



Eurodac SCG

Activity Report 2014-2015

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1. Introduction and background

Eurodac is an information system established for the comparison of fingerprints of asylum applicants and irregular migrants. It facilitates the application of the Dublin Regulation¹, which aims at determining the Member State responsible for examining an application for asylum.

Eurodac was originally created by Council Regulation (EC) No 2725/2000 of 11 December 2003² ('the Eurodac Regulation'), as completed by Council Regulation (EC) No 407/2002 of 28 February 2002³. In the interest of clarity, those two texts were recast in Regulation (EU) No 603/2013 of 26 June 2013⁴ ('the Eurodac Recast'), which became applicable on 20 July 2015. The system has been operational since 15 January 2003 and is currently used by the 28 EU Member States as well as Iceland, Liechtenstein, Norway and Switzerland.⁵

As established in the Eurodac Regulation and the Recast, data protection supervision of the Eurodac system is carried out at national level by the national Data Protection Authorities (hereinafter 'DPAs'), while for the central (EU) level, the European Data Protection Supervisor ('EDPS') is competent. The coordination between the two levels is ensured by the Eurodac Supervision Coordination Group (hereinafter 'the Eurodac SCG' or 'the Group') composed of representatives of the DPAs and the EDPS.

The need for thorough data protection supervision of Eurodac is evident when considering the category of persons affected by the Eurodac system: asylum seekers and (to a lesser extent) irregular migrants. This need is also reinforced by the evolution of policies in the area of freedom, security and justice in recent years. Asylum policies need to be better coordinated, and, as a result, so does the protection of the rights and freedoms of asylum seekers.

Data protection is also a key factor for the success of the operation of Eurodac, and consequently for the proper functioning of the Dublin system. Elements such as data security, quality of data and lawfulness of consultation of Eurodac data all contribute to the smooth functioning of the system.

¹ 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, OJ L 316, 15.12.2000, p. 1 -12.

² 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, hereinafter "Eurodac Regulation", OJ L 316, 15/12/2000, p. 1 - 10.

³ 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, OJ L 62, 5/3/2002, p. 1 - 5.

⁴ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ L 180, 29.6.2013, p. 1 - 30.

⁵ When Eurodac was established, it was used in the then EU-15 Member States (except Denmark), as well as in Norway and Iceland. Since then, the system has been joined by the ten new Member States following the 2004 enlargement, by Denmark (2006), Bulgaria and Romania following the 2007 enlargement, as well as Switzerland (2008). Finally, a protocol between the European Union, Switzerland and Liechtenstein, allowing the latter to join the system, entered into force on 1 April 2011.

Every two years the Eurodac SCG elects a Chair and a Vice-Chair among the members of the Group in accordance with the Group's Rules of Procedure. The Group continued to be chaired by Mr Peter Hustinx (the EDPS), with Ms Elisabeth Jilderyd (from the Swedish DPA) as Vice-Chair until March 2015, when Ms Jilderyd was elected as Chair of the Group and Mr Andres Ojaver (from the Estonian DPA) became Vice-Chair. Meanwhile, the Secretariat of the Group is provided by the EDPS.

In accordance with Article 32 of the Eurodac Recast, the Eurodac SCG is also to draw up a report of activities every two years that shall be sent to the European Parliament, the Council, the Commission and the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice ('eu-LISA'). The present document reports on the activities of this Group for the period from 2014 to 2015.

Section 2 of this report presents the main principles of the coordinated supervision for Eurodac and summarises the four meetings that took place during the reporting period.

Section 3 describes in more details the preparation for the entry into force of the Eurodac Recast.

Section 4 concludes the report by giving a brief general overview of activities to come in the next reporting period to the extent they can already be anticipated.

2. Organisation of coordinated supervision

2.1. Main principles

As in previous years, the cooperation took the form of meetings held on a regular basis with all DPAs in charge of supervising Eurodac at national level and the EDPS, acting together as the Eurodac SCG. The main purpose of these meetings is to discuss common problems related to supervision and find common solutions or approaches whenever possible. In practice, these meetings take place at least twice a year in accordance with Article 32(4) of the Eurodac Recast. The Commission and eu-LISA are also invited to parts of the meetings in order to update the Group on new developments regarding Eurodac.

2.2. The supervision coordination meetings

In the period 2014-2015, four supervision coordination meetings have taken place in Brussels on the following dates:

- 7 May 2014;
- 29 October 2014;
- 26 March 2015;
- 8 October 2015.

The first three meetings were held at the EDPS premises, while the last one took place at the European Parliament. As usual, they were organised back-to-back with the VIS and SIS II SCG meetings in order to reduce the financial, travel and administrative burdens and to ensure consistent, horizontal supervision policies of those large-scale IT systems where possible.

