

# Eurodac Supervision Coordination Group



E u r o d a c   S C G

## Activity Report 2020-2021

November 2023

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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 III Regulation<sup>1</sup>, 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 2000<sup>2</sup>, as completed by Council Regulation (EC) No 407/2002 of 28 February 2002<sup>3</sup>. In the interest of clarity, those two texts were recast in Regulation (EU) No 603/2013 of 26 June 2013<sup>4</sup> ('the Eurodac Regulation'), which became applicable on 20 July 2015. The system has been operational since 15 January 2003 and is currently used by the EU Member States as well as Iceland, Liechtenstein, Norway and Switzerland.<sup>5</sup>

As established in the Eurodac Regulation, data protection supervision of the Eurodac system is carried out at national level by the national Data Protection Authorities ('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)

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<sup>1</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 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, OJ L 180, 29.6.2013, p. 31–59.

<sup>2</sup> 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, OJ L 316, 15/12/2000, p. 1 - 10.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.

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.

The architecture of the Eurodac mirrors that of VIS: a central unit ('central Eurodac') managed by the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice<sup>6</sup> ('eu-LISA') (Article 26) and connected to national access points in the Member States via sTESTA.

On 4 May 2016, the Commission issued another proposal to recast the Eurodac Regulation and to extend the scope of Eurodac for the purposes of identifying irregularly staying third-country nationals and contribute to the return procedure. This proposal notably proposes the following main changes: lowering of the minimum age from which fingerprints must be taken from 14 to 6 years old, the storage of biographical data and facial images in the Central System to allow the use of facial recognition software, and the possibility to transfer Eurodac data to third countries for return purposes. The European Parliament and the Council both adopted their negotiating positions and trilogues started in September 2017.

On 23 September 2020, the European Commission announced in its Work Programme 2020 its intention to launch a New Pact on Asylum and Migration. As part of the legislative package, the Commission presented a revised proposal for the Eurodac Regulation.

On 7 September 2022, the European Parliament and five rotating Council Presidencies signed an agreement regarding the conduct of negotiations between the co-legislators with a view to reforming EU migration and asylum rules by February 2024.

On 12 December 2022, the Committee of Civil Liberties, Justice and Home Affairs endorsed an updated negotiating mandate on the Eurodac Regulation, which permitted the European Parliament and Council to start inter-institutional negotiations, and the first trilogue took place on 15 December 2022.

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 has been chaired by Ms Elisabeth Jilderyd (from the Swedish DPA), and Ms Mariya Mateva (from the Bulgarian DPA) acting as Vice-Chair. Since November 2019 Ms Eleni Maragkou (from the Hellenic DPA) was elected as Chair of the Eurodac SCG, while Ms Evelyne Schuurmans (from the Dutch DPA)

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<sup>6</sup> The Commission was responsible for the operational management of the Eurodac for a transitional period until the establishment of a new permanent IT Agency, eu-LISA, which became fully operational in December 2012.

was elected as Vice-Chair in June 2020. Meanwhile, the Secretariat of the Group is provided by the EDPS.

In accordance with Article 32 of the Eurodac Regulation, 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 2020 to 2021.

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 issue and main achievements discussed by the Eurodac SCG in the years of 2020 and 2021.

Section 4 lists the Members' activity report for the two years of 2020 and 2021.

Section 5 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 Regulation. 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 2020-2021, due to the COVID crisis, the four supervision coordination meetings were web meetings, on the following dates:

- 18 June 2020
- 26 November 2020
- 17 June 2021
- 24 November 2021

As usual, they were organised back-to-back with the VIS and SIS II SCG meetings in order 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 18 June 2020**

Eu-LISA informed the Group about the status of operations, as well as the Eurodac security exercise of 5/11/2019. Eu-LISA added that it had undergone the EDPS inspection of Eurodac. Eu-LISA also discussed the planned multi-system (SIS, VIS, EURODAC) exercise 2020 to access how Member States work together when an incident impacts the activities. Finally, eu-LISA mentioned the eu-LISA 2019 customer satisfaction survey, which had shown high satisfaction. The Commission forwarded to the Secretariat a written update, according to which the amended Eurodac proposal would build on the provisional agreement between co-legislators, and introduce a limited number of changes as follows: provisions to reflect the new Dublin proposal, consequential amendments that would allow Eurodac to function within the new interoperability framework and a few other changes that cater for requests made by MS in various fora. As regards the collaboration with the Fundamental Rights Agency, the Members updated the Secretariat on the state of play of their leaflet's translation (for national authorities to inform data subjects about their rights). The Group discussed the draft Activity Report 2020-2021 and the possibility to find a more harmonised and structured way to report on national audits. The Members of the Group finally updated their colleagues with information about relevant developments at national level.

