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**COMMISSION STAFF WORKING DOCUMENT**

**Third annual report to the Council and the European Parliament  
on the activities of the EURODAC Central Unit**

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## **1. INTRODUCTION**

### **1.1. Scope of this report**

Council Regulation EC/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 referred to as "EURODAC Regulation")<sup>1</sup> stipulates that the Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit<sup>2</sup>. The present annual report, which is the third such report, includes information on the management and the performance of the system in 2005. It assesses the outputs and the cost-effectiveness of EURODAC as well as the quality of its Central Unit's service.

In parallel to this annual report, the Commission will, in accordance with Article 24(5) of the same Regulation, produce an overall evaluation of EURODAC, "examining results achieved against objectives and assessing the continuing validity of the underlying rationale and any implications for future operations". This exercise fits into the global evaluation of the "Dublin system", including the application of Council Regulation EC/343/2003 of 18 February 2003 (Dublin Regulation)<sup>3</sup> and its implementing rules<sup>4</sup>, as well as of the EURODAC Regulation and its implementing rules<sup>5</sup>. Therefore, the present report will be strictly limited to factual information on the EURODAC Central Unit's activities in 2005.

### **1.2. Legal Background**

No new developments have taken place during 2005. The legal background of the EURODAC regulation and its developments were presented in the first and second annual reports on the activities of the EURODAC Central Unit<sup>6</sup>.

## **2. THE EURODAC CENTRAL UNIT**

### **2.1. General Description**

A general description of the EURODAC Central Unit, as well as the definitions of the different types of transactions processed by the Central Unit and of the hits they

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

<sup>2</sup> Article 24(1) EURODAC Regulation

<sup>3</sup> OJ L 50, 25.2.2003, p.1

<sup>4</sup> Commission Regulation 1560/2003 of 2 September 2003 laying down detailed rules for the application of the "Dublin regulation", OJ L222 of 5.9.2003

<sup>5</sup> Council Regulation 407/2002 of 28 February 2002 laying down certain rules to implement the "EURODAC regulation", OJ L62/1 of 5.3.2002

<sup>6</sup> See Commission Staff Working Paper First annual report to the council and the European Parliament on the activities of the EURODAC Central Unit, SEC(2004)557, p.4 and See Commission Staff Working Paper First annual report to the council and the European Parliament on the activities of the EURODAC Central Unit, SEC(2005)839, p.3

can create can be found in the first annual report on the activities of the EURODAC Central Unit<sup>7</sup>.

## **2.2. Management of the system**

### *2.2.1. Direct management by the Commission in consultation with the Member States.*

The management of the EURODAC Central Unit by the Commission continued in 2005, with no major changes<sup>8</sup>. According to the EURODAC Regulation, Commission services carried out a technical assessment study as a part of the EURODAC Global Evaluation. The main objective of the study was to assess the current infrastructure and verify if, after almost 3 years of operation, it is still able to provide Member States with the required quality of services in the next years. The study concluded that, given the increasing amount of stored data and the natural obsolescence of the technical platform, which was delivered in 2001, an evolution of the EURODAC system has to be foreseen. In addition, the unpredictable trends of the EURODAC transaction volume due to the accession of additional Member States (i.e. Denmark, Romania, Bulgaria, Switzerland, Liechtenstein) also points to the need for development. Three different evolution scenarios were presented to the Member States during the annual EURODAC User Meeting, held in October 2005. Detailed information about the EURODAC evolution will be included in the general evaluation report.

### *2.2.2. Control by the European Data Protection Supervisor (EDPS)*

The EDPS is the competent authority as regards the monitoring of the activities of the Central Unit, in order to ensure that the rights of data subjects are not violated by the processing or use of the data held by the Central Unit.

