Negative: Eurodac & Europol

By “Coach Vance” Trefethen

***Resolved: The European Union should substantially reform its immigration policy.***

AFF wants the Eurodac fingerprint database of all incoming migrants to be accessible for systematic searches by Europol (law enforcement) to try to reduce crime and terrorism.

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Negative: Eurodac & Europol

TOPICALITY

1. No change in “immigration” policy

Definition: Volume, origin, direction and internal composition of immigration flows

Dr. Mathias Czaika and Dr. Hein De Haas 2013. (Czaika – PhD in political economy and Senior Research Officer at the International Migration Institute, University of Oxford. De Haas – PhD in social sciences; co-director of the [International Migration Institute](https://en.wikipedia.org/wiki/International_Migration_Institute) at [Oxford University](https://en.wikipedia.org/wiki/Oxford_University) ) The Effectiveness of Immigration Policies https://heindehaas.files.wordpress.com/2015/05/2013-the-effectiveness-of-immigration-policies.pdf

The only practical yardstick to define immigration policy is by the mostly implicitly stated objectives of policies on paper. Bearing this consideration in mind, we can say that international migration policies are rules (i.e., laws, regulations, and measures) that national states define and implement with the (often only implicitly stated) objective of affecting the volume, origin, direction, and internal composition of immigration flows.

Violation: Fingerprint databases are not immigrating and Plan changes none of the things in the definition of Immigration Policy

If the Affirmative plan succeeds, law enforcement might run more queries on databases. Great, but nothing will change about anyone immigrating. The people behind those fingerprints will still face the same immigration policies they had before the plan was enacted.

Impact: No Affirmative team means a clear Negative ballot

If no one showed up in the debate to affirm we should change an immigration policy, then there is no Affirmative team. No matter who wins you should write ‘Negative’ on the ballot.

2. Non-Immigration mandates and agencies.

Violation: Europol is not an immigration policy actor

They do law enforcement, not immigration policies. Investigating a terrorist attack is a great thing, but it’s not an immigration policy, regardless of who committed the attack. If they catch the bad guys, they will get thrown in jail regardless of whether they were immigrants or not. Nothing will change about how or whether people immigrate into the EU. Europol is extra-topical and the Affirmative has no right to set Europol’s policies under this resolution.

Impact: Abuse to the Negative justifies a Negative ballot

When an Affirmative runs a plan to improve terrorism investigation in a year when were supposed to be debating immigration policy, something’s wrong. We had enough work to do to get ready for an immigration policy debate. It’s abusive to Negative teams to expect us to also prepare to debate law enforcement improvements. Please teach this Affirmative team to respect the resolution by awarding a Negative ballot. I’m sure they’ll get the hint and write a better plan before the next tournament.

3. No substantial reform: Improving Europol / Eurodac connection is Status Quo policy

It’s already happening in Status Quo

Report of the EU Counter-Terrorism Coordinator to the Council of the European Union 2016. 4 March 2016 “State of play on implementation of the statement of the Members of the European Council of 12 February 2015, the JHA Council Conclusions of 20 November 2015, and the Conclusions of the European Council of 18 December 2015” <https://data.consilium.europa.eu/doc/document/ST-6785-2016-INIT/en/pdf> (accessed 4 Apr 2021)

Based on the technical and legal assessment of the Commission, Europol has started to work towards implementation of the Council Conclusions of 20 November 2015 "to enable Europol to systematically cross-check the Europol databases against SIS II" by introducing batch searches into SIS. Europol has reviewed its work plan for 2016 to improve access to large-scale databases including SIS II, VIS and Eurodac, and the need to address issues around interoperability of systems.

Violation: Endorsement of the Status Quo is not a valid Affirmative strategy

They were supposed to affirm substantial reform, not agree with what Status Quo is already doing.

Impact: Negative ballot

If both sides endorse the Status Quo, then there are 2 Negative teams in the round and no one affirming the resolution. No matter who wins, you should vote Negative.