### **Meeting of 26 November 2020**

The Commission indicated that with the new changes, it would be possible to count the number of applicants in the system (in addition to applications), and it would be flagged when it is assessed that someone could pose a security threat. A new category of SAR was created, provisions to ensure interoperability (consequential amendments), amendments to reflect other provisions of the New Pact on Asylum and Migration, as well as amendments to address secondary movements had been laid down. eu-LISA's DPO gave her presentation, the highlights of which included: insights into the use of the system and the amount of data

processed; the small UK 2020 data breach; the multi-system exercise 2020; the impact of COVID-19; as well as a discussion on how Brexit would be conducted in terms of Eurodac data, i.e. in two phases. The Group discussed with FRA the finalisation of a leaflet to inform data subjects on their rights, and envisaged a possible new collaboration. Furthermore, the Group discussed a possible structured way to report on national audits, and also started to envisage taking a new point from the Work Programme. The first point of the Work Programme, namely “Monitoring the recast of the Eurodac Regulation” was proposed. The SCG Members decided to await for the EDPS to publish its opinion.

### **Meeting of 17 June 2021**

Eu-LISA informed the group of the overall performance of the Eurodac system, explained the categories (asylum seeker, third-party nationals etc.) and stated that the traffic has decreased by 30% compared to 2019. The Commission was not present at the meeting, but sent a written update, indicating that they were expecting that the Slovenian Presidency would resume the work on the Eurodac amended Proposal and that the co-legislators would reach an agreement recast of the regulation swiftly. As regards the collaboration with the FRA, it was indicated that, at the beginning of September 2021, the publication of the leaflet would take place on the FRA website, Eurodac SCG website and that national DPAs as well as the contact persons would receive the leaflets. The discussion on a possible structured way to report on national audits went on, with the presentation by the Portuguese and the French DPAs of the first draft of a document concerning a common template for reporting the outcome of inspections. The EDPS presented its opinion on the Pact for Migration and Asylum, published on 30 November 2020. The Group also discussed the choice of a new item from the Work Programme. The Chair proposed to postpone the work on the recast of the Eurodac Regulation, but also highlighted that this could risk being late if done in November 2021. The Italian DPA updated its colleagues with information about relevant developments at national level. Finally, the EDPS presented its Eurodac Inspection Report.

### **Meeting of 24 November 2021**

Eu-LISA updated the group on recent developments regarding Eurodac. The total storage of records decreased in January due to Brexit, while there was a higher increase in July and August. Eu-LISA clarified that, with regard to validation errors, the higher percentages were in Malta. The Commission informed the members that in the European Parliament the vote had been postponed, while this was still a prospect in the Council, and that the procedure was still ongoing. The leaflets elaborated with the FRA have been published on the websites of the Eurodac SCG and FRA. The Secretariat reported that a proposed date for publication of the leaflets’ translations could be on 13 December 2021. Moreover, the draft concerning a common template for reporting the outcome of inspections performed by DPAs in the context of Eurodac was shared on 11 November 2021, for discussion. The Chair invited the group to forward any comments and input in the next weeks and the Portuguese DPA gave a tentative timeline as to the end of January 2022, in order to have a new version of the document to be adopted at the next Eurodac SCG meeting in June 2022. The Group also discussed the work on the monitoring of the recast of the Eurodac Regulation. The Greek DPA and the EDPS volunteered for the

drafting of a letter, in order to raise some issues. The Members of the Group updated their colleagues with information about their national inspections or other relevant developments at national level. Finally, the EDPS made an update of its Eurodac Inspection Report.

### **3. 2020-2021: Issues discussed and main achievements**

#### ***3.1. Monitoring of the recast of the Eurodac Regulation***

According to the European Commission, its proposal of May 2016 to recast the Eurodac Regulation aims to expand the purposes of the Eurodac system, facilitate returns and help tackle irregular migration.

The proposal introduces the following changes to the Eurodac Regulation, which have important data protection implications:

- Storing and searching data of third-country nationals or stateless persons who are not applicants for international protection and found irregularly staying in the EU to identify them for return and readmission purposes;
- Storing further alphanumeric data, e.g. names, dates of birth, nationalities, identity details or travel documents, as well as facial images in Eurodac in order to allow immigration and asylum authorities to identify third country nationals without having to request the information from another Member State separately, as is currently the case;
- Introducing sanctions in accordance with national law for individuals who refuse to comply with the fingerprinting procedure.
- The Eurodac SCG has sent a formal letter on the proposal to a recast the Eurodac Regulation to the European Commission, the European Parliament and the Council, expressing its main concerns on the proposal. The Eurodac SCG will continue to follow the legislative developments of the proposal to recast the Eurodac Regulation and the potential impact on Eurodac data processing activities, and will voice its opinion where necessary during this process.
- In light of the new revised proposal for the Eurodac Regulation, presented by the Commission in September 2020, the Eurodac SCG has decided to draft a new letter in order to raise some sensitive issues.

The Eurodac SCG has constantly monitored the recast and is ready to carry out further activities to ensure a smooth transition to the new set of rules.

