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2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2008/0242(COD)

12.11.2012

AMENDMENTS

21 - 182

Draft report
Monica Luisa Macovei
(PE450.875v03-00)

on the amended 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 [...] (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 to request comparisons 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 operational management of large-scale IT systems in the area of freedom, security and justice (recast)

Proposal for a regulation
(COM(2012)0254 – C7-0148/2012 – 2008/0242(COD))

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United in diversity

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Amendment 21
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, *legitimately* seek international protection in the Union.

Amendment

(2) A common policy on asylum, including a Common European Asylum System, is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, seek international protection in the Union.

Or. en

Amendment 22
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The Hague Programme called for the improvement of access to existing data filing systems in the European Union. In addition, The Stockholm Programme called for well targeted data collection and a development of information exchange and its tools that is driven by law enforcement needs.

Amendment

deleted

Or. en

Amendment 23
Cornelis de Jong

Proposal for a regulation

Recital 7

Text proposed by the Commission

Amendment

(7) The Hague Programme called for the improvement of access to existing data filing systems in the European Union. In addition, The Stockholm Programme called for well targeted data collection and a development of information exchange and its tools that is driven by law enforcement needs.

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Or. en

Amendment 24 Cornelis de Jong

Proposal for a regulation Recital 8

Text proposed by the Commission

Amendment

(8) It is essential in the fight against terrorist offences and other serious criminal offences for the law enforcement authorities to have the fullest and most up-to-date information if they are to perform their tasks. The information contained in EURODAC is necessary for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences. Therefore, the data in EURODAC should be available, subject to the conditions set out in this Regulation, for comparison by the designated authorities of Member States and Europol.

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Or. en

Amendment 25 Sarah Ludford

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) The powers granted to law enforcement authorities to access EURODAC should be without prejudice to the right of the applicants for international protection to have his or her application processed in due course according to the relevant legislation. Furthermore, obtaining a 'hit' from EURODAC and a subsequent procedure according to Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union¹ should also be without prejudice to this right and should not be grounds for slowing down the process of examining the applicant's claim to asylum.

¹ OJ L 386, 29.12.2006, p. 89.

Or. en

Justification

It is important that Member States do not put in place practices which would link a possible result in EURODAC to the success of the asylum application since only a final judgement should have a bearing on this.

Amendment 26
Cornelis de Jong

Proposal for a regulation
Recital 9

Text proposed by the Commission

Amendment

(9) The Commission outlined in its Communication to the Council and the

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European Parliament on improved effectiveness, enhanced interoperability and synergies among European data bases in the area of Justice and Home Affairs of 24 November 2005 that authorities responsible for internal security could have access to EURODAC in well defined cases, when there would be a substantiated suspicion that the perpetrator of a terrorist or other serious criminal offence has applied for asylum. In this Communication the Commission also found that the proportionality principle requires that EURODAC be queried for these purposes only once there is an overriding public security concern, that is, if the act committed by the criminal or terrorist to be identified is so reprehensible that it justifies querying a database that registers persons with a clean criminal record and it concluded that the threshold for authorities responsible for internal security to query EURODAC must therefore always be significantly higher than the threshold for querying criminal databases.

Or. en

Amendment 27
Cornelis de Jong

Proposal for a regulation
Recital 10

Text proposed by the Commission

Amendment

(10) Moreover, Europol has a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union-wide crime prevention, analyses and investigation. Consequently, Europol should also have access to EURODAC data within the framework of its tasks and in accordance with the

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**Decision establishing the European
Police Office (Europol) No
(2009/371/JHA).**

Or. en

**Amendment 28
Renate Weber**

**Proposal for a regulation
Recital 10 a (new)**

Text proposed by the Commission

Amendment

***(10a) Access to EURODAC data by
Europol should be allowed only for
specific cases, under specific
circumstances and under strict conditions.***

Or. en

**Amendment 29
Cornelis de Jong**

**Proposal for a regulation
Recital 11**

Text proposed by the Commission

Amendment

***(11) Since EURODAC has been
established to facilitate the application of
Council Regulation (EU) 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], access to
EURODAC for the purposes of
preventing, detecting or investigating
terrorist offences and other serious
criminal offences constitutes a change of
the original purpose of EURODAC,
which interferes with the right to respect***

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the private life of individuals whose personal data are processed in EURODAC. Any such interference must be in accordance with the law, which must be formulated with sufficient precision to allow individuals to adjust their conduct and it must protect individuals against arbitrariness and indicate with sufficient clarity the scope of discretion conferred on the competent authorities and the manner of its exercise. Any interference must be necessary in a democratic society to attain a legitimate and proportionate interest and proportionate to the legitimate objective it aims to achieve.

Or. en

Amendment 30
Cornelis de Jong

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) Even though the original purpose for the establishment of EURODAC did not require the facility of requesting comparisons of data with the database on the basis of a latent which is the dactyloscopic trace which may be found at a crime scene, such a facility is a fundamental one in the field of police cooperation. The possibility to compare a latent with the fingerprint data which is stored in EURODAC will provide the designated authorities of the Member States with a very valuable tool in preventing, detecting and investigating terrorist offences and other serious criminal offences, when for example the only evidence available at a crime scene are latents. *deleted*

Amendment 31
Sarah Ludford

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Even though the original purpose for the establishment of EURODAC did not require the facility of requesting comparisons of data with the database on the basis of a latent which is the dactyloscopic trace which may be found at a crime scene, such a facility is a fundamental one in the field of police cooperation. The possibility to compare a latent with the fingerprint data which is stored in EURODAC will provide the designated authorities of the Member States with a very valuable tool in preventing, detecting and investigating terrorist offences and other serious criminal offences, when for example the only evidence available at a crime scene are latents.

Amendment

(12) Even though the original purpose for the establishment of EURODAC did not require the facility of requesting comparisons of data with the database on the basis of a latent which is the dactyloscopic trace which may be found at a crime scene, such a facility is a fundamental one in the field of police cooperation. The possibility to compare a latent with the fingerprint data which is stored in EURODAC ***in cases where there are reasonable grounds for believing that the perpetrator or victim may fall into one of the categories covered by this Regulation*** will provide the designated authorities of the Member States with a very valuable tool in preventing, detecting and investigating terrorist offences and other serious criminal offences, when for example the only evidence available at a crime scene are latents.

Or. en

Justification

Since EURODAC should only be used in cases where there is a reasonable suspicion that an asylum seeker or other person covered by the EURODAC Regulation has been the perpetrator or victim, this principle should be underlined in cases where the police are collecting fingerprint evidence from a crime scene.

Amendment 32
Renate Weber

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The results of the comparison should be immediately checked in the Member State of origin by a fingerprint expert. Final identification should be made by the Member State of origin in cooperation with the Member States concerned, pursuant to Article 32 of Regulation (EU) No [.../...] of the European Parliament and of the Council [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].

Or. en

Amendment 33
Renate Weber

Proposal for a regulation
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) Information received from the Central System relating to other data found to be unreliable should be erased as soon as the unreliability of the data is established.

Or. en

Amendment 34
Cornelis de Jong

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) This Regulation also lays down the conditions under which requests for comparison of fingerprint data with EURODAC data for the purposes of preventing, detecting or investigating terrorist offences and other serious criminal offences should be allowed and the necessary safeguards to ensure the protection of the fundamental right to respect for the private life of individuals whose personal data are processed in EURODAC.

Amendment

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Or. en

Amendment 35 Cornelis de Jong

Proposal for a regulation Recital 14

Text proposed by the Commission

(14) In view of ensuring equal treatment for all applicants and beneficiaries of international protection, as well as in order to ensure consistency with current Union asylum acquis, in particular with *Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted¹* and Regulation (EU) 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], it is appropriate to ***extent*** the scope of this

Amendment

(14) With a view of ensuring equal treatment for all applicants ***for*** and beneficiaries of international protection, as well as in order to ensure consistency with ***the*** current Union asylum acquis, in particular with *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees and for persons eligible for subsidiary protection, and for the content of the protection granted¹* and Regulation (EU) No [...] [establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of

Regulation *to* order to include applicants for subsidiary protection and persons enjoying subsidiary protection.

¹ OJL 304, 30.9.2004, p. 12.

the Member States by a third-country national or a stateless person], it is appropriate to *extend* the scope of this Regulation *in* order to include applicants for subsidiary protection and persons enjoying subsidiary protection.

¹ OJL 337, 20.12.2011, p. 9.

Or. en

Amendment 36
Sarah Ludford, Franziska Keller

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) A temporary or permanent impossibility to provide fingerprints on the part of the applicant for international protection ('failure to enrol') should not adversely affect the legal situation of the individual.

Or. en

Justification

Articles 9, 14 and 17 of the proposal envisage a temporary situation in which it is not possible to take the fingerprint of an individual concerned by this measure. It should be clarified that neither a temporary or permanent failure to enrol should adversely affect the individual.

Amendment 37
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) Hits obtained from EURODAC should

(17) Hits obtained from EURODAC should

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be verified by a fingerprint expert in order to ensure the accurate determination of responsibility under Regulation (EU) 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].

be verified by a *trained* fingerprint expert in order to ensure the accurate determination of responsibility under Regulation (EU) 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].

Or. en

Amendment 38
Cornelis de Jong

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) The European Agency for the operational management of large-scale information systems in the area of freedom security and justice established by Regulation (EU) n° 1077/2011 of the European Parliament and of the Council of 25 October 2011 (the "Agency") has been entrusted with the Commission's tasks relating to the operational management of EURODAC in accordance with this Regulation and with certain *taks* relating to the communication infrastructure as from the date on which the Agency takes up its responsibilities as of 1 December 2012. The Agency should take up the tasks entrusted to it under this Regulation and the relevant provisions of Regulation (EU) No 1077/2011 should be amended accordingly. ***In addition, Europol should have observer status at the meetings of the Management Board of the Agency, when a question in relation to the application of this Regulation concerning access for consultation of Eurodac by designated authorities of Member States and by***

Amendment

(21) The European Agency for the operational management of large-scale information systems in the area of freedom security and justice established by Regulation (EU) n° 1077/2011 of the European Parliament and of the Council of 25 October 2011 (the "Agency") has been entrusted with the Commission's tasks relating to the operational management of EURODAC in accordance with this Regulation and with certain *tasks* relating to the communication infrastructure as from the date on which the Agency takes up its responsibilities as of 1 December 2012. The Agency should take up the tasks entrusted to it under this Regulation and the relevant provisions of Regulation (EU) No 1077/2011 should be amended accordingly.

Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences is on the agenda. Europol should be able to appoint a representative to the Eurodac Advisory Group of the Agency.

Or. en

Amendment 39
Cornelis de Jong

Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) It is necessary to designate the competent Member States' authorities as well as the National Central Access Point through which the requests for comparison with EURODAC data are done and to keep a list of the operating units within the designated authorities that are authorised to request such comparison for the specific purposes of the prevention, detection and investigation of terrorist offences as referred to in the Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism and of other serious criminal offences as referred to in the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

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Or. en

Amendment 40
Cornelis de Jong

Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

(25) Requests for comparison with data stored in the EURODAC central database shall be made by the operating units within the designated authorities to the National Access Point, through the verifying authority and shall be reasoned. The operating units within the designated authorities that are authorised to request comparisons with EURODAC data shall not act as a verifying authority. The verifying authorities should be responsible for ensuring strict compliance with the conditions for access as established in this Regulation. The verifying authorities should then forward the request for comparison through the National Access Point to the EURODAC Central System following verification of whether all conditions for access are fulfilled. In the exceptional case of urgency where early access is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, the verifying authority should process the request immediately and only do the verification afterwards.