INHERENCY

1. Use Interpol

Interpol already has fingerprint database and already accessible to member governments

Study by the EU Parliament Policy Department for Citizens' Rights and Constitutional Affairs 2017. The European Union’s Policies on Counter-Terrorism Relevance, Coherence and Effectiveness, January 2017 <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf> (accessed 4 Apr 2021)

Interpol is an intergovernmental organisation concerned with improving worldwide police cooperation by providing technical and operational support. The organisation has 190 member countries and its origins date back to 1923. Interpol maintains databases, accessible to members via National Central Bureaus (NCBs), on a variety of topics: child abusers and victims, fingerprints, DNA profiles, stolen and lost travel documents, stolen administrative documents, counterfeit documents, motor vehicles, vessels, works of art, ballistics data, illicit arms, radiological and nuclear materials, and maritime piracy. All databases, with the exception of the ballistics database, are accessible in real-time through Interpol’s I-24/7 network. This network allows sharing, searching and cross-checking of data. On several of the aforementioned topics Interpol offers analytical tools as well.

HARMS / SIGNIFICANCE

1. Stop conflating immigration with terrorism

Affirmative “plan advocate” (not really - he doesn’t exactly advocate their plan) Kerchove says: Stop assuming foreigners are terrorists

Gilles de Kerchove 2016. (EU Counter-Terrorism Coordinator) European interview 14 March 2016 The assimilation of terrorists and foreigners is a serious mistake which does not match reality <https://www.robert-schuman.eu/en/doc/entretiens-d-europe/ee-90-en.pdf> (“exogenous” means coming from the outside (like immigrants); “endogenous” means coming from within (like people who are already EU citizens); “assimilation” in this context means equating or assuming they are one and the same – i.e. assuming terrorists are mostly foreigners or foreigners are mostly terrorists) (accessed 4 Apr 2021)

Since the threat is both exogenous and endogenous terrorists do not necessarily need to use the migratory routes. There have only been a few and even no terrorist asylum seekers or economic migrants (one case in Turkey). The assimilation of terrorists to foreigners is a serious mistake and does not reflect reality. It is likely that Daesh wants to foster the amalgam between migration and terrorism.

SOLVENCY

1. Eurodac / Europol fingerprint access adds no value

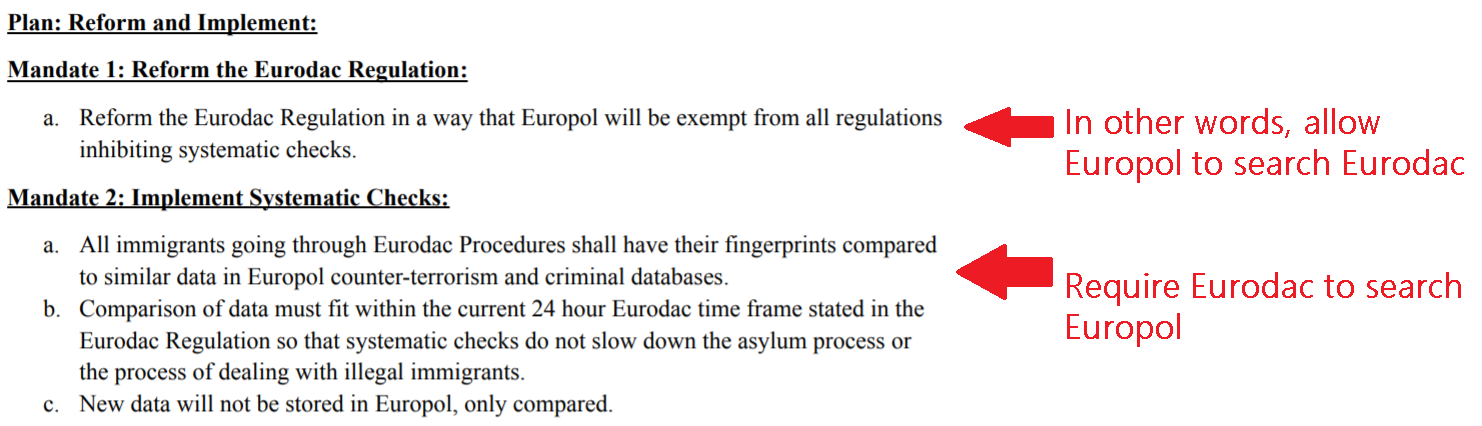
Status Quo already has adequate fingerprint access. Plan adds nothing, and terrorists won’t show up to have their fingerprints put into Eurodac anyway