Typically, the first part of the meeting is devoted to a presentation by the European Commission and eu-LISA on recent developments regarding Eurodac that impact data protection. This helps to ensure that the Group is always kept up-to-date in order to ensure effective supervision. The second part is devoted to discussions between DPAs on issues that are in need of checking at national level or on new developments of interest for Eurodac supervisors.

The following paragraphs quickly recapitulate the topics discussed and actions taken at the four meetings.

Meeting of 7 May 2014

The Group discussed the follow-up to a questionnaire sent by the European Commission to Member States back in 2013 with the aim to check the application of the Eurodac Regulation applicable at the time. The Group also started the preparation for the future changes brought to the Eurodac system by the Eurodac Recast, on the one hand by analysing the prospect of a visit to eu-LISA's premises in Strasbourg and on the other hand by drafting a questionnaire with specific items to be analysed at national level in 2015 (e.g. law enforcement access, data subjects' rights, marking of data). The Commission and eu-LISA representatives provided the Eurodac SCG with the usual update on recent developments. In addition, eu-LISA announced that the work for adapting Eurodac to the new rules would start in July 2014.

Meeting of 29 October 2014

The Fundamental Rights Agency invited to the meeting gave a presentation on a research project with regard to the fundamental rights implications of biometrics in large-scale IT systems. The Commission and eu-LISA representatives provided the Group with the usual update on recent developments. The Group discussed how Member States that were identified in the 2013 Commission Eurodac Annual Report had ensured follow-up to certain issues such as advance deletion of data or blocking. A Subgroup composed of several DPAs' representatives and the EDPS was created to prepare the visit to eu-LISA's Strasbourg premises. Then, the Group adopted the questionnaire aimed at checking how the new Eurodac rules would be implemented at national level. Finally, the DPAs' representatives updated their colleagues with information about their national inspections or other relevant developments.

Meeting of 26 March 2015

The Group elected the representative of the Swedish DPA, Ms Elisabeth Jilderyd, as its new Chair and the representative of the Estonian DPA, Mr Andres Ojaver, as its new Vice-Chair for the following two years. The Eurodac SCG also adopted its next Work Programme for the period from 2015 to 2018. Eu-LISA informed the Group of the state of play of the Eurodac architecture. Furthermore, the Group continued to prepare the stage for the new Eurodac rules. The Secretariat presented the first findings of a questionnaire to check how the national Eurodac authorities are preparing for the implementation of the Eurodac Recast based on the Members' answers. Finally, the Group shared relevant national experiences, including on inspections.

Meeting of 8 October 2015

Eu-LISA updated the Group of the current status of operation of the Eurodac system following the entry into force of the Eurodac Recast in July 2015. The Subgroup in charge of the visit to eu-LISA informed the Group of the outcome of that visit to eu-LISA's Strasbourg premises, which took place in September 2015. Furthermore, the Group continued to prepare the stage for the new Eurodac rules. The Secretariat presented the first draft report based on the Members' answers to a questionnaire to check how the national Eurodac authorities are preparing for the implementation of the Eurodac Recast. In addition, the Members of the Group reported on the national transition to the new Eurodac rules. The Group also discussed the general migration situation in Europe and its impact on the Eurodac system. Finally, the Members of the Group updated their colleagues on information about their national inspections or other relevant developments.

3. 2014-2015: Preparation for the implementation of the Eurodac Recast

The Eurodac Recast became applicable on 20 July 2015. There are several new topics that have become prominent under the new Eurodac rules, but the most relevant change in terms of data protection implications is the access of law enforcement authorities (including Europol) to Eurodac data.

In order to prepare the stage for the new Eurodac rules, the Eurodac SCG decided to carry out a twofold exercise.

First, Members of the Group replied to a questionnaire with the aim to check how the national Eurodac authorities are preparing to implement the Eurodac Recast but also to investigate possible law enforcement access issues, the exercise of data subjects' rights and the marking of data. The Secretariat collected and collated the replies received to this questionnaire. The preliminary findings showed no major problems at national level. It notably appeared from the replies that Member States had taken several steps to ensure the implementation of the Recast in time for its entry into force, such as the organisation of training sessions for the Eurodac staff with regard to the new functionalities of the system. The final report will focus on the preparation for the implementation of the text and the deployment of the new Eurodac system.

Second, a learning visit to eu-LISA's premises took place on 22 September 2015 in Strasbourg. This visit was a horizontal exercise involving the Eurodac, SIS II and VIS SCGs. The IT Experts Subgroup composed of representatives from the Italian DPA, the Portuguese DPA and the EDPS attended this visit along with the Chair of the Eurodac SCG, who focused more specifically on the measures taken to prepare to implement the Eurodac Recast. As a result, they found out that eu-LISA had not built a whole new Eurodac system from scratch but further developed the old one. Each Member State also had to take specific measures to connect to that new system. The Subgroup notably learned more about the security measures in place and the regular training and education of the staff. The Subgroup concluded that they could not find out major incidents or flaws of the system.

