



RO Ad Hoc Query on maximum deadlines for keeping personal data in the IT data bases

Requested by RO EMN NCP on 20 January 2012

Compilation produced on [28 March 2012]

Responses from Austria, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Sweden, United Kingdom plus Norway (15 in Total)

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1. Background Information

Due to the necessity of updating the internal framework on the maximum deadlines for keeping personal data in the IT data bases, the Romanian Immigration Office is interested in the experience and procedures of another MS in this area

2. Responses¹





		Wider Dissemination? ²	
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¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination

EMN Ad-Hoc Query: Maximum deadlines for keeping personal data in the IT data bases



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			Which is the maximum deadline to keep the personal information in the IT data bases of the immigration services in your specific MS?
	Austria	No	Austria has indicated that their answer is not for wider dissemination
	Estonia	Yes	The maximum deadline to keep personal information in the IT data bases in Estonia is fixed to the termination of the data record or register.
	Finland	Yes	Personal data is removed from the register on Aliens after one year from receiving Finnish Citizenship, or if the person has deceased. Data on visa, residence permit, registration of residence, residence permit card and travel documents is removed after five years from the last endorsement in the register if the visa, residence permit or other document has expired. Personal data regarding aliens with prohibition of entry is removed once the prohibition of entry has expired. Decisions on removal or deportation are removed after five years. All removed data is archived and may be restored if required.
	France	Yes	<ul style="list-style-type: none"> • According to the article R-611-7-1 of the Code on Entry and Residence of Foreigners and Right of Asylum (Code d'entrée et de séjour des étrangers et droit d'asile = CESEDA), personal data of foreign nationals present in France contained in a file that has not been updated over five years after recording should be deleted, except in the following cases: <ul style="list-style-type: none"> ○ a file containing personal data related to a residence document or a travel document should be deleted when the document expires, if it has not been updated over five years; ○ a file containing personal data related to a removal order or a permanent entry ban (interdiction du territoire français = ITF, pronounced by the criminal judge) should be deleted thirty years after recording, if it has not been updated over the last five years; ○ a file containing personal data related to a temporary entry ban (interdiction du territoire français = ITF, pronounced by the criminal judge) should be deleted five years after period of validity of the entry ban expired, if it has not been updated over this period; ○ a file containing personal data related to a temporary entry ban (interdiction de retour sur le territoire français = IRTF, pronounced by the prefect) should be deleted five years after the period of validity of the entry ban expired, if it has not been updated over this period. • Personal data of a person who was granted the French citizenship should be deleted one year after the naturalization order or six months after the recording of the nationality declaration (déclaration de nationalité). • If a residence permit is issued, personal data related to removal should be immediately deleted after the issuance. • The last name, first name, and address of the person who accommodates a foreign national under house arrest should be deleted after the end of the house arrest. • According to the article R-611-11 of the CESEDA, personal data related to foreign nationals applying for a visa should be

the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>deleted five years after recording.</p> <ul style="list-style-type: none"> • According to the article R-611-20 of the CESEDA, personal data related to foreign nationals who were subject to border control and who do not meet the required conditions of entry should be deleted five years after recording. • According to the article R-611-37 of the CESEDA, personal data related to foreign national who benefited from a procedure of assisted return managed by the French Office for Immigration and Integration (Office Français de l'Immigration et de l'Intégration = OFII) should be immediately deleted if the OFII refuses to grant the assisted return or should be deleted five years after OFII's decision to grant the assisted return.
	Germany	Yes	The asylum database of the Federal Office for Migration and Refugees keeps the files with negative decisions in general for 10 years after nonappealability. If there is a subsequent asylum application during the 10 years, the storage-time starts again for all files belonging to this applicant. In the case of a positive decision the erasure of personal data is not provided.
	Hungary	Yes	<p>According to the Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence:</p> <p>In order to monitor the right of residence of foreign nationals, the immigration authority shall keep the following sub-registers – within the central immigration register – on the personal data of EEA nationals and their family members:</p> <p>a) register of EEA nationals holding registration certificates; b) register of holders of residence cards; c) register of holders of permanent residence cards; d) register of EEA nationals and family members subject to expulsion or exclusion; e) register of EEA nationals and family members subject to restriction of personal freedom; f) register EEA nationals and family members whose travel document or personal identification document was reported lost, g) register of third country national family members who have visa for a validity period of longer than three months.</p> <p>Data may be processed in the sub-registers maintained on documents evidencing right of residence for five years following termination of the right of residence or the date of registered departure of the data subject.</p> <p>The immigration authority shall have the right to process the data of register of persons subject to expulsion or exclusion for five years after the expulsion or exclusion is lifted.</p> <p>The register of foreign nationals under some form of confinement and those affected by some form of emergency (death, accident), and which is maintained for the purpose of compliance with the obligation of notification specified in international agreements with a view to ensure consular protection. The data specified in this relation may be processed for a period of three years following the discharge of the notification obligation or the termination of the confinement.</p> <p>The immigration authority shall have the right to process the data of the register of EEA nationals and family members whose travel document or personal identification document was reported lost contains the following information until it is found, or for a period of five</p>

