration has taken an increasingly important role in the migration and border management of the European Union. The three main databases<sup>1</sup> managed by the European Agency for the Operational Management of Large-Scale IT Systems (eu-LISA) – namely the European Asylum Dactyloscopy (Eurodac), the Schengen Information System (SIS II) and the Visa Information System (VIS) – allow national

authorities to exchange, share and collaborate on biometric and other data under the supervision of the European Data Protection Supervisor (EDPS)<sup>2</sup> and the Member States’ national data protection authorities. The compliant exchange of data stored on these systems has become an integral part of migration, border management and law enforcement processes in the European Union.

1 See [www.eulisa.europa.eu/AboutUs/MandateAndActivities/CoreActivities/Pages/OperationalManagement.aspx](http://www.eulisa.europa.eu/AboutUs/MandateAndActivities/CoreActivities/Pages/OperationalManagement.aspx)

2 See <https://edps.europa.eu/>



## HOW HAVE THESE SYSTEMS EVOLVED, AND WHAT IS THEIR POLITICAL AND OPERATIONAL RELEVANCE TODAY?

Eurodac – the database that is most relevant to European Union migration management authorities – stores, processes and compares the digitalized (10) fingerprints of three different groups of migrants, the first category being applicants for international protection. The second category relates to individuals apprehended when irregularly crossing a European Union external border whose biometric data is stored and used to match against asylum applications already lodged in the Eurodac system in order to avoid duplicate registration. The third category involves irregular migrants found illegally present in the European Union whose biometric data is only used for matching against data already in the system and not currently stored. The database is used by

relevant authorities from all 28 Member States, as well as Iceland, Norway, Switzerland and Liechtenstein. This biometric database was first established by the Eurodac Regulation<sup>3</sup> in 2000 and became operational in 2003 in order to determine the Member States responsible for assessing the asylum application and thereby to facilitate the Dublin III Regulation.<sup>4</sup>

The Eurodac Regulation was revised in 2013<sup>5</sup> (applicable with effect from July 2015), allowing specifically designated national law enforcement authorities and

<sup>3</sup> See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000R2725&from=EN>

<sup>4</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>

<sup>5</sup> See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0603&from=EN>

Europol<sup>6</sup> to search data under strict conditions for the sole purpose of prevention, detection and investigation of terrorist and serious criminal offences as a safeguard measure for the internal security of the European Union. This development and the current proposals forming part of the reform of the Common European Asylum System (CEAS)<sup>7</sup> to reinforce the existing system, reflect the significant changes in the European Union migration landscape since 2003, as well as the policy for a move to more interoperable systems. Since June 2013, eu-LISA has been responsible for the operational management and the communication infrastructure of Eurodac, as well as provision of annual statistical reports<sup>8</sup> on its use for public perusal. The statistics include a breakdown of data for each Member State and are invaluable for informing operational planning regarding, for example, the resourcing of asylum case-working. The EDPS is responsible for auditing the eu-LISA data processing activities for Eurodac at least every three years.

The Eurodac regulation requires all participating countries to comply with their obligation regarding the collection and transmission of irregular immigrants and asylum seekers' biometric data in order to enable the implementation of a robust asylum process. By establishing a unique identity for the aforementioned categories of irregular immigrants and asylum-seekers over 14 years of age, the application process for protection can be carried out more efficiently, fairly and lawfully in that multiple asylum applications made by the same individual can be detected by matches only based on fingerprints. The data collected during the registration and biometric enrolment process does not include the irregular immigrants' names but includes their sex, digitalized fingerprints (with dates of registration and transmission to Eurodac), the date and the place of their asylum application or apprehension, the Eurodac operator user's code and subsequent dates corresponding to the decision to examine the asylum application, successful transfer, departure or removal from a Member State.

The Eurodac regulation outlines the registration process that involves the compliant collection, quality, timely submission (no longer than 72 hours after lodging the asylum application) and strict guidelines on the length of storage of the biometric data for the three categories of irregular migrants. The data relating to asylum seekers' fingerprints, for example, are stored for 10 years. These guidelines are of paramount importance in ensuring the integrity and efficiency of the asylum process. The punctual submission of biometric data is essential for ensuring the availability of real-time data across Member States. Compliance with European Union data protection legislation and the European Union Charter of Fundamental Rights<sup>9</sup> obviously forms an integral part of this registration process. The emphasis on the quality of fingerprint data entered into the Eurodac system is to reduce the risk of mismatches and non-hits that would undermine the efficiency of the system. The rejection rates for fingerprints caused by low quality therefore form part of the data quoted in the aforementioned Eurodac Annual Statistical Reports.