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Or. en

Amendment 41
Sarah Ludford

Proposal for a regulation
Recital 25

Text proposed by the Commission

Amendment

(25) Requests for comparison with data stored in the EURODAC central database shall be made by the operating units within the designated authorities to the National

(25) Requests for comparison with data stored in the EURODAC central database shall be made by the operating units within the designated authorities to the National

Access Point, through the verifying authority and shall be reasoned. The operating units within the designated authorities that are authorised to request comparisons with EURODAC data shall not act as a verifying authority. The verifying authorities should be responsible for ensuring strict compliance with the conditions for access as established in this Regulation. The verifying authorities should then forward the request for comparison through the National Access Point to the EURODAC Central System following verification of whether all conditions for access are fulfilled. In the exceptional case of urgency where early access is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, the verifying authority should process the request immediately and only do the verification afterwards.

Access Point, through the verifying authority and shall be reasoned. The operating units within the designated authorities that are authorised to request comparisons with EURODAC data shall not act as a verifying authority. The verifying authorities should be ***independent of the designated authorities*** and responsible for ensuring strict compliance with the conditions for access as established in this Regulation. The verifying authorities should then forward the request for comparison through the National Access Point to the EURODAC Central System following verification of whether all conditions for access are fulfilled. In the exceptional case of urgency where early access is necessary to respond to a specific and actual threat related to terrorist offences or serious crime, the verifying authority should process the request immediately and only do the verification afterwards.

Or. en

Amendment 42
Cornelis de Jong

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) For the purposes of protection of personal data, and to exclude systematic comparisons which should be forbidden, the processing of EURODAC data should only take place on a case-by-case basis and when it is necessary for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. In addition access should only be allowed when comparisons with the national databases of the Member State and with the Automated

Amendment

deleted

Fingerprint Databases of other Member States under the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime have returned negative results. This condition requires prior implementation of the Council Decision as it shall not be permitted to conduct a EURODAC check for law enforcement purposes where these above steps have not been first undertaken. A specific case exists in particular when the request for comparison is connected to a specific and concrete situation or to a specific and concrete danger associated with a terrorist or other serious criminal offence, or to specific persons in respect of whom there are serious grounds for believing that the persons will commit or have committed terrorist offences or other serious criminal offences. A specific case also exists when the request for comparison is connected to a person who is a victim of a terrorist or other serious criminal offence. The designated authorities and Europol should thus only request a comparison with EURODAC when they have reasonable grounds to believe that such a comparison will provide information that will substantially assist them in preventing, detecting or investigating a terrorist or other serious criminal offence.

Or. en

Amendment 43
Sarah Ludford

Proposal for a regulation
Recital 26

Text proposed by the Commission

Amendment

(26) For the purposes of protection of

(26) For the purposes of protection of

personal data, and to exclude systematic comparisons which should be forbidden, the processing of EURODAC data should only take place on a case-by-case basis and when it is necessary for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. In addition access should only be allowed when comparisons with the national databases of the Member State **and** with the Automated Fingerprint Databases of other Member States under the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime have returned negative results. This condition requires prior implementation of **the** Council Decision as it shall not be permitted to conduct a EURODAC check for law enforcement purposes where these above steps have not been first undertaken. A specific case exists in particular when the request for comparison is connected to a specific and concrete situation or to a specific and concrete danger associated with a terrorist or other serious criminal offence, or to specific persons in respect of whom there are serious grounds for believing that the persons will commit or have committed terrorist offences or other serious criminal offences. A specific case also exists when the request for comparison is connected to a person who is a victim of a terrorist or other serious criminal offence. The designated authorities and Europol should thus only request a comparison with EURODAC when they have reasonable grounds to believe that such a comparison will provide information that will substantially assist them in preventing, detecting or investigating a terrorist or other serious criminal offence.

personal data, and to exclude systematic comparisons which should be forbidden, the processing of EURODAC data should only take place on a case-by-case basis and when it is necessary for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. In addition access should only be allowed when comparisons with the national databases of the Member State, with the Automated Fingerprint Databases of other Member States under the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime have returned negative results. This condition requires prior implementation of Council Decision **2008/615/JHA** as it shall not be permitted to conduct a EURODAC check for law enforcement purposes where these above steps have not been first undertaken. ***Designated authorities should also be encouraged to consult the Visa Information System under Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences¹ where appropriate prior to consulting EURODAC.*** A specific case exists in particular when the request for comparison is connected to a specific and concrete situation or to a specific and concrete danger associated with a terrorist or other serious criminal offence, or to specific persons in respect of whom there are serious grounds for believing that the persons will commit or have committed terrorist offences or other serious criminal offences. A specific case also exists when the request for comparison is connected to a person who is a victim of a terrorist or other serious criminal offence. The designated authorities and Europol should

thus only request a comparison with EURODAC when they have reasonable grounds to believe that such a comparison will provide information that will substantially assist them in preventing, detecting or investigating a terrorist or other serious criminal offence.

¹ OJ L 218, 13.8.2008, p. 129.

Or. en

Justification

Prior consultation of the Visa Information System before checking Eurodac is desirable. However, as this is not technically feasible and not always appropriate in all cases, it should only be done when possible.

Amendment 44

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) For the purposes of protection of personal data, and to exclude systematic comparisons which should be forbidden, the processing of EURODAC data should only take place on a case-by-case basis and when it is necessary for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. In addition access should only be allowed when comparisons with the national databases of the Member State and with the Automated Fingerprint Databases of other Member States under the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime have returned negative results. This condition

Amendment

(26) For the purposes of protection of personal data, and to exclude systematic comparisons which should be forbidden, the processing of EURODAC data should only take place on a case-by-case basis and when it is necessary for the purposes of preventing, detecting and investigating terrorist offences and other serious criminal offences. In addition access should only be allowed when comparisons with the national databases of the Member State, ***the Visa Information System*** and with the Automated Fingerprint Databases of other Member States under the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime have returned negative

requires prior implementation of the Council Decision as it shall not be permitted to conduct a EURODAC check for law enforcement purposes where these above steps have not been first undertaken. A specific case exists in particular when the request for comparison is connected to a specific and concrete situation or to a specific and concrete danger associated with a terrorist or other serious criminal offence, or to specific persons in respect of whom there are serious grounds for believing that the persons will commit or have committed terrorist offences or other serious criminal offences. A specific case also exists when the request for comparison is connected to a person who is a victim of a terrorist or other serious criminal offence. The designated authorities and Europol should thus only request a comparison with EURODAC when they have reasonable grounds to believe that such a comparison will provide information that will substantially assist them in preventing, detecting or investigating a terrorist or other serious criminal offence.

results. This condition requires prior implementation of the Council Decision as it shall not be permitted to conduct a EURODAC check for law enforcement purposes where these above steps have not been first undertaken. A specific case exists in particular when the request for comparison is connected to a specific and concrete situation or to a specific and concrete danger associated with a terrorist or other serious criminal offence, or to specific persons in respect of whom there are serious grounds for believing that the persons will commit or have committed terrorist offences or other serious criminal offences. A specific case also exists when the request for comparison is connected to a person who is a victim of a terrorist or other serious criminal offence. The designated authorities and Europol should thus only request a comparison with EURODAC when they have reasonable grounds to believe that such a comparison will provide information that will substantially assist them in preventing, detecting or investigating a terrorist or other serious criminal offence.

Or. en

Justification

All current EU systems should be used first before Eurodac is accessed.

Amendment 45 **Cornelis de Jong**

Proposal for a regulation **Recital 27**

Text proposed by the Commission

(27) In case the requesting Member State establishes that EURODAC data pertains to a minor, these data may only be used

Amendment

deleted

for law enforcement purposes by the requesting Member State in accordance with that State's laws for minors and in accordance with the obligation to give primary consideration to the child's best interest.

Or. en

Amendment 46
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) *In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty, the objective of the proposed measures, namely the creation of a system for the comparison of fingerprint data to assist the implementation of the Community's asylum policy, cannot, by its very nature, be sufficiently achieved by the Member States and can therefore be better achieved by the Community. In accordance with the principle of proportionality as set out in the said Article, this Regulation does not go beyond what is necessary to achieve those objectives.*

Amendment

(29) *Since the objective of this Regulation, namely the creation of a system for the comparison of fingerprint data to assist the implementation of the Union asylum policy, cannot, by its very nature, be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.*

Or. en

Amendment 47
Cornelis de Jong

Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) Directive 95/46/EC of the European

Amendment

(30) Directive 95/46/EC of the European

Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States carried out in application of this Regulation *within the framework of the Eurodac system unless such processing takes place by Member States' designated authorities for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences.*

Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data by the Member States carried out in application of this Regulation.

Or. en

Amendment 48
Cornelis de Jong

Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters applies to all processing of personal data by Member States' designated authorities for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences pursuant to this Regulation.

Amendment

deleted

Or. en

Amendment 49
Sarah Ludford, Franziska Keller

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Transfers of data obtained pursuant to this Decision to third countries or international organisations or private entities should be prohibited, in order to ensure the right to asylum and to safeguard applicants for international protection from having their data disclosed to any third country. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which Regulation (EU) 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] applies, in order to ensure that Member States have the possibility of cooperating with such third countries for the purposes of this Regulation.

Amendment

(33) Transfers of data obtained pursuant to this Decision to third countries or international organisations or private entities should be prohibited, in order to ensure the right to asylum and to safeguard applicants for international protection from having their data disclosed to any third country. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which Regulation (EU) 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] applies, in order to ensure that Member States have the possibility of cooperating with such third countries for the purposes of this Regulation. ***The prohibition of transfer to third countries should cover both EURODAC data obtained under this Regulation and personal data exchanged bilaterally subsequent to a EURODAC search which are stored or processed at national level.***

Or. en

Justification

This complements the amendment to Article 35. It is important to ensure that the risk of the asylum seeker's application becoming known to their state of origin is minimised.

Amendment 50

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) Transfers of data obtained pursuant to this Decision to third countries or international organisations or private entities should be prohibited, in order to ensure the right to asylum and to safeguard applicants for international protection from having their data disclosed to any third country. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which Regulation (EU) 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] applies, in order to ensure that Member States have the possibility of cooperating with such third countries for the purposes of this Regulation.

Amendment

(33) Transfers of data obtained pursuant to this Decision to third countries or international organisations or private entities should be prohibited, in order to ensure the right to asylum and to safeguard applicants for international protection from having their data disclosed to any third country. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which Regulation (EU) 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] applies, in order to ensure that Member States have the possibility of cooperating with such third countries for the purposes of this Regulation. ***This right should not apply to transfers of data to third countries in the context of law enforcement.***

Or. en

Justification

As we are dealing with a vulnerable group of people, transfer of data to third countries in the context of law enforcement should be prohibited.

Amendment 51 Cornelis de Jong

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) National competent authorities for the supervision of the processing of

Amendment

deleted

personal data should monitor the lawfulness of the processing of personal data by the Member States, and the supervisory authority set up by the Europol Decision should monitor the lawfulness of data processing activities performed by Europol.

Or. en

Amendment 52
Cornelis de Jong

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data *and in particular Articles 21 and 22 thereof concerning confidentiality and security of processing apply* to the processing of personal data by *Union* institutions, bodies, *offices and agencies* carried out *in application of* this Regulation. However, certain points should be clarified in respect of the responsibility for the processing of data and of the supervision of data protection.

Amendment

(35) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data *applies* to the processing of personal data by *the* institutions *and* bodies *of the Union* carried out *pursuant to* this Regulation. However, certain points should be clarified in respect of the responsibility for the processing of data and of the supervision of data protection.

