

## ANNEX A.1

# TECHNICAL SPECIFICATIONS

D-SE-15-T01

“Biometric data in large EU IT-systems in the areas of borders, visa and asylum – fundamental rights implications”.

# 1. Technical specifications

## 1.1. Objective

The objective of the Technical Specifications is to provide the tenderer(s) with all the necessary information that will allow them to develop a technical offer and a price offer.

## 1.2. Title of the contract

The title of the contract is “***Biometric data in large EU IT-systems in the areas of borders, visa and asylum – fundamental rights implications***”.

## 1.3. Contracting Authority

The contracting authority is the European Union Agency for Fundamental Rights (hereinafter referred to as the FRA or the Agency). The Agency was established by Council Regulation No 168/2007 on 15 February 2007. Its objective is to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States when implementing Community law with assistance and expertise relating to fundamental rights. In order to achieve this objective the Agency is required to perform a number of tasks, including data collection and research. The research commissioned through this Call for Tender is undertaken within the scope of the Agency’s Work Programme 2015.

## 2. Background information

The aim of the project “Biometric data in large EU IT-systems in the areas of borders, visa and asylum – fundamental rights implications”, as outlined in the FRA’s Annual Work Programmes for 2014<sup>1</sup> and 2015<sup>2</sup>, is to undertake research to document the negative as well as positive fundamental rights implications of biometric and other data stored in large-scale IT-systems in the above areas.

Biometric identifiers can be biological properties, physiological characteristics, living traits or repeatable actions that are both unique to that individual and are measurable.<sup>3</sup> A person’s face, palm-print, voice, iris, retina, blood vessel shape, ear shape, gait and other physical and behavioural characteristics are examples of biometric traits that can be used to recognize individuals.

The large-scale EU IT-systems in focus in this project are Eurodac,<sup>4</sup> the Schengen Information System (SIS II)<sup>5</sup> and the Visa Information System (VIS).<sup>6</sup> These existing IT-systems at the EU level use, or plan to use, fingerprints as the only searchable biometric identifier:

- **Eurodac**<sup>7</sup> includes fingerprints of persons who applied for asylum or who have been apprehended following their irregular entry or stay;
- **SIS II**<sup>8</sup> holds data on persons and objects (such as banknotes, cars, firearms and identity documents) wanted or missing in the Schengen area, as well as on persons that are denied entry into the Schengen area. SIS II has the capacity to store searchable fingerprints, but this feature is not used yet.
- **VIS**<sup>9</sup> includes fingerprints of visa applicants.

In 2013, the European Commission launched the “smart borders proposal” which envisages the creation of two further IT systems. The proposal is presently being negotiated. The smart borders proposal includes an entry/exit system (EES) to record entry and exit data of each third-country national at the

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<sup>1</sup> FRA (European Union Agency for Fundamental Rights) (2013), *FRA Annual Work Programmes for 2014*, [http://fra.europa.eu/sites/default/files/mb-decision\\_2013\\_12\\_annex\\_ii\\_awp\\_2014.pdf](http://fra.europa.eu/sites/default/files/mb-decision_2013_12_annex_ii_awp_2014.pdf).

<sup>2</sup> FRA (European Union Agency for Fundamental Rights) (2014), *FRA Annual Work Programmes for 2015*, available at: [http://fra.europa.eu/sites/default/files/annual\\_work\\_programme\\_2015.pdf](http://fra.europa.eu/sites/default/files/annual_work_programme_2015.pdf).

<sup>3</sup> Article 29 Working Party (2012), *Opinion on biometrics*, WP 193, Brussels, 27 April 2012.

<sup>4</sup> European Commission, Identification of asylum applicants, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/identification-of-applicants/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/identification-of-applicants/index_en.htm).

<sup>5</sup> European Commission, Schengen information system, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/index_en.htm).

<sup>6</sup> European Commission, Visa information system, [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system/index_en.htm).

<sup>7</sup> Council [Regulation \(EC\) No 603/2013](#) of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast), OJ 2013 L 180/1.

<sup>8</sup> Council [Regulation \(EC\) No 1987/2006](#) of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II), OJ 2006 L 381.

<sup>9</sup> Council [Regulation \(EC\) No. 767/2008](#) of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas, OJ 2008 L 218.

external border. EES will include, or enable access to, fingerprints of all third country-nationals entering and exiting the EU. In case of visa holders, the system guarantees access to the fingerprints stored in VIS. In case of non-visa holders, the fingerprints will be collected at the border.

Eurodac and VIS include fingerprints which are searchable across the EU Member States, whereas SIS II does not yet include searchable biometrics, but will do this once the Member States have the technical capacity in place. As Eurodac and VIS have opted for fingerprints as the biometric identifier, this project focuses on fingerprinting and the fundamental rights implications of collecting and storing fingerprints. Through the Automated Fingerprint Identification System (AFIS)<sup>10</sup> fingerprints can later be compared with those stored in VIS and Eurodac. The EU Member States will also use SIS II in the same way, once this is possible technically.

The Court of Justice of the European Union (CJEU) endorses the storage of biometric data in chips inside passports through its ruling in *Michael Schwarz v. Stadt Bochum*.<sup>11</sup> The judgement, however, does not deal with the storage of fingerprints in a database. Within the area of identity and migration management, Member States include biometric identifiers in passports for their own nationals<sup>12</sup> and in residence permits for third-country nationals.<sup>13</sup>

All EU Member and Schengen Associated States (Switzerland, Iceland, Lichtenstein and Norway) participate in Eurodac. Most EU Member States participate in SIS II and VIS. Croatia, Cyprus, Ireland and the United Kingdom do not fully, or not yet, take part in SIS II nor VIS. Bulgaria and Romania also do not yet participate in VIS.

