



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 16 July 2009**

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of:	Asylum Working Party
on:	17 June 2009
No Cion prop.:	16934/08 EURODAC 7 CODEC 1763
Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) 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] (recast)

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1. At its meeting of 17 June 2009 the Working Party examined Presidency compromise suggestions concerning recitals 3, 9, 12, 13, 19, 22, 24, as well as Articles 4, 6, 6bis, 7, 9, 10, 12, 18, 23 and 31 of the proposal. A broad majority of delegations expressed support in principle for the compromise text.
2. The results of the discussions are set out in the Annex I to this Note, with delegations' comments in the footnotes.

N.B. New text is indicated in **bold** and by underlining the insertion and including it within Council tags: **☞\_☛**;  
Deleted text is indicated within underlined square brackets as follows: **☞[...]**☛.

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## ANNEX

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↓ 2725/2000/EC (adapted)

2008/0242 (COD)

Proposal for a<sup>1</sup>

### **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning the establishment of 'EURODAC' for the comparison of fingerprints for the effective application of ~~the Dublin Convention~~  Regulation (EC) 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]**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 point (1)(a) thereof,

Having regard to the proposal from the Commission<sup>2</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>3</sup>,

Whereas

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<sup>1</sup> **IT:** general reservation on the proposal, **CY, EE; EL, MT:** general scrutiny reservations, **MT, PL, UK:** parliamentary scrutiny reservations.

<sup>2</sup> COM(2008)XXX.

<sup>3</sup> OJ C [...], [...], p. [...].

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↓ new

- (1) A number of substantive changes are to be made to Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention<sup>1</sup> and Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention<sup>2</sup>. In the interest of clarity, those Regulations should be recast.

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↓ 2725/2000/EC recital 1

- ~~(1) Member States have ratified the Geneva Convention of 28 July 1951, as amended by the New York Protocol of 31 January 1967, relating to the Status of Refugees.~~

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↓ 2725/2000/EC recital 2 (adapted)

- ~~(2) Member States have concluded the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin on 15 June 1990 (hereinafter referred to as "the Dublin Convention").~~

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↓ new

→ Council

- (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

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<sup>1</sup> OJ L 316, 15.12.2000, p. 1.

<sup>2</sup> OJ L 62, 5.3.2002, p. 1.

freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Community.

- (3) ~~...~~ The European Council of 4 November 2004 adopted The Hague Programme which sets the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. ~~...~~ ~~The European Pact on Immigration and Asylum endorsed by the European Council of 15-16 October 2008 called for the completion of the establishment of a Common European Asylum System by creating a single asylum procedure comprising common guarantees and a uniform status for refugees and the beneficiaries of subsidiary protection.~~

↓ 2725/2000/EC recital 3 (adapted)

⇒ new

- (4) For the purposes of applying ~~the Dublin Convention~~ ~~⊗~~ Council Regulation (EC) 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]<sup>1</sup> ~~⊗~~, it is necessary to establish the identity of applicants for ~~asylum~~ ⇒ international protection ⇐ and of persons apprehended in connection with the unlawful crossing of the external borders of the Community. It is also desirable, in order effectively to apply the ~~Dublin Convention~~ ~~⊗~~ Council Regulation (EC) 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 in particular points ~~(c) and (e)~~ (b) and (d) of Article ~~10(1)~~ 18(1) thereof, to allow each Member State to check whether an ~~alien~~ ~~⊗~~ third country national or stateless person ~~⊗~~ found illegally present on its territory has applied for ~~asylum~~ ⇒ international protection ⇐ in another Member State.

<sup>1</sup> COM(2008)XXX.

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↓ 2725/2000/EC recital 4

- (5) Fingerprints constitute an important element in establishing the exact identity of such persons. It is necessary to set up a system for the comparison of their fingerprint data.

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↓ 2725/2000/EC recital 5

⇒ new

- (6) To this end, it is necessary to set up a system known as "~~EURODAC~~EURODAC", consisting of a Central ~~Unit~~ ⇒ System ⇐, ~~to be established within the Commission and~~ which will operate a computerised central database of fingerprint data, as well as of the electronic means of transmission between the Member States and the ~~central database~~ ⇒ Central System ⇐.

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↓ new

- (7) In view of ensuring equal treatment for all applicants and beneficiaries of international protection, as well as in order to ensure consistency with current EU 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<sup>1</sup> and the content of the protection granted and Regulation (EC) 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 Regulation to order to include applicants for subsidiary protection and persons enjoying subsidiary protection.

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<sup>1</sup> **SI:** replace by "is entitled to" along the corresponding Article. **IE:** reservation on the recital concerning the concept of an application for subsidiary protection, which is not preceded by an application for refugee protection, insofar as it would give rise to separate procedures and/or a requirement to take fingerprints twice. **Cion:** there are no two separate procedures, nor two examinations are needed; is ready to clarify it.

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↓ 2725/2000/EC recital 6 (adapted)  
⇒ new

- (8) It is also necessary to require the Member States promptly to take ⇒ and transmit ⇐ fingerprints ⇒ data ⇐ of every applicant for ~~asylum~~ ⇒ international protection ⇐ and of every ~~alien~~ ⊗ third country national or stateless person ⊗ who is apprehended in connection with the irregular crossing of an external border of a Member State, if they are at least 14 years of age.

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↓ 2725/2000/EC recital 7 (adapted)  
⇒ new

- (9) It is necessary to lay down precise rules on the transmission of such fingerprint data to the Central ~~Unit~~ ⇒ System ⇐, the recording of such fingerprint data and other relevant data in the Central ~~Unit~~ ⇒ System ⇐, their storage, their comparison with other fingerprint data, the transmission of the results of such comparison and the ~~bl~~ **marking** and erasure of the recorded data. Such rules may be different for, and should be specifically adapted to, the situation of different categories of ~~aliens~~ ⊗ third country nationals ⊗ or stateless persons ⊗.

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↓ 2725/2000/EC recital 8 (adapted)  
⇒ new

- (10) ~~Aliens~~ ⊗ Third country nationals or stateless persons ⊗ who have requested ~~asylum~~ ⇒ international protection ⇐ in one Member State may have the option of requesting ~~asylum~~ ⇒ international protection ⇐ in another Member State for many years to come. Therefore, the maximum period during which fingerprint data should be kept by the Central ~~Unit~~ ⇒ System ⇐ should be of considerable length. Given that most ~~aliens~~ ⊗ third country nationals or stateless persons ⊗ who have stayed in the Community for several years will have obtained a settled status or even citizenship of a Member State after that period, a period of ten years should be considered a reasonable period for the conservation of fingerprint data.

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↓ 2725/2000/EC recital 9 (adapted)

- (11) The conservation period should be shorter in certain special situations where there is no need to keep fingerprint data for that length of time. Fingerprint data should be erased immediately once ~~aliens~~ ☒ third country nationals or stateless persons ☒ obtain citizenship of a Member State.
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↓ new

☒ Council

- (12) It is appropriate to store data relating to those data subjects whose fingerprints were initially recorded in EURODAC upon lodging their applications for international protection and who have been granted international protection in a Member State in order to allow data recorded upon lodging an application for international protection to be ☒ [...] ☒ compared ☒ against them.

- (13) ☒ [...] ☒ In the long term, and following an impact assessment, containing a substantive analysis of alternatives from financial, operational and organisational perspective, ☒ the establishment of ☒ a Management Authority ☒ responsible for the operational management of EURODAC should be foreseen . Until then, the Commission should remain responsible for the management of the Central System and for the Communication Infrastructure. ☒<sup>1</sup>

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<sup>1</sup> UK: scrutiny reservation on the recital.



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↓ 2725/2000/EC recital 13 (adapted)

~~(13) Since the Member States alone are responsible for identifying and classifying the results of comparisons transmitted by the Central Unit as well as for the blocking of data relating to persons admitted and recognised as refugees and since this responsibility concerns the particularly sensitive area of the processing of personal data and could affect the exercise of individual freedoms, there are specific grounds for the Council reserving for itself the exercise of certain implementing powers, relating in particular to the adoption of measures ensuring the safety and reliability of such data.~~

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↓ 2725/2000/EC recital 14 (adapted)

~~(14) The measures necessary for the implementation of other measures of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.~~

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↓ 2725/2000/EC recital 10 (adapted)

⇒ new

(14) It is necessary to lay down clearly the respective responsibilities of the Commission ⇒ and the Management Authority ⇐ , in respect of the Central Unit ⇐ System ⇐ ⇐ and the Communication Infrastructure ⇐, and of the Member States, as regards data use, data security, access to, and correction of, recorded data.

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↓ 2725/2000/EC recital 11

- (15) While the non-contractual liability of the Community in connection with the operation of the ~~Eurodac~~EURODAC system will be governed by the relevant provisions of the Treaty, it is necessary to lay down specific rules for the non-contractual liability of the Member States in connection with the operation of the system.

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↓ 2725/2000/EC recital 12

- (16) 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 ~~within the Commission~~ 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 that objective.

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↓ 2725/2000/EC recital 15 (adapted)

- (17) 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<sup>1</sup> 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.~~

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<sup>1</sup> OJ L 281, 23.11.1995, p. 31.

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↓ 2725/2000/EC recital 16

~~(16) By virtue of Article 286 of the Treaty, Directive 95/46/EC also applies to Community institutions and bodies. Since the Central Unit will be established within the Commission, that Directive will apply to the processing of personal data by that Unit.~~

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↓ 2725/2000/EC recital 17

(18) The principles set out in Directive 95/46/EC regarding the protection of the rights and freedoms of individuals, notably their right to privacy, with regard to the processing of personal data should be supplemented or clarified, in particular as far as certain sectors are concerned.

