FRA
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

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EU large-scale IT systems for migration and security - Governance tool for migration management and their impact on fundamental rights

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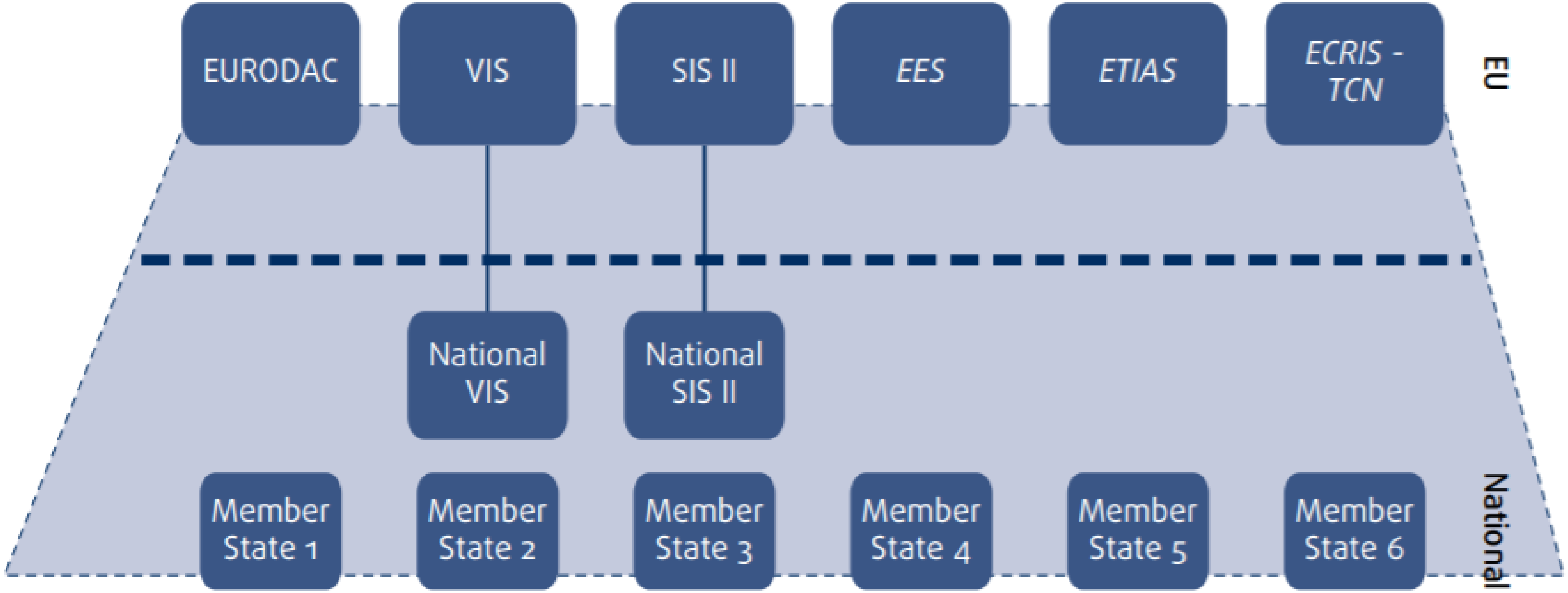
The landscape