The EU regulations for EURODAC, SIS II and VIS are directly applicable in the Member States, without transposition into national law.

The operational management of Eurodac, SIS II and VIS are handled by the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, eu-LISA.<sup>14</sup> The agency is based in Tallinn, whereas the databases are physically located in Strasbourg (France) and a back-up of these in St. Johan im Pongau (Austria). Eu-LISA (the central level) connects to the national interfaces of the three systems in the EU Member States via a communication infrastructure (network). The national authorities that access the systems communicate through the national interface to the central level.

Eu-LISA produces regular reports on Eurodac, SIS II and VIS, such as:

- Annual report on the 2013 activities of the Central Unit of Eurodac pursuant to Article 24(1) of Regulation (EC) No 2725/2000 (Eurodac annual report)
- Report on the technical functioning of VIS, including the security thereof, pursuant to Article 50(3) of the VIS Regulation
- SIS II – annual Statistics

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<sup>10</sup> European Commission (2011), ['Frequently asked questions: The Visa Information System goes live'](#), Press release, Brussels, 11 October 2011.

<sup>11</sup> CJEU, C291/12, *Michael Schwarz v. Stadt Bochum*, 13 June 2013.

<sup>12</sup> Council [Regulation \(EC\) No. 2252/2004](#) of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ 2004 L 385.

<sup>13</sup> European Commission, [Commission decision modifying the technical specifications for the uniform format for residence permits for third country nationals of 20 May 2009](#), C (2009) 3770.

<sup>14</sup> Eu-LISA (European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice) (2014), [SIS II- 2013 Statistics](#), 18 July 2014, p. 6.

Member States are bound by the EU Data Protection Directive (Directive 95/46/EC)<sup>15</sup> when implementing the regulations on Eurodac, SIS II and VIS. As the directive does not cover the area of police and criminal justice, the Data Protection Framework Decision (Directive 2008/977/JHA)<sup>16</sup> applies to these areas when Member States implement Council Decisions on VIS and SIS II. The Data Protection Framework Decision sets out the minimum data protection safeguards in the area of police and judicial cooperation.

EDPS oversees the lawfulness of the data processing of eu-LISA. At the national level the data protection authorities act as the national supervisory authority overseeing the lawfulness of data processing in the three IT systems. The national data protection authorities and the EDPS together form the Supervision Coordination Groups (SCG) for Eurodac, SIS II and VIS respectively that promotes good cooperation between national data protection authorities and the EDPS.

The SCGs have published its summary meeting and security audit and inspection reports in the context of Eurodac<sup>17</sup> and VIS<sup>18</sup>. In addition it has, for instance, published a report on unreadable fingerprints in Eurodac. Until SIS II became operational, the Joint Supervisory Authority was in charge of data protection and published a number on inspection reports on SIS<sup>19</sup>.

In accordance with the EU Data Protection Directive, Member States have designated the authorities that are the “controller”, determining the purposes and means of processing personal data. Figure one provides an overview of data protection supervisory mechanisms.

The Article 29 Data Protection Working Party was set up under the EU’s Data Protection Directive. Its tasks are, amongst others, to contribute to the uniform application of the directive. It has issued opinions on, for instance, biometrics<sup>20</sup> and the smart borders proposal.<sup>21</sup> It has an advisory status and acts independently.

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<sup>15</sup> [Data Protection Directive, 1995/46/EC](#), 24 October 1995, OJ 1995 L 281.

<sup>16</sup> [Council Framework Decision 2008/977/JHA](#) of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (Data Protection Framework Decision), OJ 2008 L 350.

<sup>17</sup> <https://secure.edps.europa.eu/EDPSWEB/edps/Supervision/Eurodac>

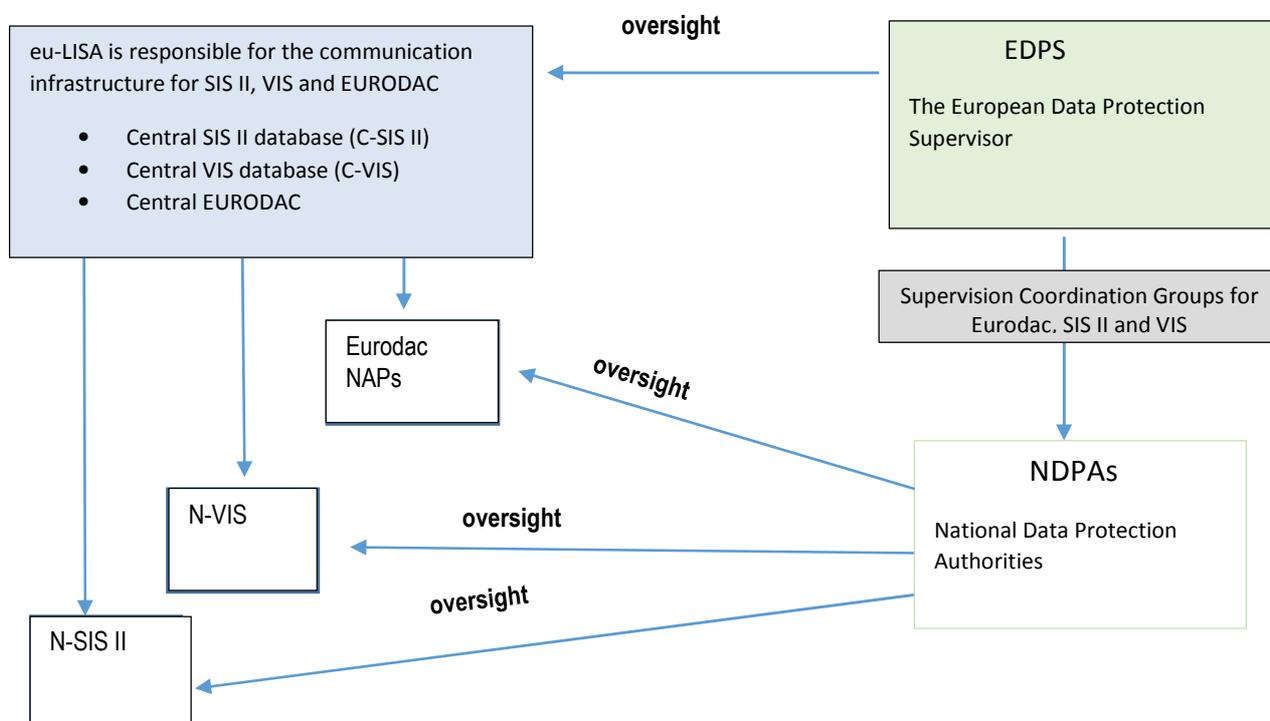
<sup>18</sup> <https://secure.edps.europa.eu/EDPSWEB/edps/Supervision/VIS>