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↓ new

↻ Council

(19) 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<sup>1</sup> should apply ↻ to the processing of personal data by the Community institutions and bodies carried out pursuant to this Regulation. ↻ However, certain points should be clarified in respect of the responsibility for the processing of data and of supervision of data protection.

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<sup>1</sup> OJ L 8, 12.1.2001, p. 1.

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↓ new

- (20) It is appropriate that national supervisory authorities monitor the lawfulness of the processing of personal data by the Member States, whilst the European Data Protection Supervisor, appointed pursuant to Decision 2004/55/EC of the European Parliament and of the Council of 22 December 2003 appointing the independent supervisory body provided for in Article 286 of the EC Treaty<sup>1</sup>, should monitor the activities of the Community institutions and bodies in relation to the processing of personal data in view of the limited tasks of the Community institutions and bodies with regard to the data themselves.

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↓ 2725/2000/EC recital 18

⇒ new

- (21) It is appropriate to monitor and evaluate the performance of ~~Eurodac~~ EURODAC ⇒ at regular intervals ⇐.

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↓ 2725/2000/EC recital 19

⇒ new

↻ Council

- (22) Member States should provide for a system of ↻ effective, proportionate and dissuasive ↻ penalties to sanction the use of data ↻ [...] ↻ entered ↻ in the ~~central database~~ ⇒ Central System ⇐ contrary to the purpose of ~~Eurodac~~ EURODAC.

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<sup>1</sup> OJ L 12, 17.1.2004, p. 47.

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↓ 2725/2000/EC recital 23 (adapted)

~~(23) This Regulation should serve as legal basis for the implementing rules which, with a view to its rapid application, are required for the establishment of the necessary technical arrangements by the Member States and the Commission. The Commission should be charged with verifying that those conditions are fulfilled.~~

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↓ new

→ Council

(23) 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 (EC) 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].

(24) 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 protection of personal data and the right to asylum =→ [...] ← .

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↓ 2725/2000/EC recital 22 (adapted)

(25) It is appropriate to restrict the territorial scope of this Regulation so as to align it on the territorial scope of ~~the Dublin Convention~~ ☒ Regulation (EC) 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] ☒ .

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↓ 2725/2000/EC (adapted)

⇒ new

🔄 Council

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### *Purpose of "~~Eurodac~~EURODAC"*

1. A system known as "~~Eurodac~~EURODAC" is hereby established, the purpose of which shall be to assist in determining which Member State is to be responsible pursuant to ~~the Dublin Convention~~  Regulation (EC) 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]  for examining an application for ~~asylum~~  international protection  lodged in a Member State  by a third country national or stateless person , and otherwise to facilitate the application of the Dublin ~~Convention~~  Regulation  under the conditions set out in this Regulation.

~~2. Eurodac shall consist of:~~

~~(a) the Central Unit referred to in Article 3;~~

~~(b) a computerised central database in which the data referred to in Article 5(1), Article 8(2) and Article 11(2) are processed for the purpose of comparing the fingerprint data of applicants for asylum and of the categories of aliens referred to in Article 8(1) and Article 11(1);~~

~~(e) means of data transmission between the Member States and the central database.  
The rules governing Eurodac shall also apply to operations effected by the Member States as from the transmission of data to the Central Unit until use is made of the results of the comparison.~~

3.2. Without prejudice to the use of data intended for ~~Eurodac~~ EURODAC by the Member State of origin in databases set up under the latter's national law, fingerprint data and other personal data may be processed in ~~Eurodac~~ EURODAC only for the purposes set out in Article ~~15(1)~~ 32(1) of the Dublin ~~Convention~~  Regulation .

## Article 2

### Definitions

1. For the purposes of this Regulation:

- (a) "the Dublin ~~Convention~~  Regulation Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed at Dublin on 15 June 1990  Regulation (EC) 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]
- (b) an "applicant for ~~asylum~~  international protection alien  third-country national or a stateless person  who has made an application for ~~asylum or on whose behalf such an application has been made~~  international protection as defined in Article 2(g) of Council Directive 2004/83/EC in respect of which a final decision has not yet been taken

(c) "Member State of origin" means:

(i) in relation to ~~an applicant for asylum~~  person covered by Article 6  , the Member State which transmits the personal data to the Central ~~Unit~~  System  and receives the results of the comparison;

(ii) in relation to a person covered by Article ~~8~~ 10 , the Member State which transmits the personal data to the Central ~~Unit~~  System  ;

(iii) in relation to a person covered by Article ~~11~~ 13 , the Member State which transmits such data to the Central ~~Unit~~  System  and receives the results of the comparison;

(d) ~~"refugee"~~  ⇒ "person granted international protection"  means a  third country national or a stateless  person ~~who has been recognised as a refugee in accordance with the Geneva Convention on Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967~~ ⇒  [...]  entitled to  international protection as defined in Article 2(a) of Council Directive 2004/83/EC ;

(e) "hit" shall mean the existence of a match or matches established by the Central ~~Unit~~  System  by comparison between fingerprint data recorded in the ~~database~~  central   database  and those transmitted by a Member State with regard to a person, without prejudice to the requirement that Member States shall immediately check the results of the comparison pursuant to Article ~~4(6)~~ 17(4).

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

3. Unless stated otherwise, the terms defined in Article ~~1~~ 2 of the Dublin ~~Convention~~  Regulation  shall have the same meaning in this Regulation.



### Article 3

#### ~~Central Unit~~ ☒ System architecture and basic principles ☒

- ~~1. A Central Unit shall be established within the Commission which shall be responsible for operating the central database referred to in Article 1(2)(b) on behalf of the Member States. The Central Unit shall be equipped with a computerised fingerprint recognition system.~~
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↓ new

1. EURODAC shall consist of:
  - (a) a computerised central fingerprint database (Central System) composed of
    - a Central Unit,
    - a Business Continuity System.
  - (b) a communication infrastructure between the Central System and Member States that provides an encrypted virtual network dedicated to EURODAC data (Communication Infrastructure).
2. Each Member State shall have a single designated national data system (National Access Point) which communicates with the Central System.

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↓ 2725/2000/EC (adapted)

⇒ new

⇒ Council

2.3. Data on ~~applicants for asylum, persons covered by Article 8 and persons covered by Article 11~~ 6, 10 and 13 which are processed in the Central ~~Unit~~ System shall be processed on behalf of the Member State of origin under the conditions set out in this Regulation ~~and separated by appropriate technical means~~.

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↓ 407/2002/EC Article 5(1)

~~1. The Central Unit shall separate the data on asylum applicants and the data on persons referred to in Article 8 of the Eurodac Regulation which are stored in the database, by appropriate technical means.~~

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↓ 2725/2000/EC Article 1(2) third subparagraph

⇒ new

4. The rules governing ~~Eurodac~~ EURODAC shall also apply to operations effected by the Member States as from the transmission of data to the Central ~~Unit~~ System until use is made of the results of the comparison.

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↓ 2725/2000/EC Article 4(1) second sentence

⇒ new

⇒ Council

5. The procedure for taking fingerprints shall be determined ⇒ and applied ⇐ in accordance with the national practice of the Member State concerned and in accordance with the safeguards laid down in ⇒ [...] ⇐ in the Convention for the Protection of Human Rights and Fundamental Freedoms and ⇐ ~~the European Convention on Human Rights and~~ in the United Nations Convention on the Rights of the Child

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↓ new

⇒ Council

#### *Article 4*

##### *Operational management by the Management Authority*

1. ⇒ [...] ⇐ ⇒ A ⇐ Management Authority, funded from the general budget of the European Union, shall be responsible for the operational management of EURODAC. The Management Authority 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.
2. The Management Authority shall also be responsible for the following tasks relating to the Communication Infrastructure:
  - (a) supervision;
  - (b) security;
  - (c) the coordination of relations between the Member States and the provider.

3. The Commission shall be responsible for all other tasks relating to the Communication Infrastructure, in particular:
- (a) tasks relating to implementation of the budget;
  - (b) acquisition and renewal;
  - (c) contractual matters.
4. ~~Before~~ the Management Authority takes up its responsibilities, the Commission shall be responsible for ~~all tasks attributed to the Management Authority by this Regulation.~~<sup>1</sup>
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.
6. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Communities, the Management Authority shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to all its staff required to work with EURODAC data. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.
7. The Management Authority referred to in this Regulation shall be the Management Authority competent for SIS II ~~under Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)~~ and ~~for~~ VIS ~~under Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas.~~

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<sup>1</sup> UK: scrutiny reservation on the provision.

↓ 2725/2000/EC (adapted)

⇒ new

⇒ Council

Article 5 ~~3~~

~~Statistics~~ ~~Central Unit~~

~~3.~~ The ~~Central Unit~~ ~~Management Authority~~ shall draw up statistics on ~~its~~ the work of the Central System every ~~quarter~~ month, indicating in particular:

- (a) the number of data sets transmitted on ~~[...]~~ the persons referred to in Articles ~~[...]~~ 6(1), 10(1) and 13(1);
- (b) the number of hits for applicants for ~~asylum~~ international protection who have lodged an application for ~~asylum~~ international protection in another Member State;
- (c) the number of hits for persons referred to in Article ~~8(1)~~ 10(1) who have subsequently lodged an application for ~~asylum~~ international protection;
- (d) the number of hits for persons referred to in Article ~~11(1)~~ 13(1) who had previously lodged an application for ~~asylum~~ international protection in another Member State;
- (e) the number of fingerprint data which the Central ~~Unit~~ System had to repeatedly request ~~a second time~~ from the Member States of origin because the fingerprint data originally transmitted did not lend themselves to comparison using the computerised fingerprint recognition system;

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↓ new

→ Council

(f) the number of data sets marked in accordance with Article 14(1);

(g) the number of hits for persons referred to in Article 14(1).