Meetings and informal contacts occurred between the EDPS and Commission services on a regular basis. In accordance with Article 20 (2) of the Regulation, the EDPS carried out an inspection of the EURODAC Central Unit, as the first phase of a security audit and published the results in a report in February 2006<sup>9</sup>. The EDPS inspected the EURODAC premises (Central Unit and Business Continuity System) and submitted a set of questions. In its report, the EDPS made a series of recommendations with the aim of improving the system and concluded with a general satisfaction concerning the security level of EURODAC. The second phase of the audit will take place in the course of 2006 and will be focused on physical and logical security. Due to the specific aspect of the auditing action, the ENISA (European Network and Information Security Agency) will be involved for the second phase. ENISA will not conduct the audit but advise the EDPS mainly on the methodology of the security audit and contribute to the exchange of commendable practices.

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<sup>7</sup> See Commission Staff Working Paper First annual report to the council and the European Parliament on the activities of the EURODAC Central Unit, SEC (2004)557, p.6.

<sup>8</sup> For more information, see Commission Staff Working Paper First annual report to the council and the European Parliament on the activities of the EURODAC Central Unit, SEC(2004)557, p.8.

<sup>9</sup> Inspection report of the European Data Protection Supervisor on the EURODAC central unit, Brussels, 27/02/2006

### 3. FIGURES AND FINDINGS

#### 3.1. Introductory remarks

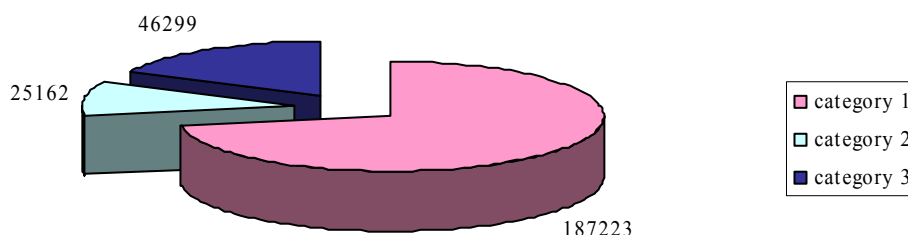
The annexes contain tables with factual data produced by the Central Unit for the period 1.1.2005 – 31.12.2005. The EURODAC statistics are based on records of fingerprints from all individuals aged 14 years or over who have made applications for asylum in the Member States, who were apprehended when crossing a Member State's external border irregularly or who were found illegally present on the territory of a Member State, if the competent authorities judge it necessary to check a potential prior asylum application.

It should be noted that EURODAC data on asylum applications are not comparable with those produced by Eurostat, which are based on monthly statistical data returns from the Ministries of Justice and of the Interior. There are a number of methodological reasons for the differences. The Eurostat definitions include all asylum applicants (of whatever age), with a distinction between first and repeat applications. In practice, Member States differ in terms of whether the dependants of asylum applicants are included in their asylum data. There are also differences in how repeat applications are accounted for in the statistics. Commission services are working on methodological solutions to make the data more comparable, and aim to address and solve these anomalies in the Proposal for a regulation of the European Parliament and the Council on Community statistics on international migration and asylum, which is currently being negotiated in the Council and the European Parliament, and the subsequent implementing measures.

#### 3.2. Successful transactions

A “successful transaction” is a transaction which has been correctly processed by the Central Unit, without rejection due to a data validation issue, fingerprint errors or insufficient quality.

Table 1: successful transactions in 2005



In 2005, the Central Unit received a total of 258.684 successful transactions, which reveals only a slight decrease compared to last year (287.938). The repartition of the

categories, however, shows more drastic changes: in 2005, the data of 187.223 asylum seekers (category 1), 25.162 illegal border-crossers (category 2) and 46.299 persons apprehended when illegally residing on the territory of a Member State (category 3) were sent to the Central Unit. Whilst "category 1" transactions have decreased by 20%, "category 2" transactions have increased by 36% and "category 3" transactions have increased by 15%.