Or. en

Amendment 53
Sarah Ludford

Proposal for a regulation

Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) The data subject should be informed of the purpose for which his or her data will be processed within EURODAC, including a description of the aims of the Dublin Regulation and the use to which law enforcement authorities may put his or her data.

Or. en

Justification

It is useful to underline that Article 29(1) includes the obligation on the authorities to inform the data subject of the use to which law enforcement authorities may put their data.

Amendment 54

Sarah Ludford

Proposal for a regulation

Recital 37

Text proposed by the Commission

Amendment

(37) It is appropriate to monitor and evaluate the performance of EURODAC at regular intervals.

(37) It is appropriate to monitor and evaluate the performance of EURODAC at regular intervals, ***including whether law enforcement access has led to the stigmatisation of applicants for international protection as raised in the Commission's evaluation of the compliance of the proposal with the Charter of Fundamental Rights.***

Or. en

Amendment 55

Cornelis de Jong

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) It is necessary that Member States **are** informed of the status of particular asylum procedures, with a view to facilitating the adequate application of Regulation (EU) 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].

Amendment

(39) It is necessary that Member States **be** informed of the status of particular asylum procedures, with a view to facilitating the adequate application of Regulation (EU) 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].

Or. en

Amendment 56 Cornelis de Jong

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) This Regulation respects and has to be applied in accordance with fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation **fully respects the individual's right to** protection of **his or her** personal data and the right to asylum.

Amendment

(40) This Regulation respects and has to be applied in accordance with fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation **seeks to ensure full respect for the** protection of personal data and the right to **seek** asylum **and to promote the application of Articles 8 and 18 of the Charter.**

Or. en

Amendment 57 Cornelis de Jong

Proposal for a regulation

Recital 41

Text proposed by the Commission

(41) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. As regards Denmark, this Regulation, ***with the exception of the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43***, constitutes amendment to the EURODAC Regulation within the meaning of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin Convention. Consequently, in accordance with Article 3 thereof, Denmark is to notify the Commission whether it will implement the contents of this Regulation and when it does so, this Regulation creates mutual obligations under international law between Denmark and the European Union. ***Once this Recast Regulation is adopted and subject to a Commission recommendation for a Council Decision authorising the opening of negotiations, Denmark will be consulted as to whether it wishes to enter into negotiations on complementary agreements also covering the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43.***

Amendment

(41) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. As regards Denmark, this Regulation constitutes amendment to the EURODAC Regulation within the meaning of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin Convention. Consequently, in accordance with Article 3 thereof, Denmark is to notify the Commission whether it will implement the contents of this Regulation and when it does so, this Regulation creates mutual obligations under international law between Denmark and the European Union.

Or. en

Amendment 58
Cornelis de Jong

Proposal for a regulation
Recital 44

Text proposed by the Commission

(44) As regards the Republic of Iceland and the Kingdom of Norway, this Regulation, ***with the exception of the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43***, constitutes a new measure related to EURODAC within the meaning of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway . Consequently, subject to their decision to implement it in their internal legal order, this Regulation shall be applied between the Republic of Iceland and the Kingdom of Norway in their mutual relations and in *there* relations with the Member States of the European Union. ***Once this Recast Regulation is adopted and subject to a Commission recommendation for a Council Decision authorising the opening of negotiations, the Republic of Iceland and the Kingdom of Norway will be consulted as to whether they wish to enter into negotiations on complementary agreements also covering the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43.***

Amendment

(44) As regards the Republic of Iceland and the Kingdom of Norway, this Regulation constitutes a new measure related to EURODAC within the meaning of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway. Consequently, subject to their decision to implement it in their internal legal order, this Regulation shall be applied between the Republic of Iceland and the Kingdom of Norway in their mutual relations and in *their* relations with the Member States of the European Union.

Or. en

Amendment 59
Cornelis de Jong

Proposal for a regulation
Recital 45

Text proposed by the Commission

(45) As regards the Swiss Confederation, this Regulation, ***with the exception of the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43***, constitutes a new measure related to EURODAC within the meaning of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland . Consequently, subject to its decision to implement it in its internal legal order, this Regulation shall be applied between the Swiss Confederation and the Member States of the European Union. ***Once this Recast Regulation is adopted and subject to a Commission recommendation for a Council Decision authorising the opening of negotiations, the Swiss Confederation will be consulted as to whether it wishes to enter into negotiations on complementary agreements also covering the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43, subject to a separate agreement on the application of relevant provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation.***

Amendment

(45) As regards the Swiss Confederation, this Regulation constitutes a new measure related to EURODAC within the meaning of the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, subject to its decision to implement it in its internal legal order, this Regulation shall be applied between the Swiss Confederation and the Member States of the European Union.

Or. en

Amendment 60
Cornelis de Jong

Proposal for a regulation
Recital 46

Text proposed by the Commission

(46) As regards the Principality of Liechtenstein, this Regulation, ***with the exception of the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43***, constitutes a new measure related to EURODAC within the meaning of the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland . Consequently, subject to its decision to implement it in its internal legal order, this Regulation shall be applied between the Principality of Liechtenstein, the Swiss Confederation and the Member States of the European Union. ***Once this Recast Regulation is adopted and subject to a Commission recommendation for a Council Decision authorising the opening of negotiations, the Principality of Liechtenstein will be consulted as to whether it wishes to enter into negotiations on complementary agreements also covering the procedure for comparison and data transmission for law enforcement purposes laid down in Articles 5, 6, 19-22, 33, 36, 39(3), 40(8) and 43, subject to a separate agreement on their application of relevant provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation.***

Amendment

(46) As regards the Principality of Liechtenstein, this Regulation constitutes a new measure related to EURODAC within the meaning of the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland. Consequently, subject to its decision to implement it in its internal legal order, this Regulation shall be applied between the Principality of Liechtenstein, the Swiss Confederation and the Member States of the European Union.

Or. en

Amendment 61
Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

Amendment

2. This Regulation also lays down the conditions under which Member States' designated authorities and the European Police Office (Europol) may request the comparison of fingerprint data with those stored in the EURODAC central database for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences.

deleted

(This amendment applies throughout the text; its adoption will imply the deletion of all provisions related to access to EURODAC for law enforcement purposes and the necessary adjustments throughout the text.)

Or. en

Justification

Access by law enforcement authorities to the Eurodac database should not be granted. This amendment should affect the whole text respectively.

Amendment 62
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

Amendment

2. This Regulation also lays down the conditions under which Member States' designated authorities and the European

deleted

Police Office (Europol) may request the comparison of fingerprint data with those stored in the EURODAC central database for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences.

(This amendment applies throughout the text; its adoption will imply the deletion of all provisions related to access to EURODAC for law enforcement purposes and the necessary adjustments throughout the text.)

Or. en

**Amendment 63
Cornelis de Jong**

**Proposal for a regulation
Article 1 – paragraph 2**

Text proposed by the Commission

Amendment

2. This Regulation also lays down the conditions under which Member States' designated authorities and the European Police Office (Europol) may request the comparison of fingerprint data with those stored in the EURODAC central database for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences.

deleted

(This amendment applies throughout the text; its adoption will imply the deletion of all provisions related to access to EURODAC for law enforcement purposes and the necessary adjustments throughout the text.)

Or. en

Amendment 64
Cornelis de Jong

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "person granted international protection" means a third country national or a stateless person recognised as entitled to international protection as defined in *point (a) of Article 2 of Council Directive 2004/83/EC*;

Amendment

(d) "person granted international protection" means a third country national or stateless person recognised as entitled to international protection as defined in *point (a) of Article 2 of Directive 2011/95/EU*;

Or. en

Amendment 65
Cornelis de Jong

Proposal for a regulation
Article 2 – paragraph 1 – point h

Text proposed by the Commission

(h) '*Europol*' means the *European Police Office as established by Decision 2009/371/JHA*;

Amendment

deleted

Or. en

Amendment 66
Cornelis de Jong

Proposal for a regulation
Article 2 – paragraph 1 – point j

Text proposed by the Commission

(j) '*terrorist offences*' means the *offences under national law which correspond or are equivalent to the offences referred to in Articles 1 to 4 of Framework Decision 2002/475/JHA*;

Amendment

deleted

Amendment 67
Cornelis de Jong

Proposal for a regulation
Article 2 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) 'serious criminal offences' means the forms of crime which correspond or are equivalent to those referred to in Article 2(2) of Framework Decision 2002/584/JHA if they are punishable by a custodial sentence or a detention order for a maximum period of at least three years under national law;

deleted

Or. en

Amendment 68
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 2 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(l) 'fingerprint data' means the data relating to fingerprints of all or at least the index fingers, and if those are missing, the prints of all other fingers of a person, **or a latent**.

(l) 'fingerprint data' means the data relating to fingerprints of all or at least the index fingers, and if those are missing, the prints of all other fingers of a person.

Or. en

Justification

Since there are no common European standards on the verification of latents and since a latent can easily result in a false accusation if the verification procedure and criteria are not thorough enough, latents should be excluded from the comparison of data with the EURODAC database for law enforcement purposes.

Amendment 69

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(l) 'fingerprint data' means the data relating to fingerprints of all or at least the index fingers, and if those are missing, the prints of all other fingers of a person, **or a latent**.

Amendment

(l) 'fingerprint data' means the data relating to fingerprints of all or at least the index fingers, and if those are missing, the prints of all other fingers of a person.

Or. en

Justification

A latent fingerprint may lead to a high number of possible matches as it is only a partial or fragmentary print. This carries a higher risk of the wrongful implication of innocent persons. As we are dealing with a vulnerable group of people, only clean prints should be used.

Amendment 70

Cornelis de Jong

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

2. The terms defined in Article 2 of Directive 95/46/EC shall have the same meaning in this Regulation ***unless the processing of personal data takes place by Member States' designated authorities for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences.***

Amendment

2. The terms defined in Article 2 of Directive 95/46/EC shall have the same meaning in this Regulation.

Or. en

Amendment 71

Cornelis de Jong

Proposal for a regulation
Article 2 – paragraph 4

Text proposed by the Commission

Amendment

4. The terms defined in Article 2 of the Framework Decision 2008/977/JHA shall have the same meaning in this Regulation in so far as personal data are processed by Member States' designated authorities for the purposes of the prevention, detection and investigation of terrorist offences and other serious criminal offences pursuant to this Regulation.

deleted

Or. en

Amendment 72
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a computerised central fingerprint database (Central System) composed of
– a Central Unit,
– a Business Continuity **System**.

(a) a computerised central fingerprint database (Central System) composed of:
– a Central Unit,
– a Business Continuity **Plan**.

Or. en

Justification

A critical system such as EURODAC should be covered by a sound and tested Business Continuity Plan rather than just a technical system. The Business Continuity Plan should include repercussions on data protection, security and costs in case of major disruptions or disasters.

Amendment 73
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

1. The Agency, shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **technology**, subject to a cost-benefit analysis, is used for the Central System.

Amendment

1. The Agency shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **and most secure techniques**, subject to a cost-benefit analysis, is used for the Central System.

Or. en

Justification

The concept of techniques is broader; it includes both the technology used and the way in which the installation is designed, built, maintained and operated.

Amendment 74

Sarah Ludford, Renate Weber

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

1. The Agency, shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **technology**, subject to a cost-benefit analysis, is used for the Central System.

Amendment

1. The Agency shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **techniques**, subject to a cost-benefit analysis, is used for the Central System.

Or. en

Justification

Best available techniques include both technology used and the way in which the installation is designed, built, maintained and operated. The term is considered a key principle in the review of the EU data protection framework.