Kris Pollet, Hélène Soupios-David and Almaz Teffera 2013 (all are with the European Council on Refugees and Exiles (ECRE); paper was written as part of the Asylum Information Database (AIDA) project.) 6 Sept 2013 Not ThereYet: Asylum Information Database Annual Report 2012/2013 An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System <https://www.ecre.org/wp-content/uploads/2016/06/not_there_yet_02102013.pdf> (accessed 4 Apr 2021)

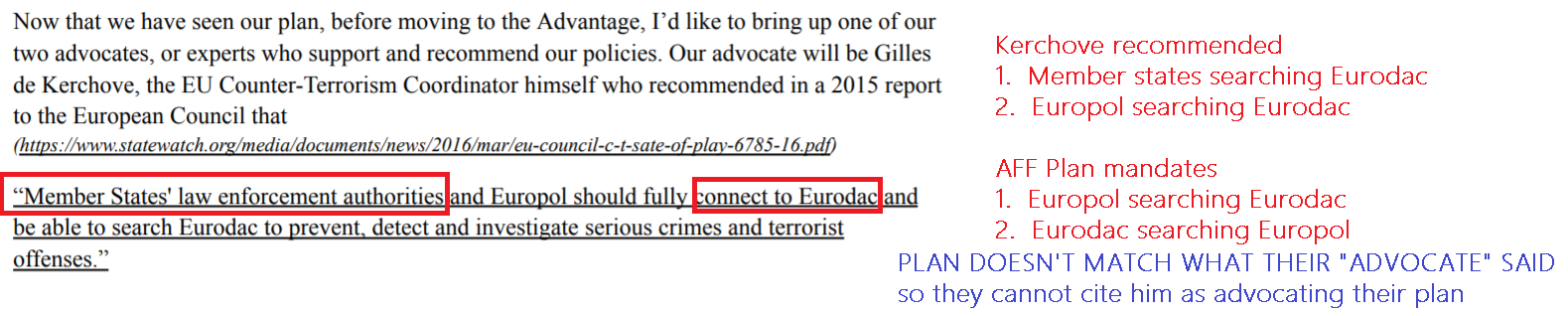
Access to EURODAC for law enforcement agencies and EUROPOL was a key issue for the Council during the negotiations and was an important bargaining chip between the EU institutions. This is despite the fact that experts doubt the usefulness and added value of providing such access for the purposes of preventing terrorist activities or detecting and identifying those planning or committing such criminal offences. Law enforcement agencies of different EU Member States can already exchange fingerprints and other law enforcement data on the basis of other legal instruments. Moreover, it is unlikely that those planning such activities would present themselves to the authorities as asylum seekers, knowing that their fingerprints are taken and can be stored for ten years.

