



Council of the
European Union

Brussels, 15 June 2022
(OR. fr, en)

9670/22

Interinstitutional File:
2016/0132(COD)

LIMITE

ASILE 70
JAI 828
EURODAC 14
IXIM 156
ENFOPOL 319
CODEC 841

NOTE

From: Presidency
To: Permanent Representatives Committee

No. prev. doc.: 9542/22
No. Cion doc.: 11205/20 + ADD 1

Subject: Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of biometric data for the effective application of Regulation (EU) No 604/2013 and Directive 2001/55/EC, 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 and amending Regulations (EU) 2018/1240, (EU) 2019/818 and (EU) 2017/2226
– Mandate for negotiations with the European Parliament

Delegations will find below a courtesy translation of doc. 9670/22.

1. On 23 September 2020, as part of the new Pact on Migration and Asylum, the Commission submitted an amended proposal for the Eurodac Regulation¹. It builds on the 2016 proposal for the recast Eurodac Regulation² and the progress achieved by co-legislators in 2017-2019.

¹ 11205/20 + ADD 1

² 8765/1/16 REV 1

2. In addition to the aim of the 2016 Eurodac proposal to reinforce the Eurodac system and to expand its purpose to help tackle irregular migration and facilitate returns, the amended proposal from 2020 includes changes to improve the database by counting individual applicants in addition to applications, on recording security threats and ensuring interoperability with other EU information systems.
3. Detailed examination of the amended proposal started at the informal meeting of the Asylum Working Party on 19 October 2020 during the German Presidency and continued at informal meetings of JHA Counsellors in autumn 2021 under the Slovenian Presidency. During the French Presidency, discussions have resumed in the framework of the first step of the gradual approach. Several JHA Counsellors meetings were organised on 6 and 20 May and on 3 June 2022.
4. During these discussions, Member States expressed broad support for the amended proposal and welcomed most of the compromise suggestions presented by the respective Presidencies. A number of modifications were made in the text concerning the moment and type of collection and transmission of data to the Central System, and conditions were added for access of Member States' asylum authorities to the Entry/Exit System. The text also includes changes enabling to delink Eurodac from the other proposals of the asylum package that are under negotiation. Consequently, references to the other proposals were replaced by references to existing legislation.

5. In the framework of the discussions on the gradual approach to the Pact on Migration and Asylum, with the aim of finding an overall balance of the proposals within its first stage, the category of persons disembarked following search and rescue operations was reintroduced, while also allowing a longer period for the transmission of data for this category of persons in the event of a sudden influx. In addition, a new category of beneficiaries of temporary protection was included, with the understanding that this modification will not apply to persons displaced by the war in Ukraine, given that their registration is handled by the platform designed by the Commission and eu-Lisa.
6. Following the last meeting of JHA Counsellors on 3 June 2022, recital (4aa) has been slightly modified to clarify the relationship between the Eurodac Regulation and the rules applicable to the persons disembarked following search and rescue operations.
7. Based on the above, the Presidency considers that the compromise represents a fair and balanced approach taking into account views expressed by the Member States. Modifications as compared to the Commission proposal are indicated in bold and the deleted text is in [...].
8. In view of the above, Coreper is invited to agree on the text of the amended proposal for the Eurodac Regulation as set out in Annex to this note, with a view to granting a mandate authorising the Presidency to start negotiations with the European Parliament. It is to be understood that this mandate will complement the mandates that had been granted already on the 2016 proposal, on the basis of which negotiations with the European Parliament were carried out by previous Presidencies.

2016/0132 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the establishment of 'Eurodac' for the comparison of biometric data for the effective application of Regulation (EU) No 604/2013 and Directive 2001/55/EC [...], 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 and amending Regulations (EU) 2018/1240, (EU) 2019/818 and (EU) 2017/2226

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 78(2)(c), (d) **and** (e) [...], 79(2)(c), 87(2)(a) [...] and 88(2)(a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) the following recitals are inserted after recital 4:

‘(4a) Moreover, for the purposes of effectively applying Regulation (EU) **604/2013** [...] and in accordance with the rules thereof, it is necessary to clearly [...] **record in Eurodac which Member State is responsible once responsibility has been determined or, as applicable, [...]** there has been a shift of responsibility between Member States, including **cases in which a Member State has applied a discretionary clause, providing voluntary solidarity to another Member State. Such recording should be indicated in all cases where responsibility may be established based on the provisions set out in Article 3(2), the criteria set out in Chapter III, the clauses set out in Chapter IV, the issuance of a residence document as set out in Article 19(1), or after the expiry of any time limit governing responsibility set out in Chapter VI of that Regulation [...]**.

(4aa) Furthermore, in order to reflect accurately the obligations Member States have **under international law** to conduct search and rescue operations and to **provide a more accurate picture of the composition of migratory flows in the EU [...]** it is also necessary to **record in Eurodac the fact that the [...]** third-country nationals or stateless persons **were** disembarked following search and rescue operations [...]. **This should be without prejudice to the respect of existing rules under EU law applicable ~~applying~~ to those persons.**

(4b) Furthermore, for the purposes of **improving the support to the asylum system through speeding up the examination of an asylum application by prioritising the assessment of the security-related exclusion ground for the beneficiaries of subsidiary protection under Article 17(1)(d) or the possibility of not granting refugee status under Article 14(5) of Directive 2011/95/EU³ or by facilitating the application of accelerated or border procedures under Article 31(8)(j) of Directive 2013/32/EU⁴, [...] it is necessary to record [...] whether, following any security checks [...], it appears that a person could pose a threat to internal security.** For the purposes of facilitating the implementation of Directive 2001/55/EC⁵, and in particular its Article 28, it is also necessary to record the result of the assessment of the security-related exclusion grounds for the beneficiaries of temporary protection made after their registration.

(4c) Registration of persons resettled via resettlement schemes should have a positive indirect effect on the smooth functioning of Regulation 604/2013, as it should help Member States identify secondary movements and facilitate the determination of the Member State responsible for a person who has already been subject to a concluded resettlement scheme. It is therefore appropriate that Eurodac may be used for such schemes.

³ **Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9–26**

⁴ **Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, OJ L 180, 29.6.2013, p. 60–95**

⁵ **Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212, 7.8.2001, p. 12-23**

(4d) Council Directive 2001/55/EC provides an obligation for Member States to register persons enjoying temporary protection on their territory and to exchange information on these persons for the purpose of the effective implementation of the directive.

From a technical point of view, exchanging information on persons via Eurodac is the most appropriate as it limits data registrations to this database and as it minimises the number of both possible points of failure and exchanges between Member States compared to an alternative peer-to-peer system. In this regard, biometric data are an important element in establishing the exact identity of such persons, especially where they do not possess any identity documents and thus protecting a substantial public interest within the meaning of Article 9(2)(g) of Regulation (EU) 2016/679.

(4da) Following the adoption of Council Implementing Decision 2022/382 in response to the war in Ukraine, a platform was set up by the Commission, in cooperation with eu-LISA and the Member States, to deal with the information exchanges necessary pursuant to Directive 2001/55. Therefore, it is appropriate to exclude from Eurodac those persons benefiting from temporary protection pursuant to Council Implementing Decision 2022/382, and the national measures taken pursuant thereto. Such exclusion should also apply in respect of any future amendments to Council Implementing Decision 2022/382 and any extensions thereto.

(2) the following recitals are inserted after recital 5:

‘(5a) It is also necessary to introduce provisions that would ensure the functioning of that system within the interoperability framework established by Regulations (EU) 2019/817⁶ and 2019/818⁷ of the European Parliament and of the Council.

(5b) Furthermore, it is necessary to introduce the provisions that would frame the access of European Travel Information and Authorization System (ETIAS) national units and of competent visa authorities to Eurodac in accordance with Regulations (EU) 2018/1240⁸ and (EC) 767/2008⁹ of the European Parliament and of the Council.