This exercise was close to finalisation at the end of the reporting period. Therefore, the final report should be adopted by written procedure in the beginning of 2016.

4. Members' Reports

4.1. Austria

- Overview: state of play and developments
- Inspections

The Austrian DPA has not carried out inspections in 2015.

- Complaints

The Austrian DPA has not received any complaints regarding Eurodac.

- Remarks

4.2. Belgium

- Overview: state of play and developments

In 2014 it was revealed that the Belgian Eurodac system had a backlog regarding the “blocking” and “deletion” of data. The Belgian DPA entered into a dialogue with the competent service of the Federal Public Service Foreign Affairs in order to address this backlog.

The Eurodac Recast requires (Article 32(2)) that DPAs should yearly conduct an audit of the national Eurodac system and more particularly regarding the aspect “*law enforcement access*”. End of 2015, the first preliminary contacts thereto have been made with the competent service of the Federal Public Service Foreign Affairs. This showed that the police and other services that fall under the heading “law enforcement access” will only have access to the Eurodac in the autumn of 2016. The Belgian DPA is following this case.

- Inspections
- Complaints

Statistics are kept of all complaints but the Belgian DPA has not received any complaints relating to Eurodac so far.

- Remarks

4.3. Bulgaria

- Overview: state of play and developments

The establishment of a national Eurodac system and a Dublin desk in the Republic of Bulgaria started in 2006 and the central offices have been in operation since the beginning of 2007. The Bulgarian authorities, fully performing their commitments, have provided an opportunity to exchange information between them through the network S-TECTA. The National Automated Fingerprint System (AFIS) was updated and connected to the central database of Eurodac. Currently, there are 41 remote workstations within the national database in all national authorities and units associated with the system. Reflecting the increased migration pressure in recent years, 12 new stations were installed from May 2014 to the end of 2015. The Eurodac system database includes 87 570 fingerprints, accordingly in category 1 – 40817; category 2 – 26067; category 3 – 20686; 4253 matches (data for persons sought asylum in other EU countries). Data of 5578 persons under international protection is marked, while data of 2698 persons who left or were brought out of the country is deleted in advance.

The protection of personal data is regulated by the national Law on Personal Data Protection and Ordinance № 1 dated 30 January 2013 on the minimum level of technical and organizational measures and the admissible type of personal data protection of the Commission for Personal data protection. An information security and data protection plan has been elaborated in compliance with the Eurodac Recast. A legal framework review regarding the national rules for competences of all authorities applying the Regulation has been carried out in 2014 and 2015. Based on the findings, the Ordinance on the responsibility and coordination of state authorities and their actions under the Dublin Regulation and Eurodac Regulation has been updated.

- Inspections

The national Eurodac system was inspected by the Bulgarian DPA in 2013. At the beginning of this year, a decision for a regular inspection to be carried out by the end of 2016 has been taken.

- Complaints

In 2015, no complaints on personal data processing in the Eurodac system have been received.

- Remarks

4.4. Croatia

- Overview: state of play and developments

The establishments of the national Eurodac system in the Republic of Croatia started in 2012 and the National Access Point has been in operation since 1 July 2013. All “hit” results received for Eurodac have been verified by the Forensic Science Centre Ivan Vucetic. The National Access Point is established within the Ministry of Interior, in the Department for Asylum. Croatia has two live scan workstations to take fingerprints, which are placed at the Reception Centre for foreigners (a detention centre) and the Reception Centre for Asylum Seekers (an open centre).

As at the moment there are only two live scan units, so during the period when Western Balkan routs were active, there were issues regarding entering fingerprints of Category 2 (third-country nationals or stateless persons apprehended in connection with irregular crossing of an external border).

Transitional instrument – equipment procurement for Eurodac - Phase II is undergoing for 30 live scans, which would be placed across Croatia.

All transmissions to the Eurodac Central Unit are done through the Department for Asylum. The law enforcement authorities are not authorised to request comparisons with Eurodac since they do not have access to the VIS and Prüm databases.

- Inspections

There were no inspections during the reporting period.

- Complaints

In the reporting period there were no complaints on the processing of personal data in Eurodac.

- Remarks

4.5. Cyprus

- Overview: state of play and developments

The Refugees Laws of 2000-2016 have been amended to include *inter alia* a reference to the Eurodac Recast. The amendments entered into force on 4 October 2016.

- Inspections

No inspection has been carried out.

- Complaints

No complaints have been submitted to the DPA insofar.

- Remarks

On 12 April 2016, Cyprus started to fully implement the Eurodac Recast after the installation of a backup Eurodac system given to Cyprus following a special arrangement with eu-LISA. We have been informed by the Asylum Unit and the Police that the national Eurodac system has now been installed and is expected to be fully operational at the beginning of December 2016.