Regarding the actual process of biometric collection, article 3.5 of the Eurodac Regulation states that this should be determined by the national practice of each Member State and must observe the Charter of Fundamental Rights of the European Union, the Convention for the Protection of Human Rights and the UN Convention on the Rights of the Child. The 2014 Eurodac Annual Report<sup>10</sup> highlights the issue of failure to fingerprint and the consequent difficulties caused by the secondary movements of irregular migrants. The European Agenda on Migration<sup>11</sup> recognized this issue and stressed the need for all Member States to comply with their legal obligation to fingerprint irregular migrants. To highlight the importance of this issue, the European Commission published a Staff Working Document<sup>12</sup> in order to facilitate systematic fingerprinting of all irregular migrants. This Working Document sets out best practice and a possible common approach for Member States to follow when an irregular migrant refuses to be fingerprinted in order to ensure the proper functioning of the CEAS.

9 See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12010P&from=EN>

10 See [www.eulisa.europa.eu/Publications/Reports/Eurodac%202014%20Annual%20Report.pdf](http://www.eulisa.europa.eu/Publications/Reports/Eurodac%202014%20Annual%20Report.pdf)

11 See [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf)

12 Staff Working Document on the Implementation of the Eurodac Regulation as regards the obligation to take fingerprints. See <https://ec.europa.eu/transparency/regdoc/rep/10102/2015/EN/10102-2015-150-EN-F1-1.PDF>

6 See [www.europol.europa.eu/](http://www.europol.europa.eu/)

7 See [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards\\_a\\_reform\\_of\\_the\\_common\\_european\\_asylum\\_system\\_and\\_enhancing\\_legal\\_avenues\\_to\\_europe\\_-\\_20160406\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf)

8 See [www.eulisa.europa.eu/Publications/Pages/default.aspx](http://www.eulisa.europa.eu/Publications/Pages/default.aspx)

## THE “HOTSPOT” APPROACH

The aforementioned European Agenda on Migration set out four pillars to better manage migration in response to the significant increase in the number of arrivals of irregular migrants, firstly in 2014 and then on a greater scale in 2015. One of the immediate responses introduced was to assist front-line Member States (Italy and Greece) in coping with the large volume of irregular migrants needing to be registered and fingerprinted and the consequent difficulties they faced in complying with their Eurodac obligations. Referred to as the “hotspot” approach,<sup>13</sup> the aim was to provide operational support to these Member States to ensure that irregular migrants arriving on their territories were efficiently identified, registered, fingerprinted and processed appropriately through national asylum, emergency relocation or return systems.

through the normal or accelerated procedures (for those in clear need of international protection and relocation) and which ones are to be returned to their countries of origin. The biometric collection and registration in the Eurodac database is carried out by Member State officials.

With regards to **the return process**, the information gleaned during the screening procedure by the expert screening teams posted to the hotspot locations is vital to establishing nationality and therefore successfully obtaining travel documents from the relevant third-country authorities. The data collected regarding nationality identification may also be used to assist with the asylum procedure and the possible relocation process.

*“Hotspot” approach – Introduced with the European Agenda on Migration (May 2015)*

Aims to provide operational support to Italy and Greece to ensure efficiency in:



The hotspot approach provides a platform on which, together with the national authorities, the European Asylum Support Office (EASO) and Frontex enable the functioning of the asylum, emergency relocation and return process in full compliance with fundamental rights, while Frontex, Europol and Eurojust provide the operational analysis expertise and coordination required to build intelligence on smuggling and trafficking networks. The hotspot operational support can include the registration and screening of irregular migrants and asylum seekers by Frontex to determine identity and nationality and to provide, if applicable, details regarding the asylum process. The screening process enables authorities to ascertain which irregular migrants wish to apply for asylum, whether they should be channelled

A special report prepared by the European Court of Auditors, which was adopted in March 2017, stated that the hotspot approach “has helped improve migration management in the two frontline Member States”. The report also finds that “In both Greece and Italy, the hotspot approach ensured that, in 2016, most of the arriving migrants were properly identified, registered and fingerprinted and that their data were checked against relevant security databases. In this respect, the hotspot approach contributed towards an improved management of the migration flows.” The report quoted the improvement in the rate of registration in Greece, which had risen from only 8 per cent in September 2015 to 78 per cent in January 2016, to a position in March 2016 where registration tasks had been carried out correctly for “practically all migrants”. An improvement in the rate of registration carried out in Italy was also noted in the report, rising from 60 per cent in the first half of 2015 to an average of 97 per cent for 2016. These improved registration rates means that a higher percentage of real-time data is available to inform the asylum and return process.