### ***3.2. Collaboration with the Fundamental Rights Agency on the right to information***

The Eurodac SCG has also initiated a collaboration with the Fundamental Rights Agency (FRA), after it has been invited to one of the Group's last meetings to present its report on the fundamental rights implications of collecting, storing and using biometric and other data in EU IT systems in the area of asylum and migration. In this context, it was suggested that the Group could work together with FRA and NGOs on the best way to comply with the law and provide information to data subjects without merely providing a legalistic text but by carefully choosing every words to ensure that precise messages are conveyed.

The Eurodac SCG has worked in close cooperation with the FRA on a leaflet to be used by officers by national authorities to comply with the obligations to inform data subjects on the storage of their own data and to ensure that data subjects are adequately informed.

The Eurodac SCG has adopted and published its leaflet. The translations in all EU languages should be available in December 2021.

### ***3.3. Towards a structured way to report on national audits***

During the meeting of June 2020, the Group discussed the possibility to find a more harmonised and structured way to report the national audits on the system, following the Members' obligation to do so.

A common template for reporting the outcome of inspections performed by DPAs in the context of Eurodac should be finalised in 2022.

## **4. Members' Reports**

### **4.1. Austria**

- **Overview: state of play and developments**

Nothing to report.

- **Inspections**

No inspection was carried out.

- **Complaints**

No complaint was received.



- **Remarks**

None.

## 4.2. Belgium

- **Overview: state of play and developments**

The Belgian Act of 3 December 2017 establishing the Data Protection Authority provides for the establishment of an Inspection Service, which is the investigative body of the Belgian DPA. On 24 April 2019, the new DPA was installed, with the new Inspector General being appointed and the Inspection Service becoming fully operational.

After the installation of the new members of the Executive Committee of the DPA, the Inspection Service started with the drawing of an audit plan.

This audit plan takes into scope the supervision of the Eurodac processing by the Belgian Immigration Office, which is the Belgian National Access Point for Eurodac. An audit methodology was designed with the use of standard questionnaires, on-site checks and standard reporting templates.

The Covid pandemic in 2020-2021 disrupted this audit plan and postponed the initial schedule. The Inspection Service remains in close contact with the DPO office of the Belgian Immigration Office.

The Supervisory Body for police information (SB) is in charge of monitoring the management of police information and also the data controller for the Belgian integrated police service (federal police and local police services).

Under Article 32 of Regulation 603/2013, the SB is responsible for carrying out an annual review of the processing of personal data by police authorities for the comparison of fingerprints with those stored in Eurodac for law enforcement purposes, including an analysis of a sample of justified electronic requests.

- **Inspections**

The Belgian DPA is the national authority competent for the supervision of the Eurodac-related processing of personal data for asylum purposes. The SB is competent for the supervision of the processing for law enforcement purposes by the police services.

The Covid pandemic prevented any inspection by the DPA during the 2020-2021 period.

On 10 December 2020, the SB visited the Judicial Identification Service (GID) of the Central Directorate of Technical and Scientific Police of the Federal Police, the verifying authority for law enforcement purposes within the meaning of Article 6 of the Regulation 603/2013.

The investigation was closed after finding that, due to technical and legal reasons, the GID did not use the procedure related to comparison of fingerprint data for law enforcement purposes in Eurodac.

- **Complaints**

The Belgian DPA did not receive any formal complaint.

The SB did not receive any formal complaint.

- **Remarks**

None.

### **4.3. Bulgaria**

- **Overview: state of play and developments**

The competent authorities with regard to the national system EURODAC are the State Agency for Refugees with the Council of Ministers and the Research Institute of Criminology and Forensics at the Ministry of Interior. The latter provides the technical support and the network of the system. The Commission for Personal Data Protection is the supervisory authority with regard to personal data processing in the national system EURODAC. All the commitments regarding the compliance with Regulation (EU) No 603/2013 have been fulfilled. The national system EURODAC is fully compliant with the provisions laid down in the EURODAC Regulation.

- **Inspections**

In the period of 2020-2021 the Bulgarian DPA carried out an inspection of the State Agency for Refugees with the Council of Ministers. Another inspection was conducted at the Research Institute of Criminology and Forensics at the Ministry of Interior. It has to be noted that the server hosting EURODAC is located in its premises.

Corrective measures pursuant to Article 58 (2)(d) GDPR were imposed, and in particular 7 orders for bringing the processing operations in compliance with the provisions of the GDPR.

- **Complaints**

There are no complaints submitted with the Bulgarian DPA for the period of 2020-2021.

- **Remarks**

In 2020, the FRA-EURODAC Supervision Coordination Group issued an updated leaflet “Right to information – Guide for authorities when taking fingerprints for EURODAC”, which was sent to the State Agency for Refugees.

Continuous, preliminary and further periodically training on GDPR and LED (transposed by the PDPA) has been constantly delivered by the DPA to the component authorities. Based on the experience of 2020, the Bulgarian DPA built capacity for providing thematic training content online.

#### 4.4. Croatia

- **Overview: state of play and developments**

The establishment 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, within the Service for international protection. Till June 2019, the National Access Point and Dublin procedure were organised within the Department for Asylum. During 2019, the Ministry of the Interior in Croatia underwent a major re-organization in the area of asylum, as a result of which a separate Department for Dublin Procedures was established under the new Service for International Protection. Therefore, since June 2019 the National Access Point falls within the respective Department.