4.6. Czech Republic

- Overview: state of play and developments

The implementation of the Eurodac Recast by national authorities is proceeding without any major problems. There are two main authorities in the role of the controller – the Criminality’s Institute Prague (professional institution within Czech Police scope) and the Directorate of Alien Police. Both have established special working groups and adopted measures in order to meet the requirements of the Eurodac Recast such as, for example, the adoption of technological documentation to ensure that data are marked instead of blocked in accordance with Article 18 of the Eurodac Recast.

- Inspections

An audit of the processing of personal data according to Article 32 (2) of the Eurodac Recast is planned for the last quarter of 2016. The latest inspection of the Eurodac system was done in June/July 2012.

- Complaints

Regarding potential requests for information or complaints filed by the data subjects, it is the Department for Asylum and Migration Policy of the Ministry of Interior of the Czech Republic that deals with them. The Czech DPA has not received so far neither the records according to Article 29(11) of the Eurodac Recast, nor any complaints according to Article 28(4) of Directive 95/46/EC or Article 29(12) of the Eurodac Recast.

- Remarks

4.7. Denmark

- Overview: state of play and developments
- Inspections

The Danish DPA has not carried out any inspection during the reporting period.

- Complaints

The Danish DPA has received two complaints regarding registration in the Eurodac. The complaints concerned two foreigners who were registered in the Eurodac by the Danish authorities for seeking asylum in Denmark. It has not been possible for the Danish authorities to get in touch with the two foreigners, who departed Denmark shortly after filing the complaints. Therefore, the Danish DPA closed the case without any remarks or cancelation in the Eurodac.

- Remarks

4.8. EDPS

- Overview: state of play and developments

As the EDPS is the supervisory authority for eu-LISA, which has the role of management authority of Eurodac, the EDPS has been in contact with eu-LISA on a number of occasions, both on working and management levels.

The technical migration to the Eurodac Recast went without problems for eu-LISA according to the information provided.

Interactions with eu-LISA have increased since the establishment of the DPO function. The EDPS seeks to provide guidance where necessary, but also stresses the principle of accountability in its interactions with eu-LISA. In October 2015, the EDPS visited eu-LISA headquarters in Tallinn to discuss several matters related to the systems it manages, including Eurodac.

- Inspections

The EDPS has not conducted an inspection of the Eurodac central system during the reporting period.

With the Eurodac Recast having become applicable in July 2015, the EDPS is from now on obliged to conduct an inspection at least every three years.

- Complaints

The EDPS has received no complaints relating to Eurodac during the reporting period.

Given the role of the central system, complaints against the processing of personal data in Eurodac will most likely be directed against processing under the responsibility of the Member States. If this were to happen, complainants would be referred to the relevant national DPAs. Only complaints related to processing by the central unit would be relevant for the EDPS.

- Remarks

The EDPS has issued a prior checking opinion on a test for using multi-spectrum imaging technology for capturing fingerprints for Eurodac. This was not in direct relation with the operational management of Eurodac, but dealt with tests of new technologies that could possibly be used by the Member States for enrolment in Eurodac in the future.

4.9. Estonia

- Overview: state of play and developments

The Estonian Police and Border Guard Board is the national access point for Eurodac. Regarding the Eurodac Recast into force since July 2015, Estonia decided not to overtake the law enforcement aspects of the new Eurodac Regulation.

With the recast of the Eurodac rules, the Estonian DPA and Estonian Forensics Institute have signed cooperation agreement by which the Forensics undertakes to provide fingerprints and biometrics experts for the Estonian DPA supervision activities (e.g. on-spot inspections) for free. This means that the Estonian DPA can use expert knowledge within short notice.

- Inspections

No inspections were carried out in 2014-2015.

- Complaints

No complaints were received in 2014-2015.

- Remarks

None.

4.10. Finland

- Overview: state of play and developments
- Inspections

An inspection has been started in March 2016 due to be finished by autumn 2016.

- Complaints

No complaints were received during 2014-2015.

- Remarks

No remarks.

4.11. France

- Overview: state of play and developments

Currently, the Eurodac System is managed by the eu-LISA agency. Its purpose is to compare asylum seekers' fingerprints for an effective application of the Dublin Convention. On the one hand, it allows one to determine which Member State is in charge of examining an asylum application. On the other hand, it allows Member State's law enforcement authorities and Europol to request comparisons with Eurodac for law enforcement purposes.

In this context, the Eurodac database includes fingerprints of asylum seekers as well as those of third-country nationals apprehended in connection with the irregular crossing of an external border.

Finally, France has volunteered to try single-finger fingerprint sensors featuring multi-spectral technology, in the context of collecting asylum seekers' fingerprints when they stand before the relevant administrative offices.

