

***REGULATION (EU) 2024/1358 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL OF 14 MAY 2024
ON THE ESTABLISHMENT OF 'EURODAC***

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States.Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of 'Eurodac)

PUBLIC CONCERNED:

- **Member States**
- **Stateless persons staying irregularly**
- **Persons registered/admission procedures**
- **Beneficiaries of temporary protection**
- **Asylum seekers**
- **Individual disembarked**

MAIN GOALS OF THE INSTRUMENT

First, it aims to support the reformed Common European Asylum System by providing a central biometric database that helps identify applicants for international protection and allocate responsibility between Member States for examining their claims.

Second, the regulation extends the purpose and scope of Eurodac beyond asylum in order to better detect irregular migration and so-called secondary movements within the Union.

Third, the regulation strengthens the security dimension of Eurodac by expanding its access for law enforcement authorities and Europol, and by integrating Eurodac into the EU interoperability framework.

CHALLENGES & CRITICISM :

- "Crimmigration" by combination of criminal law and immigration law.
- Legitimation surveillance as evidence-based.
- Hierarchization and discrimination.
- Quantification and dehumanization - migrants as data points.
- Questions of compatibility with EU Human Rights Charter.
- Lack of migrants consent on data collection (against General Data Protection Regulation article 5(a)).



LEGAL ENVIRONMENT

PRIMARY LAW:

- Treaty on the Functioning of the European Union (TFEU - Articles 78(2)(c), (d), (e) and (g) ; 79 (2)(c); 87 (2) (a) ; 88(2)(a)
- Treaty on European Union (TEU - Article 5)



OTHER RELATED LEGAL INSTRUMENTS:

- Regulation 603/2013 of the European Parliament and of the Council
- Regulation 2024/1351 of the European Parliament and of the Council
- Regulation 2018/1240 of the European Parliament and of the Council
- Regulation 2019/818 of the European Parliament and of the Council
- Regulation 2024/1350 of the European Parliament and of the Council
- Council Directive 2001/55/EC



TERMINOLOGICAL APPROACH

“Crimmigration”

Refers to what happens when immigration control and the criminal justice system merge into one, through the progressive criminalization of immigration offenses and the application of criminal suspicion toward migrants (European Center for Populism Studies).

Interoperability

The ability of different EU large-scale information systems to exchange and share data (European Union Agency for Asylum).

Secondary movement

The movement of migration, including refugees and asylum seekers, who for different reasons move from the country in which they first arrived to seek protection or permanent resettlement elsewhere (European Parliament).

Large scale IT systems

The EU scaled databases and its Member States' own databases such as, Eurodac, Visa Information System, Schengen Information system, and ETIAS, ECRIS-TCN (eu-LISA) (European Data Protection Supervisor).

Law enforcement

the activity of compelling observance of or compliance with the law (Oxford Languages). The different instruments and their usage for law enforcement are provided in the law. Law enforcement here concerns migration control, the procedures and the tools used for it.

FROM ASYLUM TRACKING TO COMPREHENSIVE MIGRATION MANAGEMENT

THE BROADENING OF THE SCOPE OF EURODAC

PRIMARY FUNCTIONS THAT WE WILL SEE BACK :

- Tracking asylum seekers , supporting the Dublin System, Preventing Secondary Movements

Return procedure :

By assisting authorities in the identification of illegally staying third-country nationals for the purpose of return and readmission.



Child protection :

By identifying unaccompanied minors and preventing trafficking.

Security checks :

By flagging potential threats and improving law-enforcement access.

Resettlement program :

By tracking persons admitted through relocation procedures.



Statistical reporting :

- By generating data for EU migration policy planning in order to answer questions on
 - - how many people arrive each year.
 - - which routes are most used.
 - - how many secondary movements occur.
 - - success rates of resettlement programs (*article 12*).

FROM ASYLUM TRACKING TO COMPREHENSIVE MIGRATION MANAGEMENT

CATEGORIES OF PEOPLE REGISTERED

Eurodac was primarily focused on :

- **Asylum seekers** : All asylum applicants aged 14 or above must have their fingerprints taken and transmitted to Eurodac within 72 hours.
- **Irregular border-crossers** : Persons intercepted while illegally crossing an EU external border.