⁶ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27-84

⁷ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L 135, 22.5.2019, p. 85–135

⁸ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018, p. 1–71

⁹ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJ L 218, 13.8.2008, p. 60–81

(5c) Likewise, for the purpose of managing irregular migration, it is necessary to allow eu-LISA to produce cross-system statistics using data from Eurodac, the Visa Information System, ETIAS and the Entry/Exit System (EES)¹⁰. In order to specify the content of these cross-system statistics, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.';

(3) recital 6 is replaced by the following:

'(6) To those ends, it is necessary to set up a system known as 'Eurodac', consisting of a Central System and of the Common Identity Repository (CIR) established by Regulation (EU) 2019/818, which will operate a computerised central database of biometric data **and other personal data**, as well as of the electronic means of transmission between those [the Central System and the [...]] CIR] and the Member States, hereinafter the "Communication Infrastructure".';

(4) the following recital is inserted after recital 11:

'(11a) For that purpose, it is also necessary to clearly **record** [...] in Eurodac the fact that an application for international protection has been rejected where the third-country national or stateless person has no right to remain and has not been allowed to remain in accordance with **Directive 2013/32/EU** [...].';

¹⁰ **Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, OJ L 327, 9.12.2017, p. 20–82**

(5) recital 14 is replaced by the following:

‘(14) Moreover, in order for Eurodac to effectively assist with the control of irregular migration and with the detection of secondary movements within the EU, it is necessary to allow the system to count applicants in addition to applications by linking all sets of data corresponding to one person, regardless of their category, in one sequence.’;

(6) **the following recital is inserted after recital 33:**

(33a) In order to support the Member States in their administrative cooperation during the implementation of Council Directive 2001/55/EC data of beneficiaries of temporary protection should be kept in the Central System and the CIR for a period of three years from the date of the entry into force of each respective Council Implementing Decision.

(6a) **the following recital is inserted after recital 35:**

(35a) For Eurodac purposes, lodging the application for international protection should be understood in the sense of Article 20(2) of Regulation (EU) No 604/2013 as interpreted by the relevant case-law of the European Court of Justice.

(7) the following recital is inserted after recital 60:

‘(60a) This Regulation should be without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council¹¹.’;

(8) recital 63 is deleted.

HAVE ADOPTED THIS REGULATION:

(9) Article 1 is replaced by the following:

Article 1

Purpose of "Eurodac"

1. A system known as "Eurodac" is hereby established, the purpose of which shall be to:

- (a) **improve the support to the asylum system, including by assisting** [...] in determining which Member State is to be responsible pursuant to Regulation (EU) **No 604/2013** [...] for examining an application for international protection **lodged** [...] in a Member State by a third-country national or a stateless person, and otherwise to facilitate the application of Regulation (EU) **No 604/2013** [...] under the conditions set out in this Regulation;

¹¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30.4.2004, p. 77

- (b) assist with **resettlement schemes** [...];
- (c) assist with the control of **irregular** [...] immigration to the Union and with the detection of secondary movements within the Union and with the identification of illegally staying third-country nationals and stateless persons for determining the appropriate measures to be taken by Member States [...];
- (d) lay down the conditions under which Member States' designated authorities and the **European Union Agency for Law Enforcement Cooperation** [...] (Europol) may request the comparison of biometric or alphanumeric data with those stored in **the CIR and** the Central System for law enforcement purposes for the prevention, detection or investigation of terrorist offences or of other serious criminal offences;
- (e) assist in the correct identification of persons registered in Eurodac under the conditions and for the objectives referred to in Article 20 of Regulation (EU) 2019/818 by storing identity data, travel document data and biometric data in the [...] **CIR** established by that Regulation;
- (f) support the objectives of the European Travel Information and Authorisation System ('ETIAS') established by Regulation (EU) 2018/1240;
- (g) support the objectives of the Visa Information System (VIS) referred to in Regulation (EC) No 767/2008.
- (h) **assist with the implementation of the Directive 2001/55/EC.**

2. Without prejudice to the processing of data intended for Eurodac by the Member State of origin in databases set up under the latter's national law, biometric data and other personal data may be processed in Eurodac only for the purposes set out in this Regulation, in Regulation (EU) No 604/2013, in Regulation (EU) 2019/818, in Regulation (EU) 2018/1240 and in Regulation (EC) No 767/2008 [...].’;

(10) Article 3 is amended as follows:

[...]

(a) in paragraph 1, point b), point (vii) is added :

(vii) in relation to a person covered by Article 14c(1), the Member State which transmits the personal data to the Central System and to the Common Identity Repository and receives the results of the comparison;

(aa) in paragraph 1, point b), point (vi) is added :

(vi) in relation to a person covered by Article 14a(1), the Member State which transmits the personal data to the Central System and to the Common Identity Repository and receives the results of the comparison;

(b) in paragraph 1, the following points **(ea)**, **(eb)**, **(t)**, **(u)** and **(v)** [...] are added:

(ea) “search and rescue operations” means operations of search and rescue as referred to in the 1979 International Convention on Maritime Search and Rescue adopted in Hamburg, Germany on 27 April 1979;

- (eb) **‘beneficiary of temporary protection’ means a person who enjoys temporary protection as defined in Article 2(a) of Directive (EC) 2001/55 and in the Council Implementing Decision introducing temporary protection, or any other equivalent national protection introduced in response to the same event as that Council Implementing Decision.**
- (t) “CIR” means the common identity repository as **established by** [...] Article 17 (1) of Regulation (EU) 2019/818;
- (u) “identity data” means the data referred to in Article 12(1)(c) to (f) and (h), Article 13(2) (c) to (f) and (h), Article 14(2) (c) to (f) and (h), **Article 14a(2)(c) to (f) and (h), and Article 14c(2) (c) to (f) and (h);**
- (v) “dataset” means the set of information recorded in Eurodac on the basis of Articles 12, 13, 14, 14a **or 14c**, corresponding to one set of fingerprints of a data subject and composed of biometric data, alphanumeric data and, where available, a scanned colour copy of an identity or travel document.’;

(11) Article 4 is replaced by the following:

Article 4

System architecture and basic principles

1. Eurodac shall consist of:

- (a) a Central System composed of:
 - (i) a Central Unit,
 - (ii) a Business Continuity Plan and System;
- (b) a communication infrastructure between the Central System and Member States that provides a secure and encrypted communication channel for Eurodac data ("Communication Infrastructure");
- (c) the CIR [...] as referred to in Article 3(t) [...];
- (d) a secure communication infrastructure between the Central System and the central infrastructures of the European search portal, the shared biometric matching service, the CIR and the multiple-identity detector established by Regulation 2019/818.

2. The CIR shall contain the data referred to in Article 12 **(1)** (a) to (f) **and** (h) and **(ha)**, [...] Article 13(2) (a) to (f), (h) and **(ha)** [...], Article 14(2) (a) to (f), (h) and **(ha)** [...] **Article 14a (2) (a) to (f) and (h) and (2a) (a), and Article 14c (2) (a) to (f), (h) and (i)**. The remaining Eurodac data shall be stored in the Central System.
3. The Eurodac Communication Infrastructure will be using the existing 'Secure Trans European Services for Telematics between Administrations' (TESTA) network. [...] In order to ensure confidentiality, personal data transmitted to or from Eurodac shall be encrypted.
4. Each Member State shall have a single National Access Point. Europol shall have a single Europol access point.
5. Data on persons covered by Articles 10(1), 13(1), 14(1), 14a(1) **and 14c(1)** which are processed in the Central System shall be processed on behalf of the Member State of origin under the conditions set out in this Regulation and separated by appropriate technical means.

6. All datasets registered in Eurodac corresponding to the same third country national or stateless person shall be linked in a sequence. Where a search is launched with the fingerprints in the dataset of a third-country national or stateless person and a hit is obtained against at least one other set of fingerprints in another dataset corresponding to that same third country national or stateless person, Eurodac shall automatically link those datasets on the basis of the fingerprints comparison. **Where** [...] necessary, the comparison of fingerprints shall be checked and confirmed by a fingerprint expert in accordance with Article 26. When the receiving Member State confirms the hit, it shall send a notification to eu-LISA that will confirm the linking.

7. The rules governing Eurodac shall also apply to operations carried out by the Member States as from the transmission of data to the Central System until use is made of the results of the comparison.’;

(12) the following Articles 8a, 8b, 8c and 8d are inserted:

‘Article 8a

Interoperability with ETIAS

1. From [the date of application of this Regulation], the Central System of Eurodac shall be connected to the European search portal referred to in Article 6 of Regulation (EU) 2019/818 in order to enable the automated processing referred to in Article 11 of Regulation (EU) 2018/1240.