→ for whom hits have been recorded under (b),(c),(d) and (g) ←

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↓ 2725/2000/EC

⇒ new

At the end of each year, statistical data shall be established in the form of a compilation of the ⇒ monthly ⇐ quarterly statistics drawn up since the beginning of Eurodac's activities ⇒ for that year ⇐, including an indication of the number of persons for whom hits have been recorded under (b), (c) and (d).

The statistics shall contain a breakdown of data for each Member State.

~~4. Pursuant to the procedure laid down in Article 23(2), the Central Unit may be charged with carrying out certain other statistical tasks on the basis of the data processed at the Central Unit.~~

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↓ 2725/2000/EC (adapted)

⇒ new

⇒ Council

## CHAPTER II

# APPLICANTS FOR ~~ASYLUM~~ ~~INTERNATIONAL~~ PROTECTION ~~INTERNATIONAL~~

### Article ~~6~~ ~~4~~<sup>1</sup>

#### *Collection, transmission and comparison of fingerprints*

1. Each Member State shall take the fingerprints of all fingers of every applicant for ~~asylum~~  
⇒ international protection ⇐ of at least 14 years of age and shall, ⇒ [...] ⇐ ⇒ as soon as  
possible and no later than 72 hours ⇐ ⇒ after the lodging of an application ⇒ for  
international protection ⇐ as defined by Article 20(2) of the Dublin Regulation, ⇐ transmit  
⊗ them, together with ⊗ the data referred to in points ~~(a)~~ (b) to ~~(f)~~ (g) of Article ~~5(1)~~ 7, to  
the Central ~~Unit~~ ⇒ System ⇐.

⇒ Non compliance with the 72 hours time limit 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 17 of this Regulation, the Member State of origin<sup>2</sup> shall retake the  
fingerprints of the applicant and resend them as soon as possible and no later than 48 hours  
after they have been successfully taken. ⇐

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<sup>1</sup> **EL, IT, MT:** reservation (seek express exemption from the 72-hour deadline in cases of massive influx). **Cion:** the 72-hour deadline starts from the lodging of the application, thus taking into account situations of mass arrivals. **UK:** scrutiny reservation on the Article.

<sup>2</sup> **NL:** same terminology should be used throughout the text.

~~(2) The data referred to in Article 5(1) shall be immediately recorded in the central database by the Central Unit, or, provided that the technical conditions for such purposes are met, directly by the Member State of origin.~~

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↓ new

⇒ Council

⇒ [...] ⇐

⇒ 2. By way of derogation from paragraph 1, where it is not possible to take the fingerprints of an applicant for protection<sup>1</sup> 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. ⇐

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↓ 2725/2000/EC (adapted)

⇒ new

3. Fingerprint data within the meaning of point ~~(b)~~ (a) of Article ~~5(1) 7~~, transmitted by any Member State, ⇐ with exception to those transmitted in accordance with Article 6bis(b), ⇐ shall be compared ⇒ automatically ⇐ with the fingerprint data transmitted by other Member States and already stored in the ~~Central database~~ ⇒ System ⇐.
4. The Central ~~Unit~~ ⇒ System ⇐ shall ensure, on the request of a Member State, that the comparison referred to in paragraph 3 covers the fingerprint data previously transmitted by that Member State, in addition to the data from other Member States.

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<sup>1</sup> SE: add "international", or alternatively, delete the words "for protection".



5. The Central ~~Unit~~ ⇒ System ⇐ shall ~~forthwith~~ ⇒ automatically ⇐ transmit the hit or the negative result of the comparison to the Member State of origin. Where there is a hit, it shall transmit for all data sets corresponding to the hit, the data referred to in Article ~~5(1) 7(a) to (k)~~, ~~although in the case of the data referred to in Article 5(1)(b), only insofar as they were the basis for the hit~~ ⇒ along with, where appropriate, the mark referred to in Article 14(1) ⇐.

~~Direct transmission to the Member State of origin of the result of the comparison shall be permissible where the technical conditions for such purpose are met.~~

~~7. The implementing rules setting out the procedures necessary for the application of paragraphs 1 to 6 shall be adopted in accordance with the procedure laid down in Article 22(1).~~

#### *➤ Article 6bis*

##### *Information on the status of the data subject*

The following information shall be sent to the Central System in order to be stored in accordance with Article 8 for the purpose of transmission under Article 6(5):

- a) When an applicant for international protection or another person as referred to in Article 18(1)(d) of the Dublin Regulation arrives in the responsible Member State following a transfer pursuant to a decision acceding to a request to take him/her back as referred to in Article 24 of the Dublin Regulation, the responsible Member State shall update its dataset recorded in conformity with Article 7 relating to the person concerned by adding his/her date of arrival .
- b) When an applicant for international protection arrives in the responsible Member State following a transfer pursuant to a decision acceding to a request to take charge of him/her as referred to in Article 22 of the Dublin Regulation, the responsible Member State shall send a dataset in conformity with Article 7 relating to the person concerned and include his/her date of arrival.

- c) As soon as the Member State of origin becomes aware<sup>1</sup> that the person concerned whose data was recorded in EURODAC in accordance with Article 7 has left the territory of the Member States, it shall update its dataset recorded in conformity with Article 7 relating to the person concerned by adding the date when the person left the territory, in order to facilitate the application of Articles 19(2) and 20(5) of the Dublin Regulation.
- d) As soon as the Member State of origin ensures<sup>2</sup> that the person concerned whose data was recorded in EURODAC in accordance with Article 7 has left the territory of the Member States in compliance with a return decision or removal order it issued following the withdrawal or rejection of the application as provided for in Article 19 (3) of the Dublin Regulation, it shall update its dataset recorded in conformity with Article 7 relating to the person concerned by adding the date of his/her removal or when the person left the territory.
- e) The Member State which assumes responsibility in accordance with Article 17(1) of the Dublin Regulation shall update its dataset recorded in conformity with Article 7 relating to that applicant by adding the date when the decision to examine the application was taken. ☹

*Article ~~75~~*

*Recording of data*

~~1~~ Only the following data shall be recorded in the eCentral database ⇨ System ⇨ :

(~~a~~) fingerprint data;

(~~b~~) Member State of origin, place and date of the application for asylum ⇨ international protection ⇨; ☹ in the cases referred to in article 6bis (b), the date of application shall be the one entered by the Member State who transferred the applicant; ☹

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<sup>1</sup> SE: replace "becomes aware" with "can establish".

<sup>2</sup> SE: replace "becomes aware" with "can establish".

(c) sex;

(d) reference number used by the Member State of origin;

(e) date on which the fingerprints were taken;

(f) date on which the data were transmitted to the Central Unit ⇨ System ⇩;

~~(g) date on which the data were entered in the central database;~~

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⇩ new

(g) operator user ID.

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⇩ 2725/2000/EC

⇨ new

~~(h) details in respect of the recipient(s) of the data transmitted and the date(s) of transmission(s);~~

⇨ (h) where applicable in accordance with Article 6bis(a) or 6bis(b), the date of the arrival of the person concerned after a successful transfer. ☹

⇨ (i) where applicable in accordance with Article 6bis(c), the date when the person concerned left the territory of the Member States. ☹

⇨ (j) where applicable in accordance with Article 6bis(d), the date when the person concerned left or was removed from the territory of the Member States. ☹

⇨ (k) where applicable in accordance with Article 6bis(e), the date when the decision to examine the application was taken. ☹

~~2. After recording the data in the central database, the Central Unit shall destroy the media used for transmitting the data, unless the Member State of origin has requested their return.~~

*Article ~~8~~ 6*

*Data storage*

Each set of data, as referred to in Article ~~5(1)~~ 7, shall be stored in the ~~Central~~  
~~System~~ ~~database~~ for ten years from the date on which the fingerprints were taken.

Upon expiry of this period, the Central ~~Unit~~ ~~System~~ shall automatically erase the data  
from the ~~Central database~~ ~~System~~.

*Article ~~9~~ 7*

*Advance data erasure*

- Data relating to a person who has acquired citizenship of any Member State before expiry  
of the period referred to in Article ~~6~~ 8 shall be erased from the Central ~~Unit~~ ~~System~~,  
in accordance with Article ~~15(3)~~ 20(3) as soon as the Member State of origin becomes  
aware that the person has acquired such citizenship.

↓ new

→ Council

- 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 6 (1) or Article 10 (1).

↓ 2725/2000/EC (adapted)

⇒ new

⇒ Council

## CHAPTER III

# ~~ALIENS~~ ☒ THIRD COUNTRY NATIONALS OR STATELESS PERSONS ☒ APPREHENDED IN CONNECTION WITH THE IRREGULAR CROSSING OF AN EXTERNAL BORDER

### Article 10 ~~8~~

#### *Collection and transmission of fingerprint data<sup>1</sup>*

1. Each Member State shall, ~~in accordance with the safeguards laid down in the European Convention on Human Rights and in the United Nations Convention on the Rights of the Child~~ promptly take the fingerprints of all fingers of every ~~alien~~ ☒ 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.~~ ☒.
2. The Member State concerned shall ~~promptly~~ ⇒ as soon as possible and no later than 72 hours from the date of apprehension ⇐ transmit to the Central ~~Unit~~ ⇒ System ⇐ the following data in relation to any ~~alien~~ ☒ third country national or stateless person ☒, as referred to in paragraph 1 ⇒ [...] ⇐

(~~a~~) fingerprint data;

<sup>1</sup> EL, IT: reservations on the Article. DE, UK: scrutiny reservations on the Article.