2. Plan doesn’t match advocacy evidence

AFF plan mandates 2 database searches. 1) Allow Europol to search Eurodac. 2) Mandate Eurodac to search Europol



Advocacy evidence by Gilles de Kerchove is different from the Plan



3. Immigration policy wouldn’t have stopped the Paris 2015 attack

Eurodac is for people applying for asylum. [So, no relevance to most of the Paris attackers, as we’ll show below]

EUROPEAN ASSOCIATION FOR THE DEFENCE OF HUMAN RIGHTS 2017. (coalition of European human rights organizations) 28 Mar 2017 [Paranoia and external borders: the willingness to achieve a total safety culture](http://www.aedh.eu/en/paranoia-and-external-borders-the-willingness-to-achieve-a-total-safety-culture/) <http://www.aedh.eu/en/paranoia-and-external-borders-the-willingness-to-achieve-a-total-safety-culture/> (accessed 4 Apr 2021)

The proposal for the establishment of an Entry-Exit System is just one component of a series of European texts relating to information systems. SIS (for wanting or missing people), VIS (for people with short-stay visa to visit or to transit through the Schengen Area), Eurodac (for people applying for asylum) and the new proposals such as ETIAS (for people coming from visa-exempt third country nationals) and EES reveal the Commission’s dynamics, aiming to multiple tools targeting foreigners.

**When terrorism is committed by people who are already citizens, cracking down on people at the border is useless. Did you notice that the Affirmative never read any evidence to prove that “if we’d had our plan, the Paris 2015 attack wouldn’t have happened”? The reason why is that most of the attackers were not immigrants, they were citizens of Belgium and France.**

Mastermind of the attack was a Belgian citizen

BBC News 2016. “Paris attacks: Who were the attackers?” 27 Apr 2016 <https://www.bbc.com/news/world-europe-34832512> (accessed 4 Apr 2021)

French officials investigating the deadly Paris attacks on 13 November have identified most of the people they believe to have carried out the assaults, claimed by the Islamic State (IS) group. The attacks are suspected to have been masterminded by [Abdelhamid Abaaoud](http://www.bbc.co.uk/news/world-europe-34835046), a Belgian national killed in a police raid in Saint-Denis, northern Paris, a few days later.

Key plotter Abdeslam was a French citizen whose fingerprints were already known because he had a criminal record

BBC News 2016. “Paris attacks: Who were the attackers?” 27 Apr 2016 <https://www.bbc.com/news/world-europe-34832512> (accessed 4 Apr 2021)

Salah Abdeslam  
The 26-year-old French national, who was born in Brussels, was wounded and arrested during a police raid in the Molenbeek area of the city on 18 March. Police had been hunting him since the 13 November attacks, warning members of the public not to approach him. On 15 March, Abdeslam's fingerprints were found in a flat in the southern Brussels district of Forest. Belgian prosecutors told the BBC at the time that it was not clear when he had been there, because the fingerprints could not be dated.   
**END QUOTE. THEY GO ON TO WRITE LATER IN THE SAME ARTICLE QUOTE:**  
Salah Abdeslam's past is littered with convictions for petty crime. Belgian prosecutors said they had questioned him and his brother Brahim earlier in 2015. Some reports have said he spent time in prison for robbery where he met suspected ringleader Abdelhamid Abaaoud.

Third bar & restaurant attacker Chakib Akrouh: Born and raised in Belgium, not an immigrant

BBC News 2016. “Paris attacks: Who were the attackers?” 27 Apr 2016 <https://www.bbc.com/news/world-europe-34832512> (accessed 4 Apr 2021)

Chakib Akrouh blew himself up using a suicide vest during the police raid on the flat in Saint-Denis. He is thought to have been the third man involved in the bar and restaurant attacks that left 39 people dead as his DNA was found in the Seat car in which the three killers were driven. Akrouh, 25, was born and raised in Belgium, of Belgian-Moroccan descent. He travelled to Syria in 2013 and was given a five-year jail sentence in absentia while he was there.