2. The automated processing referred to in Article 11 of Regulation (EU) 2018/1240 shall enable the verifications provided for in Article 20 and the subsequent verifications of Articles 22 and 26 of that Regulation.

For the purpose of carrying out the verifications referred to in Article 20(2)(k) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the European search portal, to compare the data in ETIAS with the data in Eurodac collected on the basis of Articles 12, 13, 14, 14a **and 14c** [...] **of this Regulation using the data categories listed in Annex I** of this Regulation corresponding to individuals having left or having been removed from the territory of the Member States in compliance with a return decision or removal order [...].

The verifications shall be without prejudice to the specific rules provided for in Article 24(3) of Regulation (EU) 2018/1240.

Article 8b

Conditions for access to Eurodac for the manual processing by ETIAS National Units

1. Consultation of Eurodac by ETIAS National Units shall be carried out by means of the same alphanumeric data as those used for the automated processing referred to in Article 8a.
2. For the purposes of Article 1(1)(f), the ETIAS National Units, shall have access to and may consult the Eurodac, in a read-only format, for the purpose of examining applications for travel authorisation. In particular, the ETIAS National Units may consult the data referred to in Articles 12, 13, 14, 14a **and 14c**.
3. Following consultation and access pursuant to paragraphs 1 and 2 of this Article the result of the assessment shall be recorded only in the ETIAS application files.

Article 8c

Access to Eurodac by the competent visa authorities

For the purpose of manually verifying hits triggered by the automated queries carried out by the Visa Information System in accordance with Articles [9a and 9c] of Regulation (EC) No 767/2008 and examining and deciding on visa applications in accordance with Article 21 of Regulation (EC) No 810/2009 of the European Parliament and of the Council¹², the competent visa authorities shall have access to Eurodac to consult data in a read-only format.

Article 8d

Interoperability with the Visa Information System

From the [date of application of the Regulation (EU) XXX/XXX amending the VIS Regulation], as provided for in Article [9] of that Regulation, Eurodac shall be connected to the European search portal referred to in Article 6 of Regulation (EU) 2019/817 in order to enable the automated processing referred to in Article [9a] of Regulation (EC) No 767/2008 in order to query Eurodac and compare the relevant data in the Visa Information System with the relevant data in Eurodac. The verifications shall be without prejudice to the specific rules provided for in Article 9(b) of Regulation 767/2008.’;

¹² Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.9.2009, p. 1–58

(13) Article 9 is replaced by the following:

Article 9

Statistics

1. eu-LISA shall draw up statistics on the work of the **CIR and** Central System every month indicating in particular:

- (a) the number of applicants and the number of first-time applicants resulting from the linking process referred to in Article 4(6);
- (b) the number of rejected applicants resulting from the linking process referred to in Article 4(6) and pursuant to Article 12(1a)(h) [...];
- (ba) the number of persons disembarked following search and rescue operations;**
- (c) the number of data sets transmitted on persons referred to in Articles 10(1), 13(1) [...], 14(1), 14a(1) **and 14c(1)**;
- (d) the number of hits for persons referred to in Article 10(1):
 - (i) **who have lodged** [...] an application for international protection [...] **in a Member State,**
 - (ii) who were apprehended in connection with the irregular crossing of an external border,
 - (iii) who were illegally staying in a Member State;

- (iv) who were disembarked following a search and rescue operation;
- (v) **who were registered as a beneficiary of temporary protection in a Member State;**

[...]

(e) the number of hits for persons referred to in Article 13(1):

- (i) **who have lodged** [...] an application for international protection **in a Member State** [...],

- (ii) who were apprehended in connection with the irregular crossing of an external border,

- (iii) who were illegally staying in a Member State;

- (iv) who were disembarked following a search and rescue operation;

- (v) **who were registered as a beneficiary of temporary protection in a Member State;**

[...]

(f) the number of hits for persons referred to in Article 14(1):

- (i) **who have lodged** [...] an application for international protection **in a Member State,**

- (ii) who were apprehended in connection with the irregular crossing of an external border,

- (iii) who were illegally staying in a Member State,
 - (iv) who were disembarked following a search and rescue operation;
 - v) **who were registered as a beneficiary of temporary protection in a Member State;**
- (g) the number of hits for persons referred to in Article 14a(1):
- (i) **who have lodged** [...] an application for international protection **in a Member State,**
 - (ii) who were apprehended in connection with the irregular crossing of an external border,
 - (iii) who were illegally staying in a Member State,
 - (iv) who were disembarked following a search and rescue operation;
 - (v) **who were registered as a beneficiary of temporary protection in a Member State;**
- (ga) **the number of hits for persons referred to in Article 14c(1):**
- (i) **who have lodged an application for international protection in a Member State,**
 - (ii) **who were apprehended in connection with the irregular crossing of an external border,**
 - (iii) **who were illegally staying in a Member State,**
 - (iv) **who were disembarked following a search and rescue operation;**
 - (v) **who were registered as beneficiary of temporary protection in a Member State;**

- (h) the number of biometric data which the Central System had to request more than once from the Member States of origin because the biometric data originally transmitted did not lend themselves to comparison using the computerised fingerprint and facial image recognition systems;
- (i) the number of data sets marked and unmarked in accordance with Article 19(1), (2), (3) and (4);
- (j) the number of hits for persons referred to in Article 19(1) and (4) for whom hits have been recorded under points (d) to (ga) [...] of this Article;
- (k) the number of requests and hits referred to in Article 21(1);
- (l) the number of requests and hits referred to in Article 22(1);
- (m) the number of requests made for persons referred to in Article 31;
- (n) the number of hits received from the Central System as referred to in Article 26(6).

2. The monthly statistical data for persons referred to in paragraph 1(a) to (n) shall be published each month. At the end of each year, the yearly statistical data for persons referred to in paragraph 1(a) to (n) shall be published by eu-LISA. The statistical data shall be broken down by Member State. The statistical data for persons referred to in paragraph 1 (c) shall, where possible, be broken down by year of birth and sex.

3. For the purpose of supporting the objective referred to in Article 1(c), eu-LISA shall produce monthly cross-system statistics. Those statistics shall not allow for the identification of individuals and will use data from Eurodac, the Visa Information System, ETIAS and the EES [...].

These statistics shall be made available to the Commission, to the European Union Agency for Asylum, to the European Border and Coast Guard Agency and to the Member States. The Commission shall, by means of implementing acts, specify the content of the monthly cross-system statistics. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 41a(2).

4. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the application of this Regulation as well as the statistics pursuant to paragraph 1 and shall, upon request, make them available to a Member State and to the European Union Agency for Asylum.

5. eu-LISA shall store the data referred to in paragraphs 1 to 4 of this Article, which shall not allow for the identification of individuals, for research and analysis purposes, thus enabling the authorities referred to in paragraph 3 of this Article to obtain customisable reports and statistics in the central repository for reporting and statistics referred to in Article 39 of Regulation (EU) 2019/818.

6. Access to the central repository for reporting and statistics referred to in Article 39 of Regulation (EU) 2019/818 shall be granted to eu-LISA, to the Commission, to the European Union Agency for Asylum and to the authorities designated by each Member State in accordance with Article 28(2). Access may also be granted to authorised users of other Justice and Home Affairs Agencies if such access is relevant for the implementation of their tasks.’;

(14) Article 10 is replaced by the following:

Article 10

Collection and transmission of biometric data

1. Each Member State shall take the biometric data of every applicant for international protection of at least six years of age [...]:

(a) promptly, and shall, as soon as possible and no later than 72 hours **after the lodging of his or her application for international protection, as defined by Article 20(2) of Regulation (EU) No 604/2013** [...], transmit them together with the **other** data referred to in Article 12(1) [...] of this Regulation to the Central System and to the CIR as appropriate in accordance with Article 4(2); **or**

(b) upon the making of the application for international protection, where the application is made at external border crossing points or in transit zones by a person who does not fulfil the entry conditions as set out in Article 6 of Regulation (EU) 2016/399, and shall, as soon as possible and no later than 72 hours after the biometric data have been taken transmit them together with the data referred to in Article 12 (1) of this Regulation to the Central System and to the CIR as appropriate in accordance with Article 4(2).