The overall increase of the total annual figure of "category 2" transactions, may be due to the fact that some Member States have installed new fingerprinting stations at their external borders, and that now almost all Member States send such transactions. In 2005, only Estonia, Sweden and Luxembourg did not send any "category 2" transaction. However, in some Member States, such as Belgium, Netherlands and Norway, the number of such transactions remains surprisingly low.

The facility of "category 3" transactions (optional searches for third country nationals apprehended when illegally staying on the territory) has been used by an increasing number of Member States. In 2005, only Ireland did not send any "category 3" transactions.

Annex 1 details the successful transactions per Member State, with a breakdown by category and by month, between 1 January 2005 and 31 December 2005.

### 3.3. "Hits"

Introductory remark: The statistics concerning local hits shown in the table in annex 2 may not necessarily correspond to the hit replies transmitted by the Central Unit and recorded by the Member States. The reason for this is that Member States do not always use the option, provided by Art. 4(4), which requests the Central Unit to search against their own data already stored in the Central Unit database. However, even when Member States do not make use of this option, the Central Unit must, for technical reasons, always perform a comparison against all data (national and foreign) stored in the Central Unit. In these concrete cases, even if there is a match against national data, the Central Unit will simply reply "no hit" because the Member State did not ask for the comparison of the data submitted against its own data.

#### 3.3.1. *Multiple asylum applications (Annex 3)*

From a total of 187.223 asylum applications recorded by EURODAC in 2005, 31.636 cases show that the same person has already made at least one asylum application before (in the same or in another Member State). In 6.248 cases, asylum authorities were confronted with a third application. In 4 cases, a person applied 11 times for asylum since EURODAC started storing data.

In other words, **16 %** of the asylum applications in 2005 were subsequent (i.e. second or more) asylum applications.

#### 3.3.2. *"Category 1 against category 1" hits*

The table in annex 2.1 shows the distribution of hits among Member States. It also gives an indication of the secondary movements of asylum seekers in the EU. The statistics reveal some changing trends, partially due to the accession of ten new

Member States in 2004. For example, while in 2004 data sent by Slovakia in their vast majority hit against data sent by Austria (356), and only one time with data sent by Poland, in 2005, most of hits in Slovakia are against data sent by Poland (326) and Austria comes in the second place (136). Apart from the rather logical routes between neighbouring countries, it is striking to note that for example a large number of asylum applicants in France previously applied for asylum in Sweden. The most 'comparable' routes for subsequent asylum applications are those between Germany and Sweden. In Member States such as Italy, Malta, Poland and Cyprus, the number of subsequent asylum applications being recorded in the same state (local hits) is higher than the number of subsequent asylum applications recorded in other Member States (foreign hits).

### 3.3.3. *“Category 1 against category 2” hits*

The table in annex 2.2 gives an indication of routes taken by persons who irregularly enter the territory of the European Union, before applying for asylum. As in 2004, most hits occur for data sent by Greece, Italy and Spain. However, in these three Member States, a high number of hits are 'local', which means that persons irregularly entering their territory subsequently apply for asylum in the same country. As for last year, this happens in Italy for approx. 73% of the cases. A large section of those who entered the European territory via Italy and Greece and travel further, are headed mainly for the UK, while those entering via Spain most often headed for France, if not staying in Spain.