Bataclan bomber Omar Ismail Mostefai: French citizen born in Paris with extensive criminal record

BBC News 2016. “Paris attacks: Who were the attackers?” 27 Apr 2016 <https://www.bbc.com/news/world-europe-34832512> (accessed 4 Apr 2021)

The 29-year-old French national of Algerian descent blew himself up after the massacre at the Bataclan, eight days before his 30th birthday. He was identified from a fingertip, found in the concert hall where 89 people were killed. Born in the poor Paris suburb of Courcouronnes, he was known to police as a petty criminal - getting eight convictions between 2004 and 2010 but spending no time in jail.

Bataclan bomber Samy Amimour: French citizen who was already under investigation but managed to slip past authorities

BBC News 2016. “Paris attacks: Who were the attackers?” 27 Apr 2016 <https://www.bbc.com/news/world-europe-34832512> (accessed 4 Apr 2021)

Samy Amimour  
The 28-year-old was another of the suicide bombers who blew himself up at the Bataclan. The Frenchman, who lived in the north-eastern Paris suburb of Drancy, had been known to French intelligence services. He was charged with terror offences in 2012 over claims he had planned to go to Yemen. He was placed under judicial supervision but then dropped off the radar, prompting the authorities to issue an international arrest warrant.

4. Turn the Paris attack, it supports the Negative: Analysis of Paris attack shows why AFF plan won’t solve

Fingerprints from Eurodac weren’t the problem: Real failure was EU member states didn’t communicate the information they already had, and no one can make them do it

**[And the Affirmative plan can’t solve because they can’t fiat that member-state governments change their law enforcement policies: 1) because they’re “law enforcement” policies, not immigration policies; and 2) because they’re local government policies, not EU policies.]**

Dr. Oldrich Bures 2016 (PhD; Head of the Department of International Relations and European Studies, Head of the Center for Security Studies, Metropolitan University Prague ) 3 May 2016 Intelligence sharing and the fight against terrorism in the EU: lessons learned from Europol <https://link.springer.com/article/10.1007/s12290-016-0393-7> (accessed 4 Apr 2021)

The recent terrorist attacks in Belgium and France have once again highlighted the contradiction between the seemingly free movement of terrorists across Europe and the lack of EU-wide intelligence sharing. Due to their earlier criminal activities, most perpetrators of the attacks in both Paris and Brussels were known to the various security agencies in several EU member states. For instance, the Abdeslam brothers had run a café in Brussels that was notorious for drug peddling. In early 2015, Belgian police questioned them about a failed attempt to travel to Syria, but they were not detained. Soon after, Dutch police stopped them during a routine traffic check, fined them €70 for carrying a small quantity of hashish and then released them because they were not listed in their national information system. Allegedly neither the French security agencies nor the EU coordinating agency, Europol, were informed of either of these incidents prior to the Paris terrorist attacks in November 2015 (La Baume and Paravicini [2015](https://link.springer.com/article/10.1007/s12290-016-0393-7#ref-CR16)). Similar stories of information non-sharing have emerged in the aftermath of other major terrorist attacks in Europe since the Madrid bombings in 2004. In response, EU policymakers have repeatedly promised to improve intelligence sharing across Europe, and some have even floated the idea that Europol should be turned into a centralised EU criminal intelligence hub, akin to the US Federal Bureau of Investigation (FBI) (Zimmermann [2006](https://link.springer.com/article/10.1007/s12290-016-0393-7#ref-CR21), 135). In this article, I argue that despite the clear need for borderless intelligence sharing as a response to borderless terrorism, Europol is highly unlikely to become a genuine intelligence agency in the foreseeable future. My research on Europol suggests that it is one thing for Europe’s politicians to make public promises to improve the fight against terrorism via better intelligence sharing across Europe, and quite another thing for them to persuade the relevant national agencies, over which politicians usually exercise less than perfect control, to comply.

