

Ad-Hoc Query on NATIONAL FINGERPRINT DATATBASE FOR ASYLUM SEEKERS


Requested by SI EMN NCP on 16th March 2010

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1. Background Information

Republic of Slovenia is currently in the process of amending the International Protection Act. We are thinking about developing our national databse of fingerprints for asylum seekers. In this context we would like to examine exisiting good practices of the member states.



2. Responses

		Wider Dissemination?	<p>Do you have a national fingerprints database of asylum seekers?</p> <p>Which is the legal provision or legislation based on which the asylum seekers' fingerprints are collected and stored?</p> <p>How long do you store these fingerprints in your national database and what are the main reasons for storing the fingerprints?</p>
	Belgium	Yes	<p>1) Yes, the national fingerprints database for asylum seekers is called PRINTRAK and was created in 1993.</p> <p>2) The legal base for the collection of fingerprints of asylum seekers is article 51/3 of the Aliens Law. This article states that fingerprints of the following persons can be taken: 1) a foreigner who applies for asylum at the border or in the Kingdom 2) the foreigner whom Belgium is obliged to take back or to take back again under European legislation on the Dublin regulation 3) the foreigner for whom there are indications that he already applied for asylum 4) the asylum applicant whose identity is uncertain. In reality fingerprints are taken from every person who applies for asylum (not from children under 14).</p>







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			3) It is not specified in the Aliens law how long fingerprints of asylum seekers should be stored (contrary to the fingerprints of illegal aliens: these are stored for ten years). It is stated in the Aliens law however that fingerprints taken from an asylum seeker should be destroyed if a foreigner is recognized as a refugee or if the subsidiary protection status is granted.
	Bulgaria	Yes	
	Czech Republic	Yes	1) Yes, there is a national database of fingerprints in the Czech Republic, but not exclusively of asylum seekers. 2) Fingerprinting and storage of the fingerprints of asylum seekers is provided for in the Asylum Act No. 325/1999 Coll., section 71, paragraph 8. Fingerprinting of foreign nationals is provided for in the Alien Act No. 326/199 Coll., section 167, paragraph 1b, and storage of the fingerprints is provided for in the section 158. Fingerprints of asylum seekers may be taken and stored in the national database e.g. in the procedure of administrative expulsion. 3) The fingerprints in electronic form are stored 20 years, the fingerprints in paper form are stored 5 years. The principal reason for storing the fingerprints is fulfilment of the law – Alien Act No. 326/1999 Coll., Section 167, paragraph 2a and 3d.
	Denmark	Yes	
	Germany	Yes	Q1. Yes, the German Federal Criminal Police Office operates a computerised national database of fingerprint data of asylum seekers (Automated Fingerprint Identification System – AFIS). Q2. Legal basis for documenting, establishing and checking identity of asylum seekers is section 16 of the Asylum Procedure Act. Q3. Fingerprints of an asylum seeker may not be stored in the national database for more than ten years after the incontestable completion of the asylum procedure. The fingerprint is of special interest to the state institutions as a means of identity check of persons and to allocate evidences in the context of prosecution and crime prevention.
	Estonia	Yes	Yes we have, fingerprinting asylum seekers is one of immediately performed asylum proceedings. Asylum seekers fingerprinting are regulated in national level by Act on Granting International Protection to Aliens and the data collected during fingerprinting will be entered into the national fingerprint register and the data obtained as a result of DNA probes will be entered into the national DNA register. All fingerprints information is forwarded to Central Unit of the "Eurodac"-system for comparison purposes pursuant to Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention and pursuant to Council Regulation (EC) No 407/2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.
	Ireland	Yes	
	Greece	Yes	