- (~~b<sub>a</sub>~~) Member State of origin, place and date of the apprehension ;
- (c) sex;
- (d) reference number used by the Member State of origin;
- (e) date on which the fingerprints were taken;
- (f) date on which the data were transmitted to the Central ~~Unit~~ ⇨ System ⇐;

↓ new

↻ Council

(g) operator user ID.

↻ 2 bis. 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. ⌚

↻ 3. 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 17 of this Regulation, 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. ⌚

↻ 4. 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. ⌚

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↓ 2725/2000/EC (adapted)

⇒ new

⇒ Council

*Article 11 ~~9~~*

*Recording of data*

1. The data referred to in ~~Article 5(1)(g) and~~ Article ~~8(2)~~ 10(2) shall be recorded in the ~~central database~~ ⇒ Central System ⇐.

Without prejudice to Article ~~3(3)~~ 5, data transmitted to the Central ~~Unit~~ ⇒ System ⇐ pursuant to Article ~~8(2)~~ 10(2) shall be recorded for the sole purpose of comparison with data on applicants for ~~asylum~~ ⇒ international protection ⇐ transmitted subsequently to the Central ~~Unit~~ ⇒ System ⇐.

The Central ~~Unit~~ ⇒ System ⇐ shall not compare data transmitted to it pursuant to Article ~~8(2)~~ 10(2) with any data previously recorded in the ~~central database~~ ⇒ Central System ⇐, nor with data subsequently transmitted to the Central ~~Unit~~ ⇒ System ⇐ pursuant to Article ~~8(2)~~ 10(2).

2. ~~The procedures provided for in Article 4(1), second sentence, Article 4(2) and Article 5(2) as well as the provisions laid down pursuant to Article 4(7) shall apply.~~ As regards the comparison of data on applicants for ~~asylum~~ ⇒ international protection ⇐ subsequently transmitted to the Central ~~Unit~~ ⇒ System ⇐ with the data referred to in paragraph 1, the procedures provided for in Article ~~4(2), (5) and (6)~~ 6(3) and (5) shall apply.

Article ~~12~~ 10

Storage of data

1. Each set of data relating to an ~~alien~~ ☒ third country national or stateless person ☒ as referred to in Article ~~8(1)~~ 10(1) shall be stored in the ~~central database~~ ⇒ Central System ⇐ for ⇒ ~~one year~~ ⇐ two years<sup>1</sup> from the date on which the fingerprints of the ~~alien~~ ☒ third country national or stateless person ☒ were taken. Upon expiry of this period, the Central ~~Unit~~ ⇒ System ⇐ shall automatically erase the data from the ~~central database~~ ⇒ Central System ⇐.
  
2. The data relating to an ~~alien~~ ☒ third country national or stateless person ☒ as referred to in Article ~~8(1)~~ 10(1) shall be erased from the ~~central database~~ ⇒ Central System ⇐ in accordance with Article ~~15(3)~~ ⇒ [...] ⇐ ⇒ 20 ⇐ (3) ⇒ [...] ⇐ ⇒ as soon as ⇐ the Member State of origin becomes aware of<sup>2</sup> one of the following circumstances before the ~~two~~ ⇒ ~~one~~ ⇐ year period mentioned in paragraph 1 has expired:
  - (a) the ~~alien~~ ☒ third country national or stateless person ☒ has been issued with a residence permit;
  
  - (b) the ~~alien~~ ☒ third country national or stateless person ☒ has left the territory of the Member States;<sup>3</sup>

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<sup>1</sup> **BG, EL, ES, HU** (entered a scrutiny reservation), **IT, MT, Cion:** prefer reverting to one-year storage. **DE, IE, LT, LV, AT, PL, SK, RO, UK:** support current compromise. **EE, FI, FR, NL, PT:** could live with both options.

<sup>2</sup> **HU:** the term "becomes aware of" needs to be clarified. It should be provided that the mere fact that a Member State obliged the third-country national to leave the territory of the Member States is not a sufficient ground for the erasure of Category 2 data. Pursuant to Article 19 of the Dublin Regulation, it can only be erased when the Member State confirms that the third-country national has actually left the above territory.

**HU:** It should also be clarified that if a Member State is notified that the third-country national has left the above territory by another Member State, which is requesting the first Member State to take charge of the applicant, then the first Member State should not be allowed to erase the data related to the person in question during the phase of determination of the Member State responsible to examine the application.

<sup>3</sup> **HU:** erasure of Category 2 data should be allowed only if the Member State becomes aware of the third-country national's departure from the territory of the Member States and absence for a period of at least three months.



(c) the ~~alien~~  third country national or stateless person  has acquired the citizenship of any Member State.

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↓ new

→ Council

3. The Central System shall inform all Member States of origin about the  [...]   
 erasure  of data for the reason specified in paragraph 2(a)  [...]  or  (b) by  
another Member State of origin having produced a hit with data  [...]  which  
they  transmitted relating to persons referred to in Article 10(1).

4. The Central System shall inform all Member States of origin about the ~~erasure~~ of data for the reason specified in paragraph 2(c) by another Member State of origin having produced a hit with data ~~which they~~ transmitted relating to persons referred to in Article 6 (1) or Article 10 (1).

↓ 2725/2000/EC (adapted)

⇒ new

## CHAPTER IV

# ~~ALIENS~~ THIRD COUNTRY NATIONALS OR STATELESS PERSONS FOUND ILLEGALLY PRESENT IN A MEMBER STATE

### Article ~~13~~ <sup>11</sup>

#### *Comparison of fingerprint data*

1. With a view to checking whether an ~~alien~~  third country national or a stateless person  found illegally present within its territory has previously lodged an application for ~~asylum~~  international protection  in another Member State, each Member State may transmit to the Central ~~Unit~~  System  any fingerprint data relating to fingerprints which it may have taken of any such ~~alien~~  third country national or stateless person  of at least 14 years of age together with the reference number used by that Member State.

As a general rule there are grounds for checking whether the ~~alien~~  third country national or stateless person  has previously lodged an application for  asylum   international protection  in another Member State where:

<sup>1</sup> **DE, AT, SE, SK:** reservations on the Article, with regard in particular to the non-storage of the data linked to the Category 3 cases.

- (a) the ~~alien~~  third country national or stateless person  declares that he/she has lodged an application for ~~asylum~~  international protection  but without indicating the Member State in which he/she made the application;
- (b) the ~~alien~~  third country national or stateless person  does not request ~~asylum~~  international protection  but objects to being returned to his/her country of origin by claiming that he/she would be in danger, or
- (c) the ~~alien~~  third country national or stateless person  otherwise seeks to prevent his/her removal by refusing to cooperate in establishing his/her identity, in particular by showing no, or false, identity papers.

2. Where Member States take part in the procedure referred to in paragraph 1, they shall transmit to the Central ~~Unit~~  System  the fingerprint data relating to all or at least the index fingers, and, if those are missing, the prints of all other fingers, of ~~aliens~~  third country nationals or stateless persons  referred to in paragraph 1.

3. The fingerprint data of an ~~alien~~  third country national or a stateless person  as referred to in paragraph 1 shall be transmitted to the Central ~~Unit~~  System  solely for the purpose of comparison with the fingerprint data of applicants for ~~asylum~~  international protection  transmitted by other Member States and already recorded in the ~~central database~~  Central System .

The fingerprint data of such an ~~alien~~  third country national or a stateless person  shall not be recorded in the ~~central database~~  Central System , nor shall they be compared with the data transmitted to the Central ~~Unit~~  System  pursuant to Article ~~8(2)~~ 10(2).

4. As regards the comparison of fingerprint data transmitted under this Article with the fingerprint data of applicants for ~~asylum~~  international protection  transmitted by other Member States which have already been stored in the Central ~~Unit~~  System , the procedures provided for in Article ~~4(3) (5) and (6)~~ 6(3) and (5) as well as the provisions ~~laid down pursuant to Article 4(7)~~ shall apply.