Several new categories are added :

- Persons registered for admission procedures.
- Upcoming beneficiaries of temporary protection (Ukrainians are exempted).
- People registered for resettlement or humanitarian admissions procedures.
- Individual disembarked after search and rescue operations.
- Illegally staying third-country nationals.



FROM ASYLUM TRACKING TO COMPREHENSIVE MIGRATION MANAGEMENT

EXPANSION OF EURODAC DATA RULES



Lower age threshold :

Before 2026 : Biometric data were only collected from individuals at least 14 years of age.

For 2026 : The age threshold is lowered to 6 years of age for all categories. The process must be child-friendly, conducted by trained officials, and prioritize the best interests of the child (*article 14*).



Retention period changes :

Retention times have been extended for certain categories to better align with migration managements goals (*article 29*).

- **Asylum Applicants** : the period remains 10 years in both regulation.
- **Irregular Border Crossing** : the storage period increases from 18 months under the old rules, to 5 years under the new regulation.
- **SAR (Search and Rescue), Resettlement, and illegally stay** : These new or updated categories generally have a 5 year retention period. (Persons refused resettlement or whose procedure was discontinued : 3 years).
- **Temporary protection** : Data is stored for 1 year, renewable annually for the duration of the protection.

ENHANCED IDENTIFICATION, INTEROPERABILITY, AND SECURITY

Expanded biometric data

From a single-identifier database to a multi-biometric infrastructure. Obligation for EU MS to take biometric data (*Article 13*):

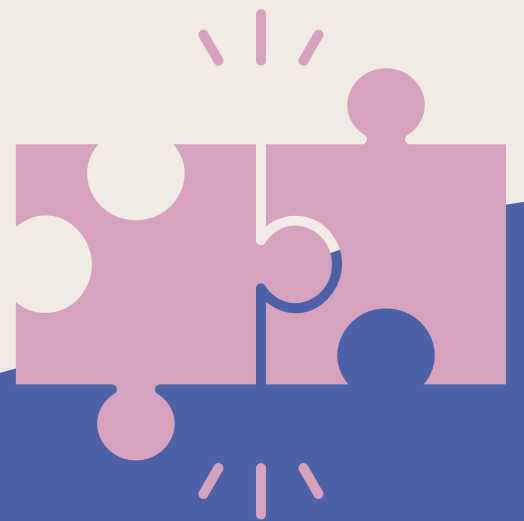
- Facial images.
- Scanned color copy of an identity or travel document.
- Personal data.



Interoperability with EU databases

Eurodac as core component of EU's integrated IT architecture (*Article 3*).

- Connected to the Common identity Repository (CIR) and the European Search Portal (ESP).
- Supports the objectives of other systems like ETIAS (*Article 8*) and Visa Information System (VIS) (*Article 11*).



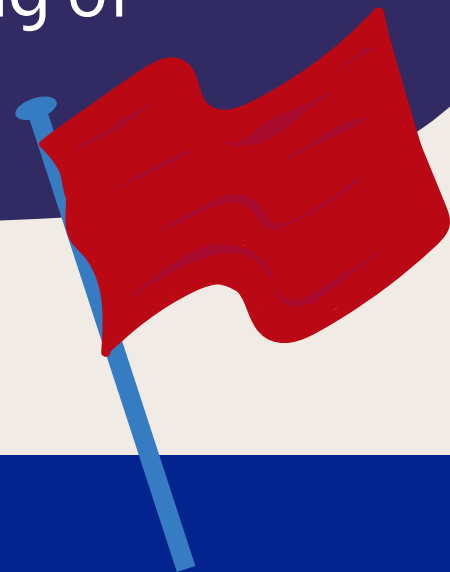
ENHANCED IDENTIFICATION, INTEROPERABILITY, AND SECURITY

Security access

Extended access (*Articles 5 to 10*).

- Simplified and broader access for law enforcement and Europol, national asylum authorities, and intelligence services.

“Security flag” : proactive signaling of potential threats.