Figure 1: EU and national IT systems in the area of justice and home affairs



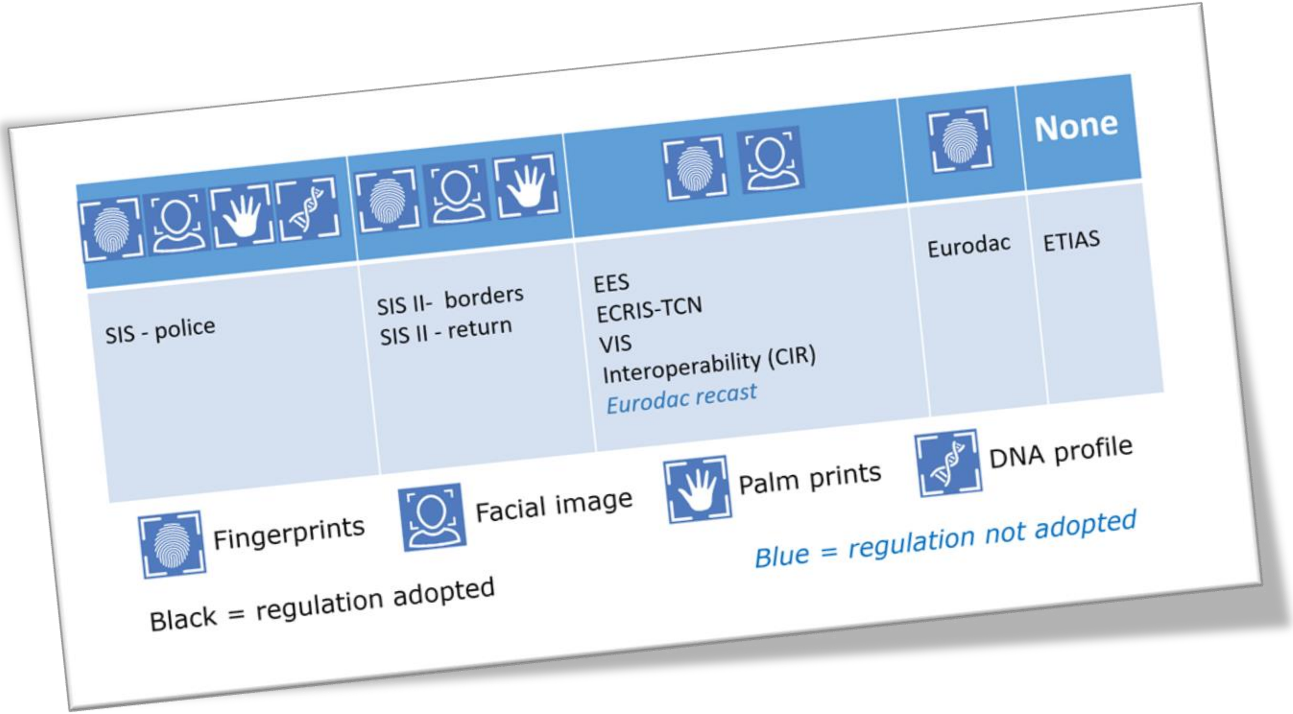
Note: *Planned systems in italics*

Source: *FRA (2017)*

EU IT system	Main purpose	Persons covered	Biometric identifiers	Applicability
Eurodac	Determining the state responsible for examining an application for international protection Additional purpose: law enforcement	Applicants and beneficiaries of international protection Migrants who crossed the external borders irregularly	Fingerprints	27 EUMS + SAC
VIS	Facilitating the exchange of data between Schengen Member States on visa applications Additional purpose: law enforcement	Visa applicants and sponsors	Fingerprints and Facial image	24 EUMS (not CY, HR, IE) + SAC
SIS	Facilitating law enforcement cooperation to safeguard security in the EU and Schengen Member States	Missing, vulnerable and wanted persons	Fingerprints, palm prints, facial image, DNA profile	25 EUMS (not CY, IE) + SAC
SIS – border checks	Entering and processing alerts for the purpose of refusing entry into or stay in the Schengen Member States	Third-country nationals convicted or suspected of an offence subject to custodial sentence of at least 1 year Migrants in an irregular situation	Fingerprints, palm prints, facial image	25 EUMS (not CY, IE) + SAC
SIS – return	Entering and processing alerts on third-country nationals subject to a return decision	Migrants in an irregular situation subject to a return decision	Fingerprints, palm prints, facial image	25 EUMS (not CY, IE) + SAC
EES	Calculating and monitoring the duration of authorised stay of third-country nationals and identifying overstayers	Third-country national travellers coming for a short-term stay	Fingerprints, facial image	24 EUMS (not CY, HR, IE) + SAC
ETIAS	Pre-travel assessment of whether or not a visa-exempt third-country national poses a security, irregular migration or public health risk	Travellers coming from visa-free third countries	None	26 EUMS (not IE) + SAC
ECRIS-TCN	Sharing information on previous convictions of third-country nationals	Third-country nationals with a criminal record	Fingerprints, facial image	25 EUMS (not DK, IE)
EIS	Storing and querying data on serious international crime and terrorism	Persons suspected or convicted of serious organised crime and terrorism	Fingerprints, facial image, DNA profile	27 EUMS