<sup>13</sup> See [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/2\\_hotspots\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/2_hotspots_en.pdf)

Rate of registration of irregular migrants and asylum seekers arriving to Italy and Greece before and after the introduction of "hotspots"



Source: European Court of Auditors, 2017.

The hotspot approach appears to be a model for effective migration data management and highlights the benefits of relevant agencies and stakeholders collaborating and following harmonized procedures. In this regard, the report states that “all the relevant stakeholders that we interviewed agreed that the hotspot approach had played an important role in improving the situation in Italy, not only by providing adequate infrastructure, but also by establishing standard procedures to be followed and by having a positive influence on practices in general.” The registration and fingerprinting process facilitates the implementation of the follow-up procedures (national asylum, relocation or return), but these follow-up procedures will only operate effectively if resourced appropriately. The report found that in the case of Greece, the number of asylum experts deployed was insufficient to handle the volume of applications, and this therefore undermined the effectiveness of the hotspot approach. A low “outflow” of irregular migrants due to low implementation rates for return decisions (reported as less than 20% in Italy) and far lower than envisaged relocation rates was also highlighted in the report as posing a capacity problem for Italy’s accommodation facilities. The information provided in the monitoring reports of the hotspots is another key source of data to inform policy and operational planning.

## FUTURE DEVELOPMENTS OF THE EURODAC SYSTEM

The European Commission’s Communication on Stronger and Smarter Information Systems for Borders and Security<sup>14</sup> sets out the need to maximize the benefits

14 See [www.eulisa.europa.eu/Newsroom/News/Documents/SB-EES/communication\\_on\\_stronger\\_and\\_smart\\_borders\\_20160406\\_en.pdf](http://www.eulisa.europa.eu/Newsroom/News/Documents/SB-EES/communication_on_stronger_and_smart_borders_20160406_en.pdf)

of the existing European Union information systems and to enhance the interoperability of these systems. This theme is also reflected in the aforementioned communication, “Towards a reform of the CEAS and enhancing legal avenues to Europe” where one of the five priorities listed to improve the CEAS was to reinforce the Eurodac system by expanding its function beyond asylum to irregular migration and return. These proposals also echo the statement in the European Union Agenda on Migration that “migration can be better managed collectively by all EU actors”.

Proposed changes to the Eurodac Regulation include adding a facial image to the data stored and reducing the age of fingerprinting from 14 years of age to 6. The latter will be seen as a positive move that will hopefully contribute to improved child protection. According to the United Nations High Commissioner for Refugees (UNHCR) 2016 Regional Summary Report on Europe,<sup>15</sup> over a quarter of irregular migrants arriving in Europe in 2016 were children. Lowering the age of registration will therefore facilitate the work the UNHCR carries out to ensure the effective protection and referral of unaccompanied and separated children. With regards to the UNHCR, it would be logical if this organization were also included as one of the entities able to access the data collected in the registration process in order to target their humanitarian assistance for irregular migrants in the European Union more effectively. This recommendation would also be justified if the recent proposals declared in the meeting between European Union and African leaders<sup>16</sup> – held in Paris on 28 August 2017 to establish decentralized transit centres in the

15 See [www.unhcr.org/uk/publications/fundraising/593e53d67/unhcr-global-report-2016-europe-regional-summary.html](http://www.unhcr.org/uk/publications/fundraising/593e53d67/unhcr-global-report-2016-europe-regional-summary.html)

16 See [www.elysee.fr/declarations/article/declaration-conjointe-relever-le-defi-de-la-migration-et-de-l-asile/](http://www.elysee.fr/declarations/article/declaration-conjointe-relever-le-defi-de-la-migration-et-de-l-asile/)

Niger and Chad, where the identification and registration of asylum seekers would be carried out under the supervision of UNHCR – come to fruition. UNHCR has achieved significant success with their own Biometric Identity Management System of refugees in Malawi and Thailand, which has reduced the risk of multiple registrations. In its explanatory leaflet<sup>17</sup> on this initiative, the UNHCR’s Division of Programme Support and Management has pledged to “Make biometric identity verification an integral part of assistance distribution where required”.