Member States can’t or won’t share data

**[And remember, AFF cannot declare by fiat that member states change their law enforcement data sharing policies. Not the EU and not immigration policy, so it’s extra-topical and they cannot mandate it.]**

Study by the EU Parliament Policy Department for Citizens' Rights and Constitutional Affairs 2017. The European Union’s Policies on Counter-Terrorism Relevance, Coherence and Effectiveness, January 2017 <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf> (accessed 4 Apr 2021)

One of the recurring issues amongst practitioners and experts alike is the apparent lack of trust between services within and between Member States, accompanied by complex legal boundaries that hinder effective sharing of information. Particularly, the Commission’s call upon the Member States to “facilitate an information exchange hub based on the interaction between the law enforcement community and the intelligence community, within the framework of the CTG and the ECTC, in accordance with relevant EU and national rules and arrangements” (COM (2016) 602 final) is one the findings of this study would support.

Europol won’t get the cooperation it needs from member states

Study by the EU Parliament Policy Department for Citizens' Rights and Constitutional Affairs 2017. The European Union’s Policies on Counter-Terrorism Relevance, Coherence and Effectiveness, January 2017 <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf> (accessed 4 Apr 2021)

The EU policy architecture in the way it is organised at the moment does not include a regular centralised update on the threats the EU and its Member States are dealing with, and the way threat assessments have implications for the various policies in place. Also, future foresight studies addressing longer-term developments (5-10 years in the future) are currently not part of the EU’s policy-making instruments. Both Europol and the EU Intelligence and Situation Centre are dealing with threat assessments, but not in an integrated manner, and lacking the regularity needed to meet the constantly changing threats, and lacking the general public outreach to inform multiple stakeholders at the same time.

5. Lack of human rights review blocks effectiveness

AFF Plan contains no step for human rights review before implementation, reducing its overall effectiveness because it will not be perceived as legitimate

Study by the EU Parliament Policy Department for Citizens' Rights and Constitutional Affairs 2017. The European Union’s Policies on Counter-Terrorism Relevance, Coherence and Effectiveness, January 2017 <https://www.europarl.europa.eu/RegData/etudes/STUD/2017/583124/IPOL_STU(2017)583124_EN.pdf> (accessed 4 Apr 2021)

Counter-terrorism measures can have higher legitimacy – and therefore overall effectiveness – if critical human rights organisations are involved in the policy-making phase, rather than making measures vulnerable to their criticism after implementation. Because of the risk of harming human rights, better oversight is justified. This could be achieved for instance through a modified mandate of the Fundamental Rights Agency, the European Parliament (‘s LIBE committee) or through an independent reviewer comparable to the one in the UK.

6. Europol mostly useless

Europol has no police powers: Can’t investigate, can’t do house raids, can’t make arrests

Matthias Monroy 2020 (journalist) 4 Aug 2020 “[Europol Regulation: Towards a „European FBI“?](https://digit.site36.net/2020/08/04/europol-regulation-towards-a-european-fbi/)” <https://digit.site36.net/tag/europol/page/3/> (accessed 4 Apr 2021)

Normally, the European Union should not create structures that compete with the member states. This also applies to Europol: the police agency in The Hague is to coordinate investigations into cross-border crime and terrorism, but it does not have police powers. Investigations are the sole responsibility of the authorities of the Member States, which are also responsible for wiretapping, house raids and arrests.

DISADVANTAGES

1. Slower and less effective response to terrorism – because of uselessness of Europol

Europol duplicates Interpol and adds no value to law enforcement. If Europol had been involved in the Paris attacks, the response would have been slower and less effective

Bruce Newsome 2016. (Lecturer in International Relations) 12 Mar 2016 “The European Union is NOT good for security” <https://blogs.berkeley.edu/2016/03/12/the-european-union-is-not-good-for-british-security/> (accessed 4 Apr 2021)

The day after Cameron’s return from Brussels, former Home Secretary in the Labour government Alan [Johnson](https://www.youtube.com/watch?v=IMV3CpNKcUM) claimed that “the European arrest warrant” is a “huge” benefit to Britain’s security, without which a terrorist suspect would take years to recapture. This is false: EUROPOL is redundant to INTERPOL. Criminals who flee within the EU are lost because open borders provide no opportunities to discover the identity of a fugitive, until he or she carelessly attracts official interest through another crime or a demand on public services. Cooperation within the EU still depends on national willingness, since the EU cannot enforce anything (it can only bribe with funds). The French and Belgian response to the Paris attacks was bilateral. The EU would have been a much slower and less effective channel.