Biometrics

in the EU large-scale IT systems

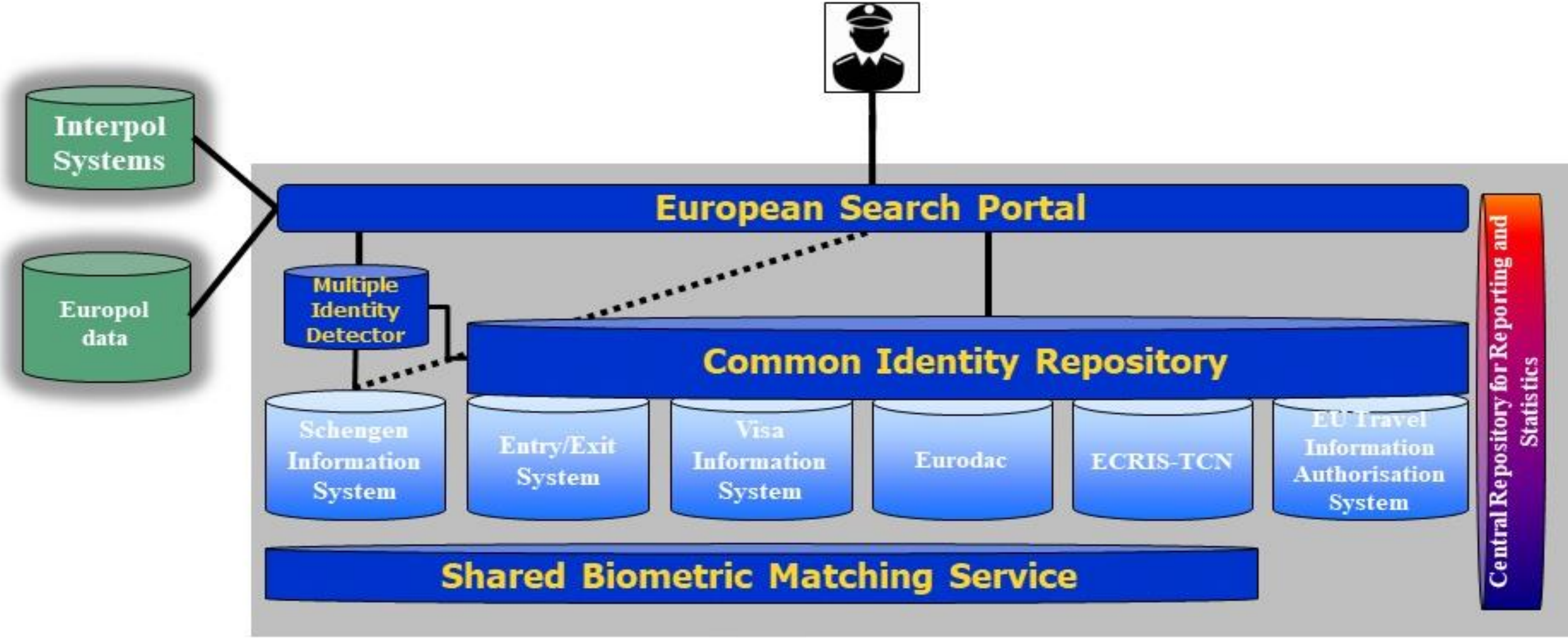


◉ 👤 🖐 🧬	◉ 👤 🖐	◉ 👤	◉	None
SIS - police	SIS II- borders SIS II - return	EES ECRIS-TCN VIS Interoperability (CIR) *Eurodac recast*	Eurodac	ETIAS