Amendment 75

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

1. The Agency, shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **technology**, subject to a cost-benefit analysis, is used for the Central System.

Amendment

1. The Agency shall be responsible for the operational management of EURODAC. The Agency shall ensure, in cooperation with the Member States, that at all times the best available **techniques**, subject to a cost-benefit analysis, is used for the Central System.

Or. en

Justification

Best available techniques include both technology used and the way in which the installation is designed, built, maintained and operated. The term is considered a key principle in the review of the EU data protection framework.

Amendment 76

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 4 – paragraph 5

Text proposed by the Commission

5. Operational management of EURODAC shall consist of all the tasks necessary to keep EURODAC functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of operational quality, in particular as regards the time required for interrogation of the Central System.

Amendment

5. Operational management of EURODAC shall consist of all the tasks necessary to keep EURODAC functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of operational quality, in particular as regards the time required for interrogation of the Central System. ***A Business Continuity Plan shall be developed taking into account maintenance needs and***

*unforeseen downtime of the system,
including the impact of business
continuity measures on data protection
and security.*

Or. en

Amendment 77
Cornelis de Jong

Proposal for a regulation
Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

***Designated Authorities for the purpose of
law enforcement access***

***1. Member States shall designate the
authorities which are authorised to access
EURODAC data pursuant to this
Regulation. Designated authorities shall
be authorities of the Member States which
are responsible for the prevention,
detection or investigation of terrorist
offences and other serious criminal
offences.***

***2. Every Member State shall keep a list of
the designated authorities.***

***3. At national level, each Member State
shall keep a list of the operating units
within the designated authorities that are
authorised to request comparisons with
EURODAC data through the National
Access Point.***

Or. en

Amendment 78
Sarah Ludford, Renate Weber, Franziska Keller

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall designate the authorities which are authorised to access EURODAC data pursuant to this Regulation. Designated authorities shall be authorities of the Member States which are responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Amendment

1. ***For the purposes laid down in Article 1(2)***, Member States shall designate the authorities which are authorised to access EURODAC data pursuant to this Regulation. Designated authorities shall be authorities of the Member States which are responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences. ***Designated authorities shall not include agencies or units responsible for intelligence relating to national security.***

Or. en

Justification

To ensure that access is limited to law enforcement purposes it is best to refer to Article 1(2). As this is a law enforcement measure those national entities which are responsible for intelligence rather than the prosecution of crimes should be excluded consistent with Article 72 TEC.

Amendment 79
Claude Moraes

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall designate the authorities which are authorised to access EURODAC data pursuant to this Regulation. Designated authorities shall be authorities of the Member States which are responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Amendment

1. ***For the purposes laid down in Article 1(2)***, Member States shall designate the authorities which are authorised to access EURODAC data pursuant to this Regulation. Designated authorities shall be authorities of the Member States which are responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Or. en

Amendment 80
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

3. **At national level, each** Member State shall keep a list of the operating units within the designated authorities that are authorised to request comparisons with EURODAC data through the National Access Point.

Amendment

3. **Each** Member State shall keep a list of the operating units within the designated authorities that are authorised to request comparisons with EURODAC data through the National Access Point.

Or. en

Amendment 81
Cornelis de Jong

Proposal for a regulation
Article 6

Text proposed by the Commission

Article 6

Verifying Authorities

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be an authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

2. The verifying authority shall ensure that the conditions for requesting comparisons of fingerprints with EURODAC data are fulfilled.

Only the verifying authority shall be authorised to forward requests for comparison of fingerprints to the National Access Point which communicates with

Amendment

deleted

the Central System.

Or. en

Amendment 82

Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be **an** authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Amendment

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be **a judicial** authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences **and shall be independent from the designated authorities referred to in Article 5.**

Or. en

Amendment 83

Claude Moraes

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be an authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Amendment

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be an authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences **and shall be independent from the designated authorities referred to in Article 5.**

Or. en

Amendment 84
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be an authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Amendment

1. Each Member State shall designate a single national body to act as its verifying authority. The verifying authority shall be a **judicial** authority of the Member State which is responsible for the prevention, detection or investigation of terrorist offences and other serious criminal offences.

Or. en

Justification

As the concerned authority is the verifying authority, deciding on access to very sensitive data, it is appropriate to appoint a judicial authority as the verifying authority.

Amendment 85
Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The verifying authority shall perform its duties and tasks independently and shall neither seek nor receive instructions as regards the exercise of the verification.

Or. en

Amendment 86
Sarah Ludford

Proposal for a regulation
Article 6 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Only duly empowered staff of the verifying authority shall be authorised to access EURODAC in accordance with Article 19.

Or. en

Justification

This provision is in the VIS Decision 2008/633/JHA and is a sensible addition.

Amendment 87
Renate Weber, Sarah Ludford

Proposal for a regulation
Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The verifying authority shall perform its duties and tasks independently and shall not receive instructions as regards the exercise of the verification.

Or. en

Amendment 88
Cornelis de Jong

Proposal for a regulation
Article 7

Text proposed by the Commission

Amendment

Article 7

deleted

Europol

1. Europol shall designate a specialised unit with duly empowered Europol

officials to act as its verifying authority and shall designate in agreement with any Member State the National Access Point of that Member State which shall communicate its requests for comparison of fingerprint data to the Central System.

2. Europol shall designate an operating unit that is authorised to request comparisons with EURODAC data through its designated National Access Point.

Or. en

Amendment 89
Claude Moraes

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. Europol shall designate a specialised unit with duly empowered Europol officials to act as its verifying authority and shall designate in agreement with any Member State the National Access Point of that Member State which shall communicate its requests for comparison of fingerprint data to the Central System.

Amendment

1. Europol shall designate a specialised unit with duly empowered Europol officials to act as its verifying authority, ***which will neither seek nor receive instructions as regards the exercise of the verification,*** and shall designate in agreement with any Member State the National Access Point of that Member State which shall communicate its requests for comparison of fingerprint data to the Central System.

Or. en

Amendment 90
Renate Weber, Sarah Ludford

Proposal for a regulation

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The verifying authority shall perform its duties and tasks independently and shall not receive instructions as regards the exercise of the verification.

Or. en

Amendment 91

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 8 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) the number of requests for **marking and unmarking** transmitted in accordance with Article 18(1) and (2).

(f) the number of requests for **blocking and unblocking** transmitted in accordance with Article 18(1) and (2).

Or. en

Amendment 92

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. At the end of each year, statistical data shall be established in the form of a compilation of the monthly statistics for that year, including an indication of the number of persons for whom hits have been recorded under points (b), (c), and (d). The statistics shall contain a breakdown of data for each Member State.

2. At the end of each year, statistical data shall be established in the form of a compilation of the monthly statistics for that year, including an indication of the number of persons for whom hits have been recorded under points (b), (c) and (d). The statistics shall contain a breakdown of data for each Member State. ***The result shall be made public.***

Or. en

Amendment 93
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, where it is not possible to take the fingerprints of an applicant on account of measures taken to ensure the health of the applicant or the protection of public health, Member States shall take and send the fingerprints of the applicant as soon as possible and no later than 48 hours after these grounds no longer prevail.

Amendment

2. By way of derogation from paragraph 1, where it is not possible to take the fingerprints of an applicant on account of measures taken to ensure the health of the applicant or the protection of public health, Member States shall take and send the fingerprints of the applicant as soon as possible and no later than 48 hours after these grounds no longer prevail. ***The temporary or permanent impossibility to provide usable fingerprints shall not adversely affect the legal situation of a third-country national or a stateless person. In particular, it shall not represent sufficient grounds to refuse to examine or to reject an asylum application.***

Or. en

Amendment 94
Renate Weber

Proposal for a regulation
Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Temporary or permanent impossibility to provide usable fingerprints shall not adversely affect the legal situation of the individual. In any case, it cannot represent sufficient grounds to refuse to examine or to reject an international protection application.

Amendment 95
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

2. The Central System shall inform all Member States of origin about the erasure of data for the reason specified in paragraph 1 by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 9(1) or Article 14(1).

Amendment

2. The Central System shall inform ***as soon as possible and not later than after 72 hours***, all Member States of origin about the erasure of data for the reason specified in paragraph 1 by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 9(1) or Article 14(1).

Amendment 96
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

1. Each Member State shall promptly take the fingerprints of all fingers of every third country national or stateless person of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back ***or who remains physically on the territory of the Member States and who is not kept in custody, confinement or detention during the entirety of the period between apprehension and removal on the basis of the decision to turn them back.***

Amendment

1. Each Member State shall promptly take the fingerprints of all fingers of every third country national or stateless person of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back.

Amendment 97
Cornelis de Jong

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

1. Each Member State shall promptly take the fingerprints of all fingers of every third country national or stateless person of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back *or who remains physically on the territory of the Member States and who is not kept in custody, confinement or detention during the entirety of the period between apprehension and removal on the basis of the decision to turn them back.*

Amendment

1. Each Member State shall, *whilst fully respecting the safeguards laid down in the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and the United Nations Convention on the Rights of the Child*, promptly take the fingerprints of all fingers of every third country national or stateless person of at least 14 years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back.

Amendment 98
Cornelis de Jong

Proposal for a regulation
Article 14 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Member State concerned shall *as soon as possible and* no later than *72 hours from the date of apprehension* transmit to the Central System the following data in relation to *any third country national or stateless person, as referred to in paragraph 1, who is not turned back:*

Amendment

2. The Member State concerned shall no later than *24 hours after the taking of the fingerprints of the third-country national or stateless person, as referred to in paragraph 1*, transmit to the Central System the following data in relation to *that person:*

Amendment 99
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. By way of derogation from paragraph 2, as regards persons apprehended in the manner described in paragraph 1 who remain physically on the territory of the Member States but are kept in custody, confinement or detention upon their apprehension for a period exceeding 72 hours, the transmission of the data specified in paragraph 2 relating to those persons shall take place before their release from custody, confinement or detention. *deleted*

Amendment 100
Cornelis de Jong

Proposal for a regulation
Article 14 – paragraph 3

Text proposed by the Commission

Amendment

3. By way of derogation from paragraph 2, as regards persons apprehended in the manner described in paragraph 1 who remain physically on the territory of the Member States but are kept in custody, confinement or detention upon their apprehension for a period exceeding 72 hours, the transmission of the data specified in paragraph 2 relating to those persons shall take place before their *deleted*

release from custody, confinement or detention.

Or. en

Amendment 101
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 14 – paragraph 4

Text proposed by the Commission

4. *Non compliance with the 72 hours time limit referred to in paragraph 2 does not relieve Member States of the obligation to take and transmit the fingerprints to the Central System.* Where the condition of the fingertips does not allow to take the fingerprints in a quality ensuring appropriate comparison under Article 25, the Member State of origin shall retake the fingerprints of such person and resend them as soon as possible and no later than 48 hours after they have been successfully taken.

Amendment

4. Where the condition of the fingertips does not allow to take the fingerprints in a quality ensuring appropriate comparison under Article 25, the Member State of origin shall retake the fingerprints of such person and resend them as soon as possible and no later than 48 hours after they have been successfully taken.

Or. en

Amendment 102
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 14 – paragraph 5

Text proposed by the Commission

5. By way of derogation from paragraph 1, where it is not possible to take the fingerprints of such person on account of measures taken to ensure the health of the person or the protection of public health, the Member State concerned shall take and send the fingerprints of the person, in

Amendment

5. By way of derogation from paragraph 1, where it is not possible to take the fingerprints of such person on account of measures taken to ensure the health of the person or the protection of public health, the Member State concerned shall take and send the fingerprints of the person, in

accordance with the deadline set out in paragraph 2, once these grounds no longer prevail.

accordance with the deadline set out in paragraph 2, once these grounds no longer prevail. ***The temporary or permanent impossibility to provide usable fingerprints shall not adversely affect the legal situation of a third-country national or a stateless person.***

Or. en

Amendment 103
Renate Weber

Proposal for a regulation
Article 14 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Temporary or permanent impossibility to provide usable fingerprints shall not adversely affect the legal situation of the individual. In any case, it cannot represent sufficient grounds to refuse to examine or to reject an international protection application.

