

**ITALIAN SENATE**  
17TH PARLIAMENTARY TERM

**DOC. XVIII**  
**No 157**

**RESOLUTION OF THE 1st STANDING COMMITTEE**

**(Constitutional affairs, affairs of the Prime Minister's Office and home affairs, general legal system of the State and the civil service)**

*(Rapporteur MIGLIAVACCA)*

*adopted at the session of 5 October 2016*

*ON THE*

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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, FOR IDENTIFYING AN ILLEGALLY STAYING THIRD-COUNTRY NATIONAL OR STATELESS PERSON AND ON REQUESTS FOR THE COMPARISON WITH EURODAC DATA BY MEMBER STATES' LAW ENFORCEMENT AUTHORITIES AND EUROPOL FOR LAW ENFORCEMENT PURPOSES (RECAST) (COM (2016) 272 final)**

*pursuant to Article 144(1) and (6) of the Rules of Procedure*

**Sent to the President's Office on 14 October 2016**

**C O N T E N T S**

**Text of the Resolution ..... Page 3**

**Opinion of the 14th Standing Committee ..... Page 6**

The Committee,

having examined, pursuant to Article 144(1) and (6) of the Rules of Procedure, the Proposal for a Regulation of the European Parliament and of the Council 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, for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes (recast) (COM (2016) 272 final)

given that:

the proposal provides for the recast of 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 of the European Parliament and of the Council of 26 June 2013 (‘Dublin III Regulation’);

the document forms part of a first package of legislative proposals submitted by the Commission to reform the common European asylum system,

whereas:

the aim of the proposal is to extend the scope of the Eurodac Regulation to include the possibility for Member States to store and search data belonging to third-country nationals or stateless persons who are not applicants for international protection and are found to be staying illegally in the European Union, so that they can be identified and re-documented for return and readmission purposes;

in full compliance with data protection rules, the new Regulation will enable Member States to store more personal data in Eurodac so as to increase the information in the system and allow immigration and asylum authorities to easily identify an illegally staying third-country national or an asylum seeker, without the need to request this information directly from another Member State, as is the case currently,

noting, in particular, that:

a clear obligation is established for Member States to take fingerprints and a facial image of applicants for international protection, third-country nationals or stateless persons, and to inform the persons concerned of this. Member States are permitted to introduce sanctions, in accordance with their national law, for those individuals who refuse to provide a facial image or comply with the fingerprinting procedure. New provisions have also been laid

---

down to ensure that the taking of fingerprints and a facial image from minors should be carried out in a child-sensitive and child-friendly manner;

given the marked increase in the trafficking of minors, migrants and refugees to and within the European Union, it is proposed to lower the minimum age of taking fingerprints from 14 to six years of age. Thus the Eurodac system could be used to register children from third-countries where they are found undocumented within the EU to help keep track of them and prevent them from becoming the victims of exploitation;

the new proposal now permits the storage of personal data of the data-subject such as the name(s), age, date of birth, nationality, and identity documents, as well as a facial image;

new information is required to be updated in Eurodac relating to the Member State that becomes responsible for examining an asylum application following allocation of an applicant to another Member State. This will then make clear which Member State is responsible under the recast Dublin Regulation, if an applicant absconds or claims asylum in another Member State following an allocation procedure;

fingerprint data for illegally staying third-country nationals who do not claim asylum will be retained for five years and amendments are brought in so that: the data of illegally staying third-country nationals who do not lodge an application for asylum within the European Union are to be marked instead of erased in advance, as is currently the case;

the proposal also allows for information on the identity of an irregular migrant to be shared with a third country where it is necessary to share that information for return purposes only;

other provisions also concern access by the law enforcement authorities and Europol, authorisation for coast and border guards and national experts from the European Asylum Support Office (EASO) to take fingerprints, statistics and operational management of the central system;

whereas, in addition:

this proposal for a Regulation satisfies the principle of subsidiarity since only the European Union may propose solutions, in the context of the Common European Asylum System, to problems regarding the Eurodac Regulation. In particular, changes to the Eurodac system are required in order to allow access for the purposes of monitoring illegal immigration and secondary movements of irregular migrants within the EU. This objective cannot be sufficiently achieved by the Member States alone.

The proposal does not go beyond what is necessary to meet the defined objectives, in line with the principle of proportionality,

Hereby issues a favourable opinion.