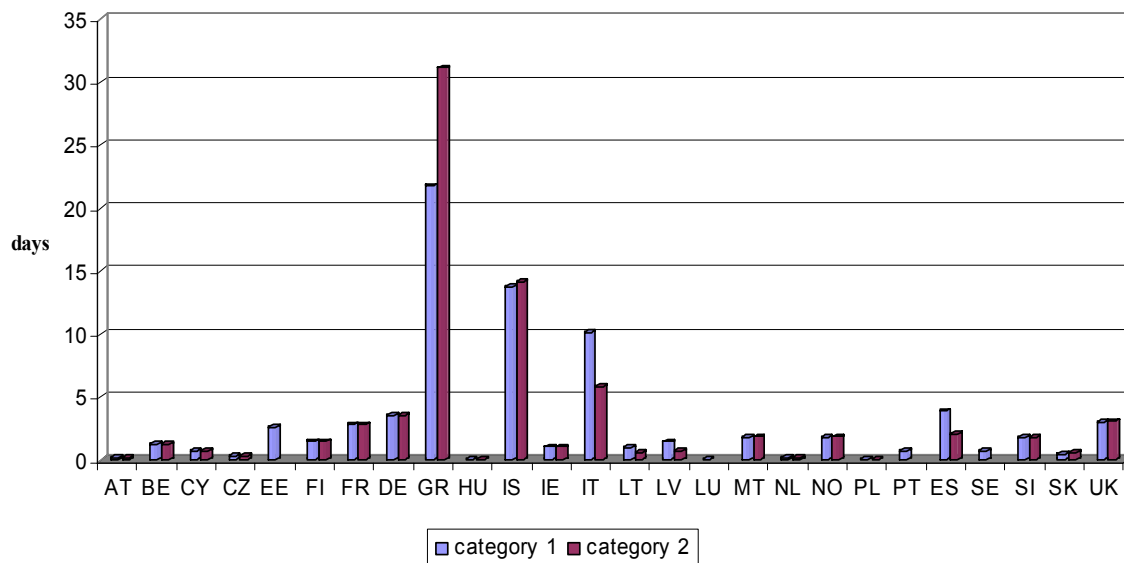
### 3.3.4. *“Category 3 against category 1” hits*

The table in annex 2.3 gives a first indication as to where illegal migrants first applied for asylum before travelling to another Member State. It has to be borne in mind, however, that the category 3 transaction is not mandatory and that not all Member States use the possibility for this check. One could conclude that, for example, persons apprehended when illegally residing in the Czech Republic often have previously claimed asylum in Poland. Worth noting is that the average of "success", i.e. category 3 transactions matching with previous category 1 transactions sent by other Member States, is around 19% for the 4 Member States with the highest record of such transactions (DE, NL, NO and CZ).