Croatia has 39 Eurodac workstations (6 stationary and 33 mobile) with fingerprint live-scan equipment which are placed in all of 20 police administrations, Reception Centre for Foreigners Ježev, Transit Reception Center for Foreigners in Tovarnik and Trilj, as well as in Reception Centres for applicants for international protection (including both locations in Kutina and Zagreb). The supply of 30 Eurodac workstations was financed by the Transition Facility and 9 mobile workstations was financed through AMIF.

Since 2019, trainings for Eurodac workstations (educations on the use and functionalities of EURODAC) have been organized by the Border Police Directorate in cooperation with the Police Academy.

Eurodac workstations are used for processing and transmitting of fingerprints to the National Access Point. All transmissions to the Eurodac Central Unit are centralized and are done through the Department for Dublin procedure.

At the moment, the law enforcement authorities are not authorized to request comparisons with Eurodac since they do not have access to the VIS and Prüm databases.

Data subjects are informed about the Dublin procedure and purpose of fingerprinting and storing their fingerprints in EURODAC database. Each person receive detailed information in writing, with the presence of the interpreter if necessary. Written information are translated to languages all asylum seekers understand. The written information is made available before the fingerprinting or when the intention to seek international protection is expressed.

Leaflets prepared by the Commission in accordance with Regulation 604/2013 are translated to Arabic, Turkish, Farsi, English, French, Urdu and Croatian language.

Also, data subjects have a right to request an access to personal data processed in the Eurodac (art. 29(4) of Regulation 603/2013). There were no such requests till now.

- **Inspections**

Bearing in mind the circumstances of limited movement and personal communication during the Covid-19 pandemic in period of 2020-2021, the national DPA (Croatian Personal Data Protection Agency) did not conduct direct supervision at the location of the data controller (direct supervision activities are postponed), but communication was maintained with the data protection officer, according to the possible scope and intensity, and in relation with open questions, problems or changes in the organization and operation of the Eurodac Unit.

- **Complaints**

In the reporting period, there were no complaints on the processing of personal data in Eurodac lodged to the Ministry of Interior as a Data Controller for Eurodac or to the national DPA (Croatian Personal Data Protection Agency).

- **Remarks**

None.

#### 4.5. Cyprus

- **Overview: state of play and developments**

Nothing to report

- **Complaints**

No complaints have been received.

- **Inspections**

No inspections have been carried out.

- **Remarks**

No remarks.

#### 4.6. Czech Republic

- **Overview: state of play and developments**

In 2020-2021, the Czech SA has independently monitored the lawfulness of the processing of personal data in Eurodac, both by carrying out inspection and by being available to all data subjects to deal with their possible requests and complaints. The Czech SA also actively cooperated with the Czech Eurodac authorities in order to ensure an adequate protection of personal data.

- **Inspections**

An inspection of the Ministry of the Interior was initiated by the Czech SA in June 2021. The inspection was completed in April 2022 and shortcomings were identified in the areas of internal inspections, information leaflets and identification of competent authorities. A follow-up process to address the shortcomings by the Ministry is underway.

- **Complaints**

The Czech SA has not received any complaints related to data processing within the Eurodac.

- **Remarks**

None.

#### 4.7. Denmark

- **Overview: state of play and developments**

None.

- **Inspections**

The Danish DPA conducted one inspection regarding EURODAC during the period of 2020-2021. The inspection concerned the checking of log-files in regard to access to data related to EURODAC activities.

- **Complaints**

The Danish DPA did not receive any complaints regarding the processing of data in EURODAC during the period of 2020-2021.

- **Remarks**

In 2020 the Danish DPA organized a cooperation meeting with the Danish National Police (the authority in DK responsible for the national access point) regarding EURODAC. The agenda for the meeting was, among other things, general information on the procedures for the Danish Police's case handling in EURODAC, security for processing of data and data subjects' rights.

#### 4.8. EDPS

- **Overview: state of play and developments**

As mentioned earlier in this report, the EDPS is responsible under Article 31 of Regulation (EU) No 603/2013 to ensure that all the personal data processing activities concerning Eurodac, by Union institutions, bodies and agencies, are carried out in accordance with this Regulation as well as with the EUDPR (Regulation (EU) 2018/1725). In addition, the EDPS continues to advise the co-legislators at the EU level on future legislative developments that may impact the functioning of the Eurodac. In this context, the EDPS issued an Opinion on the New Pact on

Migration and Asylum (Opinion 9/2020), which would further enlarge the scope of Eurodac and affect its coordinated supervision model.

- **Inspections**

During the reporting period in 2022 the EDPS performed an audit under Article 31 of the Eurodac Regulation (EU) 603/2013 at eu-LISA focusing on several areas of IT security governance, on methodology and practices for the secure development and testing of Eurodac and on security incidents and personal data breaches. The audit included also a follow up of the recommendations stemming from the previous audit. The final audit report was sent to eu-LISA, the European Parliament, the Council, the European Commission and the national DPA after the reporting period.