◉ Fingerprints 👤 Facial image 🖐 Palm prints 🧬 DNA profile

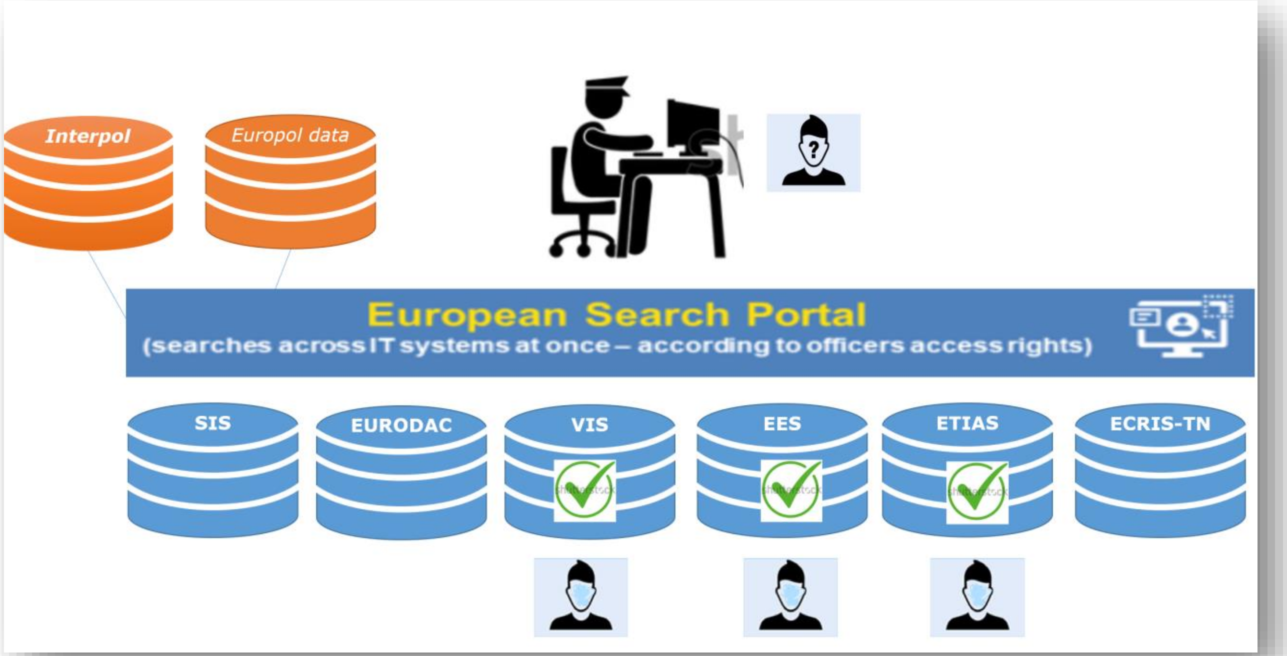
Black = regulation adopted *Blue = regulation not adopted*

Interoperability *Regulation (EU) 2019/817 & Regulation (EU) 2019/818*


Interpol Systems
Europol data
European Search Portal
Multiple Identity Detector
Common Identity Repository
Schengen Information System
Entry/Exit System
Visa Information System
Eurodac
ECRIS-TCN
EU Travel Information Authorisation System
Shared Biometric Matching Service
Central Repository for Reporting and Statistics

Source: European Commission

Interoperability (in practice)