[...]

Non-compliance with the 72-hour time-limit shall not relieve Member States of the obligation to take and transmit the biometric data to the CIR. Where the condition of the fingertips does not allow the taking of the fingerprints of a quality ensuring appropriate comparison under Article 26, the Member State of origin shall retake the fingerprints of the applicant and resend them as soon as possible and no later than 48 hours after they have been successfully retaken.

2. By way of derogation from paragraph 1, where it is not possible to take the biometric data of an applicant for international protection on account of measures taken to ensure his or her health or the protection of public health, Member States shall take and send such biometric data as soon as possible and no later than 48 hours after those health grounds no longer prevail.

In the event of serious technical problems, Member States may extend the 72-hour time-limit in paragraph 1 by a maximum of a further 48 hours in order to carry out their national continuity plans.

3. Where requested by the Member State concerned, the biometric data may also be taken and transmitted on behalf of that Member State by members of the European Border and Coast Guard Teams or experts of the asylum support teams when exercising powers and performing their tasks in accordance with Regulation (EU) 2019/1896 and Regulation (EU) **2021/2303**.

4. Each data set collected and transmitted in accordance with paragraph 1 shall be linked with other sets of data corresponding to the same third country national or stateless person in a sequence as set out in Article 4(6).

4a. The fact that the application for international protection follows or is made simultaneously with the apprehension of the third-country national or stateless person in connection with the irregular crossing of the external borders does not exempt Member States to register those persons first in accordance with Article 13 of this Regulation.

4b. The fact that the application for international protection follows or is made simultaneously with the apprehension of the third-country national or stateless person illegally staying on the territory of Member States, does not exempt Member States to register those persons first in accordance with Article 14 of this Regulation.

4c. The fact that the application for international protection follows or is made simultaneously with the disembarkation following a search and rescue operation of the third-country national or stateless person does not exempt Member States to register those persons first in accordance with Article 14a of this Regulation.

4ca. [...] The fact that an application for international protection follows or is made simultaneously with the registration of the beneficiary of temporary protection does not exempt [...] Member States [...] to register [...] persons first in accordance with Article 14c of this Regulation.

4d. In the cases foreseen in paragraphs 4a to 4ca [...], the Member State may reuse the biometric data previously taken in accordance with Articles 13, 14, 14a and 14c of this Regulation for the recording in the Central System and in the CIR made pursuant to paragraph 1.

(15) Article 11 is replaced by the following:

Article 11

Information on the status of the data subject

1. As soon as the Member State responsible has been determined in accordance with Regulation (EU) No **604/2013**, [...] the Member State that conducts the procedures for determining the Member State responsible [...] shall update its data set recorded pursuant to Article 12 of this Regulation regarding the person concerned by adding the Member State responsible.

[...]

2. The following information shall be sent to the Central System in order to be stored in accordance with Article 17 (1) for the purpose of transmission under Articles 15 and 16:

- (a) when an applicant for international protection or another person as referred to in Article **18 (1) point (d)** [...] of Regulation (EU) No **604/2013** [...] arrives in the Member State responsible following a transfer pursuant to a **decision acceding to a take back request** [...] as referred to in Article [...] **25 thereof** [...], the Member State responsible shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding his or her date of arrival;

- (b) when an applicant for international protection arrives in the Member State responsible following a transfer pursuant to a decision acceding to a take charge request according to Article 22 [...] of Regulation (EU) No 604/2013 [...], the Member State responsible shall send a data set recorded in conformity with Article 12 of this Regulation relating to the person concerned and shall include his or her date of arrival;
- (c) **as soon as the Member State of origin establishes that the person concerned whose data was recorded in Eurodac in accordance with Article 12 of this Regulation has left the territory of the Member States, it shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding the date when that person left the territory, in order to facilitate the application of Articles 19(2) and 20(5) of Regulation (EU) No 604/2013;**
- (d) as soon as the Member State of origin ensures that the person concerned whose data was recorded in Eurodac in accordance with Article 12 of this Regulation has left the territory of the Member States in compliance with a return decision or removal order issued following the withdrawal or rejection of the application for international protection **as provided for in Article 19(3) of Regulation (EU) No 604/2013**, it shall update its data set recorded in conformity with Article 12 of this Regulation relating to the person concerned by adding the date of his or her removal or when he or she left the territory;
3. Where responsibility shifts to another Member State, pursuant to [...] Regulation (EU) No **604/2013** [...], the Member State that establishes that responsibility has shifted [...] shall indicate the Member State responsible.

4. Where paragraphs 1 or 3 of this Article [...] apply, the Central System shall, as soon as possible and no later than within 72 hours, inform all Member States of origin of the transmission of such data by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 10(1), 13(1), 14(1) or 14a(1). Those Member States of origin shall also update the Member State responsible in their corresponding data sets.’;

(16) Article 12 is replaced by the following:

Article 12

Recording of data

1. Only the following data shall be recorded in the Central System and in the CIR as appropriate in accordance with Article 4(2):

- (a) fingerprint data;
- (b) a facial image;
- (c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;
- (d) nationality(ies)
- (e) date of birth;

- (f) place of birth;
- (g) Member State of origin, place and date of the application for international protection; in the cases referred to in Article 11(2)(b), the date of application shall be the one entered by the Member State who transferred the applicant;
- (h) sex;
- (ha)** where available, the type and number of identity or travel document, the three letter code of the issuing country and expiry date;
- (hb)** where available, a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document which facilitates the identification of the third-country national or stateless person along with an indication of its authenticity;
- (i) reference number used by the Member State of origin;
- [...]
- (j)** date on which the biometric data were taken;
- (k)** date on which the data were transmitted to the Central System and to the CIR as appropriate;
- (l)** operator user ID.
- [...]

- 1a. Additionally, where applicable and available, the following data shall be promptly recorded in the Central System and in the CIR, as appropriate in accordance with Article 4(2):**
- (a) the Member State responsible in the cases referred to in Article 11(1), (2) or (3);
 - (b) in the cases referred to in Article 11(2)(a), the date of the arrival of the person concerned after a successful transfer;
 - (c) in the cases referred to in Article 11(2)(b), the date of the arrival of the person concerned after a successful transfer;
 - (d) **in the cases referred to in Article 11(2)(c), the date when the person concerned left the territory of the Member States;**
 - (e) in the cases referred to in Article 11(2)(d) , the date when the person concerned left or was removed from the territory of the Member States;
- [...]
- (f) **the fact [...]** that a visa was issued to the applicant, the Member State which issued or extended the visa or on behalf of which the visa has been issued and the visa application number;
 - (g) the fact that the person could pose a threat to internal security following **any security checks [...]**;

- (h) [...] the fact that the application for international protection has been rejected where the applicant has no right to remain and has not been allowed to remain in a Member State pursuant to **Directive 2013/32/EU** [...];
- (i) [...] the fact that assistance for voluntary return and reintegration (AVRR) has been granted.

2. A data set pursuant to paragraph 1 is considered created **within the meaning** [...] of Article 27(1) of Regulation (EU) 818/2019 when all the data in points (a) to (f) and (h) are recorded.’;

(17) Article 13 is replaced by the following:

Article 13

Collection and transmission of biometric data

1. Each Member State shall promptly take the biometric data of every third-country national or stateless person of at least six years of age who is apprehended by the competent control authorities in connection with the irregular crossing by land, sea or air of the border of that Member State having come from a third country and who is not turned back or who remains physically on the territory of the Member States and who is not kept in custody, confinement or detention during the entirety of the period between apprehension and removal on the basis of the decision to turn him or her back.

2. The Member State concerned shall, as soon as possible and no later than 72 hours after the date of apprehension, transmit to the Central System and to the CIR as appropriate **in accordance with Article 4(2)** the following data in relation to any third-country national or stateless person, as referred to in paragraph 1, who is not turned back:

- (a) fingerprint data;
- (b) a facial image;
- (c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;
- (d) nationality(ies);
- (e) date of birth;
- (f) place of birth;
- (g) Member State of origin, place and date of the apprehension;
- (h) sex;
- (ha)** where available, **the** type and number of identity or travel document, **the** three letter code of the issuing country and expiry date;

- (hb) where available, a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document which facilitates the identification of the third-country national or stateless person along with an indication of its authenticity;
- (i) reference number used by the Member State of origin;
- (j) date on which the biometric data were taken;
- (k) date on which the data were transmitted to the Central System and to the CIR as appropriate;
- (l) operator user ID;

[...]