Or. en

Amendment 104
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 3

Text proposed by the Commission

Amendment

3. The Central System shall inform all Member States of origin about the erasure of data for the reason specified in point (a) or (b) of paragraph 2 or by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 14(1).

3. The Central System shall inform ***as soon as possible and no later than after 72 hours*** all Member States of origin about the erasure of data for the reason specified in point (a) or (b) of paragraph 2 or by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to

in Article 14(1).

Or. en

Amendment 105
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

4. The Central System shall inform all Member States of origin about the erasure of data for the reason specified in point (c) of paragraph 2 by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 9(1) or Article 14(1).

Amendment

4. The Central System shall inform ***as soon as possible and no later than after 72 hours*** all Member States of origin about the erasure of data for the reason specified in point (c) of paragraph 2 by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 9(1) or Article 14(1).

Or. en

Amendment 106
Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation
Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Once the results of the comparison have been transmitted to the Member State of origin, the Central System shall immediately:

- (a) erase the fingerprint data and other data transmitted to it pursuant to paragraph 1; and***
- (b) destroy the media used by the Member State of origin for transmitting the data to the Central System, unless the Member State of origin has requested their return.***

Justification

In June 2012 the EDPS inspectors noted that the archiving system of EURODAC stores full fingerprint data, including category 3 requests, contrary to the obligation under Article 11(5) of the current Eurodac regulation. The Commission seeks to delete the provision, but on the contrary it should be reinforced given the implications of law enforcement access to Eurodac and the necessity for proportionality.

Amendment 107
Renate Weber

Proposal for a regulation
Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Once the results of the comparison have been transmitted to the Member State of origin, the Central System shall forthwith:

- (a) erase the fingerprint data and other data transmitted to it pursuant to paragraph 1; and***
- (b) destroy the media used by the Member State of origin for transmitting the data to the Central System, unless the Member State of origin has requested their return.***

Temporary or permanent impossibility to provide usable fingerprints shall not adversely affect the legal situation of the individual. In any case, it cannot represent sufficient grounds to refuse to examine or to reject an application for international protection.

Amendment 108
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Once the results of the comparison have been transmitted to the Member State of origin, the Central System shall forthwith:

(a) erase the fingerprint data and other data transmitted to it pursuant to paragraph 1; and

(b) destroy the media used by the Member State of origin for transmitting the data to the Central Unit, unless the Member State of origin has requested their return.

Or. en

Amendment 109

Sarah Ludford

Proposal for a regulation

Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Once the results of the comparison have been transmitted to the Member State of origin, the Central Unit shall immediately:

(a) erase the fingerprint data and other data transmitted to it pursuant to paragraph 1; and

(b) destroy the media used by the Member State of origin for transmitting the data to the Central System, unless the Member State of origin has requested their return.

Or. en

Justification

In June 2012 the EDPS inspectors noted that the archiving system of EURODAC stores full

fingerprint data, including category 3 requests, contrary to the obligation under Article 11(5) of the current Eurodac regulation. The Commission seeks to delete the provision, but on the contrary it should be reinforced given the implications of law enforcement access to Eurodac and the necessity for proportionality.

Amendment 110

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 18

Text proposed by the Commission

Article 18

Marking of data

1. The Member State of origin which granted international protection to an applicant for international protection whose data were previously recorded pursuant to Article 11 in the Central System shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by the Agency. This mark shall be stored in the Central System in accordance with Article 12 for the purpose of transmission under Article 9(5).

2. The Member State of origin shall unmark data concerning a third country national or stateless person whose data were previously marked in accordance with paragraph 1 if his or her status is revoked or ended or renewal of his status is refused under Article 14 or 19 of Council Directive 2004/83/EC.

Amendment

Article 18

Blocking of data

1. Data relating to an applicant for international protection which have been recorded pursuant to Article 11 shall be blocked in the central database if that person is granted international protection in a Member State. Such blocking shall be carried out by the Central System on the instructions of the Member State of origin.

2. Hits concerning persons who have been granted international protection in a Member State shall not be transmitted. The Central System shall return a negative result to the requesting Member State.

Or. en

Amendment 111

Sarah Ludford, Renate Weber

Proposal for a regulation

Article 18

Text proposed by the Commission

Article 18

Marking of data

1. *The Member State of origin which granted international protection to an applicant for international protection whose data were previously recorded pursuant to Article 11 in the Central System shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by the Agency. This mark shall be stored in the Central System in accordance with Article 12 for the purpose of transmission under Article 9(5).*

2. *The Member State of origin shall unmark data concerning a third country national or stateless person whose data were previously marked in accordance with paragraph 1 if his or her status is revoked or ended or renewal of his status is refused under Article 14 or 19 of Council Directive 2004/83/EC.*

Amendment

Article 18

Blocking of data

1. *Data relating to an applicant for international protection which have been recorded pursuant to Article 11 shall be blocked in the central database if that person is granted international protection in a Member State. Such blocking shall be carried out by the Central System on the instructions of the Member State of origin.*

2. *Hits concerning persons who have been granted international protection in a Member State shall not be transmitted. The Central System shall return a negative result to the requesting Member State.*

Or. en

Amendment 112

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 18

Text proposed by the Commission

Article 18

Marking of data

1. *The Member State of origin which granted international protection to an applicant for international protection*

Amendment

Article 18

Blocking of data

1. *Data relating to an applicant for international protection which have been recorded pursuant to Article 11 shall be*

whose data were previously recorded pursuant to Article 11 in the Central System shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by the Agency. This mark shall be stored in the Central System in accordance with Article 12 for the purpose of transmission under Article 9(5).

2. The Member State of origin shall unmark data concerning a third country national or stateless person whose data were previously marked in accordance with paragraph 1 if his or her status is revoked or ended or renewal of his status is refused under Article 14 or 19 of Council Directive 2004/83/EC.

blocked in the central database if that person is granted international protection in a Member State. Such blocking shall be carried out by the Central System on the instructions of the Member State of origin.

2. Hits concerning persons who have been granted international protection in a Member State shall not be transmitted. The Central System shall return a negative result to the requesting Member State.

Or. en

Justification

Data of persons who are granted international protection should not be marked as this means that data can be transmitted to the Member States, even if the applicant has been granted international protection.

Amendment 113
Cornelis de Jong

Proposal for a regulation
Article 19

Text proposed by the Commission

Article 19

Procedure for comparison of fingerprint data with EURODAC data

1. The designated authorities referred to in Article 5(1) and Europol may submit a reasoned electronic request to the verifying authority for the transmission for comparison of fingerprint data to the EURODAC

Amendment

deleted

Central System via the National Access Point. Upon receipt of such a request, the verifying authority shall verify whether the conditions for requesting a comparison referred to in Article 20 or Article 21, as appropriate, are fulfilled.

2. Where all the conditions for requesting a comparison are fulfilled, the verifying authority shall transmit the request for comparison to the National Access Point which will process it to the EURODAC Central System for the purpose of comparison with all the EURODAC data.

3. In exceptional cases of urgency, the verifying authority may transmit the fingerprint data to the National Access Point for comparison immediately upon receipt of a request by a designated authority and only verify ex-post whether all the conditions of Article 20 or Article 21 are fulfilled, including whether an exceptional case of urgency actually existed. The ex-post verification shall take place without undue delay after the processing of the request.

4. Where the ex-post verification determines that the access was not justified, the information communicated from EURODAC shall be destroyed by all authorities that have accessed it and they shall inform the verifying authority of such destruction.

Or. en

Amendment 114
Sarah Ludford

Proposal for a regulation
Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. The designated authorities referred to in Article 5(1) and Europol may submit a

1. The designated authorities referred to in Article 5(1) and Europol may submit a

reasoned electronic request to the verifying authority for the transmission for comparison of fingerprint data to the EURODAC Central System via the National Access Point. Upon receipt of such a request, the verifying authority shall verify whether the conditions for requesting a comparison referred to in Article 20 or Article 21, as appropriate, are fulfilled.

reasoned electronic request *as provided for in Article 20(1)* to the verifying authority for the transmission for comparison of fingerprint data to the EURODAC Central System via the National Access Point. Upon receipt of such a request, the verifying authority shall verify whether the conditions for requesting a comparison referred to in Article 20 or Article 21, as appropriate, are fulfilled.

Or. en

Justification

It should be specified that the reasoned request should justify the request according to all criteria stipulated in Article 20.

Amendment 115

Claude Moraes, Carmen Romero López, Birgit Sippel

**Proposal for a regulation
Article 19 – paragraph 1**

Text proposed by the Commission

1. The designated authorities referred to in Article 5(1) and Europol may submit a reasoned electronic request to the verifying authority for the transmission for comparison of fingerprint data to the EURODAC Central System via the National Access Point. Upon receipt of such a request, the verifying authority shall verify whether the conditions for requesting a comparison referred to in Article 20 or Article 21, as appropriate, are fulfilled.

Amendment

1. The designated authorities referred to in Article 5(1) and Europol may submit a reasoned electronic request *as provided for in Article 20(1)* to the verifying authority for the transmission for comparison of fingerprint data to the EURODAC Central System via the National Access Point. Upon receipt of such a request, the verifying authority shall verify whether the conditions for requesting a comparison referred to in Article 20 or Article 21, as appropriate, are fulfilled.

Or. en

Justification

It should be specified that the reasoned request should justify the request according to all

criteria stipulated in Article 20. Otherwise it is not clear what the reasoned request should contain.

Amendment 116

Sarah Ludford, Renate Weber, Franziska Keller

Proposal for a regulation

Article 19 – paragraph 3

Text proposed by the Commission

3. In exceptional cases of urgency, the verifying authority may transmit the fingerprint data to the National Access Point for comparison immediately upon receipt of a request by a designated authority and only verify ex-post whether all the conditions of Article 20 or Article 21 are fulfilled, including whether an exceptional case of urgency actually existed. The ex-post verification shall take place without undue delay after the processing of the request.

Amendment

3. In exceptional cases of urgency ***of the need to prevent an imminent danger associated with serious criminal or terrorist offences***, the verifying authority may transmit the fingerprint data to the National Access Point for comparison immediately upon receipt of a request by a designated authority and only verify ex-post whether all the conditions of Article 20 or Article 21 are fulfilled, including whether an exceptional case of urgency actually existed. The ex-post verification shall take place without undue delay after the processing of the request.

Or. en

Justification

The threshold for justifying the bypassing of prior scrutiny should be tightened.

Amendment 117

Sarah Ludford

Proposal for a regulation

Article 19 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall publish an indicative, non-binding model EURODAC request form for use under Article 19, and which correctly reflects the criteria set out

in Article 20(1).

Or. en

Justification

It is reasonable that Member States can decide internally in what way the requesting authority interacts with the verifying authority. But since the verifying authority is called on to evaluate the criteria set out in Article 20(1) in the form of a 'reasoned electronic request' it could be helpful to have some EU-level guidance on what such a form could look like.