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	Spain	Yes	<p>Yes, asylum seekers in Spain are obligated to provide their fingerprints in accordance with the Law on Asylum - Article 18.2.c of Law 12/2009 of 30 October 2009, governing the right to asylum and subsidiary protection (BOE number 263 of 31 October).</p> <p>Likewise, Article 109 of the Regulations of the Law on Foreigners (Royal Decree 2393/2004, of 30 December, approving the Regulations of Organic Law 4/2000 of 11 January 2000 on the rights and freedoms of foreigners in Spain and their social integration) establishes a Central Register of Foreigners in which applications for asylum, such as non-admissions for processing, grants and denials, amongst others, are registered. This regulation, to be modified after the approval of the new Law on Foreigners, does not establish any time limit during which this type of information may be saved. However, the subsidiarily applicable Organic Law 15/1999 of 13 December on the Protection of Personal Data (BOE number 298 of 14 December) does set forth a limit in that "personal data shall be cancelled when it is no longer required or pertinent for the purpose for which it had been collected or registered" (Article 4.5 as applicable to files under public proprietorship containing personal data for administrative purposes, in accordance with Article 22 of the same Law).</p> <p>All of this within the framework of Eurodac, with the objective of avoiding the duplication of applications for asylum by a same person across different countries which are a part of this system, thus helping the identification of applicants for asylum by performing an electronic comparison of their fingerprints.</p>
	France	Yes	<p>1. Yes. Pursuant to Article 4.1 of Eurodac Regulation of December 11, 2000, French prefectures are compelled to take fingerprints of all asylum seekers aged 14 and older. Prefectures must then send the completed files with the fingerprints to a Eurodac unit who will send them to the OFPRO (French Office for the Protection of Refugees and Stateless People) to make a comparison of data to know in what country the asylum seeker has initially filed its application and determine which state is responsible for examining the application.</p> <p>The national fingerprints database of asylum seekers will probably be deleted in the next years when Eurodac has finalized the whole process of taking, comparing and storing the fingerprints.</p> <p>2. France, as well as the other Member States that have adopted the Dublin II Regulation, must take in the Automated Fingerprint Identification System "Eurodac" the fingerprints of asylum seekers and foreigners who have illegally crossed the border or foreigners who are illegally-staying on the territory, for transmission, comparison and when appropriate, for their conservation. Therefore, France applies the Eurodac Council Regulation EC 2725/200 of December 11, 2000 that was transposed into the national legislation.</p> <p>3. Data relating to asylum seekers are stored in the national database (implementation of the Eurodac Regulation) for ten years or until asylum seekers acquire the citizenship of a Member State. The main reason for storing the fingerprints is to know in what country the asylum seeker has initially filed its application and determine which state is responsible for</p>



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			examining the application. It is also to avoid duplicated applications or identities.
	Italy	Yes	
	Cyprus	Yes	Cyprus does not have national fingerprint database.
	Latvia	Yes	
	Lithuania	Yes	No. In the near future, Lithuania plans to amend national legal base, so that there would be a possibility to store fingerprints of asylum seekers in a database.
	Luxembourg	Yes	Luxembourg does not have a national fingerprint database for asylum seekers beyond the national unit of the EURODAC database.
	Hungary	Yes	<p>1. Do you have a national fingerprints database of asylum seekers? Yes, Hungary has a national fingerprints database of asylum seekers.</p> <p>2. Which is the legal provision or legislation based on which the asylum seekers' fingerprints are collected and stored? The Act LXXX of 2007 on Asylum prescribes the following: <i>Paragraph 39:</i> In the course of the refugee procedure, the person seeking recognition shall tolerate the recording of his/her facial image and, in the case of foreigners having completed the age of fourteen years, fingerprints. <i>Paragraph 83 sub-section 1:</i> The refugee records shall contain the following details of a person coming under the effect of the present Act: (c) fingerprints of persons older than fourteen years of age.</p> <p>The Gov. Decree of the Act on Asylum prescribes the following: Paragraph 65. The refugee authority records the facial image and fingerprints of the asylum-seeker when the application for asylum is submitted except when if it was done in course of the immigration, the misdemeanour or criminal procedure before the submission of the application.</p> <p>The Act LXXX of 2007 on Asylum prescribes the following: <i>Paragraph 83 sub-section 3:</i> The proceeding authority shall, without delay, forward the fingerprints recorded, together with the natural identification data and nationality verified by the person seeking recognition or, in the absence of verification, stated by the person seeking recognition, as well as the designated place of accommodation, to the data processing agency referred to in subsection (4). <i>Paragraph 83 sub-section 4:</i> For the purposes of the range of data determined in subsection (3), the agency determined in the ministerial decree shall be the data processing agency. (The data processing agency registers and controls the data. The agency should notify the refugee authority within 3 working days of the request on the result of the checking. The data manager shall be responsible for forwarding data to the central unit of Eurodac, for receiving and collating them.</p> <p>The Decree 52 of 2007 on the asylum organizational structure prescribes that the data processing agency is the Institute</p>