2a. Additionally, where applicable and available, the following data shall be promptly transmitted to the Central System and the CIR, as appropriate in accordance with Article 4(2):

- (a) [...] in accordance with paragraph 6, the date when the person concerned left or was removed from the territory of the Member States;

[...]

- (b) [...] the fact that assistance for voluntary return and reintegration (AVRR) has been granted,
- (c) the fact that the person could pose a threat to internal security following **any security checks** [...].

3. By way of derogation from paragraph 2, the data specified in paragraph 2 relating to persons apprehended as described in paragraph 1 who remain physically on the territory of the Member States but are kept in custody, confinement or detention upon their apprehension for a period exceeding 72 hours shall be transmitted before their release from custody, confinement or detention.

4. Non-compliance with the 72 hour time-limit referred to in paragraph 2 of this Article shall not relieve Member States of the obligation to take and transmit the biometric data to the CIR. Where the condition of the fingertips does not allow the taking of fingerprints of a quality ensuring appropriate comparison under Article 26, the Member State of origin shall retake the fingerprints of persons apprehended as described in paragraph 1 of this Article, and resend them as soon as possible and no later than 48 hours after they have been successfully retaken.

5. By way of derogation from paragraph 1, where it is not possible to take the biometric data of the apprehended person on account of measures taken to ensure his or her health or the protection of public health, the Member State concerned shall take and send such biometric data as soon as possible and no later than 48 hours after those health grounds no longer prevail.

In the event of serious technical problems, Member States may extend the 72-hour time-limit in paragraph 2 by a maximum of a further 48 hours in order to carry out their national continuity plans.

6. As soon as the Member State of origin ensures that the person concerned whose data was recorded in Eurodac in accordance with paragraph 1 has left the territory of the Member States in compliance with a return decision or removal order, it shall update its data set recorded in conformity with paragraph 2 relating to the person concerned by adding the date of his or her removal or when he or she left the territory.

7. Where requested by the Member State concerned, the biometric data may also be taken and transmitted on behalf of that Member State by members of the European Border and Coast Guard Teams or experts of the asylum support teams when exercising powers and performing their tasks in accordance with Regulation (EU) 2019/1896 and Regulation (EU) **2021/2303**.

8. Each data set collected and transmitted in accordance with paragraph 1 shall be linked with other sets of data corresponding to the same third country national or stateless person in a sequence as set out in Article 4(6).

9. A data set pursuant to paragraph 2 is considered created **within the meaning** [...] of Article 27(1) of Regulation (EU) 818/2019 when all the data in points (a) to (f) and (h) are recorded.’;

(18) Article 14 is replaced by the following:

Article 14

Collection and transmission of biometric data

1. Each Member State shall promptly take the biometric data of every third-country national or stateless person of at least six years of age who is illegally staying within its territory.

2. The Member State concerned shall, as soon as possible and no later than 72-hours after the third-country national or the stateless person has been found to be illegally staying, transmit to the Central System and to the CIR as appropriate **in accordance with Article 4(2)** the following data in relation to any third-country national or stateless person, as referred to in paragraph 1:

- (a) fingerprint data;
- (b) a facial image;

- (c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;
- (d) nationality(ies);
- (e) date of birth;
- (f) place of birth;
- (g) Member State of origin, place and date of the apprehension;
- (h) sex;
- (ha)** where available, the type and number of identity or travel document, the three letter code of the issuing country and expiry date;
- (hb)** where available, a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document which facilitates the identification of the third-country national or stateless person along with an indication of its authenticity;
- (i) reference number used by the Member State of origin;
- (j) date on which the biometric data were taken;
- (k) date on which the data were transmitted to the Central System and to the CIR as appropriate;
- (l) operator user ID;

2a. Additionally, where applicable and available, the following data shall be promptly transmitted to the Central System and the CIR, as appropriate in accordance with Article 4(2):

(a) [...] in accordance with paragraph 5, the date when the person concerned left or was removed from the territory of the Member States;

[...]

(b) [...] the fact that assistance for voluntary return and reintegration (AVRR) has been granted;

(c) [...] the fact that the person could pose a threat to internal security following **any security checks** [...].

3. Non-compliance with the 72 hour time-limit referred to in paragraph 2 of this Article shall not relieve Member States of the obligation to take and transmit the biometric data to the CIR. Where the condition of the fingertips does not allow the taking of fingerprints of a quality ensuring appropriate comparison under Article 26, the Member State of origin shall retake the fingerprints of persons apprehended as described in paragraph 1 of this Article, and resend them as soon as possible and no later than 48 hours after they have been successfully retaken.

4. By way of derogation from paragraph 1, where it is not possible to take the biometric data of the apprehended person on account of measures taken to ensure his or her health or the protection of public health, the Member State concerned shall take and send such biometric data as soon as possible and no later than 48 hours after those health grounds no longer prevail.

In the event of serious technical problems, Member States may extend the 72-hour time-limit in paragraph 2 by a maximum of a further 48 hours in order to carry out their national continuity plans.

5. As soon as the Member State of origin ensures that the person concerned whose data was recorded in Eurodac in accordance with paragraph 2 [...] has left the territory of the Member States in compliance with a return decision or removal order, it shall update its data set recorded in conformity with paragraph 2 relating to the person concerned by adding the date of his or her removal or when he or she left the territory.

6. Each data set collected and transmitted in accordance with paragraph 1 shall be linked with other sets of data corresponding to the same third country national or stateless person in a sequence as set out in Article 4(6).

7. A data set pursuant to paragraph 2 is considered created **within the meaning** [...] of Article 27(1) of Regulation (EU) 818/2019 when all the data in points (a) to (f) and (h) are recorded.’;

(19) [...] **the following Chapter is inserted after Article 14:**

‘CHAPTER IV a

THIRD-COUNTRY NATIONALS OR STATELESS PERSONS DISEMBARKED FOLLOWING A SEARCH AND RESCUE OPERATION

Article 14a

COLLECTION AND TRANSMISSION OF BIOMETRIC DATA

1. Each Member State shall promptly take the biometric data of every third-country national or stateless person of at least six years of age who is disembarked following a search and rescue operation as defined in **Article 3(1) (eb)** [...].

2. The Member State concerned shall, as soon as possible and no later than 72 hours after the date of disembarkation, transmit to the Central System and to the CIR, as appropriate **in accordance with Article 4(2)**, the following data in relation to any third-country national or stateless person, as referred to in paragraph 1:

(a) fingerprint data;

(b) a facial image;

(c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;

(d) nationality(ies);

(e) date of birth;

(f) place of birth;

(g) Member State of origin, place and date of disembarkation;

(h) sex;

[...]

(i) reference number used by the Member State of origin;

(j) date on which the biometric data were taken;

(k) date on which the data were transmitted to the Central System and to the CIR as appropriate;

(l) operator user ID;

[...]

2a. Additionally, where applicable and available, the following data shall be promptly transmitted to the Central System and the CIR, as appropriate in accordance with Article 4(2) as soon as available:

- (a) [...] type and number of identity or travel document; three letter code of the issuing country and expiry date;
- (b) [...] a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document which facilitates the identification of the third-country national or stateless person along with an indication of its authenticity;
- (c) [...] in accordance with paragraph 5, the date when the person concerned left or was removed from the territory of the Member States;
- (d) [...] **the fact that assistance for voluntary return and reintegration (AVRR) has been granted,**
- (e) [...] the fact that the person could pose a threat to internal security following **any security checks [...].**

3. Non-compliance with the **time-limit** [...] referred to in paragraph 2 of this Article shall not relieve Member States of the obligation to take and transmit the biometric data to the **Central System and** to the CIR. Where the condition of the fingertips does not allow the taking of fingerprints of a quality ensuring appropriate comparison under Article 26, the Member State of origin shall retake the fingerprints of persons disembarked as described in paragraph 1 of this Article, and resend them as soon as possible and no later than 48 hours after they have been successfully retaken.