<sup>19</sup> <http://schengen.consilium.europa.eu/reports/inspection-report.aspx?lang=en>

<sup>20</sup> Article 29 Working Party (2012), [Opinion on biometrics](#), WP 193, Brussels, 27 April 2012.

<sup>21</sup> Article 29 Working Party (2013), [Opinion 05/2013 on smart borders](#), WP 206, Brussels, 6 June 2013.

Figure 1: Oversight mechanisms for VIS, Eurodac and SIS II



Note:  
N-SIS II – National Schengen Information System; N-VIS – National Visa Information System; Eurodac NAPs – Eurodac national access points  
Source: FRA

Data subjects (persons whose data is processed by the IT-systems in question) may be in a particularly vulnerable situation, as they may be asylum seekers, refugees, irregular immigrants, or third-country nationals having applied for a visa or having received an entry-ban. Persons in such situations have few arguments to argue that the information is incorrect and few arguments or means to make their point. Moreover, their access to procedures for correcting the data and seeking remedies may be limited. EU citizens for whom an alert has been inserted in SIS II can also be the data subjects.

In spite of the speed of technological and policy developments, risks and benefits for fundamental rights that modern technologies create have not been fully explored. Data protection and privacy related issues have so far been at the forefront of discussion in this field.

The Council of Europe commissioned a study in 2013 on the application of the Convention for the protection of Individuals with regard to Automatic Processing of Personal Data to biometric data.<sup>22</sup> Rather few academic studies have addressed biometrics and Eurodac, SIS II and VIS, from a fundamental rights perspective.<sup>23</sup> In the context of the smart borders proposal, the European Data

<sup>22</sup> DeHert, P., Christianen, K. (2013), [Report on the Application of Convention 108 to the Collection and Processing of Biometric Data](#), Council of Europe, Strasbourg, 20 September 2013.

<sup>23</sup> See for instance Brouwer, E. (2008) [Digital Borders and Real Rights, Effective Remedies for Third-Country Nationals in the Schengen Information System](#), Brill, 4 June 2008; Garside, A.

Protection Supervisor,<sup>24</sup> the Article 29 Working Party<sup>25</sup> and representatives of civil society<sup>26</sup> have expressed concerns over the necessity and proportionality of the Commission proposal to create another large-scale centralised system able to access fingerprints and personal information of third country nationals. The EC is also funding research projects on technologies at borders including modules addressing societal aspects, such as Fast Pass<sup>27</sup> and ABC.<sup>28</sup>

The project 'Biometric in large IT databases' in FRA's Annual work programme had an initial preparatory phase. During the preparatory phase of the project - which covered all EU 28 Member States - an extensive mapping of relevant administrative practices and procedures as well as their fundamental rights implications took place (end 2014 to first half 2015). It also included an overview of case law, publications, and main providers of legal assistance to asylum seekers and irregular migrants. This phase was carried out by FRANET, FRA's research partners in the EU Members States.

Relevant results of the preparatory phase will be made available to the winning bidder in so far as they are required for the project implementation.

The project – which will cover six EU Member States - is based on fieldwork research which includes:

- quantitative and qualitative data collection with authorities and professionals as well as third county nationals enrolled in VIS, EURODAC and SIS II;
- observations of procedures in practice; and the collection and analysis of available statistics.

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(2000). The political genesis and legal impact of proposals for the SIS II: what cost for data protection and security in the EU?, *Journal L*, Vol. 239, No. 22/09.; Thomas, R. (2005), Biometrics, international migrants and human rights, *European Journal of Migration and Law*, No. 7(4).; Kenk, V.S., Križaj, J., Štruc, J. & Dobrišek S.(2013), Smart Surveillance Technologies in Border Control, *European Journal of Law and Technology*, Vol 4., No. 2..

<sup>24</sup> European Data Protection Supervisor (2013), [Opinion of the European Data Protection Supervisor on the Proposals for a Regulation establishing an Entry/Exit System \(EES\) and a Regulation establishing a Registered Traveller Programme \(RTP\)](#), 18 June 2013.

<sup>25</sup> Article 29 Working Party (2013), [Opinion 05/2013 on smart borders](#), WP 206, Brussels, 6 June 2013.