~~5. Once the results of the comparison have been transmitted to the Member State of origin, the Central Unit shall forthwith:~~

~~(a) erase the fingerprint data and other data transmitted to it under 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.~~

## CHAPTER V

# ~~RECOGNISED REFUGEES~~ ☒ PERSONS GRANTED INTERNATIONAL PROTECTION ☒

### ~~Article 12~~

#### ~~Blocking of data~~

~~1. Data relating to an applicant for asylum which have been recorded pursuant to Article 4(2) shall be blocked in the central database if that person is recognised and admitted as a refugee in a Member State. Such blocking shall be carried out by the Central Unit on the instructions of the Member State of origin.~~

~~As long as a decision pursuant to paragraph 2 has not been adopted, hits concerning persons who have been recognised and admitted as refugees in a Member State shall not be transmitted. The Central Unit shall return a negative result to the requesting Member State.~~

~~2. Five years after Eurodac starts operations, and on the basis of reliable statistics compiled by the Central Unit on persons who have lodged an application for asylum in a Member State after having been recognised and admitted as refugees in another Member State, a decision shall be taken in accordance with the relevant provisions of the Treaty, as to whether the data relating to persons who have been recognised and admitted as refugees in a Member State should:~~

~~(a) be stored in accordance with Article 6 for the purpose of the comparison provided for in Article 4(3); or~~

~~(b) be erased in advance once a person has been recognised and admitted as a refugee.~~

~~3. In the case referred to in paragraph 2(a), the data blocked pursuant to paragraph 1 shall be unblocked and the procedure referred to in paragraph 1 shall no longer apply.~~

~~4. In the case referred to in paragraph 2(b):~~

~~(a) data which have been blocked in accordance with paragraph 1 shall be erased immediately by the Central Unit; and~~

~~(b) data relating to persons who are subsequently recognised and admitted as refugees shall be erased in accordance with Article 15(3), as soon as the Member State of origin becomes aware that the person has been recognised and admitted as a refugee in a Member State.~~

~~5. The implementing rules concerning the procedure for the blocking of data referred to in paragraph 1 and the compilation of statistics referred to in paragraph 2 shall be adopted in accordance with the procedure laid down in Article 22(1).~~

↓ new

#### *Article 14*

#### *Marking of data<sup>1</sup>*

1. The Member State of origin which granted international protection to an applicant for international protection whose data were previously recorded pursuant to Article ~~6~~ **7** in the Central System shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by the Management Authority. This mark shall be stored in the Central System in accordance with Article 8 for the purpose of transmission under Article 6(5).

<sup>1</sup> **AT:** scrutiny reservation on the Article, with regard in particular to the data protection provisions. **DE, ES, FI, IE:** mark the data related to an asylum application that has been rejected followed by the return of the third-country national. **LU** pointed out that the requirement to mark the data pursuant this Article might not be coherent with the requirement of Article 13 to not store the data concerning the Category 3 cases.

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.<sup>1</sup>

↓ 2725/2000/EC (adapted)

⇒ new

## CHAPTER VI

### DATA USE, DATA PROTECTION AND LIABILITY<sup>2</sup>

#### *Article ~~15~~ ~~13~~*

##### *Responsibility for data use*

1. The Member State of origin shall be responsible for ensuring that:
- (a) fingerprints are taken lawfully;
  - (b) fingerprint data and the other data referred to in Article ~~5(1)~~ 7, Article ~~8(2)~~ 10(2) and Article ~~11(2)~~ 13(2) are lawfully transmitted to the Central ~~Unit~~ ⇒ System ⇐;
  - (c) data are accurate and up-to-date when they are transmitted to the Central ~~Unit~~ ⇒ System ⇐;
  - (d) without prejudice to the responsibilities of the ~~Commission~~ Management Authority, data in the ~~central database~~ ⇒ Central System ⇐ are lawfully recorded, stored, corrected and erased;

<sup>1</sup> **MT** add: "or if he or she ceases to be a refugee or to be eligible for subsidiary protection under Articles 11 and 16 respectively of Council Directive 2004/83/EC."

<sup>2</sup> **EL, FR, UK:** scrutiny reservations on on all data protection provisions.

(e) the results of fingerprint data comparisons transmitted by the Central ~~Unit~~ ⇒ System ⇐ are lawfully used.

2. In accordance with Article ~~14~~19, the Member State of origin shall ensure the security of the data referred to in paragraph 1 before and during transmission to the Central ~~Unit~~ ⇒ System ⇐ as well as the security of the data it receives from the Central ~~Unit~~ ⇒ System ⇐.
3. The Member State of origin shall be responsible for the final identification of the data pursuant to Article ~~4(6)~~ 17(4).
4. The ~~Commission-Management Authority~~ shall ensure that the Central ~~Unit~~ ⇒ System ⇐ is operated in accordance with the provisions of this Regulation ~~and its implementing rules~~. In particular, the ~~Commission-Management Authority~~ shall:
  - (a) adopt measures ensuring that persons working ⇒ with ⇐ ~~in~~ the Central ~~Unit~~ ⇒ System ⇐ use the data recorded ⊗ therein ⊗ ~~in the central database~~ only in accordance with the purpose of ~~Eurodac~~EURODAC as laid down in Article 1(1);
  - ~~(b) ensure that persons working in the Central System comply with all requests from Member States made pursuant to this Regulation in relation to recording, comparison, correction and erasure of data for which they are responsible;~~
  - (b) ~~(e)~~ take the necessary measures to ensure the security of the Central ~~Unit~~ ⇒ System ⇐ in accordance with Article ~~14~~ 19;
  - (c) ~~(d)~~ ensure that only persons authorised to work ⇒ with ⇐ ~~in~~ the Central ~~Unit~~ ⇒ System ⇐ have access ⊗ thereto ⊗ ~~to data recorded in the central database,~~ without prejudice to ~~Article 20 and the powers of the independent supervisory body which will be established under Article 286(2) of the Treaty~~ ⊗ the competences of the European Data Protection Supervisor ⊗.

The ~~Commission-Management Authority~~ shall inform the European Parliament and the Council of the measures it takes pursuant to the first subparagraph.

↓ 407/2002/EC Article 2 (adapted)

⇒ new

⇒ Council

*Article 16~~2~~*

*Transmission*

1. Fingerprints shall be digitally processed and transmitted in the data format referred to in Annex I. As far as it is necessary for the efficient operation of the Central ~~Unit~~ ~~⇒ System~~ ~~⇐~~, the ~~Central Unit~~ ~~⇒~~ Management Authority ~~⇐~~ shall establish the technical requirements for transmission of the data format by Member States to the Central ~~Unit~~ ~~⇒ System~~ ~~⇐~~ and vice versa. The ~~Central Unit~~ ~~⇒~~ Management Authority ~~⇐~~ shall ensure that the fingerprint data transmitted by the Member States can be compared by the computerised fingerprint recognition system.
2. Member States ~~⇒ [...]~~ ~~⇐~~ shall ~~⇐~~ transmit the data referred to in Article ~~5(1) 7, Article 10(2) and Article 13(2) of the Eurodac Regulation~~ electronically. ~~⇒~~ The data referred to in Article 7 and Article 10(2) shall be automatically recorded in the Central System. ~~⇐~~ As far as it is necessary for the efficient operation of the Central ~~Unit~~ ~~⇒ System~~ ~~⇐~~, the ~~Central Unit~~ ~~⇒~~ Management Authority ~~⇐~~ shall establish the technical requirements to ensure that data can be properly electronically transmitted from the Member States to the Central ~~Unit~~ ~~⇒ System~~ ~~⇐~~ and vice versa. ~~Transmission of data in paper form using the form set out in Annex II or by other means of data support (diskettes, CD-ROM or other means of data support which may be developed and generally used in future) should be limited to situations in which there are continuous technical problems.~~
3. The reference number referred to in Article ~~5(1)(d) 7(d) and Article 10(2)(d)~~ ~~⇒~~ and ~~13(1) ⇐ of the Eurodac Regulation~~ shall make it possible to relate data unambiguously to one particular person and to the Member State which is transmitting the data. In addition, it shall make it possible to tell whether such data relate to ~~an asylum seeker or~~ a person referred to in Article ~~8 or Article 11 of the Eurodac Regulation~~ ~~6~~, Article 10 or Article 13.



4. The reference number shall begin with the identification letter or letters by which, in accordance with the norm referred to in Annex I, the Member State transmitting the data is identified. The identification letter or letters shall be followed by the identification of the category of person. "1" refers to data relating to ~~asylum seekers~~  persons referred to in Article 6 ~~(1) C~~ , "2" to persons referred to in Article ~~8 10~~ ~~(1) C~~ ~~of the Eurodac Regulation~~ and "3" to persons referred to in Article ~~11 13~~ ~~(1) C~~ ~~of the Eurodac Regulation~~.
5. The ~~Central Unit~~  Management Authority  shall establish the technical procedures necessary for Member States to ensure receipt of unambiguous data by the Central ~~Unit~~  ~~System~~ .
6. The Central ~~Unit~~  ~~System~~  shall confirm receipt of the transmitted data as soon as possible. To this end the ~~Central Unit~~  Management Authority  shall establish the necessary technical requirements to ensure that Member States receive the confirmation receipt if requested.

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↓ 407/2002/EC Article 3

⇒ new

⇒ Council

*Article 17~~3~~*

*Carrying out comparisons and transmitting results*

1. Member States shall ensure the transmission of fingerprint data in an appropriate quality for the purpose of comparison by means of the computerised fingerprint recognition system. As far as it is necessary to ensure that the results of the comparison by the Central ~~Unit~~ ⇒ System ⇐ reach a very high level of accuracy, the ~~Central Unit~~ ⇒ Management Authority ⇐ shall define the appropriate quality of transmitted fingerprint data. The Central ~~Unit~~ ⇒ System ⇐ shall, as soon as possible, check the quality of the fingerprint data transmitted. If fingerprint data do not lend themselves to comparison using the computerised fingerprint recognition system, the Central ~~Unit~~ ⇒ System ⇐ shall, ~~as soon as possible,~~ ⇒ [...] ⇐ ⇒ inform ⇐ the Member State. The ⇒ Member State concerned shall ⇐ ⇒ [...] ⇐ transmit fingerprint data of the appropriate quality ⇒ using the same reference number of the previous set of fingerprint data. ⇐<sup>1</sup>
2. The Central ~~Unit~~ ⇒ System ⇐ shall carry out comparisons in the order of arrival of requests. Each request must be dealt with within 24 hours ⇒ [...] ⇐ ⇒ A ⇐ Member State may for reasons connected with national law require particularly urgent comparisons to be carried out within one hour. Where these times cannot be respected owing to circumstances which are outside the ~~Central Unit~~ ⇒ Management Authority's ⇐ responsibility, the Central ~~Unit~~ ⇒ System ⇐ shall process the request as a matter of priority as soon as those circumstances no longer prevail. In such cases, as far as it is necessary for the efficient operation of the Central ~~Unit~~ ⇒ System ⇐, the ~~Central Unit~~ ⇒ Management Authority ⇐ shall establish criteria to ensure the priority handling of requests.