- Inspections

Several on-site inspections have been carried out, especially since 2007, in order to check enhancement and consultation practices of the Eurodac database by the French authorities.

In 2015, an on-site inspection was carried out by the French DPA, as part of its annual inspection program related to the processing of personal data in the context of EU police cooperation.

This inspection, which also fulfilled the requirement of regular auditing of the system, concerned in particular the procedure for right of access, registration requirements and data update in Eurodac.

- Complaints

To date, the French DPA has not received any complaints concerning this system.

- Remarks

These inspections showed that a specific process is effectively being implemented to examine requests about access to the database for law enforcement purposes.

However, it remains necessary to take particular care of the procedure for exercising the right to access Eurodac and of the procedure that allows erasing data in advance.

Furthermore, the public information of the Eurodac System is being updated on the French DPA's website.

4.12. Germany

- Overview: State of play and developments

In Germany, the Federal Office for Migration and Refugees functions as the central authority for the Eurodac system.

The Federal Commissioner for Data Protection and Freedom of Information monitors the lawfulness of the processing of personal data by the German authorities and the transfer of the data to the Central Unit. In addition, she supports the data subjects in exercising their rights of correction and deletion of data.

During the period under review, the Eurodac Recast was implemented, which provides access for law enforcement authorities for the prevention and detection of criminal offences and which strengthens the data subjects' rights to access, rectification and effective redress with regard to the data stored in the Eurodac database.

- Inspections

From 2014 to 2015, no inspections were carried out.

- Complaints

From 2014-2015, there were no complaints.

- Remarks

None.

4.13. Greece

- Overview: state of play and developments

The Hellenic DPA maintains communication with the Eurodac national contact point (Forensic Science Division of the Hellenic Police).

With the application of the Eurodac Recast, the Hellenic DPA was informed by the Eurodac national contact point that the Forensic Science Division of the Hellenic Police is appointed as the verifying authority, whereas the Informatics Division of the Hellenic Police is the National Access Point for the Eurodac system. The Hellenic Police appertains to the Ministry of Interior and Citizen's Protection.

- Inspections

No inspection was carried out during the reporting period. However, an inspection is planned to take place during the first semester of 2017 so as the Hellenic DPA will be able to check the operation of the Eurodac system and the lawfulness of the data processing under the new legal regime.

- Complaints

The Hellenic DPA has not received any complaints in relation to data processing within the Eurodac system.

- Remarks

No further remarks.

4.14. Hungary

- Overview: state of play and developments

The Hungarian National Authority for Data Protection and Freedom of Information (Hungarian DPA) has taken part in the Eurodac SCG since its foundation. During the past two years, the

colleagues of Hungarian DPA took an active part in the meetings of the CSG and contributed to the documents adopted by the SCG mainly by using the experience coming from the national level.

The Eurodac SCG discussed the implementation of the so-called ‘advanced data erasure’ which had to be put in practice due to the accession of Croatia, but various Member States failed to carry out. In this topic also the Hungarian DPA approached Hungarian government agencies to comply with the prescriptions.

The Eurodac SCG called on the European Commission that, following the entry into force of the Eurodac Recast, a new IT infrastructure would have to be established to meet the query demands of police authorities. In this regard, the data protection implications of the new system have also been examined where the access rights of law enforcement authorities, the data subjects’ rights, the tagging of personal data, the methods of coordinated supervision as well as the public information proved to be of a crucial importance. The Hungarian DPA here highlighted the review of “special queries”, the deletion of data in a proper timely manner and the enforcement of rights (complaints, appeals) of data subjects.

- Inspections

The Hungarian DPA requested information and conducted an investigation regarding the Eurodac Recast and the efforts made by competent Hungarian authorities in order to comply with the new legal framework. The Hungarian DPA informed the Eurodac SCG about the outcome of the investigation by answering the questionnaire previously issued by the SCG.

- Complaints

The Hungarian DPA did not receive any complaint from individuals regarding the data protection issues of the Eurodac system in the period of 2014-2015.

- Remarks

4.15. Iceland

- Overview: state of play and developments

On 10 June 2015, the National Commissioner of the Icelandic Police received a confirmation from eu-LISA that Iceland had passed all tests with regard to the new system for Eurodac.

- Inspections

In May 2015, the International Unit of the National Commissioner of the Icelandic Police deleted data from Eurodac in accordance with the DPA’s decision from 17 January 2012 on advance deletion. The reason why it took so long to delete the data was that Eurodac reference numbers, necessary to link data to the names of the data subjects whose data were to be deleted, had not always been kept. Therefore, there were practical problems related to the deletion that had been overcome in co-operation with the Eurodac Central Unit. The Icelandic DPA demanded that working procedures be put in place to ensure that this situation would not arise again and that

rules on advance deletion were otherwise kept. A description of working procedures was received in May 2015, including on how it would be ensured that necessary information from the Directorate of Immigration would be sent to the aforementioned International Unit (e.g. on who have become Icelandic citizens) so that it would be aware of circumstances calling for deletion.