<sup>26</sup> See for instance, France, Cimade (2013), ['Frontières intelligentes: une nouvelle "invention" de l'Union européenne pour le contrôle de ses frontières'](#), 1 August 2013; Meijers Committee, Standing committee of experts on international immigration, refugee and criminal law (2013), [Note on the Smart Borders proposals COM\(2013\) 95 final, COM \(2013\) 96 final and COM \(2013\) 97 final](#), 3 May 2013; Denmark, Institut for Menneskerettigheder (2013), [Høring over forslag til forordninger om intelligente grænser](#), 22 April 2013.; Hayes, B. and Vermeulen, M. (2012) [Borderline - The EU's New Border Surveillance Initiatives: Assessing the Costs and Fundamental Rights Implications of EUROSUR and the "Smart Borders" Proposals](#), Heinrich Böll Stiftung, 16 July 2012

<sup>27</sup> [www.fastpass-project.eu/architecture\\_based\\_upon\\_innovative\\_technology](http://www.fastpass-project.eu/architecture_based_upon_innovative_technology).

<sup>28</sup> <http://abc4eu.com/>.

# Contract Objectives and Expected Results

## 2.1. Overall objective

With this in mind the project will analyse the broader fundamental rights implications of inserting, storing and searching biometric data in large-scale IT databases in the areas of asylum, borders and visa.

The project will consider both negative as well as positive fundamental rights implications of data stored in large-scale IT-systems. Positive ones may emerge from the reduced risk for identification problems that the use of biometrics could ensure. For instance, biometric identifiers, if correctly applied, would reduce the risk for mistaken identity in SIS II when two persons have the same name and date of birth, and optimise the identification of missing persons, particularly children (old enough to provide fingerprints), and victims of trafficking.

The first component of the research focuses on understanding the fundamental rights implications of data inserted in the three large-scale IT databases according to the views of professionals including national authorities working in this area.

The second component of the research will collect and analyse the experiences and the treatment of persons whose fingerprints have been enrolled and/or read against Eurodac and VIS and of those (third country nationals as well as EU citizens) whose personal data has been inserted and/or checked against SIS II. It will target different groups including:

- (i) third country nationals whose fingerprints are enrolled and read against EURODAC (i.e. asylum seekers and migrants apprehended at the EU's external borders);
- (ii) third country nationals whose fingerprints are enrolled and read in VIS i.e. third country nationals applying for a visa at consular or diplomatic representations (DMCPs) and those who are checked against VIS at border crossing points;
- (iii) third country nationals as well as EU citizens whose personal data has been inserted and/or checked against SIS II.

The research envisaged under this project shall review if fundamental rights are respected during enrolment and/or reading of fingerprints at DMCPs, border crossing points, during apprehensions at the external borders or internally in the territory of EU Member States. The project will focus on the fundamental rights challenges and opportunities in the processes for including and using biometric and other information in the databases. Such challenges and opportunities could relate to the decision to include or delete information in the databases, or possibilities to access further information about the person and other databases based upon a "match". Research on fingerprints as a biometric identifiers will be undertaken in light of also other biometric identifiers used, such as facial recognition and iris scans.

With this project the FRA intends to complement the eu-LISA reports on functioning of VIS, Eurodac and SIS II which do not have a fundamental rights focus.<sup>29</sup> This project also complements the work of

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<sup>29</sup> Eu-Lisa reports on functioning of VIS, Eurodac and SIS II are available at: [http://www.eulisa.europa.eu/Publications/p\\_reports/Pages/default.aspx](http://www.eulisa.europa.eu/Publications/p_reports/Pages/default.aspx)

the European Data Protection Supervisor (EDPS) and the Supervisory Coordination Groups for Eurodac, SIS II, and VIS, for which EDPS functions as the Secretariat, as it takes a broad fundamental rights perspective and does not focus only on data protection issues.

Eurodac, SIS II and VIS are used in a number of processes to manage regular as well as irregular entry and stay in the EU:

- Granting visas: As part of the process to manage regular migration, information included in the visa application as well as fingerprints are inserted in VIS, and SIS II is consulted within the visa determination procedure.
- Border checks: The fingerprints are checked against those stored in VIS and all third country nationals are checked against SIS II.
- Granting residence permits: SIS II is also consulted when residence permits are issued.
- Asylum procedures: Fingerprints of asylum seekers are included in Eurodac.
- Apprehending and returning irregular migrants: Fingerprints of apprehended migrants having crossed the EU external border in an irregular manner are included in Eurodac.
- Apprehended irregular migrants within the EU and those within the return procedure may be checked against Eurodac, SIS II and VIS.

A number of aspects with fundamental rights implications emerge in this context, both positive and negative.

The annex to these technical specifications illustrates the use of Eurodac, SIS II and VIS when managing regular as well as irregular entry and stay in the EU, the positive and negative fundamental rights implications of storing data in the three large IT databases as well as the fundamental rights affected.

## 2.2. Scope of Work

The thematic focus of the research will be developed in consideration of the positive as well as negative fundamental rights implications of inserting data in large IT databases, as well as in consideration of the specific rights granted by the regulations setting up VIS, Eurodac and SIS II, as relevant. The rights on which the thematic focus of the research is built are listed below. Each right is followed by one or more examples illustrating possible issues in that area.