- **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 or the further processing of Eurodac data by EU institutions, bodies or agencies would be relevant for the EDPS.

- **Remarks**

None.

#### 4.9. Estonia

- **Overview**

The Estonian Police and Border Guard Board is the national access point for the Eurodac.

- **Inspections**

No inspections carried out in 2020 or 2021.

- **Complaints**

No complaints received in 2020-2021.

- **Remarks**

None.

#### 4.10. Finland

- **Overview: state of play and developments**

N/A

- **Inspections**

The Office of the Data Protection Ombudsman has an annual audit plan including audits of the Eurodac.

Between 12 March 2020 and 5 May 2020, the Office of the Data Protection Ombudsman carried out an audit on Eurodac fingerprint comparisons for law enforcement purposes and log processing.

According to Article 32(2) of the Eurodac Regulation (EC) No 603/2013, Member States are to ensure that each year an independent body carries out an audit of the processing of personal data for the purposes set out in Article 1(2) (law enforcement purposes) in accordance with Article 33(2), including the analysis of a sample of justified electronic requests.

Another audited object was the processing of logs under the Eurodac Regulation. The details of the logs and the relevant documentation are set out in detail in Article 36 of the Eurodac Regulation. Following these audits, detailed guidance was given to the controller on the processing of logs under the Eurodac Regulation.

Between 4 June 2021 and 31 August 2021, the Office of the Data Protection Ombudsman carried out an audit on Eurodac fingerprint comparisons for law enforcement purposes. This audit did not give cause for any actions by the Office of the Data Protection Ombudsman.

- **Complaints**

N/A

- **Remarks**

N/A

#### **4.11. France**

- **Overview: state of play and developments**

In France, the Ministry of Interior, General Directorate for Foreigners, is the national access point for Eurodac. The CNIL is competent for the supervision of Eurodac processing by the competent authorities in France.

- **Inspections**

N/A

- **Complaints**

No complaints were received by the CNIL in 2020 and 2021.

- **Remarks**

N/A

#### 4.12. Germany

- **Overview: state of play and developments**

In Germany, the Federal Crime Police Office functions as the single National Access Point according to Art. 3 (2) Eurodac Regulation.

The Federal Commissioner for Data Protection and Freedom of Information, together with the responsible Data Protection Supervisory Authorities of the federal states, 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, data subjects receive support in exercising their rights of correction or deletion of data.

- **Inspections**

a) Federal Commissioner for Data Protection and Freedom of Information

- **Federal Police**

Regarding law enforcement access (LEA) to Eurodac, supervisory activities in 2020 and 2021 confirmed the impression that police forces in Germany hardly make use of Eurodac access requests at all. In both years the Federal DPA checked the total number of access requests of all the federal police authorities and found that there were mostly no or only very few single cases. Based on those figures the Federal DPA conducted one inspection of LEA to Eurodac at the Federal Police in 2020 and two inspections at the Federal Criminal Office in 2020 and 2021.

The inspection at the Federal Criminal Office in 2020 led to a formal objection, because the requirement of a mandatory prior request to databases in accordance with Article 20(1) had not been met. The inspection in 2021 led to the conclusion that all lawful requirements were met.

The inspection at the Federal Police in 2020 was concluded without any complaints or recommendations. All access requests were found to be lawful and the respective log files were in compliance with legal obligations.

b) Thuringian State Commissioner for Data Protection and Freedom of Information

- **State Office of Criminal Investigation.**

In 2021-2022 one inspection was carried out at the State Office of Criminal Investigation. No searches were made by the State Office of Criminal Investigation.

c) Commissioner for Data Protection and Freedom of Information of the federal state Bremen

- **State Police Bremen 2021**

In June 2021 The State Commissioner for Data Protection and Freedom of Information of the Free Hanseatic City of Bremen requested the State Police of Bremen to provide the number of searches in Eurodac in 2020 and in 2021 (searches until 01.07.2021).



- **State Police Bremen 2022**

In June 2022 The State Commissioner for Data Protection and Freedom of Information of the Free Hanseatic City of Bremen requested the State Police of Bremen for the period from 02.07.2021 to 01.07.2022 to provide the numbers of searches in Eurodac. This was followed by an on-site inspection in order to examine the application of Eurodac in general and the logs regarding searches.

No major deficiencies were detected.

There was only a low one-digit number of searches and merely one hit. It was agreed that the records of searches (regarding Article 33 (5) Eurodac Regulation (EU) 603/2013) will be kept until the annual inspection and deleted afterwards within one month.

d) **Berlin Commissioner for Data Protection and Freedom of Information**

- **Berlin Police**

After requesting the number of accesses to Eurodac by the Berlin Police for the period of 2021-2022, it was determined that there were no searches by the police during that time.

e) **The Bavarian State Commissioner for Data Protection**

- **District Administrative Authority Bavaria**

The Bavarian State Commissioner for Data Protection carried out one inspection at a District Administrative Authority (i. a. by means of a questionnaire regarding the technical connection, assignment of access rights, clarification of application scenarios and training of persons with access rights) during the reporting period. This inspection was carried out randomly and independent of a specific occasion.