- Complaints

No complaints were received in 2014 and 2015.

- Remarks

No remarks.

4.16. Ireland

- Overview: state of play and developments

The Office of the Refugee Applications Commissioner (ORAC) is the first instance decision making body in the Irish asylum process. Applications for asylum are processed by ORAC and examined under the Dublin Regulation. In addition, ORAC is responsible for investigating applications by refugees to allow family members to enter and reside in the State and for providing a report to the Minister on such applications. ORAC also has responsibility to investigate applications for subsidiary protection, and to issue appropriate recommendations to the Minister for Justice and Equality on such applications.

- Inspections

No inspections were carried out in 2014-2015.

- Complaints

The Irish DPA received 3 complaints in December 2015 regarding the submission of ‘Article 34 checks’ to the UK. Investigation is to be commenced in 2016 and will include an inspection.

- Remarks

None.

4.17. Italy

- Overview: state of play and developments

The Eurodac Recast entered into force on 20 July 2015. The designated access point is still the Scientific Police within the Public Security Department of the Ministry of Interior.

- Inspections

The Italian DPA did not carry out inspections regarding the Eurodac system. There are no fingerprint experts within the DPA.

- Complaints

The Italian DPA has not received any complaints regarding data processing in the Eurodac system.

- Remarks

4.18. Latvia

- Overview: state of play and developments

Within the time frame 2014-2015, the question of budgetary resources was under discussion for the activities as regards the supervision of Eurodac and allocation for this function.

There have been developments regarding the national legislation. During 2014-2015, competent authorities were working on the relevant activities in order to ensure the compliance of national laws with the Eurodac Recast. In this process different state institutions were involved, including the Ministry of Interior, the Information Centre of the Ministry of the Interior and State Border Guard of Latvia (both authorities are subordinated to the Ministry of the Interior) and other.

Additionally, during the mentioned time frame, a draft of the Cabinet Regulation on Fingerprint Information System of the Asylum Seekers has been negotiated and finally adopted on 17 May 2016 with No. 296. Relevant amendments were negotiated concerning the Cabinet Regulations of 3 February 2009 with No. 99 “Regulation on Use and Amount of Information Included in the Automated Fingerprint System” (AFIS) as well.

Consequently in order to ensure effective preparation for the implementation of the Eurodac Recast in 2015, officers of State Border Guard of Latvia were appointed for authorized access to the Eurodac system and appropriate training was organised for the use of Eurodac system.

- Inspections

In 2015, the supervision was carried out regarding the personal data protection questions in those institutions who have access rights to the Eurodac system. The supervision was carried out in State Border Guard of Latvia and no major problems as regards the breach of personal data protection rights were concluded.

- Complaints

- Remarks

Furthermore, there are ongoing activities, which are due to be continued.

4.19. Liechtenstein

- Overview: state of play and developments
- Inspections

No inspections were carried out in 2014-2015.

- Complaints

No complaints were received in 2014-2015.

- Remarks

None.

4.20. Lithuania

- Overview: state of play and developments
- Inspections

In 2015, the State Data Protection Inspectorate of the Republic of Lithuania started investigating the competent institutions responsible for processing personal data of asylum seekers. The purpose of these investigations is the lawfulness of personal data processing in the Eurodac information system and the disclosure of data between competent state institutions and Member States.

- Complaints
- Remarks

4.21. Luxembourg

- Overview: state of play and developments

Currently, the Eurodac Recast system is operated at the Eurodac and Dublinet offices located at the Ministry of Foreign and European Affairs (Directorate of Immigration) and the border control at the Luxembourgish airport. In June 2015, eu-LISA had validated the tests related to the new Eurodac system.

- Inspections

The Luxembourgish DPA has not carried out any inspections during the reporting period covered by this report.

- Complaints

No complaints have been received during the reporting period.

- Remarks

4.22. Malta

- Overview: state of play and developments

During the reporting period, the Maltese DPA held discussions with the National Access Point for Eurodac and also the Refugee Commissioner who plays a major role in the asylum procedure.

The scope of these discussions was to verify the situation with regards to problematic areas identified in previous inspections, to obtain information on the transition to the new system following the entry of the new regulation, and also to identify any possible deficiencies in the asylum process, in particular, the interaction with data subjects.

As far as the Eurodac Recast and transition is concerned, the National Access Point did not encounter major problems and the changeover process ran smoothly.

With regard to problematic areas, these mainly related to the advance deletion of data, the quality of fingerprints and the delays in the transmission of data. From the information given by the National Access Point and also that contained in the statistics issued by eu-LISA, it transpired that considerable improvements were made. The DPA will take a closer look at these matters in its next onsite inspection, which will be the first one under the new legal regime.