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<sup>1</sup> **BE:** scrutiny reservation on the use of the same reference number.

3. As far as it is necessary for the efficient operation of the Central ~~Unit~~ ⇒ System ⇐, the ~~Central Unit~~ ⇒ Management Authority ⇐ shall establish the operational procedures for the processing of the data received and for transmitting the result of the comparison.

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↓ 2725/2000/EC Article 4(6) (adapted)  
⇒ new  
⇒ Council

4. The results of the comparison shall be immediately checked in the Member State of origin. Final identification shall be made by the Member State of origin in cooperation with the Member States concerned, pursuant to Article ~~1532~~ of the Dublin ~~Convention~~ ~~Regulation~~ ⇐.

Information received from the Central ~~Unit~~ ⇒ System ⇐ relating to other data found to be unreliable shall be erased ⇒ [...] ⇐ as soon as the unreliability of the data is established.

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↓ new  
⇒ Council

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 Management Authority.

⇒ [...] ⇐

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↓ 407/2002/EC (adapted)

⇒ new

⇒ Council

*Article 184<sup>1</sup>*

*Communication between Member States and the Central Unit ⇒ System ⇐*

Data transmitted from the Member States to the Central Unit ⇒ System ⇐ and vice versa shall use ~~IDA generic services referred to in Decision No 1719/1999/EC of the European Parliament and of the Council of 12 July 1999 on a series of guidelines, including the identification of projects of common interest, for trans-European networks for the electronic interchange of data between administrations (IDA)~~ ⇒ the ⇒ EURODAC ⇐ Communication Infrastructure ⇐ [...] ⇐ provided by the Management Authority ⇐. As far as it is necessary for the efficient operation of the Central Unit ⇒ System ⇐, the Central Unit ⇐ Management Authority ⇐ shall establish the technical procedures necessary for the use of ~~IDA generic services~~ ⇒ the Communication Infrastructure ⇐.

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↓ 2725/2000/EC

*Article 19*

*Joint supervisory authority*

~~1. An independent joint supervisory authority shall be set up, consisting of a maximum of two representatives from the supervisory authorities of each Member State. Each delegation shall have one vote.~~

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<sup>1</sup> UK: scrutiny reservation on the Article in connection with the reference to the Management Authority.

- ~~2. The joint supervisory authority shall have the task of monitoring the activities of the Central Unit to ensure that the rights of data subjects are not violated by the processing or use of the data held by the Central Unit. In addition, it shall monitor the lawfulness of the transmission of personal data to the Member States by the Central Unit.~~
- ~~3. The joint supervisory authority shall be responsible for the examination of implementation problems in connection with the operation of Eurodac, for the examination of possible difficulties during checks by the national supervisory authorities and for drawing up recommendations for common solutions to existing problems.~~
- ~~4. In the performance of its duties, the joint supervisory authority shall, if necessary, be actively supported by the national supervisory authorities.~~
- ~~5. The joint supervisory authority shall have access to advice from persons with sufficient knowledge of fingerprint data.~~
- ~~6. The Commission shall assist the joint supervisory authority in the performance of its tasks. In particular, it shall supply information requested by the joint supervisory body, give it access to all documents and paper files as well as access to the data stored in the system and allow it access to all its premises, at all times.~~
- ~~7. The joint supervisory authority shall unanimously adopt its rules of procedure. It shall be assisted by a secretariat, the tasks of which shall be defined in the rules of procedure.~~

- ~~8. Reports drawn up by the joint supervisory authority shall be made public and shall be forwarded to the bodies to which the national supervisory authorities submit their reports, as well as to the European Parliament, the Council and the Commission for information. In addition, the joint supervisory authority may submit comments or proposals for improvement regarding its remit to the European Parliament, the Council and the Commission at any time.~~
- ~~9. In the performance of their duties, the members of the joint supervisory authority shall not receive instructions from any government or body.~~
- ~~10. The joint supervisory authority shall be consulted on that part of the draft operating budget of the Eurodac Central Unit which concerns it. Its opinion shall be annexed to the draft budget in question.~~
- ~~11. The joint supervisory authority shall be disbanded upon the establishment of the independent supervisory body referred to in Article 286(2) of the Treaty. The independent supervisory body shall replace the joint supervisory authority and shall exercise all the powers conferred on it by virtue of the act under which that body is established.~~

~~Article 14~~

~~Security~~

- ~~1. The Member State of origin shall take the necessary measures to:~~
- ~~(a) prevent any unauthorised person from having access to national installations in which the Member State carries out operations in accordance with the aim of Eurodac (checks at the entrance to the installation);~~
  - ~~(b) prevent data and data media in Eurodac from being read, copied, modified or erased by unauthorised persons (control of data media);~~
  - ~~(c) guarantee that it is possible to check and establish a posteriori what data have been recorded in Eurodac, when and by whom (control of data recording);~~
  - ~~(d) prevent the unauthorised recording of data in Eurodac and any unauthorised modification or erasure of data recorded in Eurodac (control of data entry);~~

~~(e) guarantee that, in using Eurodac, authorised persons have access only to data which are within their competence (control of access);~~

~~(f) guarantee that it is possible to check and establish to which authorities data recorded in Eurodac may be transmitted by data transmission equipment (control of transmission);~~

~~(g) prevent the unauthorised reading, copying, modification or erasure of data during both the direct transmission of data to or from the central database and the transport of data media to or from the Central Unit (control of transport);~~

~~2. As regards the operation of the Central Unit, the Commission shall be responsible for applying the measures mentioned under paragraph 1.~~

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↓ new

→ Council

## Article 19

### Data security

1. The Member State ~~of~~ [...] ~~of origin~~ shall ensure the security of the data before and during transmission to the Central System. Each Member State shall ensure the security of the data which it receives from the Central System.
2. Each Member State shall, in relation to its national system, adopt the necessary measures, including a security plan, in order to:
  - (a) physically protect data, including by making contingency plans for the protection of critical infrastructure;
  - (b) deny unauthorised persons access to national installations in which the Member State carries out operations in accordance with the purpose of EURODAC (checks at entrance to the installation);

- (c) prevent the unauthorised reading, copying, modification or removal of data media (data media control);
  - (d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data (storage control);
  - (e) prevent the unauthorised processing of data in EURODAC and any unauthorised modification or deletion of data processed in EURODAC (control of data entry);
  - (f) ensure that persons authorised to access EURODAC have access only to the data covered by their access authorisation, by means of individual and unique user identities and confidential access modes only (data access control);
  - (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, delete and search the data and make these profiles available to the National Supervisory Authorities referred to in Article 24 without delay at their request (personnel profiles);
  - (h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);
  - (i) ensure that it is possible to verify and establish what data have been processed in EURODAC, when, by whom and for what purpose (control of data recording);
  - (j) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from EURODAC or during the transport of data media, in particular by means of appropriate encryption techniques (transport control);
  - (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).
3. The Management Authority shall take the necessary measures in order to achieve the objectives set out in paragraph 2 as regards the operation of EURODAC, including the adoption of a security plan.



Article 20 ~~15~~

*Access to, and correction or erasure of, data recorded in ~~Eurodac~~ EURODAC*

1. The Member State of origin shall have access to data which it has transmitted and which are recorded in the ~~central database~~ ⇒ Central System ⇐ in accordance with the provisions of this Regulation.

No Member State may conduct searches in the data transmitted by another Member State, nor may it receive such data apart from data resulting from the comparison referred to in Article ~~4(5)~~ 6(5).

2. The authorities of Member States which, pursuant to paragraph 1, have access to data recorded in the ~~central database~~ ⇒ 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 Management Authority ⇐ a list of those authorities ⇒ and any amendments thereto. The Management Authority shall publish the consolidated list in the Official Journal of the European Union. Where there are amendments thereto, the Management Authority shall publish once a year an updated consolidated list. ⇐

3. Only the Member State of origin shall have the right to amend the data which it has transmitted to the Central Unit ⇒ System ⇐ by correcting or supplementing such data, or to erase them, without prejudice to erasure carried out in pursuance of Article ~~6, Article 10(1) or Article 12(4)(a)~~ 8 or Article 12(1).

~~Where the Member State of origin records data directly in the central database, it may amend or erase the data directly.~~

~~Where the Member State of origin does not record data directly in the central database, the Central Unit shall amend or erase the data at the request of that Member State.~~

4. If a Member State or the ~~Central Unit~~ ⇒ Management Authority ⇐ has evidence to suggest that data recorded in the ~~central database~~ ⇒ Central System ⇐ are factually inaccurate, it shall advise the Member State of origin as soon as possible.

If a Member State has evidence to suggest that data were recorded in the ~~central database~~ ⇒ Central System ⇐ contrary to this Regulation, it shall ~~similarly~~ advise ☒ the Commission and ☒ the Member State of origin as soon as possible. The latter shall check the data concerned and, if necessary, amend or erase them without delay.

5. The ~~Central Unit~~ ⇒ Management Authority ⇐ shall not transfer or make available to the authorities of any third country data recorded in the ~~central database~~ ⇒ Central System ⇐, unless it is specifically authorised to do so in the framework of a Community agreement on the criteria and mechanisms for determining the State responsible for examining an application for ~~asylum~~ ⇒ international protection ⇐.