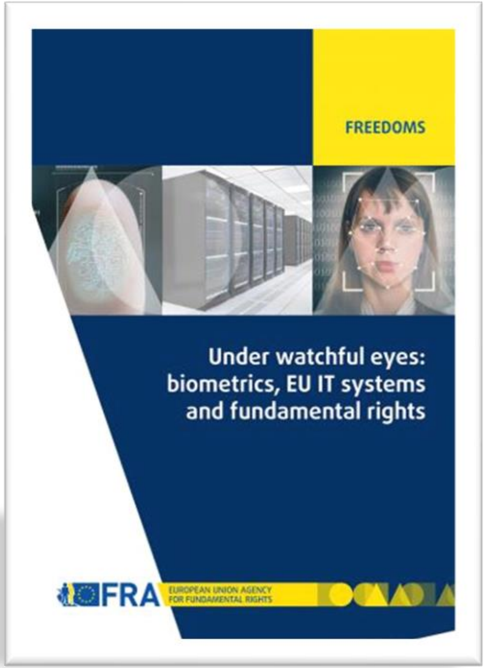


European Search Portal

(searches across IT systems at once – according to officers access rights)

Fundamental rights **benefits**

- **Right to liberty and security:** prevention of identity fraud and theft.
- **Right of the child**: enhanced protection for missing and abducted children, particularly if databases are interconnected.
- **Right to asylum:** help establishing the identity of asylum seekers without travel documents, if previously registered in some databases.



FREEDOMS

Under watchful eyes:
biometrics, EU IT systems
and fundamental rights

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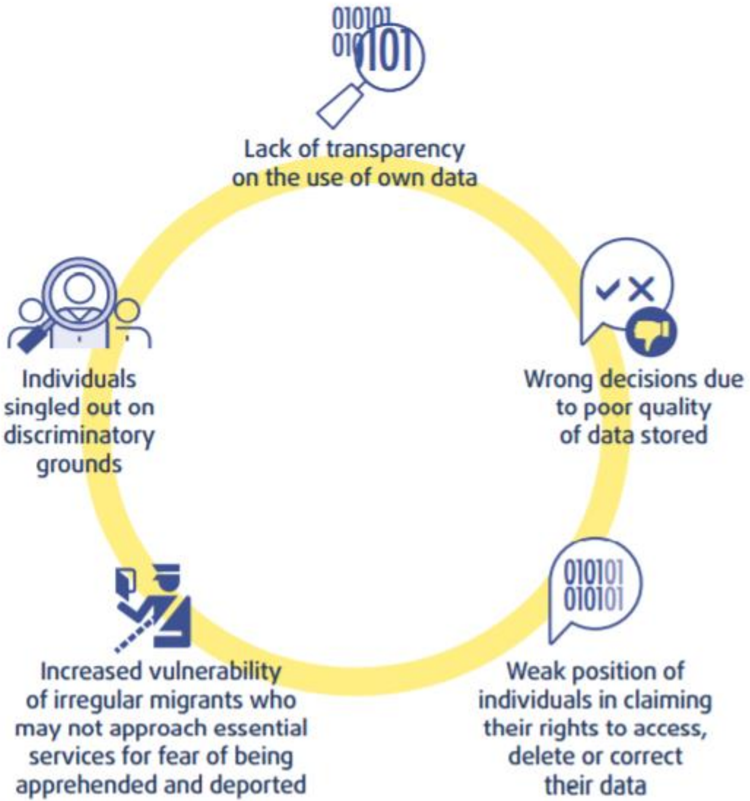
Key fundamental rights risks-
EU IT systems & their interoperability


Lack of transparency on the use of own data
Wrong decisions due to poor quality of data stored
Weak position of individuals in claiming their rights to access, delete or correct their data
Increased vulnerability of irregular migrants who may not approach essential services for fear of being apprehended and deported
Individuals singled out on discriminatory grounds

Source: FRA, 2020

Fundamental rights risks

- **Purpose limitation**
  - ❑ Risks of '**function creep**', unauthorised access, unauthorised sharing

- **Data accuracy – biometric reliability?**
  - ❑ **Fingerprints reliability** decreases over time (older people, children)
  - ❑ **Limited experience with face recognition** (children ≠ adults, discriminatory impact?)
  - ❑ **False matches**: serious consequences for the individuals concerned and their rights.
  - ❑ **Difficulties to rebut a false assumption and correct the data**.