### 3.4. Average time between the date of the prints and the date of sending

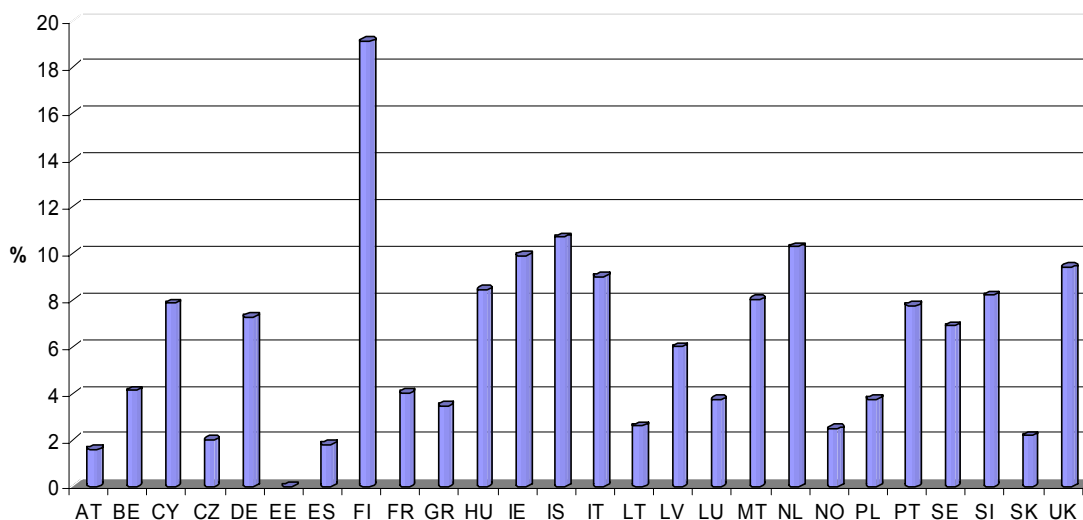
Table 2: average time for transmissions



Some Member States are much faster (less than 1 day) than others (over 31 days) in sending fingerprints to the Central Unit. Greece, Iceland and Italy take on average more than 10 days before sending their mandatory transactions. Germany, United Kingdom, Spain, France and Estonia take more than 2 days whilst all the other Member States spent only between 2 hours and one and a half day. The Commission services must remind Member States of the consequences of a delay in transmission for the proper application of the EURODAC and Dublin Regulations, as this may lead to results contrary to the underlying principles of the Regulation. For example: while the fingerprints of an alien who illegally crossed a border (category 2) are still on their way to the Central Unit, the same person could already present him/herself in another Member State and ask for asylum (category 1). If this second Member State sends the fingerprints faster than the first Member State, the Central Unit would register a category 1, and the second Member State would handle the application instead of the first one. Indeed, when a category 2 transmission arrives later on, a hit will be missed because category 2 is not searchable. Therefore, the Commission services again urge the Member States to make all necessary efforts to send their data promptly, in accordance with Articles 4 and 8.

### 3.5. Rejected transactions

Table 3: % of rejected transactions



The average rate in 2005 of rejected transactions for all Member States is 6,12%, which is slightly higher than in 2004 (5,82%). Some experienced a much higher (over 19% in FI) rejection rate than others (less than 2% in DE). Nine Member States have a rejection rate above average. The rejection rate does not depend on technology or system weaknesses. The causes of this rejection rate are mainly due to the low quality of the fingerprints images submitted by the Member States, to human error or to the wrong configuration of the Member State's equipment. Commission services urge those Member States to provide specific training of national EURODAC operators, as well to correctly configure their equipment in order to reduce this rejection rate.

## 4. EVALUATION OF THE CENTRAL UNIT

### 4.1. Cost-effectiveness

After three years of operations, Community expenditure on all externalised activities specific to EURODAC totals 7,8 million €. The executed payments for maintaining and operating the Central Unit amounted to 132.675,82 € in 2005.

With regard to national budgets, the EURODAC Central Unit enables Member States to use the Central Unit to compare the data submitted with their own data already stored in EURODAC in order to find out whether the applicant has already applied for asylum before in their own country. The Community also provided, via the IDA Programme, the communication and security services for exchange of data between the Central and National Units. These costs were initially to be borne by each Member State, in accordance with Article 21 (2) and (3) of the Regulation, but were finally covered by the Community making use of common available infrastructures, and thereby, generating savings for national budgets.

## **4.2. Quality of service**

There were no unscheduled Central Unit down-times in 2005: the Central Unit was, however, unreachable for about 9 hours (from Saturday 29 January at 22.11 to Sunday 30 January at 06.40) owing to a technical problem linked to a failure on one of the power supplies on the Disk Array Subsystem. Transactions were not lost and the 23 in the queue were delayed for the duration of the incident. All transactions were replied to within the 24 hour deadline as foreseen in the Regulation. An in-depth analysis has been conducted on the incident and the conclusion was that, although EURODAC is a complete redundant system and the redundant devices took over properly, the system lost the connection to some of the disks and that this could occur again in the future. Owing to the fact that it is unpredictable and unavoidable, the Commission services developed a specific technical procedure to immediately identify such an issue and reduce as much as possible the downtime, should it happen again. In 2005, the EURODAC system was available 99.9% of the time.

No Member State has notified the Commission of the existence of a false hit, i.e. a wrong identification performed by the AFIS, in accordance with Article 4 (6) of the Regulation.