4. By way of derogation from paragraph 1, where it is not possible to take the biometric data of the disembarked person on account of measures taken to ensure his or her health or the protection of public health, the Member State concerned shall take and send such biometric data as soon as possible and no later than 48 hours after those health grounds no longer prevail.

4a. In the event of serious technical problems, Member States may extend the 72-hour time-limit in paragraph 2 by a maximum of a further 48 hours in order to carry out their national continuity plans.

4b. In case of sudden influx, Member States may extend the 72-hour time-limit in paragraph 2 by a maximum of a further 48 hours. This derogation enters into force the day it is notified to the Commission and to the other Member States and for the duration foreseen in the notification. The duration stated in the notification shall not exceed one month.

5. As soon as the Member State of origin ensures that the person concerned whose data was recorded in Eurodac in accordance with paragraph 1 has left the territory of the Member States in compliance with a return decision or removal order, it shall update its data set recorded in conformity with paragraph 2 relating to the person concerned by adding the date of his or her removal or when he or she left the territory.

6. Where requested by the Member State concerned, the biometric data may also be taken and transmitted on behalf of that Member State by members of the European Border and Coast Guard Teams or experts of the asylum support teams when exercising powers and performing their tasks in accordance with Regulation(EU) 2019/1896 and Regulation (EU) **2021/2303**.

7. Each data set collected and transmitted in accordance with paragraph 1 shall be linked with other sets of data corresponding to the same third country national or stateless person in a sequence as set out in Article 4(6).

8. A data set pursuant to paragraph 2 [...] is considered created within the meaning [...] of Article 27(1) of Regulation (EU) 818/2019 when all the data in points (a) to (f) and (h) are recorded.’;

(20) [...] **the following Chapter is inserted after Article 14a:**

‘CHAPTER IV c
BENEFICIARIES OF TEMPORARY PROTECTION

Article 14c
COLLECTION AND TRANSMISSION OF BIOMETRIC DATA

1. Each Member State shall promptly take the biometric data of every third-country national or stateless person of at least six years of age registered as beneficiary of temporary protection in the territory of that Member State pursuant to Directive 2001/55/EC.

2. The Member State concerned shall, as soon as possible and no later than 10 days after the registration as beneficiary of temporary protection, transmit to the Central System and to the CIR, as appropriate in accordance with Article 4(2), the following data in relation to any third-country national or stateless person, as referred to in paragraph 1:

(a) fingerprint data;

(b) a facial image;

- (c) surname(s) and forename(s), name(s) at birth and previously used names and any aliases, which may be entered separately;**
- (d) nationality(ies);**
- (e) date of birth;**
- (f) place of birth;**
- (g) Member State of origin, place and date of registration as beneficiary of temporary protection¹³;**
- (h) sex;**
- (i) where available, the type and number of identity or travel document, the three letter code of the issuing country and expiry date;**
- (j) where available, a scanned colour copy of an identity or travel document along with an indication of its authenticity or, where unavailable, another document**
- (k) reference number used by the Member State of origin;**
- (j) date on which the biometric data were taken;**
- (k) date on which the data were transmitted to the Central System and to the CIR as appropriate;**
- (l) operator user ID;**

¹³ A affiner pour les transferts. Le modèle des demandeurs d’asile (catégorie 1) des articles 11§2b) et 12g) ne semble pas pouvoir être repris *in extenso*.

(m) where relevant, the fact that the person previously registered as beneficiary of temporary protection falls under one of the exclusion grounds pursuant to Article 28 of Directive 2001/55/CE;

(n) reference of the relevant Council Implementing Decision;

3. Non-compliance with the 10 day time-limit referred to in paragraph 2 of this Article shall not relieve Member States of the obligation to take and transmit the biometric data to the Central System and to the CIR. Where the condition of the fingertips does not allow the taking of fingerprints of a quality ensuring appropriate comparison under Article 26, the Member State of origin shall retake the fingerprints of the beneficiary of temporary protection as described in paragraph 1 of this Article, and resend them as soon as possible and no later than 48 hours after they have been successfully retaken.

4. By way of derogation from paragraph 1, where it is not possible to take the biometric data of the beneficiary of temporary protection on account of measures taken to ensure his or her health or the protection of public health, the Member State concerned shall take and send such biometric data as soon as possible and no later than 48 hours after those health grounds no longer prevail.

In the event of serious technical problems, Member States may extend the 10 day time-limit in paragraph 2 by a maximum of a further 48 hours in order to carry out their national continuity plans.

5. Where requested by the Member State concerned, the biometric data may also be taken and transmitted on behalf of that Member State by members of the European Border and Coast Guard Teams or experts of the asylum support teams when exercising powers and performing their tasks in accordance with Regulation(EU) 2019/1896 and Regulation (EU) 2021/2303 *EU Agency for Asylum Regulation*.

6. Each data set collected and transmitted in accordance with paragraph 1 shall be linked with other sets of data corresponding to the same third country national or stateless person in a sequence as set out in Article 4(6).

7. The fact that the registration as a beneficiary of temporary protection follows the apprehension of the third-country national or stateless person in connection with the irregular crossing of the external borders does not exempt Member States to register those persons first in accordance with Article 13 of this Regulation.

8. The fact that the registration as a beneficiary of temporary protection follows the apprehension of the third-country national or stateless person illegally staying on the territory of Member States, does not exempt Member States to register those persons first in accordance with Article 14 of this Regulation.

9. The fact that the registration as a beneficiary of temporary protection follows the disembarkation following a search and rescue operation of the third-country national or stateless person does not exempt Member States to register those persons first in accordance with Article 14a of this Regulation.

10. In the cases foreseen in paragraphs 7 to 9, the Member State may reuse the biometric data previously taken in accordance with Articles 13, 14 and 14a of this Regulation for the recording in the Central System and in the CIR made pursuant to paragraph 1.

11. A data set pursuant to paragraph 2 is considered created within the meaning of Article 27(1) of Regulation (EU) 818/2019 when all the data in points (a) to (f) and (h) are recorded.

(21) Article 17 is amended as follows:

[...]

3c. For the purposes laid down in Article 14a(1), each set of data relating to a third country national or stateless person as referred to in Article 14a(2) shall be stored in the Central System and in the CIR as appropriate for five years from the date on which his or her biometric data were taken.

3d. For the purposes laid down in Article 14c(1), each set of data relating to a third country national or stateless person as referred to in Article 14c(2) shall be stored in the Central System and in the CIR as appropriate for three years from the date of the entry into force of the relevant Council Implementing Decision.

(b) paragraph 4 is replaced by the following:

‘(4). Upon expiry of the data storage periods referred to in paragraphs (1) to **(3d)** [...] of this Article, the data of the data-subjects shall be automatically **erased** [...] from the Central System and from the CIR [...].’;

(22) Article 19 is replaced by the following:

Article 19

Marking [...] of data

1. For the purposes laid down in Article 1(1)(a), the Member State of origin which granted international protection to a person whose data were previously recorded in the Central System and in the CIR as appropriate **in accordance with Article 4(2)** pursuant to Article 12 shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by eu-LISA. That mark shall be stored in the Central System in accordance with Article 17(1) for the purpose of transmission under Article 15 and 16. The Central System shall, as soon as possible and no later than 72 hours, inform all Member States of origin of the marking of data by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Article 10(1), 13(1), 14(1), 14a(1) **or 14c(1)** [...]. Those Member States of origin shall also mark the corresponding data sets.

2. The data of beneficiaries of international protection stored in the Central System and in the CIR as appropriate **in accordance with Article 4(2)** and marked pursuant to paragraph 1 of this Article shall be made available for comparison for the purposes laid down in Article 1(1)(d) until such data is automatically erased from the Central System and from the CIR [...] in accordance with Article 17(4).

3. The Member State of origin shall unmark data concerning a third-country national or stateless person whose data were previously marked in accordance with paragraphs 1 or 2 of this Article if his or her status is withdrawn under Articles 14 or **19** [...] of **Directive 2011/95/EU** [...].