Amendment 118
Cornelis de Jong

Proposal for a regulation
Article 20

Text proposed by the Commission

Amendment

Article 20

deleted

**Conditions for access to EURODAC data
by designated authorities**

1. Designated authorities may request the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases and of the Automated Fingerprint Databases of other Member States under Decision 2008/615/JHA return negative results and where:

(a) the comparison is necessary for the purpose of the prevention, detection or investigation of terrorist offences or other serious criminal offences;

(b) the comparison is necessary in a specific case; systematic comparisons shall not be carried out; and

(c) there are reasonable grounds to consider that such comparison with EURODAC data will contribute to the prevention, detection or investigation of

any of the criminal offences in question.

2. Requests for comparison with EURODAC data shall be limited to searching with fingerprint data.

Or. en

Amendment 119

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

1. Designated authorities may request the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases and of the Automated Fingerprint Databases of other Member States under Decision 2008/615/JHA return negative results and where:

Amendment

1. Designated authorities may request the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases, ***the Visa Information System*** and of the Automated Fingerprint Databases of ***at least a third of*** other Member States under Decision 2008/615/JHA return negative results and where ***all the following cumulative conditions are met:***

Or. en

Justification

Prior consultation of the Visa Information System should be a prerequisite to checking Eurodac as it contains a wider set of third country national fingerprints. It should be clear that the conditions of article 20 (1) are cumulative.

Amendment 120

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

1. Designated authorities may request the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases **and** of the Automated Fingerprint Databases of other Member States under Decision 2008/615/JHA return negative results and where:

Amendment

1. Designated authorities may request the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases, of the Automated Fingerprint Databases of **at least a third of** other Member States under Decision 2008/615/JHA **and of the Visa Information System** return negative results and where:

Or. en

Amendment 121 Sarah Ludford

Proposal for a regulation Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

1. Designated authorities may **request** the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases and of the Automated Fingerprint Databases of other Member States under Decision 2008/615/JHA return negative results and where:

Amendment

1. Designated authorities may **submit a reasoned electronic request for** the comparison of fingerprint data with those stored in the EURODAC central database within the scope of their powers only if comparisons of national fingerprint databases and of the Automated Fingerprint Databases of other Member States under Decision 2008/615/JHA return negative results and where:

Or. en

Amendment 122 Renate Weber

Proposal for a regulation

Article 20 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) there is a substantiated suspicion that the perpetrator of a terrorist or other serious criminal offences has applied for international protection;

Or. en

Amendment 123

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 20 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) there ***are*** reasonable grounds to consider that such comparison with EURODAC data will contribute to the prevention, detection or investigation of any of the criminal offences in question.

(c) there ***is an overriding public security concern which makes proportionate the querying of a database registering persons with a clean criminal record, and there are*** reasonable grounds to consider that such comparison with EURODAC data will ***substantially*** contribute to the prevention, detection or investigation of any of the criminal offences in question ***because there are serious grounds to believe that persons in respect of whom comparison with EURODAC is requested will commit or have committed terrorist offences or other serious criminal offences or are victims of a terrorist or serious criminal offence.***

Or. en

Amendment 124

Sarah Ludford, Renate Weber, Franziska Keller

Proposal for a regulation

Article 20 – paragraph 1 – point c

Text proposed by the Commission

(c) there **are** reasonable grounds to consider that such comparison with EURODAC data will contribute to the prevention, detection or investigation of any of the criminal offences in question.

Amendment

(c) there **is an overriding public security concern which makes proportionate the querying of a database registering persons with a clean criminal record, and there are** reasonable grounds to consider that such comparison with EURODAC data will **substantially** contribute to the prevention, detection or investigation of any of the criminal offences in question.

Or. en

Justification

This wording in recital 9 needs to be incorporated in the text.

Amendment 125

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist or other serious criminal offence has applied for international protection.

Or. en

Justification

Eurodac data searches should be permitted in limited circumstances only, as part of an ongoing criminal investigation and in cases where there is a substantiated suspicion that the perpetrator or suspect has applied for asylum. Eurodac searches should not become an 'automatic' search carried out by the law enforcement authorities.

Amendment 126
Sarah Ludford

Proposal for a regulation
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) there is a substantiated suspicion that the perpetrator or victim of the offence falls in a category covered by this Regulation.

Or. en

Justification

Recital 9 specifies that the Commission believes that authorities responsible for internal security could have access to EURODAC in well defined cases, when there would be a substantiated suspicion that the perpetrator of a terrorist or other serious criminal offence has applied for asylum. Recital 26 specifies that this can equally be the case for a victim of crime. As this is a very important principle it should be reflected in the Article as well as in the recital.

Amendment 127
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) there is a substantiated suspicion that the perpetrator or victim of the offence is an applicant for international protection.

Or. en

Amendment 128
Cornelis de Jong

Proposal for a regulation

Article 21

Text proposed by the Commission

Amendment

Article 21

deleted

Conditions for access to EURODAC data by Europol

1. Requests for comparison with EURODAC data by Europol shall take place within the limits of its mandate and where necessary for the performance of its tasks pursuant to the Europol Decision and for the purposes of a specific analysis or an analysis of a general nature and of a strategic type.

2. Requests for comparison with EURODAC data shall be limited to comparisons of fingerprint data.

3. Processing of information obtained by Europol from comparison with EURODAC shall be subject to the authorisation of the Member State of origin. Such authorisation shall be obtained via the Europol national unit of that Member State.

Or. en

Amendment 129

Renate Weber

Proposal for a regulation

Article 21 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. However, access to EURODAC data by Europol shall be allowed only for specific cases, under specific circumstances and under the strict conditions provided for in Article 20(1).

Or. en

Amendment 130
Cornelis de Jong

Proposal for a regulation
Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

*Communication between the verifying
authorities and the National Access
Points*

1. EURODAC Communication
*Infrastructure shall be used for the data
transmission by the verifying authorities
of Member States and Europol to the
National Access Points and vice versa. All
communications shall take place
electronically.*

*2. Fingerprints shall be digitally
processed by the Member State and
transmitted in the data format referred to
in Annex I, in order to ensure that the
comparison can be carried out by means
of the computerised fingerprint
recognition system.*

Or. en

Amendment 131
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 25 – paragraph 4

Text proposed by the Commission

Amendment

4. The results of the comparison shall be immediately checked in the Member State of origin by a fingerprint expert. Final identification shall be made by the Member State of origin in cooperation with the Member States concerned, pursuant to

4. The results of the comparison shall be immediately checked in the Member State of origin by a **trained** fingerprint expert. Final identification shall be made by the Member State of origin in cooperation with the Member States concerned, pursuant to

Article 32 of the Dublin Regulation.

Article 32 of the Dublin Regulation.

Or. en

Amendment 132

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 25 – paragraph 5

Text proposed by the Commission

5. Where final identification in accordance with paragraph 4 *reveal* that the result of the comparison received from the Central System is inaccurate, Member States shall communicate this fact to the Commission and to the Agency.

Amendment

5. Where final identification in accordance with paragraph 4 *reveals* that the result of the comparison received from the Central System is inaccurate, Member States shall communicate this fact ***as soon as possible and no later than after 72 hours*** to the Commission and to the Agency ***and inform the other Member States concerned as soon as possible and no later than after 72 hours on the inaccuracy of the data.***

Or. en

Amendment 133

Cornelis de Jong

Proposal for a regulation

Article 25 – paragraph 5

Text proposed by the Commission

5. Where final identification in accordance with paragraph 4 *reveal* that the result of the comparison received from the Central System is inaccurate, Member States shall communicate this fact to the Commission and to the Agency.

Amendment

5. Where final identification in accordance with paragraph 4 *reveals* that the result of the comparison received from the Central System is inaccurate, Member States shall communicate this fact to the Commission and to the Agency.

Or. en

Amendment 134
Cornelis de Jong

Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the Central System shall be those designated by each Member State for the purpose of Article 1(1). **This** designation shall specify the **exact** unit responsible for carrying out tasks related to the application of this Regulation. Each Member State shall without delay communicate to the Commission and the Agency a list of those authorities and any amendments thereto. The Agency shall publish the consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Agency shall publish once a year an updated consolidated list.

Amendment

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the Central System shall be those designated by each Member State for the purpose of Article 1(1). **That** designation shall specify the **precise** unit responsible for carrying out tasks related to the application of this Regulation. Each Member State shall without delay communicate to the Commission and the Agency a list of those authorities and any amendments thereto, **in the case of amendments at the latest 30 days after the list was amended**. The Agency shall publish the consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Agency shall publish once a year an updated consolidated list.

Or. en

Amendment 135
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the Central System shall be those designated by each Member State for the purpose of Article 1(1). This designation shall specify the exact unit responsible for carrying out tasks related to the application of this Regulation. Each

Amendment

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the Central System shall be those designated by each Member State for the purpose of Article 1(1). This designation shall specify the exact unit responsible for carrying out tasks related to the application of this Regulation. Each

Member State shall without delay communicate to the Commission and the Agency a list of those **authorities** and any amendments thereto. The Agency shall publish the consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Agency shall publish **once a year** an updated consolidated list.

Member State shall without delay communicate to the Commission and the Agency a list of those **units** and any amendments thereto. The Agency shall publish the consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Agency shall publish **regularly** an updated consolidated list **online**.

Or. en

Justification

As a matter of consistency, Member States should not just be obliged to specify the exact unit responsible but also to notify it to the Commission and the Agency.

Amendment 136

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 29 – paragraph 1 – introductory part

Text proposed by the Commission

1. A person covered by this Regulation shall be informed by the Member State of origin in writing, and where appropriate, orally, in a language which he or she understands **or may reasonably be presumed to understand** of the following:

Amendment

1. A person covered by this Regulation shall be informed by the Member State of origin in writing, and where appropriate, orally, in a language which he or she understands of the following:

Or. en

Justification

The fingerprints may be used by law enforcement authorities as part of a criminal case, therefore it is essential that the person in question fully understands the possible repercussions of providing their data.

Amendment 137

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 29 – paragraph 1 – introductory part

Text proposed by the Commission

1. A person covered by this Regulation shall be informed by the Member State of origin in writing, and where **appropriate**, orally, in a language which he or she understands or may reasonably be presumed to understand of the following:

Amendment

1. A person covered by this Regulation shall be informed by the Member State of origin in writing, and where **necessary**, orally, in a language which he or she understands or may reasonably be presumed to understand of the following:

Or. en

Amendment 138
Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation
Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) **regarding** the purpose for which his or her data will be processed within EURODAC including a description of the aims of the Dublin Regulation, in accordance with Article 4 of that Regulation.

Amendment

(b) the purpose for which his or her data will be processed within EURODAC including a description of the aims of the Dublin Regulation, in accordance with Article 4 of that Regulation **and a full and clear explanation of the access that may be granted to law enforcement authorities and Europol for law enforcement purposes.**

Or. en

Justification

The fingerprints may be used by law enforcement authorities as part of a criminal case, therefore it is essential that the person in question fully understands the possible repercussions of providing their data.

Amendment 139
Renate Weber

Proposal for a regulation
Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) regarding the purpose for which his or her data will be processed within EURODAC including a description of the aims of the Dublin Regulation, in accordance with Article 4 of that Regulation.

Amendment

(b) regarding the purpose for which his or her data will be processed within EURODAC including a description of the aims of the Dublin Regulation, in accordance with Article 4 of that Regulation ***and the fact that EURODAC may be accessed for law enforcement purposes.***

Or. en

Amendment 140
Cornelis de Jong

Proposal for a regulation
Article 29 – paragraph 1 – point e

Text proposed by the Commission

(e) the existence of the right of access to data relating to him/her, and the right to request that inaccurate data relating to him/her be corrected or that unlawfully processed data relating to ***them*** be erased, as well as the right to receive information on the procedures for exercising those rights including the contact details of the controller and the National Supervisory Authorities referred to in Article 31(1).