1. **Dignity** (Art. 1 of the CFR): e.g. is there a risk that persons unable to provide fingerprints – for instance, the fingertip texture may have been scraped off due to manual work – are subject to discriminatory treatment? Also, technical issues could lead to a false match (a false acceptance or a false rejection of fingerprints). What are the practical consequences of such a mistake in the context of VIS, Eurodac and SIS II? How many false matches have been documented? Article 14 of the Visa Code states that Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling fingerprints.
2. **Right to asylum** (Art. 18 of the CFR) e.g. what happens if an asylum seeker's fingerprints cannot be read/enrolled due to technical failures or damaged skin? How does it affect the possibility of accessing the asylum procedure? How does this and other aspects relating to the implementation of Eurodac impact on the individual within the Dublin system<sup>30</sup>, which establishes the criteria for deciding which Member State is responsible for examining the asylum applications?
3. **Inhuman or degrading treatment** (Art. 4 of the CFR): Both Eurodac and VIS contain a duty to give fingerprints. If, for some reason, a person seeking international protection refuses to give fingerprints for Eurodac, the authorities may decide to collect the fingerprints by force. This would lead to taking coercive measures which would not be justified if it would constitute a violation of Article 4 of the Charter of Fundamental Rights (CFR) - which prohibits inhuman or degrading treatment - or otherwise adversely impact on the integrity and dignity of the person being fingerprinted. Alternatively, authorities could resort to deprivation of liberty as protected by Art. 6 of the CFR until the asylum seeker agrees to his or her fingerprints being taken. How often are coercive measures, including detention, used? What constitutes excessive use of coercive measures?
4. **Right to protection of personal data** (Art. 8 of the CFR): The high degree of certainty about a person's identity underlines the need for ensuring the correctness of data that is connected with the biometric identifier. This includes right to access data stored about oneself, and the right to have data corrected. If data connected to the biometric identifier is inaccurate or outdated, this may lead the authorities to take a wrong decision affecting the person concerned. For instance, a person may due to non-deletion or non-marking/blocking of data in Eurodac be wrongfully considered an irregular migrant, or due to such mistakes in the context of SIS II be wrongfully apprehended or refused entry. If the extension of a visa is not included in VIS, persons may be wrongfully considered as having overstayed the visa. The right to data protection is guaranteed in Article 8 of the CFR and in the Data Protection Directive<sup>31</sup> and it forms part of the rights protected under Article 8 on privacy of the ECHR. The Council of Europe

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<sup>30</sup> [Council Regulation \(EC\) No 343/2003](#) of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, OJ 2003 L 50.

<sup>31</sup> Data Protection Directive, 1995/46/EC, 24 October 1995, OJ 1995 L 281.

Convention for the Protection of Individuals with the regard to the Automatic Processing of Personal Data (Convention 108) is dedicated to data protection.

The legitimacy of processing personal data will depend upon the purpose of the processing, is it necessary and proportionate. A discussion on purpose limitation accompanied the decisions to grant access to law enforcement authorities to Eurodac and VIS. As of June 2015, also law enforcement authorities, in addition to asylum and immigration authorities, will have access to Eurodac. Access to VIS – intended to support visa processing - is provided to visa, border and asylum authorities and authorities responsible for checks on legality of stay within the territory, as well as law enforcement authorities. Access by law enforcement to IT systems initially not intended for criminal investigation purposes may lead to a risk that persons whose data are stored therein (i.e. visa applicants and asylum seekers) are more frequently associated with criminal offenders than other categories of persons, which pose challenges for up-holding the principle of non-discrimination.<sup>32</sup> To what extent has access to Eurodac and VIS effectively contributed to solving crimes? SIS II is from the outset intended to support the work of law enforcement.

5. **Right to information:** Both Eurodac (Art. 18(1)) and VIS (Art. 37 of the VIS Regulation) contain a duty to provide third country nationals whose fingerprints are enrolled and read against the two databases with information on the purpose of collecting personal data and on the enrolment, storage, use and access to data stored. The research should analyse whether adequate and clear information has been provided when enrolling and reading fingerprints.
6. **Access to remedy:** can the data subject exercise the right to access the data about him or her stored in the databases, as provided for in Art. 12 of the Data Protection Directive (95/46/EC) law? Can the data subject effectively access their right to correction or deletion of wrong data, do they have access to legal assistance?
7. **Non-discrimination** (Art. 21 of the CFR): whether there is a risk that persons unable to provide fingerprints – for instance, people with a physical disability – are subject to discriminatory treatment, in violation of Article 21 of the Charter.<sup>33</sup> This principle is also reflected in both the Schengen Borders (Art. 6 (2)) and Visa Code (Art. 39 (3)). What alternative measures are in place for people whose fingerprints cannot be enrolled and/or read?

A positive implication could be that the use of biometrics may contribute to less profiling, if correctly administered and safeguards would be in place to ensure this. However, could the use of large amounts of biometric and other data stored in databases for purposes of profiling, amount to discriminatory treatment in certain situations?

8. **Rights of the child** (Art. 24 of the CFR): a positive fundamental rights implication is that information on missing children may be inserted in SIS II thus allowing for the identification of persons belonging to such groups The question of the potential of biometrics in upholding the rights of the child (Article 24 of the Charter) remains largely unexplored. With the introduction of biometrics, if correctly administered according to fundamental rights safeguards, could tracing of these categories of persons and other vulnerable groups be enhanced?
9. **Liberty and security of person** (Art. 6 of the CFR): Biometrics brings with it a high degree of certainty about a person's identity. The inclusion of biometric identifiers in SIS II may therefore reduce the risk that a person is mistakenly stopped and arrested by the police on the basis, for

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<sup>32</sup> UNHCR (2012), '[An efficient and protective Eurodac](#)', November 2012, p. 11.

<sup>33</sup> Grounds listed in Article 21 of the Charter on Fundamental Rights, e.g. sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, disability or age.

example, of inaccurate name spelling. To achieve this, however, procedures need to be in place to insure the quality and correctness of data inserted in the system, including high quality fingerprint captures, as well as secure storage of data.

10. **Safety of family members in the country of origin:** For identification purposes of third country nationals in the return procedures, VIS data can be shared with third countries provided certain safeguards are in place (Art. 31 (2) VIS Regulation). If these safeguards are not fully respected there could be a risk that the authorities in the third country retaliates against the person's family members, for example.

The information on realisation or violation of these rights in practice will be examined by:

- collecting interviews with professionals with specific knowledge of the use of databases in the various procedures, and persons whose data has been inserted in Eurodac, VIS, or SIS II,
- observing the procedures followed by relevant national authorities when enrolling and reading fingerprints of third country nationals to be inserted in VIS or Eurodac.