4. For the purposes laid down in Article 1(1)(a) and (c), the Member State of origin which issued a residence document to an illegally staying third-country national or stateless person whose data were previously recorded in the Central System and in the CIR as appropriate pursuant to Article 13(2) and 14(2), or to a third-country national or stateless person disembarked following a search and rescue operation whose data were previously recorded in the Central System and in the CIR as appropriate pursuant to Article 14a(2), **or to a beneficiary of temporary protection pursuant to article 14c(2)** shall mark the relevant data in conformity with the requirements for electronic communication with the Central System established by eu-LISA. That mark shall be stored in the Central System in accordance with Article 17(2) **and** (3) [...] for the purpose of transmission under Article 15 and 16. The Central System shall, as soon as possible and no later than 72-hours, inform all Member States of origin of the marking of data by another Member State of origin having produced a hit with data which they transmitted relating to persons referred to in Articles 10(1), 13(1), 14(1), 14a(1) **or 14c(1)** [...]. Those Member States of origin shall also mark the corresponding data sets.

5. The data of illegally staying third-country nationals or stateless persons stored in the Central System and in the CIR and marked pursuant to paragraph 4 of this Article shall be made available for comparison for the purposes laid down in Article 1(1)(d) until such data is automatically erased from the Central System and from the CIR in accordance with Article 17 (4).

[...]

(23) in Article 21, the following paragraph is inserted:

‘1a. Where the designated authorities consulted the CIR in accordance with Article 22(1) of Regulation 2019/818, **and, in accordance with paragraph (2) of that Article, the CIR indicated that data on the person concerned is stored in Eurodac, the designated authorities may have access to Eurodac for consultation without a prior check in national databases and in the automated fingerprinting identification systems of all other Member States [...].**

(24) in Article 22, the following paragraph 1a is inserted:

‘1a. Where Europol consulted the CIR in accordance with Article 22(1) of Regulation (EU) 2019/818, they may access Eurodac for consultation under the conditions foreseen in this Article where the reply received pursuant to Article 22(2) of Regulation (EU) 2019/818 indicates that data is stored in Eurodac.’;

(25) in Article 28, the following paragraph is inserted:

‘3a. Access for the purposes of consulting the Eurodac data stored in the CIR shall be granted to the duly authorised staff of the national authorities of each Member State and to the duly authorised staff of the Union bodies competent for the purposes laid down in Articles 20 and 21 of Regulation (EU) 2019/818. That access shall be limited to the extent necessary for the performance of the tasks of those national authorities and Union bodies in accordance with those purposes and shall be proportionate to the objectives pursued.’;

(26) Article 29, is amended as follows:

(a) the following paragraphs 1a and 1b are inserted:

‘1a. For the purposes of Article 8a, eu-LISA shall keep records of each data processing operation carried out within Eurodac. Records of such type of operations shall include the elements provided for in the first paragraph and the hits triggered while carrying out the automated processing laid down in Article 20 of Regulation (EU) 2018/1240.

1b. For the purpose of Article 8c, Member States and eu-LISA shall keep records of each data processing operation carried out within Eurodac and the Visa Information System in accordance with this Article and Article 34 of Regulation (EC) 767/2008.’;

(b) paragraph 3 is replaced by the following:

‘3. For the purposes laid down in Article (1)(1)(a), (b), (c), (f), (g) **and (h)**, each Member State shall take the necessary measures in order to achieve the objectives set out in paragraphs 1, 1a, 1b and 2 of this Article in relation to its national system. In addition each Member State shall keep record of the staff duly authorised to enter or retrieve the data.’;

(27) in Article 39(2), the following point (i) is inserted:

‘(i) where **applicable** [...], a reference to the use of the European search portal to query Eurodac as referred to in Article 7(2) of the Regulation (EU) 2019/818.’;

(27a) In Article 47, a last sentence is inserted :

‘This Regulation shall not apply to those persons benefiting from temporary protection pursuant to Council Implementing Decision 2022/382, and any other equivalent national protection taken pursuant thereto, any future amendments to Council Implementing Decision 2022/382, and any extensions thereto.’

(28) the following Chapter VIIIa is inserted after Article 40:

‘CHAPTER VIIIa

AMENDMENTS TO REGULATIONS (EU) 2018/1240, (EU) 2019/818 AND (EU) 2017/2226

Article 40a

Amendments to Regulation (EU) 2018/1240

Regulation (EU) 2018/1240 is amended as follows:

(1) in Article 11 the following paragraph 6a is inserted:

‘6a. For the purpose of proceeding to the verifications referred to in point (k) of Article 20(2), the automated processing referred to in paragraph 1 of this Article, shall enable the ETIAS Central System to query Eurodac established by [Regulation (EU) XXX/XXX], with the data referred to in Article 17(2), points (a) to (d):

- (a) surname (family name), surname at birth, first name(s) (given name(s)), date of birth, place of birth, sex, current nationality;
- (b) other names (alias(es), artistic name(s), usual name(s)), if any;
- (c) other nationalities (if any);
- (d) type, number, the country of issue of the travel document.’;

(2) in Article 25a(1), the following point (e) is inserted:

‘(e) Articles 12, 13, 14, 14a **and 14c** [...] of Regulation (EU) XXX/XXX [*Eurodac Regulation*].’;

(3) in Article 88, paragraph 6 is replaced by the following:

‘6. ETIAS’ operations shall start irrespective of whether interoperability with Eurodac or ECRIS-TCN is put in place.’;

Article 40b

Amendments to Regulation (EU) 2019/818

Regulation (EU) 2019/818 is amended as follows:

(1) in Article 4, point (20) is replaced by the following:

‘(20). ‘designated authorities’ means the Member State designated authorities as defined in Article 6 of the Regulation (EU) XXX/XXX [*Eurodac Regulation*], in point (26) of Article 3(1) of Regulation (EU) 2017/2226 of the European Parliament and the Council, in point (3a) of Article 4 of Regulation (EC) 767/2008, and point (21) of Article 3(1) of Regulation (EU) 2018/1240 of the European Parliament and of the Council.’;

(2) in paragraph 1 of Article 10, the introductory wording is replaced by the following:

‘Without prejudice to Article 39 of Regulation (EU) XXX/XXX [*Eurodac Regulation*], Articles 12 and 18 of Regulation (EU) 2018/1862, Article 29 of Regulation (EU) 2019/816 and Article 40 of Regulation (EU) 2016/794, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include, in particular, the following.’;

(3) paragraph 1 of Article 13 is amended as follows:

(a) point (b) is replaced by the following:

‘(b) the data referred to in Article 5(1), point (b), and (2) of Regulation (EU) 2019/816.’;

(b) the following point (c) is added:

‘(c) the data referred to in Articles 12(1), points (a) and (b), 13(2), points (a) and (b), 14(2), points (a) and (b), 14a(2), points (a) and (b) **and 14c(2), points (a) and (b)** [...] of Regulation (EU) XXX/XXX [*Eurodac Regulation*].’;

(4). Article 14 is replaced by the following:

Article 14

Searching biometric data with the shared biometric matching service

In order to search the biometric data stored within the CIR and SIS, the CIR and SIS shall use the biometric templates stored in the shared BMS. Queries with biometric data shall take place in accordance with the purposes provided for in this Regulation and in Regulations (EC) No 767/2008, (EU) 2017/2226, Regulation (EU) XXX/XXX [*Eurodac Regulation*], Regulations (EU) 2018/1860, (EU) 2018/1861, (EU) 2018/1862 and (EU) 2019/816.’;

(5) In Article 16, the introductory wording of paragraph 1 is replaced by the following:

‘Without prejudice to Article 39 of Regulation (EU) XXX/XXX [*Eurodac Regulation*], Article 12 and 18 of Regulation (EU) 2018/1862 and to Article 29 of Regulation (EU) 2019/816, eu-LISA shall keep logs of all data processing operations within the shared BMS.’;

(6) In Article 18, paragraph 1 is replaced by the following:

‘1. The CIR shall store the following data, logically separated according to the information system from which the data have originated:

- a) the data referred to in Article 12(1), points (a) to (f), (h) and **(1a) point (a)** [...], Article 13(2), points (a) to (f) and (h) and **(2a) point (a)** [...], Article 14(2), points (a) to (f) and (h) and **(2a) point (a)**, Article 14a (2), **points (a) to (f), (h) and (2a) point (a) and Article 14c, points (a) to (f), (h) and (i)** [...] of Regulation (EU) XXX/XXX [*Eurodac Regulation*];
- b) the data referred to in Article 5(1), point (b), and (2) and the following data listed in Article 5(1), point (a) of Regulation (EU) 2019/816: surname (family name), first names (given names), date of birth, place of birth (town and country), nationality or nationalities, gender, previous names, if applicable, where available pseudonyms or aliases, as well as, where available, information on travel documents.’;