- **Non-discrimination**
  - ❑ Risk of profiling when decisions are taken based on algorithms, ex: ETIAS screening rules.

Data transfers to third parties & the right to asylum

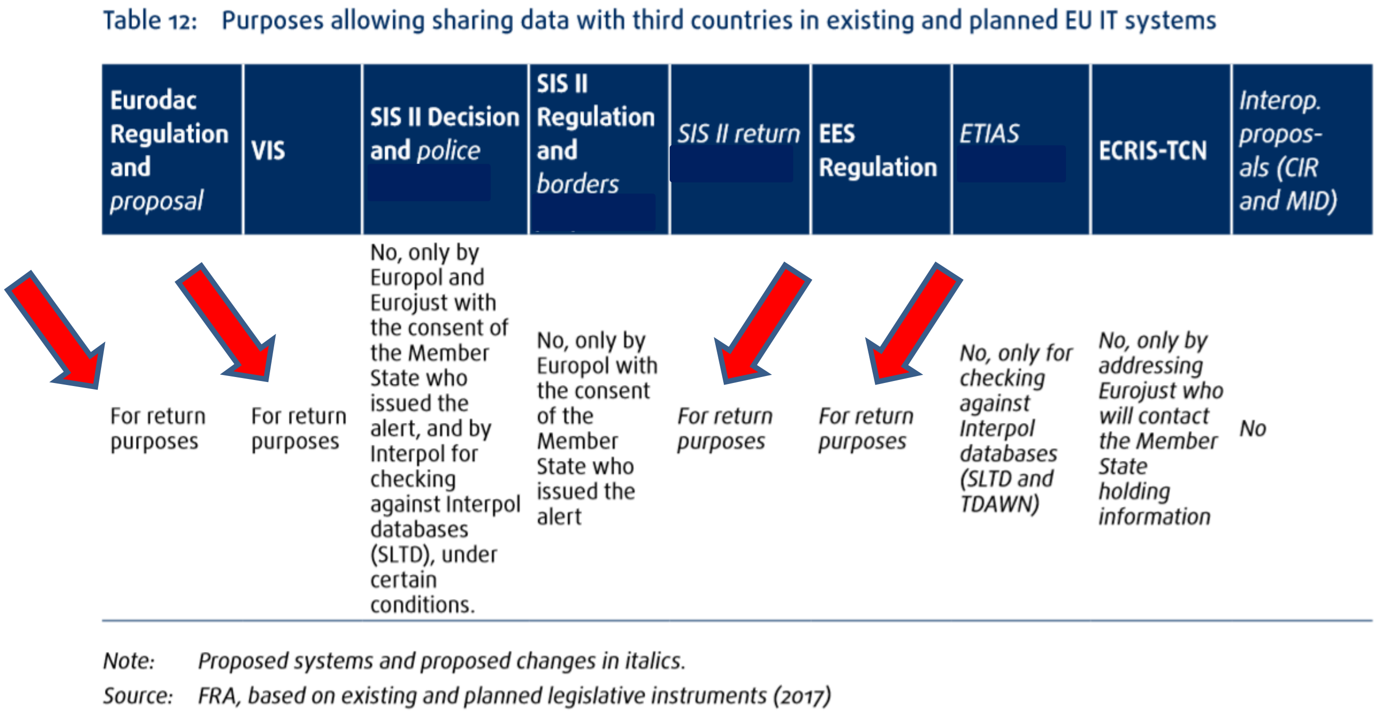


Table 12: Purposes allowing sharing data with third countries in existing and planned EU IT systems