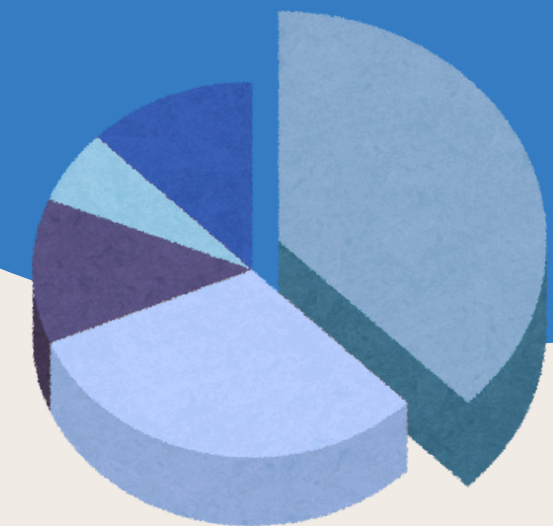


Statistics

Made and published by eu-LISA every month (*Article 12*).

- Cross-system statistics
- Anonymity.
- Cannot be used alone to deny access.

Made to produce evidence-based policy.



FROM PROTECTION TO “CRIMMIGRATION” – THE SECURITIZATION OF MIGRATION

Evidence based surveillance and criminalization

- Article 32 and 43 entrench a growing conflation between the administrative management of migration and the penal logic.
- Administrative data can be used for criminal procedures, which creates a presumption of dangerousness of migrants.

Categorization and hierarchization based on risk assessment

- Categorization and hierarchization generate forms of indirect discriminations, conflicting with Article 21 of the Charter of Fundamental Rights of the EU.
- Migrant’s administrative trajectories are a form of continuous control.



FROM PROTECTION TO “CRIMMIGRATION” – THE SECURITIZATION OF MIGRATION

“Datafication” of migration management

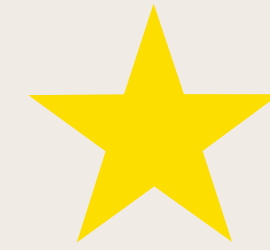
- Data collection and statistic making makes of complex human situations figures used for risk assessment and control.
- Principle of interoperability and expanded access to Eurodac conflicts with Article 7 and 8 of the Charter of Fundamental Rights: right to private and family life and protection of personal data.

Data and human rights protection concerns

- Article 1(2) provides little to no procedural safeguards to an abusive use of data.
- Lowering of data collection to 6 year-old children. Provides for child-sensitive procedures, but mentions for a vague “proportionate coercion” . Allows for long-term surveillance of children.



NEXT STEPS

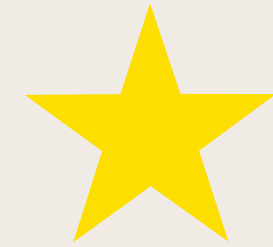


Migrants as subjects of suspicion and data.
Efficiency, traceability, and security over protection.
Normalization of the use of technology in migration policies.



The regulation **will enter into force on June 12th 2026.**

TO GO FURTHER



SOURCES IN ENGLISH

Amoore, L. (2006) "Biometric borders: Governing mobilities in the war on terror", *Political Geography* 25(3), 336–351.

Bredström, A., Krifors, K., & Mešić, N. (2022). "Border Reconfiguration, Migration Governance, and Fundamental Rights: A Scoping Review of EURODAC as a Research Object". *Social Inclusion*, 10(3).

Vavoula, N. (2021). "Eurodac: Biometrics, facial recognition, and the fundamental rights of minors", *European Law Blog*.

PICUM. (2020). Interoperability systems and access to data [Infographic]. Platform for International Cooperation on Undocumented Migrants.

TO GO FURTHER



SOURCES IN FRENCH

Chronique Droit de l'asile et de l'immigration - Pacte sur la migration et l'asile : l'ambition d'un nouvel ordre européen des migrations. (2024). *Revue trimestrielle de droit européen*.

Euractiv. (2024, October 22). Immigration : Les nouvelles règles de l'UE sur les données biométriques affaiblissent la protection des mineurs.

LDH & société civile – La société civile demande qu'il soit mis fin à l'expansion de la base de données EURODAC.

Roussel, S. (2015). La mise en œuvre locale des politiques migratoires: entre normes et pratiques. *Revue Européenne des Migrations Internationales*, 31(1), 45-67.