(7) In Article 23, paragraph 1 is replaced by the following:

‘1. The data referred to in Article 18(1), (2) and (2a) shall be deleted from the CIR in an automated manner in accordance with the data retention provisions of Regulation (EU) XXX/XXX [*Eurodac Regulation*] and of Regulation (EU) 2019/816.’;

(8) Article 24 (1), is replaced by the following:

Article 24

Keeping of logs

Without prejudice to Article 39 of Regulation (EU) XXX/XXX [*Eurodac Regulation*] and Article 29 of Regulation (EU) 2019/816, eu-LISA shall keep logs of all data processing operations within the CIR in accordance with paragraphs 2, 3 and 4 of this Article.’;

(9) In Article 26(1), points (aa), (ab), (ac), (ad) **and** (ae) are inserted:

- ‘(aa) the authorities competent to **collect the data provided for in Chapter II of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac** [...];
- (ab) the authorities competent to collect the data provided for in Chapter III of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac;
- (ac) the authorities competent to collect the data provided for in Chapter IV of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac;
- (ad) the authorities competent to collect the data provided for in Chapter IVA of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac;
- (ae) the authorities competent to collect the data provided for in Chapter IVC of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac;**

(10) Article 27 is amended as follows:

(a) the following point (aa) is inserted in paragraph 1:

‘(aa) a data set is transmitted to Eurodac in accordance with Articles **12** [...], 13, 14, 14a **and** **14c** [...] of Regulation (EU) XXX/XXX [Eurodac Regulation];’;

(b) the following point (aa) is inserted in paragraph 3:

‘(aa) surname(s); forename(s); name(s) at birth, previously used names and aliases; date of birth, place of birth, nationality(ies) and sex as referred to in Article 12, **13, 14, 14a and 14c** [...] of Regulation (EU) XXX/XXX [Eurodac Regulation];’;

(11) in Article 29(1), the following points (aa), (ab), (ac), (ad) and (ae) are inserted:

- ‘(aa) **the authorities competent to collect the data provided for in Chapter II of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac for matches that occurred when transmitting such data [...];**
- (ab) the authorities competent to collect the data provided for in Chapter III of Regulation (EU) XXX/XXX [Eurodac Regulation] for matches that occurred when transmitting such data;**
- (ac) the authorities competent to collect the data provided for in Chapter IV of Regulation (EU) XXX/XXX [Eurodac Regulation] for matches that occurred when transmitting such data;**
- (ad) the authorities competent to collect the data provided for in Chapter IVA of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac for matches that occurred when transmitting such data [...];**
- (ae) the authorities competent to collect the data provided for in Chapter IVC of Regulation (EU) XXX/XXX [Eurodac Regulation] when transmitting data to Eurodac for matches that occurred when transmitting such data [...];**

(12) in Article 39, paragraph 2 is replaced by the following:

‘2. eu-LISA shall establish, implement and host in its technical sites the CRRS containing the data and statistics referred to in Articles **9 and 42(8)** of Regulation (EU) XXX/XXX [*Eurodac Regulation*], Article 74 of Regulation (EU) 2018/1862 and Article 32 of Regulation (EU) 2019/816 logically separated by EU information system. Access to the repository CRRS shall be granted by means of controlled, secured access and specific user profiles, solely for the purpose of reporting and statistics, to the authorities referred to in Articles **9 and 42(8)** of Regulation (EU) XXX/XXX [*Eurodac Regulation*], Article 74 of Regulation (EU) 2018/1862 and Article 32 of Regulation (EU) 2019/816.’;

(13) in Article 47, the following new indent is inserted in paragraph 3:

‘Persons whose data are recorded in the Eurodac shall be informed about the processing of personal data for the purposes of this Regulation in accordance with paragraph 1 when a new data set is transmitted to Eurodac in accordance with Articles 10, 13, 14, 14a **and 14c** [...] of Regulation (EU) XXX/XXX [*Eurodac Regulation*].’;

(14) Article 50 is replaced by the following:

Article 50

Communication of personal data to third countries, international organisations and private parties

Without prejudice to Article 31 of Regulation (EC) No 767/2008, Articles 25 and 26 of Regulation (EU) 2016/794, Articles 37 and 38 of Regulation (EU) XXX/XXX [*Eurodac Regulation*], Article 41 of Regulation (EU) 2017/2226, Article 65 of Regulation (EU) 2018/1240 and the querying of Interpol databases through the ESP in accordance with Article 9(5) of this Regulation which comply with the provisions of Chapter V of Regulation (EU) 2018/1725 and Chapter V of Regulation (EU) 2016/679, personal data stored in, processed or accessed by the interoperability components shall not be transferred or made available to any third country, to any international organisation or to any private party.’;

Article 40c

Amendments to Regulation (EU) 2017/2226

Regulation (EU) 2017/2226 is amended as follows:

(1) in Article 1, the following new paragraph (1a) is added:

‘1a. For the purposes of facilitating the application of Regulation 604/2013 and of Directive 2013/32/EU, this Regulation also lays down the conditions under which Member States’ asylum authorities may obtain access to the EES for consultation.’;

(2) in Article 3(1), the following point (34) is added:

‘(34) ‘asylum authorities’ means an authority responsible for carrying out any of the obligations imposed on Member States

- (i) pursuant to Regulation 604/2013 and**
- (ii) pursuant to Directive 2013/32/EU’;**

(3) in Article 6, the following paragraph (1a) is added:

‘1a. By granting access to asylum authorities in accordance with the conditions set out in this Regulation, the objectives of the EES shall be to:

- (a) facilitate the examination of an application for international protection;**
- (b) facilitate the determination of the responsibility for asylum applications.’;**

(4) in Chapter III, the following articles are inserted:

'Article 25c

Access to data for examining the application for international protection

1. For the sole purpose of facilitation of examining an application for international protection, the asylum authorities referred to in Article 3(34)(ii) shall have access to search the EES with the data referred to in Articles 16(1) and 17(1)(a), (b) and (c).
2. If the search with the data listed in paragraph 1 indicates that the data of the third country national is recorded in the EES, the asylum authorities shall be given access to consult the data referred to in Article 16 (1), (2), (3)(a), (3)(b) and (4) as well as in Article 17 (1)(a), (b), (c) and (2), for the sole purpose referred to in paragraph 1.

Art. 25d

Access to data for determining the responsibility for asylum applications

1. For the sole purpose of determining the Member State responsible for an application for international protection, the asylum authorities referred to in Article 3 (34)(i) shall have access to search in the EES with the data referred to in Article 16 (1) and Art. 17 (1)(a), (b) and (c).
2. If the search with the data listed in paragraph 1 indicates that the data of a third country national is recorded in the EES, the asylum authorities of the respective Member State shall be given access to consult the data referred to in Article 16 (1), (2)(a) and (2)(b) as well as in Article 17 (1)(a), (b), (c) and (2), for the sole purpose referred to in paragraph 1.'

(29) the following Article 41a is inserted:

Article 41a

Committee Procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) 182/2011 shall apply.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

Table of correspondences referred to in Article 8a

<i>Data provided pursuant to Article 17(2) of Regulation (EU) 2018/1240 of the European Parliament and of the Council¹⁴ recorded and stored by ETIAS Central System</i>	<i>The corresponding data in Eurodac pursuant to Articles 12, 13 and 14 [...] of this Regulation against which the ETIAS data should be checked</i>
surname (family name)	surname(s)
surname at birth	name(s) at birth
first name(s) (given name(s))	forename(s)
other names (alias(es), artistic name(s), usual name(s))	previously used names and any aliases
date of birth	date of birth
place of birth	place of birth
Sex	Sex
current nationality	nationality(ies)
other nationalities (if any)	nationality(ies)
type of the travel document	type of travel document
number of the travel document	number of travel document
country of issue of the travel document	three letter code of the issuing country

¹⁴ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018, p. 1.