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			<p>years from the date when reported lost.</p> <p>The immigration authority shall process facial image and fingerprint data which were fixed for issue of local border traffic permit until a final and enforceable decision. The data shall be deleted immediately thereafter.</p> <p>The immigration authority shall process the fingerprint data to transfer for the immigration authority which is responsible for examining visa applications. The fingerprint data shall be deleted immediately thereafter.</p> <p>The immigration authority which is responsible for examining visa applications shall process the fingerprint data to Visa Information System. The fingerprint data shall be deleted immediately thereafter.</p> <p>According to the Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals:</p> <p>The immigration authority shall process the personal data of third-country nationals obtained within the framework of this Act in the central immigration register for the purpose of establishing their identity, for checking the authenticity of documents, to determine the duration of lawful residence and to avoid any overlap in procedures.</p> <p>The central immigration register shall contain the following natural identification data of the persons falling within the scope of immigration sub-registers (hereinafter referred to as "natural identification data"):</p> <ul style="list-style-type: none">a) surname and forename (names);b) surname and forename (names) at birth;c) any previous surname and forename (names);d) place and date of birth;e) sex;f) mother's surname and forename (names) at birth;g) nationality (nationalities) or stateless status. <p>The immigration authority shall process the data of third-country nationals in connection with visa applications and the visa issued, or document in place of visas for five years in connection with the refusal of a visa application from the date when refused, in connection with a visa issued (extended) from the date of expiry or the date of withdrawal.</p> <p>The immigration authority shall process the data of third-country nationals in connection with applications for residence permits and the residence permits issued for five years in connection with the refusal of an application for residence permit from the date when refused, in connection with a residence permit issued (extended) from the date of expiry, or from the date of withdrawal.</p> <p>The immigration authority shall process the fingerprint data to transfer for the immigration authority which is responsible for examining visa applications. The fingerprint data shall be deleted immediately thereafter.</p>
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		<p>The immigration authority which is responsible for examining visa applications shall process the fingerprint data to Visa Information System. The fingerprint data shall be deleted immediately thereafter.</p> <p>The immigration authority shall process facial image and fingerprint data which were fixed for issue of local border traffic permit until a final and enforceable decision. The data shall be deleted immediately thereafter.</p> <p>The immigration authority shall process the following data of the host and the invited third-country national:</p> <ul style="list-style-type: none"> a) the natural identification data of the host, if a natural person, or the corporate name of the host if a legal person or business association lacking the legal status of a legal person; b) the host's home address if a natural person, or the host's registered office (place of business) if a legal person or business association lacking the legal status of a legal person; c) the natural identification data of the invited third-country national; d) the duration of commitment; e) the serial number letter of invitation with an official certificate affixed; f) if the official certificate is refused, the reasons therefore. <p>The immigration authority shall process this data for five years following the expiration of the commitment.</p> <p>The immigration authority shall process the following data of third-country nationals in connection with certificates of temporary residence:</p> <ul style="list-style-type: none"> a) natural identification data; b) facial photograph; c) travel document particulars; d) the reason for the issue of the certificate of temporary residence; e) any extension of the certificate of temporary residence, and its withdrawal including the fact and reasons therefore; f) the number, serial number and validity period of the certificate of temporary residence issued (extended); g) address of the place of accommodation. <p>The immigration authority shall process this data for five years in connection with the certificate of temporary residence issued (extended) from the date of expiry, or from the date of withdrawal.</p> <p>The immigration authority shall process the following data of third-country nationals in connection with applications for immigration permits and permanent residence permits, interim permanent residence permits, national permanent residence permits or EC permanent residence permits, and the interim permanent residence permits, national permanent residence permits or EC permanent residence permits issued:</p> <ul style="list-style-type: none"> a) natural identification data; b) facial photograph; c) travel document particulars; d) particulars of the documents provided in support of the conditions required for these permits; e) the fact and reasons for the refusal of these permits or for the extension of existing ones, and for the withdrawal of these permits;
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			<p>f) the number, serial number and validity period of the permits issued (extended); g) the date of first entry and final exit; h) home address; i) personal identification number; j) number of personal identification document. The immigration authority shall process this data for twenty years in connection with the refusal of an application for these permits from the date when refused, or from the date of termination of the legal status in question.</p> <p>The immigration authority shall process the following data of third-country nationals whose travel document was reported lost, stolen or destroyed: a) natural identification data; b) type of travel document reported lost, stolen or destroyed, and its particulars; c) the date and time when reported; d) place and date of first entry; e) address of the place of accommodation, home address; f) name of the authority to which the report was filed; g) the number and validity of the certificate evidencing residence and the name of the issuing authority; h) the type, number and validity of the new travel document. The immigration authority shall process this data until the travel document is found, or for a period of five years from the date when reported lost, stolen or destroyed.</p> <p>The immigration authority shall process the following data of third-country nationals in connection with the registration of their place of accommodation or place of abode: a) natural identification data; b) the date of entry (arrival); c) address of the place of accommodation, home address. The immigration authority shall process this data for five years following the date of registration of the place of accommodation or place of abode, or from the date when the guestbook is surrendered.</p> <p>The immigration authority shall process the following data of a third-country national who has been ordered to leave the territory of the Republic of Hungary, or who is subject to compulsory confinement, expulsion ordered under immigration laws, expulsion by court order, exclusion or detention under immigration laws: a) natural identification data; b) facial photograph and fingerprint; c) name of the ordering authority and the number of the relevant resolution; d) the legal grounds for the measure, order or resolution, and the related deadline or duration; e) the fingerprint of the persons subject to expulsion under immigration laws or by court order. (2) The immigration authority shall process the following data of third-country nationals in connection with requesting assistance relating</p>
