

# How do the new EU regulations on interoperability lead to discriminatory policing?

The EU's new interoperability regulations will store the personal and biometric data of every non-EU citizen who comes to Europe - to work, study, seek asylum, etc. - in three new centralised databases. These databases create unjustified links between existing migration and criminal law systems. The EU says this will improve its response to irregular migration and serious crimes like terrorism - but there is little evidence of the need or likely benefits of this approach, and a great risk of harm. These databases represent the growing use of large-scale IT systems for immigration control.

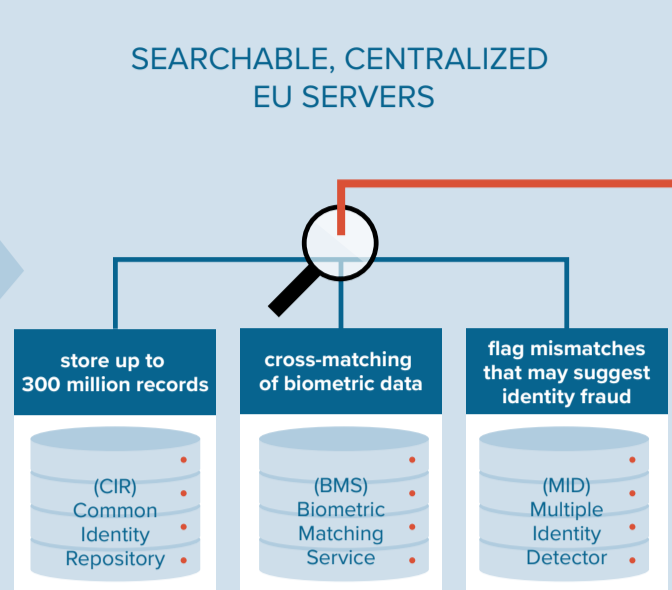
Police officers will have direct, simultaneous access to information on where a person's data is stored and can easily access it during random identity checks.

Data is collected at the national level by multiple authorities and stored in centralised EU servers

- MIGRATION RECORDS
- CRIMINAL RECORDS
- PERSONAL BIOMETRIC DATA

For some of the databases concerned<sup>1</sup> the EU wants to include the fingerprints of children as young as 6 and retain personal data for up to 5 years (in Eurodac, for up to 10 years) to facilitate deportation.

<sup>1</sup> Eurodac and VIS



Random ID checks by the police to identify undocumented people are not uncommon in the EU. The EU Court of Justice has held that such checks cannot be discriminatory, unnecessary or disproportionate.<sup>2</sup>

<sup>2</sup> Case C 9/16 A v Staatsanwaltschaft Offenburg (2017) ECLI:EU:C:2017:483; Case C 278/12 PPU Atiqullah Adil (2012) ECLI:EU:C:2012:508; Joined cases C-188/10 and C-189/10 Aziz Meiki (C-188/10) C-188/10) and Selim Abdelti (C-189/10) (2010) ECLI:EU:C:2010:363.

## Why is this approach so problematic?

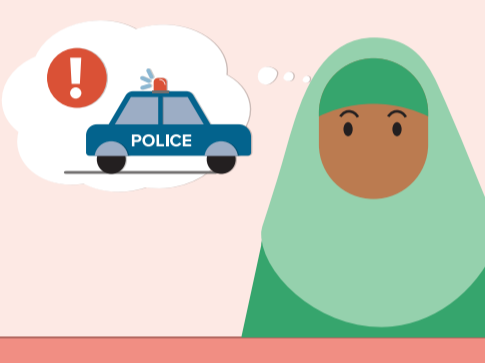
### Because it is discriminatory.

The new regulations, and the massive new information systems they create, **only apply to non-EU nationals**. They are based on the discriminatory and unfounded idea that migration and criminal justice are closely related and imply that serious crimes are only committed by foreigners. They reinforce a stigmatising and punitive approach to irregular migration.



### Because it will deepen mistrust towards authorities among migrant communities.

The clear intention behind the new regulations is to **make it easier to identify people in the EU without regular status, to feed a broader agenda of increased deportations**. More identity checks will likely mean more discrimination and racial profiling, deepening migrant communities' feeling of being over-policed and under-protected.



### Because it is incompatible with the EU's leadership on the protection of personal data.

The new regulations contradict the EU's longstanding approach to the protection of personal data as a fundamental right. Ignoring key principles of data protection, **interoperability blurs the lines between databases that have historically served very different purposes**, so that a copy of your passport stored today when you apply for a visa can be used later to facilitate your deportation.



## How will interoperable migration systems affect people's daily lives?

MEET YASSINE. HE IS AN EU CITIZEN. HE AND HIS FRIEND ARE ON THEIR WAY TO A FOOTBALL GAME TO CELEBRATE YASSINE'S BIRTHDAY. IN THE EXCITEMENT, YASSINE LEFT HIS ID CARD AT HOME.



THE POLICE STOP THEM FOR A RANDOM CHECK. THEY ASK YASSINE FOR HIS ID. HE SAYS HE IS A CITIZEN, BUT ONLY HAS HIS DRIVER'S LICENSE.



YASSINE IS TAKEN AWAY FOR FURTHER QUESTIONING. HE REMAINS AT THE STATION SEVERAL HOURS, WORRIED AND HUMILIATED.



THE POLICE ASSUME YASSINE IS LIKELY UNDOCUMENTED, BECAUSE HE DOES NOT APPEAR IN THE CIR (COMMON IDENTITY REPOSITORY) AND COULD NOT PROVE HIS EU NATIONALITY.



## What are people's rights?

We are not powerless. EU law includes strong provisions regulating the use of personal data to ensure transparency and accountability, as well as individuals' knowledge and control of what is done with their data. These are fundamental human rights that apply to everyone in the EU.

The EU Charter of Fundamental Rights guarantees to everyone the right to:

- ★ Respect of **privacy and family life** (Article 7);
- ★ The protection of their **personal data** (Article 8);
- ★ Prohibition **against discrimination** (Article 21);
- ★ **Fair administration** (Article 41) and to an effective remedy (Article 47) when your rights are violated.

The **European Convention on Human Rights**, of which all EU countries are a party, guarantees the right to respect for private and family life (Article 8).



For more information, visit [www.picum.org](http://www.picum.org)

### The EU General Data Protection Regulation (GDPR) :

- ★ Applies to everyone in the EU whose data is processed (Article 1);
- ★ Requires transparency and accountability in the processing of personal data (Article 5);
- ★ Grants data subject rights (Articles 12 to 22): e.g. right to information, right of access, rectification and erasure;
- ★ Prohibits the profiling of **individuals** through automated processing (Article 22);
- ★ Requires the existence of independent national supervisory authorities<sup>3</sup> that shall inform people of their rights and help them to access justice when their rights are violated.

<sup>3</sup> National data protection authorities, which are listed here for every country in the EU: [https://edpb.europa.eu/about-edpb/board/members\\_en](https://edpb.europa.eu/about-edpb/board/members_en)