#### ~~Article 21~~

#### ~~Implementing rules~~

~~1. The Council shall adopt, acting by the majority laid down in Article 205(2) of the Treaty, the implementing provisions necessary for~~

~~laying down the procedure referred to in Article 4(7),~~

~~laying down the procedure for the blocking of the data referred to in Article 12(1),~~

~~drawing up the statistics referred to in Article 12(2).~~

~~In cases where these implementing provisions have implications for the operational expenses to be borne by the Member States, the Council shall act unanimously.~~

~~2. The measures referred to in Article 3(4) shall be adopted in accordance with the procedure referred to in Article 23(2).~~

*Article ~~21~~ ~~16~~*

*Keeping of records ~~by the Central Unit~~*

1. The ~~Central Unit~~ ⇒ Management Authority ⇐ shall keep records of all data processing operations within the Central ~~Unit~~ ⇒ System ⇐. These records shall show the purpose of access, the date and time, the data transmitted, the data used for interrogation and the name of both the unit ~~putting~~ ⊗ entering ⊗ in or retrieving the data and the persons responsible.
  
  2. Such records may be used only for the data-protection monitoring of the admissibility of data processing as well as to ensure data security pursuant to Article ~~14~~ ~~19~~. The records must be protected by appropriate measures against unauthorised access and erased after a period of one year ⇒ after the retention period referred to in Article 8 and in Article 12(1) has expired ⇐, if they are not required for monitoring procedures which have already begun.
- 

↓ new

3. Each Member State shall take the necessary measures in order to achieve the objectives set out in paragraph 1 and 2 in relation to its national system. In addition, each Member State shall keep records of the staff duly authorised to enter or retrieve the data.
- 

↓ 2725/2000/EC (adapted)

⇒ new

↻ Council

~~Article 22~~

~~Committee~~

- ~~1. The Commission shall be assisted by a committee.~~

~~2. In the cases where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.~~

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

~~3. The committee shall adopt its rules of procedure.~~

## Article 22 ~~17~~

### *Liability*

1. Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act incompatible with the provisions laid down in this Regulation shall be entitled to receive compensation from the Member State responsible for the damage suffered. That State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.
2. If failure of a Member State to comply with its obligations under this Regulation causes damage to the ~~central database~~ ⇒ Central System ⇐, that Member State shall be held liable for such damage, unless and insofar as the ~~Commission~~ ⇔ Management Authority or another Member State ⇔ failed to take reasonable steps to prevent the damage from occurring or to minimise its impact.
3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the provisions of national law of the defendant Member State.

## Article 23 ~~18~~

### *Rights of the data subject*

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:

- (a) the identity of the controller and of his representative, if any;
- (b) regarding the purpose for which ~~the~~  his or her  data will be processed within ~~Eurodac~~ EURODAC  including a description of the aims of the Dublin Regulation,  in accordance with Article 4 of that Regulation .
- (c) the recipients of the data;
- (d) in relation to a person covered by Article 4 6 or Article 8 10, the obligation to have his/her fingerprints taken;
- (e) the right of access to, ~~and the right to rectify, the data concerning him/her~~  relating to  [...] him/her  , and the right to request that inaccurate data relating to ~~them~~ him/her be corrected   or that unlawfully processed data relating to him/her be  [...] erased  ,  as well as  [...] on the procedures for exercising those rights  [...] including  the contact details  of the  controller and  of the National Supervisory Authorities referred to in Article  24  .

In relation to a person covered by Article 4 6 or Article 8 10, the information referred to in the first subparagraph shall be provided when his/her fingerprints are taken.

In relation to a person covered by Article 11 13, the information referred to in the first subparagraph shall be provided no later than the time when the data relating to the person are transmitted to the Central ~~Unit~~  System  . This obligation shall not apply where the provision of such information proves impossible or would involve a disproportionate effort.

new

Council

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

2. In each Member State any data subject may, in accordance with the laws, regulations and procedures of that State, exercise the rights provided for in Article 12 of Directive 95/46/EC.

Without prejudice to the obligation to provide other information in accordance with point (a) of Article 12 of Directive 95/46/EC, the data subject shall have the right to obtain communication of the data relating to him/her recorded in the ~~central database~~ ⇒ Central System ⇐ and of the Member State which transmitted them to the Central Unit ⇒ System ⇐. Such access to data may be granted only by a Member State.

3. In each Member State, any person may request that data which are factually inaccurate be corrected or that data recorded unlawfully be erased. The correction and erasure shall be carried out without excessive delay by the Member State which transmitted the data, in accordance with its laws, regulations and procedures.
4. If the rights of correction and erasure are exercised in a Member State, other than that, or those, which transmitted the data, the authorities of that Member State shall contact the authorities of the Member State, or States, in question so that the latter may check the accuracy of the data and the lawfulness of their transmission and recording in the ~~central database~~ ⇒ Central System ⇐.

5. If it emerges that data recorded in the ~~central database~~ ⇒ Central System ⇐ are factually inaccurate or have been recorded unlawfully, the Member State which transmitted them shall correct or erase the data in accordance with Article ~~15(3)~~ 20(3). That Member State shall confirm in writing to the data subject without excessive delay that it has taken action to correct or erase data relating to him/her.

6. If the Member State which transmitted the data does not agree that data recorded in the ~~central database~~ ⇒ Central System ⇐ are factually inaccurate or have been recorded unlawfully, it shall explain in writing to the data subject without excessive delay why it is not prepared to correct or erase the data.

That Member State shall also provide the data subject with information explaining the steps which he/she can take if he/she does not accept the explanation provided. This shall include information on how to bring an action or, if appropriate, a complaint before the competent authorities or courts of that Member State and any financial or other assistance that is available in accordance with the laws, regulations and procedures of that Member State.

7. Any request under paragraphs 2 and 3 shall contain all the necessary particulars to identify the data subject, including fingerprints. Such data shall be used exclusively to permit the exercise of the rights referred to in paragraphs 2 and 3 and shall be destroyed immediately afterwards.

8. The competent authorities of the Member States shall cooperate actively to enforce promptly the rights laid down in paragraphs 3, 4 and 5.

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↓ new

→ Council

9. Whenever a person requests data relating to him or her in accordance with paragraph ~~2~~ [...], ~~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 referred to in Article ~~24(1)~~ [...], ~~24(1)~~ without delay, upon their request.

- ~~9.~~ 10. In each Member State, the national supervisory authority shall ~~be~~ **on the basis of his/her request,** ~~shall~~ assist the data subject in accordance with Article 28(4) of Directive 95/46/EC in exercising his/her rights.
- ~~10.~~ 11. The national supervisory authority of the Member State which transmitted the data and the national supervisory authority of the Member State in which the data subject is present shall assist and, where requested, advise him/her in exercising his/her right to correct or erase data. Both national supervisory authorities shall cooperate to this end. Requests for such assistance may be made to the national supervisory authority of the Member State in which the data subject is present, which shall transmit the requests to the authority of the Member State which transmitted the data. ~~The data subject may also apply for assistance and advice to the joint supervisory authority set up by Article 20.~~
- ~~11.~~ 12. In each Member State any person may, in accordance with the laws, regulations and procedures of that State, bring an action or, if appropriate, a complaint before the competent authorities or courts of the State if he/she is refused the right of access provided for in paragraph 2.
- ~~12.~~ 13. Any person may, in accordance with the laws, regulations and procedures of the Member State which transmitted the data, bring an action or, if appropriate, a complaint before the competent authorities or courts of that State concerning the data relating to him/her recorded in the ~~central database~~ **⇒ Central System ⇐**, in order to exercise his/her rights under paragraph 3. The obligation of the national supervisory authorities to assist and, where requested, advise the data subject, in accordance with paragraph ~~10~~ 11 , shall subsist throughout the proceedings.



Article 24 ~~19~~

~~⊗~~ Supervision by the ~~⊗~~ National ~~S~~upervisory ~~A~~uthority

1. Each Member State shall provide that the national supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor independently, in accordance with its respective national law, the lawfulness of the processing, in accordance with this Regulation, of personal data by the Member State in question, including their transmission to the Central ~~Unit~~ ⇨ System ⇐.
2. Each Member State shall ensure that its national supervisory authority has access to advice from persons with sufficient knowledge of fingerprint data.

---

↓ new

Article 25

*Supervision by the European Data Protection Supervisor<sup>1</sup>*

1. The European Data Protection Supervisor shall check that the personal data processing activities of the Management Authority are carried out in accordance with this Regulation. The duties and powers referred to in Articles 46 and 47 of Regulation (EC) No 45/2001 shall apply accordingly.
2. The European Data Protection Supervisor shall ensure that an audit of the Management Authority'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 Management Authority, the Commission and the National Supervisory Authorities. The Management Authority shall be given an opportunity to make comments before the report is adopted.

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<sup>1</sup> **FR, UK:** scrutiny reservations on the Article.

## Article 26

### *Cooperation between National Supervisory Authorities and the European Data Protection Supervisor<sup>1</sup>*

1. The National Supervisory Authorities and the European Data Protection Supervisor, each acting within the scope of its respective competences, shall cooperate actively in the framework of their responsibilities and shall ensure coordinated supervision of EURODAC.
2. They shall, each acting within the scope of its respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties of interpretation or application of this Regulation, study problems with the exercise of independent supervision or in the exercise of the rights of data subjects, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.
3. The National Supervisory Authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs and servicing of these meetings shall be for the account of the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary. A joint report of activities shall be sent to the European Parliament, the Council, the Commission and the Management Authority every two years.