The contractor is expected to demonstrate an understanding of the fundamental rights issues involved, by elaborating on these and other fundamental rights challenges, and opportunities, in relation to Eurodac, SIS II and VIS.

## 2.3. Target groups

The research will collect the views and experiences of experts whose work involves using Eurodac, SIS II or VIS, as well as of 'right holders' whose biometric and non-biometric data are stored in VIS, Eurodac and/or SIS II.

In the context of this research, 'experts' are people with special knowledge on Eurodac, SIS II and/or VIS which is related to their profession. This knowledge could be technical (e.g. specialised knowledge), process-related (an expert has information on procedures and practices or has practical experience of) or explanatory knowledge (subjective interpretations of relevance, rules, beliefs).

Interviews with experts shall include the following six target groups whose work involves using Eurodac, SIS II or VIS or informed persons in this field:

- 1) **Controller of the data:** it refers to the bodies having central responsibility for the processing of personal data inserted respectively in VIS, Eurodac, and SIS II by the Member State concerned - as defined by the Data Protection Directive.<sup>34</sup> Each EU Member State has a different 'controller' for processing of data inserted in VIS, Eurodac and SIS II.
- 2) **National data protection authorities:** supervisory and independent authorities set up in each Member State which are responsible for monitoring the application of the Data Protection Directive
- 3) **National authorities** in charge of enrolling and reading fingerprints, and of inserting and using other data in the databases:

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<sup>34</sup> According to the Data Protection Directive: 'controller' shall mean the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data; where the purposes and means of processing are determined by national or Community laws or regulations, the controller or the specific criteria for his nomination may be designated by national or Community law.

- (i) Border guards: authorities responsible for document checks at border control points (BCPs) – they read fingerprints (in very rare cases when issuing visas they enrol fingerprints)
  - (ii) Police: officials working in relevant sectors of law enforcement. This should include the foreigners'/aliens' police in charge of apprehension of irregular migrants as well as the criminal police to understand how law enforcement access to VIS and Eurodac contributes to crime investigations – they enrol and read fingerprints
  - (iii) Asylum authorities: authorities in charge of the asylum procedure – they enrol and read fingerprints
  - (iv) Immigration authorities: authorities in charge of issuing residence permits – they enrol fingerprints for the residence permit, and check personal data stored in databases
  - (v) Consular or diplomatic representations (DMCPs) and service providers: institutions enrolling fingerprints of visa applicants, including DMCPs but also outsourcing companies acting as service providers for receiving visa applications – they enrol fingerprints
- 4) **Lawyers and providers of legal assistance:** legal counsellors, immigration lawyers and NGOs providing legal assistance in the areas of asylum and immigration and who had clients experiencing problems in relation to enrolment or access to data stored in the three large IT databases covered by this research.
  - 5) **Business/industry providers** of biometric and IT technologies in the areas of asylum, borders, visa
  - 6) **Experts in biometrics**, including IT experts and experts in the ethical, social and fundamental, rights implications of biometrics

In a human rights framework, all human beings are 'right-holders' who enjoy fundamental rights that must be guaranteed. States have the principal roles of guaranteeing these rights. In the context of this research, 'right-holders' include the four target groups whose fingerprints or other data have been inserted and/or checked against different databases:

- 1) **Visa applicants** in non-EU Member States: third country nationals whose fingerprints have been enrolled in VIS when applying for a visa at a DMCP of an EU Member State.
- 2) **Asylum applicants:** third country nationals whose fingerprints have been enrolled in Eurodac or are searched against those stored there
- 3) **Apprehended third country nationals:** third country nationals suspected of not holding a valid stay permit who had their fingerprints checked against at least one of the three databases following apprehension. The target group includes third country nationals apprehended
  - (a) inside the territory. Apprehended migrants are checked either during a patrol or they are brought to the designated office. Here they are checked against one or more of the EU-databases (Eurodac, SIS II, VIS), in addition to national ones.
  - (b) at the external border (either land or sea). Fingerprints of apprehended migrants are taken during a patrol for inclusion in Eurodac or they are brought to the closest office with the capacity to fingerprint for inclusion in Eurodac.

In addition, a possible way to access the rights holders who are the focus of this research is to interview those among them who have subsequently filed an asylum claim.

- 4) **Complainants:** third country nationals who experienced problems in relation to inserting, searching, accessing, or correcting biometric and non-biometric data contained in VIS, Eurodac or SIS II. This group is referred to as the 'complainant' group. However, having filed or reported a complaint is not a requirement to be interviewed. The only requirement is to have had an 'issue' with personal data inserted in one or more of the three IT databases. For instance, a person was refused entry, or could not be issued a residence permit, because an expired entry ban had not been deleted from SIS II.

Whilst the first three groups (i.e. visa applicants, asylum applicants and apprehended third country nationals) shall include only third country nationals, the fourth group (i.e. complainants) might include third country nationals as well as EU citizens who had an issue with personal data inserted in SIS II, or having sponsored a visa application.

The first target group, visa applicants, was selected, amongst others, to understand general fundamental rights issues relating to enrolment and reading of fingerprints for undertaking searches in the databases (right to information; dignity; right to non-discrimination etc). The target groups 'asylum seekers' and 'apprehended third country nationals' were chosen, amongst others, because they are at risk of experiencing coercive measures by law enforcement authorities in case of unwillingness to have their fingerprints enrolled or checked for searches in Eurodac or VIS. The 'complainants' target group was selected to understand specific issues relating to access to remedies in cases of violations of a fundamental right in the context of personal data stored in one of the three IT databases.

Except for the 'complainants', all 'rights holders' target groups should be interviewed shortly after having had their fingerprints enrolled and/or read in order to have a good memory of the process on which the interview focuses.