Amendment

(e) the existence of the right of access to data relating to him/her, and the right to request that inaccurate data relating to him/her be corrected or that unlawfully processed data relating to ***him/her*** be erased, as well as the right to receive information on the procedures for exercising those rights including the contact details of the controller and the National Supervisory Authorities referred to in Article 31(1).

Or. en

Amendment 141
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 29 – paragraph 1 – subparagraph 4

Text proposed by the Commission

A common leaflet, containing at least the information referred to in paragraph 1 of this Article and the information referred to in Article 4(1) of the Dublin Regulation shall be drawn up in accordance with the procedure referred to in Article 40(2) of the Dublin Regulation. The leaflet **should** be "clear and simple, drafted in a language that the person understands or may reasonably be presumed to understand.

Amendment

A common leaflet, containing at least the information referred to in paragraph 1 of this Article and the information referred to in Article 4(1) of the Dublin Regulation shall be drawn up in accordance with the procedure referred to in Article 40(2) of the Dublin Regulation. The leaflet **shall** be "clear and simple, drafted in a language that the person understands or may reasonably be presumed to understand. ***It shall also include information on the rights of the data subject and the possibility of assistance by the National Supervisory Authorities as well as the contact details of the controller and the National Supervisory Authorities.***

Or. en

Amendment 142

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 29 – paragraph 1 – subparagraph 5

Text proposed by the Commission

Where a person covered by this Regulation is a minor, Member States shall provide the information in an age-appropriate manner.

Amendment

Where a person covered by this Regulation is a minor, Member States shall provide the information in an age-appropriate manner. ***The Commission shall provide templates of the leaflets for adults and minors to the Member States.***

Or. en

Amendment 143

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 29 – paragraph 9

Text proposed by the Commission

9. Whenever a person requests data relating to him or her in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made, and shall make this document available to the National Supervisory Authorities without delay, upon their request.

Amendment

9. Whenever a person requests data relating to him or her in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made, and shall make this document available to the National Supervisory Authorities without delay, upon their request. ***It shall immediately inform the National Supervisory Authorities in case a person requests the correction or erasure of its data. No later than three weeks after the request it shall confirm to the National Supervisory Authorities that it has taken action to correct or erase the data or, in case the Member State does not agree that the data recorded in the Central System are inaccurate or have been recorded unlawfully, explain why it is not prepared to correct or erase the data.***

Or. en

Justification

Since persons whose data are stored in Eurodac are presumably not familiar with rights and procedures related to data protection in the Member States, the role of National Supervisory Authorities should be strengthened. Assistance by National Supervisory Authorities is all the more important if law enforcement agencies get access to the data.

Amendment 144
Claude Moraes

Proposal for a regulation
Article 30 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The National Supervisory Authority shall ensure that every year an audit of the processing of personal data according

to Article 1(2) is carried out, including an analysis of all reasoned electronic requests.

The audit shall be attached to the Member State annual report referred to in Article 40(8).

Or. en

Justification

The national data protection authority should annually audit the use of Eurodac specifically as a law enforcement tool. The Member States have to present the European Parliament with annual reports according to Article 40, but the use of Eurodac for law enforcement access by national authorities should be audited by national DPs and the results of these audits communicated equally to the Parliament.

Amendment 145 **Renate Weber**

Proposal for a regulation **Article 31 – paragraph 1**

Text proposed by the Commission

1. The European Data Protection Supervisor shall ensure that all the personal data processing activities concerning EURODAC, in particular by the Agency are carried out in accordance with Regulation (EC) No 45/2001 and this Regulation.

Amendment

1. The European Data Protection Supervisor shall ensure that all the personal data processing activities concerning EURODAC, in particular by the Agency **and by Europol** are carried out in accordance with Regulation (EC) No 45/2001 and this Regulation.

Or. en

Amendment 146 **Franziska Keller, Jan Philipp Albrecht**

Proposal for a regulation

Article 31 – paragraph 2

Text proposed by the Commission

2. The European Data Protection Supervisor shall ensure that an audit of the Agency's personal data processing activities is carried out in accordance with international auditing standards at least every **four years**. A report of such audit shall be sent to the European Parliament, the Council, the Agency, the Commission and the National Supervisory Authorities. The Agency shall be given an opportunity to make comments before the report is adopted.

Amendment

2. The European Data Protection Supervisor shall ensure that an audit of the Agency's personal data processing activities is carried out in accordance with international auditing standards at least every **two years**. A report of such audit shall be sent to the European Parliament, the Council, the Agency, the Commission and the National Supervisory Authorities. The Agency shall be given an opportunity to make comments before the report is adopted.

Or. en

Amendment 147

Sarah Ludford, Franziska Keller

Proposal for a regulation

Article 32 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The National Supervisory Authority shall ensure that every year an audit of the processing of personal data according to Article 1(2) is carried out, including an analysis of all reasoned electronic requests.

The audit shall be attached to the Member State annual report referred to in Article 40(8).

Or. en

Justification

The national data protection authority should annually audit the use of Eurodac specifically as a law enforcement tool. The Member States have to present the European Parliament with annual reports according to Article 40, but the use of Eurodac for law enforcement access by national authorities should be audited by national DPs and the results of these audits

communicated equally to the Parliament.

Amendment 148
Sarah Ludford, Renate Weber

Proposal for a regulation
Article 32 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Both the national and European supervisory authorities shall be provided with sufficient financial and personal resources to be able to supervise the use and access to Eurodac data adequately.

Or. en

Amendment 149
Cornelis de Jong

Proposal for a regulation
Article 33

Text proposed by the Commission

Amendment

Article 33

deleted

Protection of personal data for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences

- 1. The Framework Decision 2008/977/JHA is applicable to the processing of relevant personal data for law enforcement purposes under this Regulation.***
- 2. The processing of personal data by Europol pursuant to this Regulation shall be in accordance with Decision 2009/371/JHA.***
- 3. Personal data obtained pursuant to this Regulation from EURODAC shall only be processed for the purposes of the***

prevention, detection and investigation of terrorist offences or of other serious criminal offences.

4. Personal data obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in national and Europol files after a period of one month, if the data are not required for a specific ongoing criminal investigation by that Member State, or Europol.

5. The monitoring of the lawfulness of the processing of personal data under this Regulation by the Member States, including their transmission to and from EURODAC shall be carried out by the national competent authorities designated pursuant to Framework Decision 2008/977/JHA.

Or. en

Amendment 150

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation Article 33 – paragraph 3

Text proposed by the Commission

3. Personal data obtained pursuant to this Regulation from EURODAC shall only be processed for the purposes of the prevention, detection and investigation of ***terrorist offences or of other serious criminal offences.***

Amendment

3. Personal data obtained pursuant to this Regulation from EURODAC ***for the purposes as laid down in Article 1(2)*** shall only be processed for the purposes of the prevention, detection and investigation of ***the specific criminal investigation for which the data has been requested by that Member State, or Europol.***

Or. en

Justification

To ensure consistency with amendment to article 33, paragraph 4.

Amendment 151
Renate Weber

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

Amendment

4. Personal data obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in national and Europol files after a period of one month, if the data are not required for a specific ongoing criminal investigation by that Member State, or Europol.

deleted

Or. en

Amendment 152
Sarah Ludford, Franziska Keller

Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

Amendment

4. Personal data obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in national and Europol files after a period of one month, if the data are not required for **a** specific ongoing criminal investigation by that Member State, or Europol.

4. Personal data, **as well as the record of the search**, obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in national and Europol files after a period of one month, if the data are not required for **the purposes of the** specific ongoing criminal investigation **for which the data has been requested** by that Member State, or Europol.

Or. en

Justification

The requirement for erasure needs to be tightened and extended to the record of the search

having been made.

Amendment 153

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 33 – paragraph 4

Text proposed by the Commission

4. Personal data obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in national and Europol files after a period of one month, if the data are not required for **a** specific ongoing criminal investigation by that Member State, or Europol.

Amendment

4. Personal data, **as well as the record of the search**, obtained by a Member State or Europol pursuant to this Regulation from EURODAC shall be erased in **all** national and Europol files after a period of one month, if the data are not required for **the purposes of the** specific ongoing criminal investigation **for which the data has been requested** by that Member State, or Europol.

Or. en

Justification

The requirement for erasure needs to be tightened and extended to the record of the search having been made.

Amendment 154

Cornelis de Jong

Proposal for a regulation

Article 34 – paragraph 2 – point a

Text proposed by the Commission

(a) physically protect data, including by making contingency plans for the protection of **critical** infrastructure;

Amendment

(a) physically protect data, including by making contingency plans for the protection of **relevant** infrastructure;

Or. en

Amendment 155
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 34 – paragraph 2 – point a

Text proposed by the Commission

(a) physically protect data, including by making contingency plans for the protection of **critical** infrastructure;

Amendment

(a) physically protect data, including by making contingency plans for the protection of **relevant** infrastructure;

Or. en

Amendment 156
Renate Weber

Proposal for a regulation
Article 34 – paragraph 2 – point a

Text proposed by the Commission

(a) physically protect data, including by making contingency plans for the protection of **critical** infrastructure;

Amendment

(a) physically protect data, including by making contingency plans for the protection of **relevant** infrastructure;

Or. en

Amendment 157
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 34 – paragraph 2 – point g

Text proposed by the Commission

(g) ensure that all authorities with a right of access to EURODAC create profiles describing the functions and responsibilities of persons who are authorised to access, enter, update, erase and search the data and make these profiles available to the National Supervisory Authorities referred to in Article 25 of

Amendment

(g) ensure that all authorities with a right of access to EURODAC create profiles describing the functions and responsibilities of persons who are authorised to access, enter, update, erase and search the data and make these profiles **and any other relevant information the authorities may require for the purpose of**

Framework Decision 2008/977/JHA without delay at their request (personnel profiles);

carrying out supervision available to the National Supervisory Authorities referred to *in Article 28 of Directive 95/46/EC and in Article 25 of Framework Decision 2008/977/JHA* without delay at their request (personnel profiles);

Or. en

Amendment 158
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 34 – paragraph 2 – point k

Text proposed by the Commission

(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation (self-auditing).

Amendment

(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation (self-auditing). *For the purpose of the Business Continuity Plan, the Member States shall inform the Agency and the National Supervisory Authorities of security incidents they detected on their system. The Agency shall inform the Member States, Europol and the European Data Protection Supervisor in case of security incidents. All parties shall collaborate during a security incident.*

Or. en

Amendment 159
Renate Weber

Proposal for a regulation

Article 34 – paragraph 2 – point k

Text proposed by the Commission

(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation (self-auditing).

Amendment

(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation (self-auditing) **and also near real-time observation of the system using specialized tools.**

Or. en

Amendment 160

Renate Weber

Proposal for a regulation

Article 34 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In cases of security incidents, Member States shall inform the Agency about the security incidents detected on their system.

The Agency shall inform all stakeholders about security incidents.

All parties shall collaborate during a security incident.

National Supervisory authorities and the EDPS shall be informed about security incidents.

Or. en

Amendment 161

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 35

Text proposed by the Commission

Personal data obtained by a Member State or Europol pursuant to this Regulation from the EURODAC central database shall not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies.

Amendment

Personal data obtained by a Member State or Europol pursuant to this Regulation, ***including personal data obtained by a Member State and processed further in national databases for law enforcement purposes***, from the EURODAC central database shall not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies ***provided that the Member State transferring such data has obtained the commitment of the third country that it will not transfer or made available to any third country or international organisation or a private entity established in or outside the European Union this personal data.***

Or. en

Justification

Transfer of data to third countries must be prohibited, including all data and information exchanged between Member States on the basis of a 'positive hit' in Eurodac.