In order to assess the level of compliance with the Eurodac legal framework, the Maltese DPA also considered the role of the Refugee Commissioner being the authority responsible to decide on asylum applications. During a meeting with such authority, the Maltese DPA reviewed the processing operations involved, in particular, the type of information given to asylum seekers when applying in person, and the retention periods for manual forms. Some shortcomings have been identified on both issues and recommendations have been given.

- Inspections

No inspections have been carried out during the period under review. The Maltese DPA is planning to perform an inspection which will be the first under the new legal framework, during the last quarter of 2016.

- Complaints

No complaints have been received.

- Remarks

No further remarks.

4.23. Netherlands

- Overview: state of play and developments

In the Netherlands, the functional part of the Eurodac system is divided between the Immigration and Naturalisation Service and the Directorate-General for Immigration of the Ministry of Security and Justice. The technical part of the Eurodac system is covered by the ICT service of the Dutch National Police.

In the Netherlands, several steps have been taken in the reporting period to ensure the implementation of the Eurodac Recast on time.

- Inspections

No inspections have been carried out during the reporting period.

- Complaints

The Dutch DPA has not received any complaints relating to Eurodac in the reporting period.

- Remarks

According to the Dutch DPA's inspection plan, an inspection of the Eurodac system is foreseen in 2017.

4.24. Norway

The Norwegian DPA did not report for this period.

4.25. Poland

- Overview: state of play and developments

Taking into account the Eurodac Recast, which became effective in July 2015, the Polish DPA has performed a series of Eurodac inspections to ensure that any detected shortcomings would have been remedied before new functionalities were introduced into Eurodac.

- Inspections

In 2015, the Polish DPA performed three inspections in all authorities entitled to access Eurodac in Poland, namely the Office for Foreigners, the Border Guard and the Central Forensic Laboratory of the Police. The Polish DPA identified number of shortcomings such as problems with data quality (e.g. lack of appropriate advance data erasure and updating of data), incomplete documentation on data processing and a lack of proper understanding of each authority's role in the system. As the result, the Polish DPA had to enforce corrective measures.

- Complaints

No complaints.

- Remarks

4.26. Portugal

- Overview: state of play and developments

There are no significant changes at national level regarding Eurodac. There is no established access to Eurodac for law enforcement purposes.

- Inspections

There were no inspections performed during the reporting period of this report.

- Complaints

The Portuguese DPA did not received any complaint.

- Remarks

4.27. Romania

- Overview: state of play and developments

Law no. 122 of 4 of May 2006 on the asylum in Romania regulates the legal status of the applicants for any form of protection in Romania, the legal status of the aliens who hold a form of protection in Romania, the procedures for granting, termination and annulment of a form of protection in Romania, as well as the procedure for determining the responsible EU Member State for examining the asylum application.

In 2014, Ordinance no. 22/2014 for the amendment and completion of Law no. 122/2006 on the asylum in Romania was adopted, which provides for the introduction of certain provisions that refer directly to Dublin Regulation III (Regulation no. 604/2013) and to the Eurodac Recast.

The asylum request template provided in the Guidelines of 13 of September 2006 for the implementation of Law no. 122/2006, amended and supplemented in 2016 provides that the processing of personal data is carried out in accordance with the provisions of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, amended and completed.

- Inspections

The Romanian DPA did not carry out inspections to the Eurodac system.

- Complaints

No complaints were received by the Romanian DPA concerning the Eurodac system.

- Remarks

4.28. Slovak Republic

- Overview: state of play and developments

The competent authority for the Eurodac system in the Slovak Republic is the Ministry of Interior of the Slovak Republic. The Data Protection Office of the Slovak Republic performed the inspection of personal data processing with regard to the National Access Point at the Ministry of Interior of the Slovak Republic in 2015.

- Inspections

The inspection was focused on fulfilling obligations laid down by Article 29(1) of the Eurodac Recast regarding the procedure of informing data subjects about their rights; claiming data subjects rights; keeping a list of the designated authorities according to Article 5 and designating a single national authority or a unit of such an authority to act as its verifying authority according to Article 6; keeping of records according to Article 28 of this Regulation. Within the abovementioned inspection no inadequacies have been identified.

- Complaints
- Remarks

4.29. Slovenia

- Overview: state of play and developments

The Slovenian DPA has good and constant relations with the Eurodac National Contact Point.

- Inspections

An on-site inspection at the Eurodac National Contact Point was carried out in October 2014. No data processing violations (neither in terms of legal nor technical aspects) were found.

- Complaints

The Slovenian DPA has not received any complaints regarding data processing in the Eurodac system.