## 2.4 Scope

### Geographical coverage

The fieldwork shall cover **6 EU Member States** and **the DMCPs of the selected EU Member States in 4 non-EU countries**.

The six EU Member States to be covered in the research are the following: **Belgium, Germany, Italy, Poland, Spain and Sweden**. These EU Member States were selected taking into consideration the following criteria: geographical balance; evidence of fundamental rights implications of the usage of the three IT databases, presence/lack of regulations and procedures for entering and searching data in the three IT databases (as results from the Preparatory phase of the project); availability of the right holders target groups covered by this research (visa applicants, asylum seekers and apprehended migrants in an irregular situation, respectively) as per Eurostat statistics; roll-out of VIS in DMCPs<sup>35</sup> (that is,

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<sup>35</sup> European Commission, Commission Implementing Decision 2015/854/EU of 1 June 2015 determining the date from which the Visa Information System (VIS) is to start operations in the 19th region, OJ L 135, 2.6.2015, p. 20–22;

European Commission, Commission Implementing Decision 2015/731/EU of 6 May 2015 determining the date from which the Visa Information System (VIS) is to start operations in the 17th and 18th regions, OJ L 116, 7.5.2015, p. 20–21;

European Commission, Commission Implementing Decision 2014/540/EU of 28 August 2014 determining the date from which the Visa Information System (VIS) is to start operations in a 16th region, OJ L 258, 29.8.2014, p. 8–10;

evidence on use of VIS, which is not yet used in all countries). In addition, Member States with different types of external borders were selected in order to cover land as well as air borders. The selection of these Member States for field research was also informed by the first phase of the research for this project.

In case of problems during the implementation phase in negotiating access to relevant facilities in one of the six Member States listed above, the FRA will identify – in cooperation with the contractor – another EU Member State where the fieldwork can be conducted.

In each EU Member States covered by the research, the fieldwork shall include **one border area** where Activities 10 and 11 will be carried out. The fieldwork at border crossing points should cover land and air borders, as relevant, and is provisionally expected to take place in the following locations:

1. Belgium: Brussels airport
2. Italy: Malpensa airport (Milan) or Fiumicino airport (Rome)
3. Poland: Poland-Ukraine land border
4. Spain: Madrid airport
5. Sweden: Stockholm airport
6. Germany: Berlin Airport

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European Commission, Commission Implementing Decision 2014/262/EU of 7 May 2014 determining the date from which the Visa Information System (VIS) is to start operations in a twelfth, a thirteenth, a fourteenth and a fifteenth region, OJ L 136, 9.5.2014, p. 51–53;  
European Commission, Commission Implementing Decision 2013/642/EU of 8 November 2013 determining the date from which the Visa Information System (VIS) is to start operations in a ninth, a tenth and an eleventh region, OJ L 299, 9.11.2013, p. 52–53;  
European Commission, Commission Implementing Decision 2013/441/EU of 20 August 2013 determining the date from which the Visa Information System (VIS) is to start operations in an eighth region, OJ L 223, 21.8.2013, p. 15–16;  
European Commission, Commission Implementing Decision 2013/266/EU of 5 June 2013 determining the date from which the Visa Information System (VIS) is to start operations in a sixth and a seventh region, OJ L 154, 6.6.2013, p. 8–9;  
European Commission, Commission Implementing Decision 2013/122/EU of 7 March 2013 determining the date from which the Visa Information System (VIS) is to start operations in a fourth and a fifth region, OJ L 65, 8.3.2013, p. 35–36;  
European Commission, Commission Implementing Decision of 21 September 2012 determining the date from which the Visa Information System (VIS) is to start operations in a third region, OJ L 256, 22.9.2012, p. 21–22;  
European Commission, Commission Implementing Decision of 27 April 2012 determining the date from which the Visa Information System (VIS) is to start operations in a second region, OJ L 117, 1.5.2012, p. 9–10.;  
European Commission, Commission Implementing Decision of 21 September 2011 determining the date from which the Visa Information System (VIS) is to start operations in a first region, OJ L 249, 27.9.2011, p. 18–20.

The final list of border areas where to conduct fieldwork will be identified by FRA on the basis of access provided by the respective Member States to corresponding facilities, as well as other factors, and will take into account migratory trends throughout the project implementation.

The fieldwork should cover the DMCPs of the six selected EU Member States in at least 4 non-EU countries belonging to four different geographical areas i.e. Central Europe, Latin-American, Asia and Africa. DMCPs in the following EU countries should be covered by the research:

- In Eastern Europe: Ukraine.
- In Africa: Nigeria.
- In Asia: Thailand.

The Latin-American country to be covered by the research should be chosen by the contractor among the following:

- Peru' and/or
- Colombia.

The non-EU countries listed above should be selected taking into consideration those with a higher number of visa applicants to the EU Member States and a higher number of rejections of visa applications according to European Commission statistics.<sup>36</sup>

Only countries already using VIS or that will use it by the time of initiation of fieldwork were selected. Consular and diplomatic representations are under the jurisdiction of their respective Member States' Ministries of Foreign Affairs, and fieldwork will not take place outside such premises or those of their service providers.

## 2.5. Expected results

The research will last a maximum of 13 months from contract signature. The contractor is expected to carry out the work as described in Section 3 resulting in deliverables as presented in Section 4. The final reports will reflect the views of right holders – that is, the third country nationals or EU citizens whose data has been included in Eurodac, SIS II or VIS, as well as professionals and experts in the field of biometrics, including staff of national authorities.

The results of the FRA research will complement the eu-LISA reports on functioning of VIS, Eurodac and SIS II which do not have a fundamental rights focus<sup>37</sup> as well as the work of the European Data Protection Supervisor (EDPS) and the Supervisory Coordination Groups for Eurodac,

The results are expected to demonstrate both positive and negative fundamental rights implications of inserting, storing and searching biometric data in large-scale IT databases in the areas of asylum, borders and visa.