As the inspected authority did not have technical access to Eurodac, the inspection was concluded with no further actions taken.

- **Complaints**

None.

- **Remarks**

More information about Eurodac (in German language) with additional links to relevant websites are provided by the following website:

<https://www.bfdi.bund.de/DE/Fachthemen/Inhalte/Europa-Internationales/EURODAC.html>

### **4.13. Greece**

- **Overview: state of play and developments**

The Informatics Division of the Hellenic Police under the Ministry of Citizen's Protection is the National Access Point for the Eurodac system.

The Hellenic DPA took part in a joint action within the Eurodac SCG which consisted of the collaboration between the Eurodac SCG and the Fundamental Rights Agency in order to produce a guide aimed to assist the competent authorities in relation to the right of information. To this end a leaflet was prepared. The Hellenic DPA translated this guide in to the Greek language and then published it in its website in the relevant section of Eurodac.

- **Inspections**

No inspection was carried out during the specified time frame.

- **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**

Link for EURODAC information in the DPA website:

In Hungarian: <http://www.naih.hu/Eurodac-rendszer.html>

In English: <http://www.naih.hu/european-dactyloscopy-system--Eurodac.html>

Remarks: The DPA has updated the general information for data subjects provided on Eurodac System on the DPA's website (both in Hungarian and English languages).

- **Complaints**

The Hungarian DPA did not receive any complaint from individuals regarding EURODAC System in the 2021-2022 period.

- **Inspections**

The inspection of the competent authority was planned to take place in the 2nd half of 2020. Eventually the full schedule of the DPA's inspection program was postponed as a consequence of Covid. In 2022 the DPA set up an inspection plan to launch on-site visits at the premises of – the Dactyloscopy Institute of the Hungarian Institute for Forensic Sciences – the authority competent for the operation of the Eurodac System and the National Directorate-General of Aliens Policing. After all the on-site visits took place in the first half of 2023.

- **Remarks**

None.

#### 4.15. Iceland

- **Overview: state of play and developments**

Regulation on Foreigners, No. 540/2017, is the legal instrument governing the use of Eurodac in Iceland. In essence it stipulates that the Directorate of Immigration is responsible for determining whether fingerprints are transmitted to Eurodac. The National Commissioner of the Icelandic Police is tasked with communicating with the central Eurodac.

- **Inspections**

No inspections or audits on Eurodac were carried out in 2020-2021 by the Icelandic Data Protection Authority.

- **Complaints**

The Icelandic Data Protection Authority did not receive any complaints related to Eurodac in 2020-2021.

- **Remarks**

N/A

#### 4.16. Ireland

- **Overview: state of play and developments**

The designated competent authority for the Eurodac system in Ireland is the International Protection Office ('IPO') which sits within the Immigration Service Delivery Function of the Department of Justice. The Data Protection Commission ('DPC') is the designated supervisory authority for monitoring the lawfulness of processing of personal data under the Regulation 603/2013 ('the Eurodac Regulation') in Ireland

- **Remarks**

The DPC engaged with the IPO over the course of 2021 regarding Ireland's compliance with Article 18 of the Eurodac Regulation and notable delays and backlogs in the marking of records on the Eurodac system by Irish authorities. These issues came to the attention of the DPC through eu-LISA's status reports to the Eurodac SCG.

It was explained to the DPC that these delays were the result of information sharing issues between the IPO and the border management unit within the Irish police force, as well as a series of one-off factors including disruption caused by the Covid-19 pandemic.

Following the intervention of the DPC, the IPO committed to taking steps to tackle the backlog of outdated records referred to above as well as putting in place measures to ensure that there

would not be a reoccurrence. The DPC was advised on 1 June 2021 that these backlogs were resolved.

The DPC continued to engage with the IPO in relation to this issue up until the end of 2021 and continues to monitor this situation closely.

#### 4.17. Italy

- **Overview: state of play and developments**

The designated access point (NAP – National Access Point) is still the Scientific Police Service within the Direzione Centrale Anticrimine della Polizia di Stato. The aforementioned Service is also the SPoC (Single Point of Contact) for the activities related to the management of the IT structure dedicated to communication with the EU central system.

The Italian DPA received and evaluated the answers to the Questionnaire on data subjects rights from the Ministry of Interior. The dialogue with the Ministry concerning the critical issues pointed out by the Italian DPA is still ongoing.

- **Inspections**

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

- **Complaints**

The Italian DPA did not receive any complaint from individuals regarding data processing in the Eurodac system.

- **Remarks**

None.

#### 4.18. Latvia

- **Overview**

The Information Centre of the Ministry of the Interior and State Border Guard (both authorities are subordinated to the Ministry of the Interior) are the competent authorities with regard to the national system Eurodac. The Data State Inspectorate of Latvia is the competent authority with regard to personal data processing activities concerning Eurodac.