## **4.3. Data Protection issues**

As in 2004, the Commission services continue to be concerned about the surprisingly high number of “special searches”. This category of transactions is foreseen by Article 18 paragraph 2 of the EURODAC Regulation. Reflecting the data protection rules to safeguard the rights of the data subject to access his/her own data, the provisions provide for a possibility to conduct such "special searches" on demand of the person concerned whose data are stored in the central database. The numbers of such transactions in 2005 vary from zero to 781 per Member State. The Commission services have alerted the European Data Protection Supervisor (EDPS) and contacted bilaterally a Member State of particular concern. They intend to further clarify this situation with some other Member States. Some national authorities have already informally explained the reasons for such a frequent use of this special category of searches. Namely, such transaction which do not lead to storage of data, would be used in cases where the responsible authorities have lost track of a previous transaction they have made and therefore lost the fingerprints sent back by the EURODAC Central Unit when a hit occurred.

## **5. CONCLUSIONS**

In 2005, the EURODAC Central unit has again given very satisfactory results in terms of speed, output, security and cost-effectiveness. The overall evaluation of the Dublin system, due later this year, including the application of the EURODAC Regulation, in the context of the first stage of the Common European Asylum System, should assess the real impact of the system on migration flows and the European asylum policy. EURODAC has established itself as an essential tool for a faster and more efficient application of the Dublin Regulation, as well as a good indicator of the phenomenon of “asylum shopping” in Member States. Any assessment of the added value provided by the EURODAC tool with a view to a

Common European Asylum System will be done in the framework of such a general evaluation.

The excessive delay for the transmission of data to the EURODAC Central Unit, as well as the low quality of those data sent by some Member States remain important concerns for the Commission services. After three years of operations, the national administrations should now make all efforts to transmit their data in a reasonable time and with acceptable quality. The Commission services also continue to insist on the proper application of Article 18 of the EURODAC Regulation and reiterate that this provision should only be used for data protection reasons.

## Annexes

### **Annex 1: Successful transactions per Member State and per month**

The tables in annex 1 show the number of transactions which have been sent by each Member State to the EURODAC Central Unit and successfully processed by the Central Unit.

#### **Successful transaction:**

A “successful transaction” is a transaction which has been correctly processed by the Central Unit, without rejection due to a data validation issue, fingerprint errors or insufficient quality.

#### **Types of categories:**

- Category 1: data of **asylum applications**. Fingerprints (full 10 print images) of asylum applicants sent for comparison against fingerprints of other asylum applicants who have previously lodged their application in another Member State. The same data will also be compared against the “category 2” data (see below). This data will be kept for 10 years with the exception of some specific cases foreseen in the Regulation (for instance an individual who obtains the nationality of one of the Member States) in which cases the data of the person concerned will be erased;
- Category 2: data of **aliens apprehended in connection with the irregular crossing of an external border and who were not turned back**. This data (full 10 print images) are sent for storage only, in order to be compared against data of asylum applicants submitted subsequently to the Central Unit. This data will be kept for two years with the exception that cases are deleted promptly when the individual receives a residence permit, leaves the territory of the Member State or obtains the nationality of one of them;
- Category 3: data relating to aliens found illegally present in a Member State. These data, which are not stored, are searched against the data of asylum applicants stored in the central database. The transmission of this category of data is optional for the Member States.

### **Annex 2: Distribution of hits**

#### **Annex 2.1. Category 1 against Category 1**

A “category 1 against category 1” hit means that the fingerprints of an asylum seeker have been recognised by the Central Unit as a match against the stored fingerprints of an existing asylum applicant. This hit is ‘local’ when the asylum seeker has already applied for asylum in the same Member State and ‘foreign’ when he/she has already applied for asylum in another Member State.

### Annex 2.2. Category 1 against Category 2

A “category 1 against category 2” hit means that the fingerprints of an asylum seeker match the stored fingerprints of an alien who has illegally crossed the border and who could not be turned back.

### Annex 2.3. Category 3 against Category 1

A “category 3 against category 1” hit means that the fingerprints of an alien found illegally present within a Member State are being recognised by the Central Unit as a match against the stored fingerprints of an asylum seeker.

### **Annex 3: Multiple asylum applications**

Multiple asylum applications: applications which indicate that the applicant has already made at least one asylum application before (in the same country or in other Member State).