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<sup>1</sup> **FR, UK:** scrutiny reservations on the Article.

## CHAPTER VII

### FINAL PROVISIONS

#### *Article ~~27~~ 24*

##### *Costs*

1. The costs incurred in connection with the establishment and operation of the ~~Central Unit~~ ⇒ Central System and the Communication Infrastructure ⇐ shall be borne by the general budget of the European Union.
2. The costs incurred by national units and the costs for their connection to the ~~central database~~ ⇒ Central System ⇐ shall be borne by each Member State.
- ~~3. The costs of transmission of data from the Member State of origin and of the findings of the comparison to that State shall be borne by the State in question.~~

#### *Article ~~28~~ 24*

##### *Annual report: ~~m~~ Monitoring and evaluation*

1. The ~~Commission~~ ⇒ Management Authority ⇐ shall submit to the European Parliament and the Council an annual report on the activities of the Central ~~Unit~~ ⇒ System ⇐. The annual report shall include information on the management and performance of ~~Eurodac~~ EURODAC against pre-defined quantitative indicators for the objectives referred to in paragraph 2.

2. The Commission ⇒ Management Authority ⇐ shall ensure that ☒ procedures ⇐ systems are in place to monitor the functioning of the Central Unit ⇒ System ⇐ against objectives ☒ relating to ⇐ in terms of outputs, cost-effectiveness and quality of service.

3. ~~The Commission shall regularly evaluate the operation of the Central Unit in order to establish whether its objectives have been attained cost-effectively and with a view to providing guidelines for improving the efficiency of future operations.~~

4. ~~One year after Eurodac starts operations, the Commission shall produce an evaluation report on the Central Unit, focusing on the level of demand compared with expectation and on operational and management issues in the light of experience, with a view to identifying possible short-term improvements to operational practice.~~

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↓ new

3. For the purposes of technical maintenance, reporting and statistics, the Management Authority shall have access to the necessary information relating to the processing operations performed in the Central System.

4. Every two years, the Management Authority shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the Central System, including the security thereof.

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↓ 2725/2000/EC

⇒ new

5. Three years after Eurodac starts operations ⇒ the start of application of this Regulation as provided for in Article 33(2) ⇐ and every six ⇒ four ⇐ years thereafter, the Commission shall produce an overall evaluation of Eurodac/EURODAC, examining results achieved against objectives and assessing the continuing validity of the underlying rationale, ⇒ the application of this Regulation in respect of the Central System, the security of the Central System, ⇐ and any implications for future operations. ⇒ The Commission shall transmit the evaluation to the European Parliament and the Council. ⇐

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↓ new

6. Member States shall provide the Management Authority and the Commission with the information necessary to draft the reports referred to in paragraph 4 and 5.
7. The Management Authority shall provide the Commission with the information necessary to produce the overall evaluations referred to in paragraph 5.
- ➔ 8. Until the Management Authority provided for in Article 4 is established, the Commission will only produce reports in accordance with paragraph 1 and 5. ↻

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↓ 2725/2000/EC (adapted)

⇒ new

*Article ~~29~~ 25*

*Penalties<sup>1</sup>*

Member States shall ☒ take the necessary measures to ☒ ensure that ☒ any ☒ use of data recorded ☒ entered ☒ in the ~~central database~~ ⇒ Central System ☒ contrary to the purpose of ~~Eurodac~~ EURODAC as laid down in Article 1(1) ~~shall be subject to appropriate penalties~~ ☒ is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive ☒.

*Article ~~30~~ 26*

*Territorial scope*

The provisions of this Regulation shall not be applicable to any territory to which the Dublin ~~Convention~~ ☒ Regulation ☒ does not apply.

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<sup>1</sup> **LV:** replace wording of the Article with the following: "Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive."

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↓ new

→ Council

*Article 31*

*Transitional provision*

Data blocked in the Central System in accordance with Article 12 of Council Regulation (EC) No 2725/2000/EC shall be unblocked and marked in accordance with Article 14(1) of this Regulation on the date provided for in Article 33(2).

~~→ 2. Data stored in accordance with Article 10(1) of Council Regulation (EC) N° 2725/2000/EC on the date provided for in Article 33(2) for more than one year shall be automatically erased from the central database. <sup>1</sup>~~

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↓

→ Council

*Article 32*

*Repeal*

Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention and Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention are repealed with effect from the date provided for in Article 33(2).

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<sup>1</sup> ES, HU: scrutiny reservations on the deleted paragraph in relation to Article 12 (retention of data for two years).

References to the repealed Regulations shall be read in accordance with the correlation table in Annex II ~~II~~ ~~I~~ ~~C~~.

↓ 2725/2000/EC Article 27 (adapted)

⇒ new

*Article 33 ~~27~~*

*Entry into force and applicability*

1. This Regulation shall enter into force on the ~~the~~ twentieth ~~the~~ day ~~the~~ following that ~~the~~ of its publication in the Official Journal of the European ~~Communities~~ ~~the~~ Union ~~the~~.
2. This Regulation shall apply, ~~and Eurodac shall start operations,~~ from the date which the Commission shall publish in the Official Journal of the European ~~Communities~~ ~~the~~ Union ~~the~~, when the following conditions are met:
  - (a) each Member State has notified the Commission that it has made the necessary technical arrangements to transmit data to the Central ~~Unit~~ ~~the~~ ~~System~~ ~~in~~ accordance with ~~the~~ this Regulation ~~the~~ ~~the implementing rules adopted under Article 4(7) and to comply with the implementing rules adopted under Article 12(5);~~ and
  - (b) the Commission has made the necessary technical arrangements for the Central ~~Unit~~ ~~the~~ ~~System~~ ~~to~~ begin operations in accordance with ~~the~~ this Regulation ~~the~~ ~~the implementing rules adopted under Article 4(7) and Article 12(5).~~

↓ new

3. Member States shall notify the Commission as soon as the arrangements referred to in paragraph 2(a) have been made, and in any event no later than 12 months from the date of the entry into force of this Regulation.



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↓ 2725/2000/EC

4. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, [...]

*For the European Parliament*

*The President*

[...]

*For the Council*

*The President*

[...]

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↓ 407/2002/EC

⇒ new

### **Annex I**

#### **Data format for the exchange of fingerprint data**

The following format is prescribed for the exchange of fingerprint data:

~~ANSI/NIST-CSL 1-1993~~ ⇒ ANSI/NIST-ITL 1a-1997, Ver.3, June 2001 (INT-1) ⇐ and any future further developments of this standard.

#### **Norm for Member State identification letters**

The following ISO norm will apply: ISO 3166 - 2 letters code.

**Annex II**

## Eurodac - Fingerprint form

1.	Reference number	
2.	Place of the application for asylum or place where the alien was apprehended	
3.	Date of the application for asylum or date on which the alien was apprehended	
4.	Sex	
5.	Date on which the fingerprints were taken	
6.	Date on which the data were transmitted to the Central Unit	

105 mm from top of form  
155 mm from top of form  
205 mm from top of form

### ROLLED IMPRESSIONS

1. Right thumb	2. Right forefinger	3. Right middle finger	4. Right ring finger	5. Right little finger
50 mm	40 mm	40 mm	40 mm	40 mm
6. Left thumb	7. Left forefinger	8. Left middle finger	9. Left ring finger	10. Left little finger
40 mm				

### PLAIN IMPRESSIONS

LEFT HAND Four fingers taken simultaneously	TWO THUMBS Impressions taken simultaneously	RIGHT HAND Four fingers taken simultaneously
	LEFT      RIGHT	
75 mm	30 mm      30 mm	75 mm
65 mm	55 mm	



**ANNEX II**  
**Repealed Regulations**  
**(referred to in Article 32)**

Council Regulation (EC) No 2725/2000/EC (OJ L 316, 15.12.2000, p. 1.)

Council Regulation (EC) No 407/2002/EC (OJ L 062, 05.03.2002 p. 1.)

**ANNEX III**  
**Correlation table**

<b>Regulation 2725/2000/EC</b>	<b>This Regulation</b>
Article 1(1)	Article 1(1)
Article 1(2), first subparagraph	Article 3(1)
Article 1(2), second subparagraph	Article 3(4)
Article 1(3)	Article 1(2)
Article 3(1)	Article 3(3)
Article 2	Article 2
Article 3(2)	Article 3(3)
Article 3(3)	Article 5
Article 3(4)	-
Article 4(1)	Article 6(1)
Article 4(2)	deleted
Article 4(3)	Article 6(3)
Article 4(4)	Article 6(4)
Article 4(5)	Article 6(5)
Article 4(6)	Article 17(4)
Article 5	Article 7
Article 6	Article 8
Article 7	Article 9
Article 8	Article 10
Article 9	Article 11
Article 10	Article 12
Article 11(1)-(4)	Article 13(1)-(4)

Article 11(5)	-
Article 12	- Article 14
Article 13	Article 15
Article 14	- Article 19
Article 15	Article 20
Article 16	Article 21
Article 17	Article 22
Article 18	Article 23
Article 19	Article 24
Article 20	Article 25
Article 21	Article 27
Article 22	-
Article 24	Article 27
Article 23	-
Article 24	Article 28
Article 25	Article 29
Article 26	Article 30
Article 27	Article 33
-	Annex II

<b>Regulation 407/2002/EC</b>	<b>This Regulation</b>
Article 2	Article 16
Article 3	Article 17
Article 4	Article 18
Article 5(1)	Article 3(2)
Annex I	Annex I
Annex II	-