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			<p>to or the authorization of, transit for the purposes of expulsion by air:</p> <ul style="list-style-type: none">a) natural identification data;b) the type, number and validity of the travel document;c) particulars of direct flight or flights used for the purpose of expulsion (flight number, place of departure and arrival, time of departure and arrival);d) the reasons for official escort, if any;e) information relating to medical treatment and to contagious diseases that can be identified;f) information concerning any previous failed attempt for expulsion. <p>The immigration authority shall process this data for five years after the expulsion or exclusion is lifted and for five years following the date when the request for transit was received.</p> <p>The immigration authority shall process the following data of third-country nationals subject to prohibition of leaving the country:</p> <ul style="list-style-type: none">a) natural identification data;b) name of the authority ordering the prohibition of leaving the country. <p>The immigration authority shall process this data until the prohibition is lifted.</p> <p>In conjunction with commitments of the Republic of Hungary conferred in international treaties and conventions, the immigration authority shall process the following data of third-country nationals detained, arrested or taken into custody in the Republic of Hungary, or affected by some extraordinary event (i.e. death, accident resulting in serious injury, etc.):</p> <ul style="list-style-type: none">a) natural identification data;b) address of the place of accommodation, home address;c) information on the criminal proceedings (degree and description of the crime), name of the acting authority and the case number;d) information on the extraordinary event, name of the acting authority and the case number. <p>The immigration authority shall process this data for three years after the information obligation is discharged.</p> <p>The immigration authority shall process the data specified in Article 8 (1) of Council Regulation 2725/2000/EC of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.</p> <p>According to the Act LXXX. 2007 on Asylum.</p> <p>The refugee authority shall manage the personal details of refugees, beneficiaries of subsidiary and temporary protection and persons seeking recognition (hereinafter collectively referred to as "persons coming under the effect of the present Act") and the data related to their residence, the provisions and benefits which they are entitled to as well as any changes therein in the refugee records for the purpose of</p> <ul style="list-style-type: none">a) establishment of the existence of the legal status of refugee, beneficiaries of subsidiary or temporary protection and providing the benefits which are attached thereto,b) establishment of the entitlement to the provisions and benefits determined in the present Act and in separate legal rule,c) identification,
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			<p>d) prevention of parallel procedures and e) establishment of the multiple submission of applications.</p> <p>The refugee records shall contain the following details of a person coming under the effect of the Act:</p> <p>natural identification data; facial image; fingerprints of persons older than fourteen years of age; if the applicant is an unaccompanied minor, this fact, if the applicant was taken over in the Dublin procedure, this fact and the date of the take-over, the date of submission of the application for recognition as refugee or beneficiary of subsidiary or temporary protection as well as the date of the withdrawal of such application, the fact and the date of recognition as refugee or beneficiary of subsidiary or temporary protection, the name of the authority or court issuing the recognition decision as well as the number of persons covered by the decision, the fact, reason and date of rejecting the application for recognition, the discontinuation of the procedure and the withdrawal of the recognition; the name of the authority or court that made the decision, and the number of persons covered by the decision; the fact and reason of the hand-over of the applicant in Dublin procedure, the dates of the resolution providing for the hand-over as well as of the actual hand-over, and the number of persons covered by the resolution, marital status, occupation, education of the person seeking recognition; place of residence, place of stay and accommodation of the person seeking recognition, as well as the beneficiary of subsidiary and temporary protection receiving provisions and benefits under this Act; name of country of origin; from among data relating to racial or ethnic affiliation, membership of particular social group, religion or political convictions, those which the person referred to in the reasoning part of his/her application; data of identification and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance); natural identification data of family members arriving together with him/her and the legal title of residence in Hungary; data relating to his/her income and pecuniary situation which were contained in his/her declaration, the document supplied by him/her or in the data supplied by the tax authority and/or the agency fulfilling social security responsibilities. the fact and date of the proceedings initiated ex officio; the fact and date of the procedural actions carried out during the refugee proceedings on the basis of this legal regulation; the refugee authority shall manage for a period of ten years the data stipulated by a) - o) and q) – r), reckoned from the refusal of the application, or the discontinuation of the procedure or the cessation of recognition; the data determined in p), reckoned from the cessation of entitlement to the provisions and benefits determined in the present Act and in a separate legal rule or from the repayment of repayable subsidies or from the lapse of a claim.</p> <p>For the purpose of ensuring the rights of persons placed at a reception centre and establishing their entitlement to the provisions and</p>
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			<p>benefits determined in the present Act and in a separate legal rule, the reception centre shall keep records of</p> <p>a) the natural identification data of the persons placed at the reception centre and</p> <p>b) the extent and term of the provisions and benefits provided by the reception centre.</p> <p>The data of persons placed at a reception centre shall be managed for a period of one year following final departure from the reception centre.</p> <p>For the purpose of establishing entitlement to the provisions and benefits falling within his/her competence, the notary with competence according to the place of residence, place of stay or accommodation of a refugee, beneficiary of subsidiary or temporary protection shall keep records of the following details of the person falling within his/her competence entitled to benefits:</p> <p>a) natural identification data;</p> <p>b) place of residence, place of stay or accommodation;</p> <p>c) amount of benefit disbursed;</p> <p>d) date of disbursement, in case of repayable benefit, deadline for repayment.</p> <p>The agencies disbursing benefits may manage data relating to the earning and pecuniary conditions of family members sharing a household with a person entitled to benefits falling within the competence of the notary if the existence of the criteria for the disbursement of benefits may be established on the basis thereof.</p> <p>The agencies disbursing benefits shall supply data to the refugee authority and the agencies authorised by law to request the above mentioned data.</p> <p>The notary and the agencies disbursing benefits may manage the above mentioned data during the existence of the entitlement to benefits or the obligation of repayment.</p>
	Italy	Yes	In Italy, non-EU nationals personal information is uploaded into the Ministry of Interior's Data Elaboration Centre (CED) that is managed by the State Police. There is no maximum deadline to keep these data that, therefore, are maintained on an indeterminate basis.
	Latvia	Yes	In the Register of Irregular Immigrants which is maintained by the State Border Guards personal information is being stored until the purpose of information keeping has been achieved, but not later than 10 years. After the purpose has been achieved or after 10 years the personal information is moved to archive, where it is stored for 10 years. The main IT system in the Office of Citizenship and Migration Affairs is the Population Register. If the information once is entered in to the Population Register it should be kept permanently. Data in National Visa Information System is kept for 5 years after the expiry of term of validity of visa.
	Lithuania	Yes	The maximum deadline depends on the type of case (whether the alien is a temporary or permanent resident, whether he obtained visa or a residence permit, etc.). First, the data are stored in the Aliens' register. The deadline is 5 years since the expiry of the reason why the alien was entered into the system (for example, since the expiry of the entry ban, or a residence permit, etc.). Afterwards some of the data is transferred to the archive of the Aliens' register and it is kept there for 10 years (as it concerns temporary residents) or 70 years (as it concerns permanent residents or cases related to Lithuanian citizenship or asylum).
	Luxembourg	Yes	In Luxembourg there is not a fixed deadline to keep personal information in the databases related to entry and stay of foreigners in the country. This database is mainly composed by the data gathered from the foreigners that apply to enter and stay in the country (especially with the autorisations of stay for obtaining a residence permit). Only the biometrical data gathered, that is destined to issue residence