---

**OPINION OF THE 14<sup>th</sup> STANDING COMMITTEE**  
(EUROPEAN UNION POLICIES)

(Rapporteur: ROMANO)

28 September 2016

The Committee, having examined the proposal,

whereas the proposal for a Regulation, which provides for the recast of Regulation (EU) No 603/2013 of the European Parliament and of the Council on the establishment of ‘Eurodac’ for the comparison of fingerprints for the effective application of the Dublin III Regulation (Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013) is intended to extend its scope in order to identify illegally staying third-country nationals and to allow Member States to use this information for the purposes of issuing new documents with a view to repatriation;

recalling that:

on 6 April 2016, the European Commission adopted a communication on the reform of the common European asylum system (COM(2016) 197), containing a comprehensive strategy to establish a fair system for determining the Member State responsible for asylum seekers, reinforcing the Eurodac system and strengthening the European Asylum Support Office (EASO). In this communication, the European Commission recognises the need to move away from a system that places a disproportionate responsibility on certain Member States and encourages uncontrolled migratory flows to other Member States;

in accordance with this reform plan, on 4 May 2016 the European Commission submitted a package of three proposals concerning the reform of Regulation (EU) No 604/2013 - the ‘Dublin III Regulation’ (COM(2016) 270), the reform of Regulation (EU) No 603/2013 - Eurodac (COM(2016) 272) and the reform of Regulation (EU) No 439/2010 establishing the EASO (COM(2016) 271), defining it as the first step towards the comprehensive reform of the Common European Asylum System;

on 13 July 2016 the European Commission presented a further package of four proposals to complete the reform of the Common European Asylum System, namely: a proposal establishing a common procedure for international protection (COM(2016) 467); a proposal to reform the Directive on the qualification of third-country nationals or stateless persons as beneficiaries of international protection (COM(2016) 466); a proposal to revise the

---

Directive laying down standards for the reception of applicants for international protection, intended to increase applicants' integration prospects and decrease secondary movements (COM(2016) 465); a proposal to define a structured Union resettlement framework, aimed at enhancing legal avenues to the EU and progressively reducing the incentives for irregular arrivals (COM(2016) 468);

whereas the proposal under consideration provides for:

in Article 1(1) *b*), extending the scope of Eurodac to the data of illegally staying third-country nationals or stateless persons who are therefore not applicants for international protection, in order to assist with the control of illegal immigration to and secondary movements within the Union and identify illegally staying third-country nationals;

under the new Article 2, Member States are obliged to take the fingerprints and facial image of persons referred to in the Regulation (applicants for international protection, third-country nationals or stateless persons who were apprehended in connection with the irregular crossing of an external border, third-country nationals or stateless persons who were found illegally staying in a Member State);

under the new Articles 10, 13 and 14 the minimum age for taking fingerprints and facial images is lowered from 14 to six years of age;

in the new Article 17, the lowering to five years of the storage period for data relating to illegally staying third-country nationals or stateless persons, while the storage period for data relating to applicants for international protection remains the same at ten years in order to ensure that Member States can track secondary movements within the EU following a grant of international protection status where the individual concerned is not authorised to reside in another Member State;

whereas in the report forwarded on 25 July 2016 under Article 6 of Law No 234 of 24 December 2012, this proposal has been identified by the Government as one of the EU acts of particular national interest and gives it an overall positive assessment in terms of substance,

comments favourably on the proposal, within its area of responsibility, with the following comments:

the legal basis has been correctly identified as Article 78(2)(*e*), Article 79(2)(*c*), Article 87(2)(*a*), and Article 88(2)(*a*), of the Treaty on the Functioning of the European Union (TFUE), which provides for the use of the ordinary legislative procedure for the adoption of measures for:

- a Common European Asylum System that includes criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;

- a common immigration policy that incorporates illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation; - police cooperation that includes the collection, storage, processing, analysis and exchange of relevant information;

- the structure, operation, field of action and tasks of Europol, including the collection, storage, processing, analysis and exchange of the information

sent, in particular by the Member States' authorities or third countries or bodies. These are the same legal bases as for Regulation (EU) No 603/2013, which is to be revised, and to which the basis for legal and irregular migration is being added;

the principle of subsidiarity is met since the objective is to extend the scope of the Eurodac Regulation on the taking (uniform in all the Member States) of fingerprints and facial image data, including irregular third-country nationals, for effective application of the Dublin legislation, and this objective cannot be satisfactorily achieved by the Member States acting alone;

the principle of proportionality is met because the planned measures do not exceed what is necessary to achieve the objectives set in the proposal;

in this respect, it is significant that under the new Article 17, fingerprint data for illegally staying third-country nationals who do not claim asylum will be stored for no more than five years. Furthermore, this period is aligned with the provisions of Directive 2008/115/EC, Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 ('VIS Regulation') and the proposal for a Regulation of the European Parliament and of the Council of 16 December 2008 ('Return Directive') establishing an entry/exit system of third-country nationals crossing the external borders (COM(2016) 194);

in addition, the requirement to take facial images from the age of six will help to strengthen the protection of minors, both unaccompanied and those accompanying family members, if removed from their main family unit;

lastly, the proposal is deemed to provide valuable support for identifying and expelling nationals illegally present in the European Union.