Amendment 162

Sarah Ludford, Renate Weber

Proposal for a regulation

Article 35

Text proposed by the Commission

Personal data obtained by a Member State or Europol pursuant to this Regulation from the EURODAC central database shall

Amendment

Personal data obtained by a Member State or Europol pursuant to this Regulation from the EURODAC central database shall

not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies.

not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies. ***Personal data obtained by a Member State or Europol and processed further in national databases shall not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union.***

Or. en

Justification

The ban on transfers to third countries should be extended to data which has been further processed.

Amendment 163 Cornelis de Jong

Proposal for a regulation Article 35

Text proposed by the Commission

Personal data obtained by a Member State or Europol pursuant to this Regulation from the EURODAC central database shall not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies.

Amendment

Personal data obtained by a Member State pursuant to this Regulation from the EURODAC central database shall not be transferred or made available to any third country or international organisation or a private entity established in or outside the European Union. This prohibition shall be without prejudice to the right of Member States to transfer such data to third countries to which the Dublin Regulation applies. ***Personal data obtained by a Member State and processed further in national databases shall not be transferred or made available to any third***

country or international organisation or a private entity established in or outside the European Union.

Or. en

Amendment 164
Cornelis de Jong

Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission

2. The log or documentation shall show in all cases:
- (a) the exact purpose of the request for comparison, including the concerned form of a terrorist offence or other serious criminal offence and for Europol, the exact purpose of the request for comparison;
 - (b) the respective national file reference;
 - (c) the date and exact time of the request for comparison by the National Access Point to the EURODAC Central System;
 - (d) the name of the authority having requested access for comparison, and the person responsible who has made the request and processed the data;
 - (e) where applicable the use of the urgent procedure referred to in Article 19(3) and the decision taken with regard to the ex-post verification;***
 - (f) the data used for comparison;
 - (g) according to national rules or the rules of the Europol decision the identifying mark of the official who carried out the search and of the official who ordered the search or supply.***

Amendment

2. The log or documentation shall show in all cases:
- (a) the exact purpose of the request for comparison, including the concerned form of a terrorist offence or other serious criminal offence and for Europol, the exact purpose of the request for comparison;
 - (b) the respective national file reference;
 - (c) the date and exact time of the request for comparison by the National Access Point to the EURODAC Central System;
 - (d) the name of the authority having requested access for comparison, and the person responsible who has made the request and processed the data;
 - (da)*** the data used for comparison.

Or. en

Amendment 165
Cornelis de Jong

Proposal for a regulation
Article 38 – paragraph 2 – point a

Text proposed by the Commission

(a) points (t), (u) and (v) are replaced by the following:

“(t) to adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA; and of EURODAC pursuant to Article 40(4) of Regulation (EU) No/... [of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) 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] ***and to request comparisons with EURODAC data by Member States' law enforcement authorities for law enforcement purposes;***

Amendment

(a) points (t), (u) and (v) are replaced by the following:

“(t) to adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively, of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA; and of EURODAC pursuant to Article 40(4) of Regulation (EU) No/... [of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) 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];

Or. en

Amendment 166
Cornelis de Jong

Proposal for a regulation

Article 38 – paragraph 3

Text proposed by the Commission

Amendment

3. In Article 15 paragraph (4) is replaced by the following: *deleted*

“4. Europol and Eurojust may attend the meetings of the Management Board as observers when a question concerning SIS II, in relation to the application of Decision 2007/533/JHA, is on the agenda. Europol may also attend the meetings of the Management Board as observer when a question concerning VIS, in relation to the application of Decision 2008/633/JHA, is on the agenda or when a question concerning EURODAC, in relation with the application of Regulation (EU) No .../.... [of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No/....] is on the agenda.”

Or. en

Amendment 167

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 38 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) in paragraph 5 point (g) is replaced by the following: *deleted*

“(g) without prejudice to Article 17 of the Staff Regulations, establish confidentiality requirements in order to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA and Article 26(9) of Regulation (EC) No 767/2008 respectively and Article 4(6) of Regulation (EU) No

.../.... [of the European Parliament and the Council on the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of Regulation (EU) No .../...];”

Or. en

Amendment 168
Cornelis de Jong

Proposal for a regulation
Article 38 – paragraph 5

Text proposed by the Commission

Amendment

5. In Article 19 paragraph 3 is replaced by the following: *deleted*

"3. Europol and Eurojust may each appoint a representative to the SIS II Advisory Group. Europol may also appoint a representative to the VIS and to the EURODAC Advisory Groups."

Or. en

Amendment 169
Cornelis de Jong

Proposal for a regulation
Article 39 – paragraph 3

Text proposed by the Commission

Amendment

3. Each Member State and Europol shall set up and maintain at their expense the technical infrastructure necessary to implement this Regulation, and be responsible for bearing its costs resulting from requests for comparison with EURODAC data for the purposes of the prevention, detection or investigation of any of the criminal offences defined in *deleted*

this Regulation.

Or. en

Amendment 170

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 40 – paragraph 4

Text proposed by the Commission

4. Every **two years**, the Agency shall submit to the European Parliament, the Council, the Commission and the European Data Protection Supervisor a report on the technical functioning of the Central System, including the security thereof.

Amendment

4. Every **one year**, the Agency shall submit to the European Parliament, the Council, the Commission and the European Data Protection Supervisor a report on the technical functioning of the Central System, including the security thereof.

Or. en

Amendment 171

Sarah Ludford

Proposal for a regulation

Article 40 – paragraph 5

Text proposed by the Commission

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every four years thereafter, the Commission shall produce an overall evaluation of EUODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, and any implications for future operations, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every four years thereafter, the Commission shall produce an overall evaluation of EUODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, ***including whether law enforcement access has led to the stigmatisation of applicants for international protection***, and any implications for future operations, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European

Amendment 172

Claude Moraes, Carmen Romero López, Birgit Sippel

Proposal for a regulation

Article 40 – paragraph 5

Text proposed by the Commission

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every four years thereafter, the Commission shall produce an overall evaluation of EURODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, and any implications for future operations, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every four years thereafter, the Commission shall produce an overall evaluation of EURODAC, examining the results achieved against objectives ***and the impact on fundamental rights*** and assessing the continuing validity of the underlying rationale, and any implications for future operations, ***including whether the operation of the search functionality for law enforcement purposes will have led to the stigmatisation of persons seeking international protection***, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Justification

Information of a group of vulnerable people is being specifically made available. All measures possible must be taken to ensure that their fundamental rights are protected and this regulation does not stigmatize them.

Amendment 173

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 40 – paragraph 5

Text proposed by the Commission

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every **four years** thereafter, the Commission shall produce an overall evaluation of EURODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, and any implications for future operations, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Amendment

5. Three years after the start of application of this Regulation as provided for in Article 46(2) and every **three years** thereafter, the Commission shall produce an overall evaluation of EURODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, and any implications for future operations, as well as make any necessary recommendations. The Commission shall transmit the evaluation to the European Parliament and the Council.

Or. en

Amendment 174
Cornelis de Jong

Proposal for a regulation
Article 40 – paragraph 8

Text proposed by the Commission

8. Each Member State and Europol shall prepare annual reports on the effectiveness of the comparison of fingerprint data with EURODAC data for law enforcement access purposes, containing information and statistics on the exact purpose of the comparison, including the type of a terrorist offence or a serious criminal offence, number of requests for comparison, the number and type of cases which have ended in successful identifications and on the need and use made of the exceptional case of urgency as well as on those cases where that urgency was not accepted by the ex post verification carried out by the verifying authority. Such reports shall be

Amendment

deleted

transmitted to the Commission.

Or. en

Amendment 175

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 40 – paragraph 8

Text proposed by the Commission

Amendment

8. Each Member State and Europol shall prepare annual reports on the effectiveness of the comparison of fingerprint data with EURODAC data for law enforcement access purposes, containing information and statistics on the exact purpose of the comparison, including the type of a terrorist offence or a serious criminal offence, number of requests for comparison, the number and type of cases which have ended in successful identifications and on the need and use made of the exceptional case of urgency as well as on those cases where that urgency was not accepted by the ex post verification carried out by the verifying authority. Such reports shall be transmitted to the Commission.

deleted

Or. en

Amendment 176

Sarah Ludford

Proposal for a regulation

Article 40 – paragraph 8

Text proposed by the Commission

Amendment

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EURODAC data for law enforcement access purposes, containing information and statistics on the exact purpose of the comparison, including the type of a terrorist offence or a serious criminal offence, ***grounds given for reasonable suspicion***, number of requests for comparison, the number and type of cases which have ended in successful identifications and on the need and use made of the exceptional case of urgency as well as on those cases where that urgency was not accepted by the ex post verification carried out by the verifying authority. Such reports shall be transmitted to the Commission. ***Based on these annual reports and in addition to the overall evaluation provided for in paragraph 5, the Commission shall compile an annual report on law enforcement access to EURODAC and shall transmit the evaluation to the European Parliament, the Council and the EDPS.***

Or. en

Justification

The first change reflects the amendment in Article 20(d)(new). The second calls for the Commission to report annually on law enforcement access based on national and Europol reports.

Amendment 177 **Claude Moraes**

Proposal for a regulation **Article 40 – paragraph 8**

Text proposed by the Commission

8. Each Member State and Europol shall prepare annual reports on the effectiveness of the comparison of fingerprint data with EURODAC data for law enforcement access purposes, containing information

Amendment

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Or. en

Justification

The first change reflects the amendment in Article 20(d)(new). The second calls for the Commission to report annually on law enforcement access based on national and Europol reports.

Amendment 178 **Cornelis de Jong**

Proposal for a regulation **Article 40 – paragraph 9**

Text proposed by the Commission

9. The Agency, Member States ***and Europol*** shall provide the Commission the information necessary to draft the evaluation reports referred to in paragraph 5. This information shall not jeopardise working methods nor include information that reveals sources, staff members or

Amendment

9. The Agency ***and*** Member States shall provide the Commission the information necessary to draft the evaluation reports referred to in paragraph 5. This information shall not jeopardise working methods nor include information that reveals sources, staff members or investigations of the

investigations of the designated authorities.

designated authorities.

Or. en

Amendment 179

Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation

Article 43 – paragraph 1

Text proposed by the Commission

1. By [three months after the date of entry into force of this Regulation] at the latest each Member State shall notify the Commission of its designated authorities and shall notify without delay any amendment thereto.

Amendment

1. By [three months after the date of entry into force of this Regulation] at the latest each Member State shall notify the Commission of its designated authorities ***and the operation units referred to in Article 5(3)*** and shall notify without delay any amendment thereto.

Or. en

Amendment 180

Renate Weber

Proposal for a regulation

Article 43 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall constantly update the information they have provided to the Commission. The Commission shall make this information available to the other Member States, Europol and the public via a constantly updated electronic publication.

Or. en

Amendment 181

Renate Weber

Proposal for a regulation
Article 43 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Europol shall constantly update the information it has provided to the Commission. The Commission shall make this information available to the other Member States, Europol and the public via a constantly updated electronic publication.

Or. en

Amendment 182
Franziska Keller, Jan Philipp Albrecht

Proposal for a regulation
Article 43 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall publish information referred to in paragraphs 1, 2 and 3 in the Official Journal of the European Union on an annual basis.

4. The Commission shall publish information referred to in paragraphs 1, 2 and 3 in the Official Journal of the European Union on an annual basis, ***via a regularly updated electronic publication.***

Or. en