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	Netherlands	Yes	<p>In any case personal information needs to be available directly, for obvious reasons, as long as an immigrant is still in the Netherlands and did not obtain the Dutch nationality.</p> <p>Beside that, the registration/documentation needs to stay available for at least 15 years for researches of various kinds (statistics, political enquiries, etc.).</p> <p>After 15-20 years the archives (both physical and digital) are screened and parts are selected for historical documentation in the National Archives. Until 1989 all files were archived, from 1990 on only the files from immigrants who stayed need to be archived.</p>
	Portugal	Yes	<p>Personal data are preserved only for the period necessary for the purpose which grounded the register at the national foreigners database (SII/SEF) and, according to the mentioned purpose, the register is subject to a necessity verification, 10 years after the last documents issuing to its holder, after which they can be stored in a historic file for 20 years after the issuing of the mentioned documents. - Art. 212 (5) of Act 23/07 – Immigration Act.</p>
	Sweden	Yes	<p>The Swedish deadlines and criteria for sorting out personal data of operation, deregister, from the “active” central database for foreigners are:</p> <ol style="list-style-type: none"> 1) Swedish citizen Individual with a Swedish citizenship registered for over two years 2) Deceased individual Individual who has been registered as dead for over two years 3) Individuals with the latest registered request a VISA case Individual with the latest registered request a VISA case older than four years *). 4) Individual with no valid permit Individual with no valid permit for the last eight years *). <p>*) For 3) and 4) it is not approved to deregister if there are a lock, an open case or correspondance younger than the last permit.</p> <p>Individuals who are deregistred from the active database are kept in a specific, standalone, database as an archive to which very few have access.</p>