- **Inspections**

The Data State Inspectorate of Latvia carried out one inspection during the reporting period related to Eurodac. The inspection by the Inspectorate commenced in 2020 and concluded in 2021. Following the inspection, an action plan was drafted in collaboration with the relevant authorities. This plan outlines the activities to be undertaken by authorities to enhance compliance with data protection requirements.

- **Complaints**

The Data State Inspectorate of Latvia did not receive any complaints in relation to data processing within the Eurodac system during the reporting period.

- **Remarks**

Since 1 January 2018 the functions of the verifying authority according to Article 6 of Eurodac Regulation have been carried out by State Police and Latvian State Security Service.

#### 4.19. Liechtenstein

- **Overview: state of play and developments**

Nothing to report.

- **Inspections**

None.

- **Complaints**

None.

- **Remarks**

None.

#### 4.20 Lithuania

- **Overview: state of play and developments**

Nothing to report.

- **Inspections**

None.

- **Complaints**

None.

- **Remarks**

None.

#### **4.21. Luxembourg**

- **Overview: state of play and developments**

Nothing to report.

- **Inspections**

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

- **Complaints**

No complaints have been received during the period under review.

- **Remarks**

None.

#### **4.22. Malta**

- **Overview: state of play and developments**

During the period under review, the Maltese DPA held discussions with the Eurodac National Access Point and the relevant stakeholders involved in the asylum procedure.

One of the main topics discussed involved methods to improve the quality of the fingerprint scan. During this period new personnel were added to the Eurodac team.

- **Inspections**

During Year 2020 an on site inspection was carried out at the Eurodac office. The Eurodac office is part of the Malta Police in Malta, which is also responsible for Immigration. The Office of the Eurodac is found within the Malta Police General Headquarters in Floriana.

During the inspection, additional workstation and fingerprint scanners were being installed, replacing the older versions.

It was also observed that previous recommendations by the Maltese DPA for the facilitation of appointments have put in place and a new mechanism was introduced to facilitate appointments within a 24Hrs period.

Additional training material on how to compare fingerprints by Eurodac personnel was being prepared by the Officer in charge of Eurodac.

- **Complaints**

No complaints were received during this period.

- **Remarks**

No additional remarks.

#### **4.23. Netherlands**

- **Overview: state of play and developments**

In the Netherlands, responsibility for both the functional and technical part of the Eurodac system is divided between the Immigration and Naturalisation Service and the Directorate-General for Immigration of the Ministry of Justice and Security.

During the reporting period the Dutch DPA maintained regular contacts with these competent authorities.

These regular contacts have shown that the authorities have planned to carry out an audit in relation to the use of Eurodac by law enforcement authorities in previous years. Implementation of the latter was postponed by Covid-19 measures.

Moreover the Dutch DPA published the leaflet for national authorities to inform data subjects on their rights on the DPA website. This leaflet was a result of a collaboration with the Fundamental Rights Agency (FRA) within the SCG Eurodac. FRA also has sent some hardcopies to the DG Immigration of the Ministry of Justice, in order to distribute the leaflets to executive organisations for further use.

- **Inspections**

Apart from the coordinated supervision activities of the SCG Eurodac, no other inspection took place by the Dutch DPA during the reporting period, due to Covid measures. However, the Dutch DPA has included an inspection for Eurodac in her multiannual inspection plan. Furthermore, Eurodac is part of the ongoing guidance talks with controller and processors in the context of the systems that will become part of the interoperable borders and security system.

- **Complaints**

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

#### 4.24. Norway

- **Overview: state of play and developments**

None.

- **Inspections**

The Norwegian DPA has not carried out any inspections during the reporting period.

- **Complaints**

The Norwegian DPA did not receive any complaints during the reporting period.

- **Remarks**

None.

#### 4.25. Poland

- **Overview: state of play and developments**

N/A

- **Inspections**

None.

- **Complaints**

None.

- **Remarks**

None.

#### 4.26. Portugal

- **Overview**

The most relevant update during the period covered was the change of the national legal framework by Law 73/2021 of 12 November, which approved a reorganization of the system of borders control with significant impact for Eurodac activities. This legislation provides for the extinction of the former Eurodac data controller, at national level, and for the creation of a new Agency for the Integration, Migrations and Asylum, which will have that role.



The DPA was following these new developments. Further legislation was still due to complete the legal framework.

- **Inspections**

There were no inspection actions performed during the period of this report.

- **Complaints**

The DPA did not receive any complaint.

#### 4.27. Romania

- **Overview: state of play and developments**

N/A

- **Inspections**

None.

- **Complaints**

None.

- **Remarks**

None.

#### 4.28. Slovak Republic

- **Overview: state of play and developments**

Nothing to report

- **Inspections**

In 2020 the Slovak Supervisory Authority conducted an inspection of the Ministry of Interior of the Slovak Republic (relevant department responsible for EURODAC). The inspectors did not find any infringements nor deficiencies with regard to personal data protection.

In 2021 the Slovak Supervisory Authority conducted an inspection of the Ministry of Interior of the Slovak Republic (relevant department responsible for EURODAC). The inspectors did not find any infringements nor deficiencies with regard to personal data protection.