The proposals regarding extending the scope of Eurodac include the possibility for Member States to store and search data belonging to irregular migrants who are not applicants for international protection, in order for them to be identified for return purposes and to track secondary movements between Member States. Other changes proposed include the possible transfer of data to third-country authorities to enable identity verification of their nationals and thereby to facilitate the return process, which is not possible under current European Union legislation, given the significant data protection and fundamental rights concerns.<sup>18</sup> These proposals reflect a move towards a more collaborative and interoperable approach to migration management, as well as a wider use of existing information systems. However, they will obviously be under considerable scrutiny, particularly with regards to European Union data protection legislation and the European Union Charter of Fundamental Rights.

Proposals to extend the scope of Eurodac reflect that data is an asset for operational planning, resourcing and policy implementation. The first annual report<sup>19</sup> on the activities of the Eurodac Central Unit between 2003 and 2004 reported that the database processed 246,902 operations relating to asylum seekers (Category 1), 7,857 relating to illegal border crossers (Category 2) and 16,814 illegally present in the European Union

(Category 3). These figures provide an interesting comparison to the Eurodac Annual Statistics Report<sup>20</sup> for 2016, which reveals that 1,018,074 operations were processed for Category 1, 370,418 for Category 2 and 252,559 for Category 3. The growth in the operations recorded over this period reflects the increased importance of this data as an asset to Member States authorities.

To conclude therefore, the development in the scope and role of Eurodac and the hotspot model reflects that migration management, asylum processes, border management and law enforcement are now operationally linked. The data collected for all categories of irregular migrants and asylum seekers for Eurodac provides important statistics to inform operational planning and resourcing with regards to the asylum process. The possibility for exchange of data with approved law enforcement authorities demonstrates the parallels between the European Agendas on Security and Migration. The additional scope proposed and currently under legislative scrutiny has the potential to provide more actionable data that will enable a higher rate of returns. The European Union Charter of Fundamental Rights and legislation on data protection will be at the forefront of this scrutiny and will reflect the statement in the Communication on Stronger and Smarter Information Systems for Borders and Security that European Union data protection rules imply “embedding personal data protection in the technological basis of a proposed instrument, limiting data processing to that which is necessary for a specified purpose and granting data access only to those entities that ‘need to know’”. It is establishing which entities “need to know” that will balance the needs and rights of irregular migrants and asylum seekers with secure and effective migration, border- and law- enforcement processes. This will require cross-European Union political and legal consideration set against an imperative to ensure the integrity of the Schengen external border.

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17 See [www.unhcr.org/550c304c9.pdf](http://www.unhcr.org/550c304c9.pdf)

18 It should also be noted that the Qualifications Directive Recast (part of the CEAS reform) suggested there should be mandatory provisions of “internal protection” in European Union Member States, meaning States must consider internal protection for applicable cases, while fully respecting the principle of non-refoulement.

19 See [www.europarl.europa.eu/registre/docs\\_autres\\_institutions/commission\\_europeenne/sec/2004/0557/COM\\_SEC\(2004\)0557\\_EN.pdf](http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2004/0557/COM_SEC(2004)0557_EN.pdf)

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20 See [www.eulisa.europa.eu/Publications/Reports/2016%20Eurodac%20annual%20statistics%20-%20factsheet.pdf](http://www.eulisa.europa.eu/Publications/Reports/2016%20Eurodac%20annual%20statistics%20-%20factsheet.pdf)

## About

### GMDAC

In response to growing calls for better data on migration, and better use and presentation of migration data, IOM has created a Global Migration Data Analysis Centre (GMDAC). Located in the heart of Berlin, Germany, the Centre aims to provide authoritative and timely analysis of data on global migration issues as a global hub for data and statistics on migration.

### Data Briefing Series

The GMDAC Data Briefing Series aims to explain what lies behind the numbers and the data used in migration policy and public debates. The Briefings explain what “the numbers” indicate about movements of migrants, refugees and asylum-seekers, on a range of topics for policy across the globe.

The way data are presented has an important influence on public perceptions of migration in Europe and the development of policy. The series will serve to clarify, explain and exchange specialist knowledge in an accessible format for wider public and policy audiences, for capacity-building and evidence for policy. Briefings will be of interest to expert, as well as lay audiences, including journalists, students, local authority and city planners and lawyers.

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