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	United Kingdom	Yes	<p>There is no set period for all electronic personal data.</p> <ul style="list-style-type: none"> • Personal data should be stored for as long as it is required for the purposes for which we gathered it. We should follow the principles of the Data Protection Act or any other act related to that work function such as PACE in respect of retention of evidence. • The Public Records Act has recently been amended following the Dacre review. As a department we are seeking to comply with the requirement to either keep records for no longer than 20 years or to transfer them to the National Archives but we are at the stage of working out how to comply. • We have agreed retention standards which break down into different sorts of records which do not distinguish between paper and electronic data but some of these periods need amendment to comply with or seek exemption from the 20 years quoted above. • We may well in practice, have electronic data stored on some of our databases which has not had any retention schedule applied to it or where deletion from the system is not a functional option.
	Norway	Yes	<p>In the Norwegian legislation there is no general maximum time limit for storing personal information in the IT (or other) data bases used by the immigration authorities. Such data can be stored as long as they may become relevant for the purpose for which they were obtained. For fingerprints there is a general time limit of 5 years, but there are many exceptions to this rule, making it mandatory to delete them earlier in some cases and possible to retain them for a longer period in other. The specifics are regulated by the Immigration Act of 2008 (no. 35) and the Personal Data Act of 2000 (No. 31) and regulations based on them. The latter explicitly states that information that is not needed should not be collected, and if it has been collected then it should be deleted.</p>