Impact: Turn the Affirmative’s terrorism harms

If solving or preventing terrorism is the goal of the plan, then vote Negative because that goal becomes harder to achieve with their Plan.

2. Increased risk of promoting racism

**We’re not arguing that the Affirmative team personally condones racism, nor that their plan was conceived with racist motives. We’re not at all attacking the character of the Affirmative debaters. We’re arguing here that an unintended side-effect of their plan will be an increased risk of promoting racism in Europe with possible violent backlash against immigrants, and that you should avoid that risk by voting Negative.**

Increased access to EURODAC fingerprints increases the risk of racism and violent backlash

Kris Pollet, Hélène Soupios-David and Almaz Teffera 2013 (all are with the European Council on Refugees and Exiles (ECRE); paper was written as part of the Asylum Information Database (AIDA) project.) 6 Sept 2013 Not ThereYet: Asylum Information Database Annual Report 2012/2013 An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System <https://www.ecre.org/wp-content/uploads/2016/06/not_there_yet_02102013.pdf> (brackets in original) (accessed 5 Apr 2021)

Asylum seekers now have a higher chance than other population groups of being linked to crime investigations simply because of the fact that their fingerprints are systematically being stored in EURODAC. As highlighted by UNHCR “[t]his increased exposure of asylum-seekers to investigation, simply because their fingerprints are in an accessible database, could fuel misperceptions that there is a link between asylum-seekers and crime, and feed xenophobia and racism”. It is concerning and disappointing that in times of rising racism and xenophobia and increasing violence against asylum seekers and migrants in Europe, this was never given prominent weight in the political debate.

3. Increased risk of persecution

Sharing Eurodac data = information leaked to persecutors in countries of origin, leading to more persecution and jeopardizing safety of family members left behind

Kris Pollet, Hélène Soupios-David and Almaz Teffera 2013 (all are with the European Council on Refugees and Exiles (ECRE); paper was written as part of the Asylum Information Database (AIDA) project.) 6 Sept 2013 Not ThereYet: Asylum Information Database Annual Report 2012/2013 An NGO Perspective on Challenges to a Fair and Effective Common European Asylum System <https://www.ecre.org/wp-content/uploads/2016/06/not_there_yet_02102013.pdf> (brackets in original) (accessed 5 Apr 2021)

Due to the fact that police intelligence is increasingly shared with law enforcement authorities worldwide, opening up EURODAC to law enforcement agencies obviously raises the risk of information relating to asylum seekers being shared with actors of persecution in the countries of origin of asylum seekers applying for protection in the EU. This is acknowledged in the recast EURODAC Regulation as it prohibits that personal data, obtained by EUROPOL or a Member State from the central EURODAC database, is made available to any third country, international organisation or private entity. Furthermore, it also states that personal data originating in a Member State and exchanged among Member States following a EURODAC hit shall not be transferred to third countries if there is a serious risk that the individual concerned may be subjected to torture, inhuman and degrading treatment or punishment or any other violation of their fundamental rights. However, the recast EURODAC Regulation does not define what information may be shared among law enforcement agencies following a EURODAC hit and therefore this is subject to the rules in EU instruments on information sharing between law enforcement agencies. As those instruments do not include a prohibition to transfer data to third countries, the prohibition in Article 35 recast EURODAC Regulation may provide no guarantee in practice. As a result, this may result in sensitive information about asylum seekers case files being shared with authorities in their country of origin, thus jeopardising their safety and that of their family members and relatives who remained in the country of origin.