Eurodac Regulation and *proposal*	VIS	SIS II Decision and *police* [redacted]	SIS II Regulation and *borders* [redacted]	*SIS II return* [redacted]	EES Regulation	*ETIAS* [redacted]	ECRIS-TCN	*Interop. propos-als (CIR and MID)*
For return purposes	For return purposes	No, only by Europol and Eurojust with the consent of the Member State who issued the alert, and by Interpol for checking against Interpol databases (SLTD), under certain conditions.	No, only by Europol with the consent of the Member State who issued the alert	*For return purposes*	*For return purposes*	*No, only for checking against Interpol databases (SLTD and TDAWN)*	*No, only by addressing Eurojust who will contact the Member State holding information*	*No*

Note: *Proposed systems and proposed changes in italics.*

Source: *FRA, based on existing and planned legislative instruments (2017)*

Sharing information with country of origin on asylum applicants: possible protection risks

Fundamental Rights Safeguards

- **Law enforcement access: only for specific purpose** and under **strict conditions.**
- **Data subjects rights**: right to information, right to access, correction and deletion, right to an effective remedy
- **Human control** of automated decisions.
- **Prohibition of transfer of personal data** of asylum applicants to third countries.

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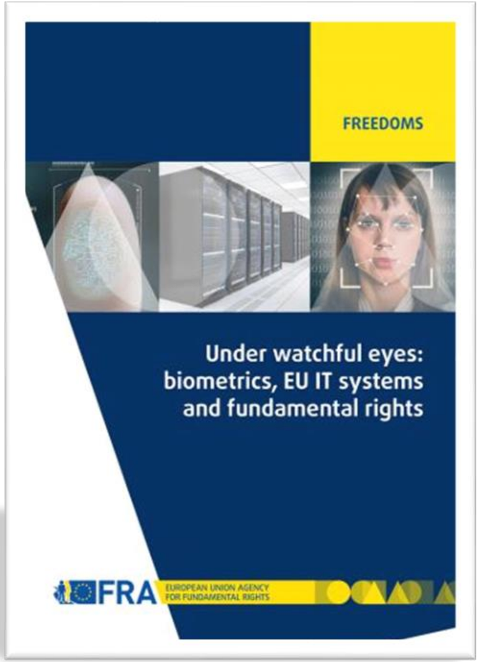
Key take away/messages

1. Potential fundamental rights benefits and challenges of the processing of biometric data.
2. High trust in the systems which contain biometric data, but data quality concerns affecting rights.
3. False matches do not necessarily mean identity fraud.
4. Importance of ensuring data subjects rights, such as the right to privacy, the right information and the right to correct data and rebut false assumption.
5. Access to law enforcement to data stored: only for specific purpose and subject to oversight.
6. Individual assessment of each case, particularly when algorithms are supporting decisions.
7. Data sharing with third countries: do not jeopardise asylum seekers safety

Relevant FRA work

- ✓ FRA- Eurodac SCG leaflet, Right to information when taking fingerprints for Eurodac, Jan. 2020
- ✓ FRA focus paper, *Facial recognition technology: fundamental rights considerations in the context of law enforcement,* Nov. 2019
- ✓ FRA opinion, The revised Visa Information System and its fundamental rights implications, Sept. 2018.
- ✓ FRA Opinion on Fundamental rights implications of storing biometric data in identity documents and residence cards, Sept. 2018
- ✓ FRA *legal opinion on proposed Interoperability Regulations*, April 2018.
- ✓ FRA report, *Under watchful eyes – biometrics, EU IT-systems and fundamental rig*hts, March 2018
- ✓ FRA *opinion on the proposed ETIAS regulation*, June 2017
- ✓ FRA survey on travellers' perceptions 'eu-LISA Smart Borders Pilot' (2015)
- ✓ More here



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Thank you for your attention!

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