- **Complaints**

In 2020-2021 the Slovak Supervisory Authority did not receive any complaint regarding data processing in the Eurodac system.

- **Remarks**

No remarks.

#### 4.29. Slovenia

- **Overview: state of play and developments**

The Slovenian DPA has good and constant relations with the Eurodac National Access Point. In 2020, a leaflet on the “Right to Information – Guide for authorities when taking fingerprints for Eurodac” was shared with the Eurodac National Access Point by the DPA.

- **Inspections**

An audit of the processing of personal data in accordance with Articles 32(2) and 33(2) of the Eurodac Regulation 603/2013 was concluded in April 2021. No infringements were established.

- **Complaints**

In 2020-2021 the Slovenian DPA did not receive any complaint regarding data processing in the Eurodac system.

- **Remarks**

None.

#### 4.30. Spain

The information system Eurodac was designed for the handling and storage of registers of fingerprints of asylum-seekers and refugees, it consists of a central unit, managed by the European Commission, which integrates a common repository of fingerprints and a system for transferring information that enables the responsible authorities of each member state and the shipment and search for fingerprint records. National Contact points are managed by National Immigration Authorities. Access is in principle limited to the authorities that oversee the management of asylum applications and national law enforcement units.

- **Overview: state of the play**

The units involved in the management of the EURODAC IT system are as follows:

Eurodac National Access Point

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

#### Data protection National Authority

The data processing activities of personal data by the EU national administrative authorities with access to the Eurodac IT system are supervised by the national supervisory authorities, while those of the central IT system managed by the EU Commission are supervised by the European Data Protection Supervisor (EDPS). In the Kingdom of Spain, the supervision of its EURODAC national point is carried out by the “Agencia Española de Protección de Datos”, Spanish Data Protection Authority.

#### Data protection coordinated supervision

The SCG EURODAC is the Monitoring group for the Eurodac coordinated Supervision comprising representatives from the national supervisory authorities and the EDPS, all within the framework of their respective competences, to ensure effective coordination of the supervision authorities in both the processing and the monitoring and oversight policy. Thus, according to article 33 of the Eurodac regulation, the national supervisory authorities, and the European data protection Supervisor of data protection, each acting within the scope of their respective competences, 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 must 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 2020-21.

- **Remarks**

The Spanish Data Protection Agency is currently designing the supervision activities to be contained in the strategic planning for its Deputy Direction General of Inspection that will define the allocation of audit tasks within the common authorities of data protection: SIS II, VIS, EURODAC, EUROPOL, CIS, AND JAS CUSTOMS. The aim of this plan is to develop audit plans to design and implement continuous auditing of the national IT systems, disseminate knowledge of data protection among the administrative units in charge of these IT systems, oversighting and monitoring personal data processing activities, raising concern

activities for citizens with regards their data protection rights and improving the cooperation with other EU and national authorities in the field.

Following the current audit plan, a data protection audit will be carried out in the first semester of 2024.

#### 4.31. Sweden

- **Overview: state of play and developments**

The Swedish Authority for Privacy Protection (IMY) does not have any change in state of play or developments to report.

- **Inspections**

The IMY has not carried out any inspections.

- **Complaints**

The IMY has not received any complaints in relation to the Eurodac system.

- **Remarks**

None.

#### 4.32. Switzerland

- **Overview: state of play and developments**

As mentioned in the last report, Switzerland and the EU signed on 27 June 2019 an agreement concerning Prüm as well as a protocol granting access to the Eurodac database to Swiss prosecution authorities under certain conditions. It is approved by the Federal Assembly on 1 October 2021 (and entered into force by exchange of notes on 1 May 2022).

Switzerland took part in all meetings of the Eurodac SCG in 2020 and 2021.

- **Inspections**

No inspection took place in 2020 and 2021. As mentioned above, the law enforcement authorities of Switzerland do not yet have access to Eurodac.

- **Complaints**

The Swiss federal DPA did not receive any complaints concerning Eurodac.

- **Remarks**

None.

## 5. What to expect next

The Eurodac SCG Work Programme for 2022 to 2024 is based on the results achieved under the present Work Programme and on recent developments. It will include specific activities to be carried out during this period, while allowing at the same time sufficient flexibility to add new exercises.

From the current discussions within the Eurodac SCG, it is possible to list the following issues for the Group's assessment:

- Monitoring the European Commission's proposal amending the 2016 recast of the Eurodac Regulation The suggestion of topics to be covered during inspections of Eurodac at national level, in order to provide guidance to the DPAs;
- Access of law enforcement authorities (including Europol) to the system The marking of data;
- The suggestion of topics to be covered during inspections of Eurodac at national level, in order to provide guidance to the DPAs;
- The follow-up of special searches;
- The marking of data;
- The issue of false HITs;
- The activity of the Eurodac SCG within the coordinated supervision in the framework of the EDPB;
- The entry into force and implementation of the Interoperability Regulation, and its effect and interaction with the Eurodac Regulation.

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.