- Remarks

4.30. Spain

- Overview: state of the play and developments

Eurodac National Access Point

Under the direction of the Ministry of Home Affairs, the CGPC, “Comisaria General de Policia Científica” (Scientific Police Head Station) is the Spanish national body managing international relations, including relations with the different EU national Home offices and police authorities. It is the Eurodac Spanish National Access Point.

National Data Protection Authority

The data processing activities of the EU countries are supervised by the national supervisory authorities, while those of the Commission are supervised by the EDPS. In Spain, the supervision is carried out by the Spanish DPA.

Data protection coordinated supervision

The monitoring group is the Eurodac SCG, which is composed of representatives from the national supervisory authorities and the EDPS, all acting within the framework of their respective competences in order to ensure effective coordination of the supervision authorities in both process and oversight policy. Thus, according to Article 33 of the Eurodac Recast, the national supervisory authorities and the EDPS must work through:

- The exchange of relevant information.
- Mutual assistance in conducting inspections and auditing.
- Joint consideration of any problems that arise in the exercise of control independent or in the exercise of the rights of those territories of the data.
- Harmonized preparing proposals for finding common solutions to the problems.
- By increasing knowledge of rights in the field of data protection, insofar as that harmonization is necessary.
- The panel has to develop an activity report every two years to be sent to the European Commission to the Council and the European Parliament.

- Inspections

No inspections have been performed so far by the Spanish DPA or the CGPC for the relevant period.

- Complaints

No complains have been lodged during 2014-15.

- Remarks

No remarks.

4.31. Sweden

- Overview: state of play and developments

According to a Government ordinance (SFS 2007:996), the Swedish Migration Authority is the Swedish national access point in terms of communication with the central Eurodac database. The Migration Authority has access to the central database in accordance with Article 27(1) of the Eurodac Recast. The Swedish DPA is the supervisory authority referred to in Article 30 of the Eurodac Recast.

Further to the adoption of the Eurodac Recast, the Swedish DPA sent a questionnaire to the Migration Authority in 2014 with questions on the implementation, on law enforcement access and on data subjects' rights. The answers were forwarded to the Eurodac SCG and considered, together with other national contributions, in the Eurodac SCG report on the national preparation for the implementation of the Eurodac Recast (April 2016).

- Inspections

No inspections have been made in 2014-2015.

- Complaints

No complaints have been received regarding Eurodac.

- Remarks

4.32. Switzerland

- Overview: state of play and developments

Switzerland not being a member of the EU and not participating (yet) in the Prüm cooperation, the law enforcement aspects of the Eurodac Recast do not apply to Switzerland. In order to get such an access, Switzerland will first have to negotiate an agreement with the EU.

The Swiss DPA sent the questionnaire to check the national preparation for the implementation of the Eurodac Recast to the Swiss State Secretariat for Migration (SEM). In February 2015, the Swiss DPA made a visit on the spot at the SEM. The data protection officer (DPO) of the SEM was also present. During this visit the questionnaire and the Swiss answers were discussed. The Swiss DPA also took the opportunity to sensitize the staff about data protection. At the same time, the Swiss DPA got a better appreciation of the implementation situation in Switzerland. It appeared that the SEM had taken and still was taking the necessary steps and would be well prepared for the implementation of the Eurodac Recast. The implementation included technical

and legal aspects as well as training sessions of the staff. The drafts adapting the Swiss legislation were also submitted to the Swiss DPA.

- Inspections
- Complaints
- Remarks

4.33. UK

- Overview: state of play and developments

The designated competent authority for the Eurodac system in the UK is the Home Office Immigration Fingerprint Bureau.

During the reporting period, no inspection of the system was conducted. However, the UK DPA maintained regular contacts with the designated competent authority to ensure that the implementation of the Recast was successful and due processes were put in place to facilitate access for law enforcement purposes in compliance with the Data Protection Act 1998.

- Inspections

The UK DPA will ensure that an inspection is carried out following the publication of this report with a particular focus on law enforcement access and the subject access request processes.

- Complaints

The UK DPA has received no complaints relating to Eurodac during the reporting period.

- Remarks

The UK DPA worked with the designated competent authority to ensure that public guidance was updated to reflect the recast. The UK DPA's website information was also updated.

5. What to expect next

The Eurodac SCG Work Programme for 2015 to 2018 aims to ensure the follow-up to the activities already started by the Group, but it also envisages other new issues to be explored with specific activities to be carried out. It allows at the same time sufficient flexibility to add new exercises when needed.

Therefore, the themes that will need further discussion and assessment from the Group are the following:

- the implications of the general migration crisis in Europe for the Eurodac system;
- the access of law enforcement authorities (including Europol) to the system;
- the information given to data subjects;
- the follow-up of special searches;
- the marking of data.

Besides these foreseen activities, the Eurodac SCG will work on a permanent basis on the follow-up of policy and legislative developments, any ongoing issues, exchange of experiences and mutual assistance.