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	Malta	Yes	
	Netherlands	Yes	
	Austria	No	
	Poland	Yes	
	Portugal	Yes	Portugal doesn't have a national database of fingerprints of asylum seekers.
	Romania	Yes	
	Slovenia	Yes	We do not have such a database.
	Slovak Republic	Yes	The Slovak Republic does not have a national fingerprints database exclusively for asylum seekers. However, the fingerprints in the Slovak Republic are recorded in the automatized system for dactyloscopic identification of persons – AFIS, which serves for the individual identification of persons on the basis of comparing the dactyloscopic fingerprints (i.e. database for forensic purposes). The legal provisions are comprised in the Act on the Police Corps and the Asylum Act.
	Finland	Yes	<p>1. Do you have a national fingerprints database of asylum seekers?</p> <p>Asylum seekers' fingerprints are collected in Automated Fingerprint Identification System (AFIS) –same system that holds the fingerprints of criminal suspects. In accordance with the Aliens Act, section 131, the information shall be kept separate from the personal descriptions of criminal suspects (so called flag).</p> <p>2. Which is the legal provision or legislation based on which the asylum seekers' fingerprints are collected and stored?</p> <p>According to the Aliens Act 301/2004 (http://www.finlex.fi/en/laki/kaannokset/2004/en20040301.pdf) Section 131 Recording personal descriptions</p> <p>(1) For the purposes of identification and registration, police or border control authorities may take fingerprints and a photograph and record other personal descriptions of aliens:</p> <ol style="list-style-type: none"> 1) who have applied for asylum or a residence permit on the basis of subsidiary protection, humanitarian protection or temporary protection; 2) who have applied for a residence permit on the basis of family ties; 3) who have been issued with a residence permit as aliens admitted to Finland under the refugee quota; 4) who the authorities have decided to refuse entry into or deport from the country; or 5) whose identity is unclear. <p>(2) The personal descriptions referred to in subsection 1 above are recorded in a register maintained by the police. The information shall be kept separate from the personal descriptions of criminal suspects.</p>

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			<p>The information is deleted under the provisions of section 9 of the Act on the Register of Aliens (1270/1997). (3) Any secrecy provisions notwithstanding, personal data referred to in subsection 1 may be disclosed to foreign authorities for the identification of the alien with due regard to the provisions of the Personal Data Act (523/1999).</p> <p>3. How long do you store these fingerprints in your national database and what are the main reasons for storing the fingerprints?</p> <p>According to the Act on the Processing of Personal Data by the Police (761/2003) (http://www.finlex.fi/en/laki/kaannokset/2003/en20030761.pdf)</p> <p>Section 23 Deleting data from the Data System for Administrative Matters (1) Data in the Data System for Police Matters is deleted as follows:</p> <p>5) aliens identification data is deleted ten years after its recording; however, if the data subject has obtained Finnish citizenship, the data is deleted one year after the file keeper was informed of the Finnish citizenship in question.</p>
	Sweden	Yes	<p>1. We have a national finger print database. 2. Aliens Act, Eurodac Regulation. Prints are stored for 10 years or until citizenship is awarded in order to establish identity of asylum seekers on a national level</p>
	United Kingdom	Yes	<p>1) Do you have a national fingerprints database of asylum seekers?</p> <p>Yes. The <u>Immigration Asylum Fingerprint System</u> holds fingerprints of asylum seekers, visa applicants and applicants for residence permit (card format).</p> <p>2) Which is the legal provision or legislation based on which the asylum seekers' fingerprints are collected and stored?</p> <p>For Asylum Seekers, it is currently the Immigration and Asylum Act 1999 – Available at http://www.opsi.gov.uk/acts/acts1999/ukpga_19990033_en_12#pt7-pb8</p> <p>3) How long do you store these fingerprints in your national database and what are the main reasons for storing the fingerprints?</p> <p>Currently up to 10 years, although this is being reconsidered. The database enables us to check against our records to establish whether we have previously encountered the person in a different identity and/ or making a different type of application type.</p>

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