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<sup>36</sup> European Commission, [Homepage of DG Migration and Home Affairs, Visa policy.](#)

<sup>37</sup>Eu-Lisa reports on functioning of VIS, Eurodac and SIS II are available at:  
[http://www.eulisa.europa.eu/Publications/p\\_reports/Pages/default.aspx](http://www.eulisa.europa.eu/Publications/p_reports/Pages/default.aspx)

As the use of biometrics, if correctly applied, contributes to improved identity management, the project will examine advantages from a fundamental rights perspective when it comes to, for instance, reducing risks for mistakes in the identity and improving possibilities to trace missing persons, including missing children.

The project results will increase the understanding of the consequences of the use of biometrics for the individuals involved, including when data protection safeguards are not upheld, for instance data has not been deleted or blocked or the person does not have access to data having been stored about him or her. He or she may be wrongfully considered a migrant in an irregular situation, wrongfully apprehended, wrongfully prevented entry to an EU Member State or refused a Schengen visa.

The results will show to what extent fundamental rights are respected during enrolment and/or reading of fingerprints and the use of other data at DMCPs, border crossing points, during apprehensions at the external borders or internally in the territory of EU Member States. The project will also show the fundamental rights impact of unauthorised access by national authorities. The results of FRA research will also contribute to the current policy discussion on the Smart Border proposal and more generally on the use of biometrics in the context of asylum, borders, visa and migration.

### 3. Specific Activities

The following table provides an overview of the activities to be undertaken.

<b>Activity</b>		<b>Links to deliverables</b>
<b>Activities relating to component one fieldwork with authorities</b>		
1	Desk research	5
2	Preparation of the field research	2-3-4-5-6
3	Translation of the fieldwork materials	3
4	Interviewer training	6
5	Expert interviews	2-3-4-7-8-9-10-11-12-14
6	Qualitative interviews with 'right-holders'	8-9-10-11-14
7	Small scale survey of 'right-holders' at DMCPs	9-10-11-13
8	Small scale survey of DMCPs staff	9-10-11-13
9	Non-participant observation at DMCPs	9-10-11-14
10	Small scale survey of authorities at border crossing points	9-10-11-13
11	Non-participant observation at border crossing points	9-10-11-14
12	Data processing	13
13	Analysing and presenting data and information	10-11

Figure 3 below provides an overview of fieldwork research activities by location where fieldwork will take place.

Figure 3. Overview of fieldwork research activities

In the Member States - internally	In the Member States - at the border crossing point	At DMCPs in non-EU countries
<ul style="list-style-type: none"> <li>• Expert interviews</li> <li>• Qualitative interviews 'right-holders'</li> </ul>	<ul style="list-style-type: none"> <li>• Small scale survey of authorities</li> <li>• Expert interviews (shift leaders)</li> <li>• Non-participant observation</li> </ul>	<ul style="list-style-type: none"> <li>• Small scale survey of 'right-holders'</li> <li>• Small scale survey with DMCPs staff</li> <li>• Expert interviews</li> <li>• Non-participant observation</li> </ul>

The methodologies used to collect data from various sources will require a final approval by the FRA. Data collection should be appropriately documented. Any interview tapes and/ or transcripts must be delivered to the Agency after the completion of the contract, and must comply with EU data protection provisions (see Section 7). Agency staff may be present during data collection.

### Activity 1: Desk research

**Objective:** The desk research should review existing statistics on third country nationals included in and checked against VIS, Eurodac and SIS II, as well as procedures and practices on enrolment of fingerprints. The contractor is expected to contact national authorities to access statistics which may not be in the public domain. The FRA will support the contractor in liaising with national authorities. A list of statistics and procedures to be included in the desk research is provided below. The final list will be agreed with the contractor at the inception meeting, after contract signature. The results of the desk research shall be presented in the desk research summary reports (Deliverable 5).

The following statistics and procedures should be reviewed and analysed for each EU Member State included in the research:

#### STATISTICS

In relation to VIS:

- National statistics on number of people crossing the border; breakdown based upon visa holder or not and per nationality;
- Number of admissible visa applicants per consulate; number of non-admissible visa applicants per consulate, number of rejected and granted visa applications, number of them included in VIS; breakdown per nationality; and country of main destination (of relevance in case of representation agreements)
- Total number of non-readable fingerprints against the total enrolled

- Total number of third country nationals in return procedures
- Total number of checks against VIS
- Total number of hits
- Total number of unreadable fingerprints against the total enrolled

In relation to Eurodac:

- Total number of third country nationals apprehended at the external border; among them, total number included in Eurodac; breakdown per nationality
- Total number of unreadable fingerprints against the total enrolled
  
- Total number of third country nationals apprehended internally; among them, total number included in Eurodac; breakdown per nationality
- Total number of unreadable fingerprints against the total enrolled
  
- Total number of asylum applications per Member State
- Total number of checks against Eurodac and VIS
- Total number of hits against both databases
- Total number of unreadable fingerprints against the total enrolled

In relation to SIS II:

- Number of EU nationals and non-EU nationals checked against SIS II
- Total number of residence permits granted to third country nationals
- Among them, total number of hits and breakdown per nationality

The final list of statistics to be collected as part of the desk research will be agreed upon at the inception meeting.

**Sources:** Official national and EU data, eu-LISA reports, academic research, NGO reports and other similar sources. The reference period should be 2011-2015.

An assessment of data availability, reliability and quality should be included.

## Activity 2: Preparation of the field research

**Objective:** to carry out the preparatory work necessary to enable the successful and timely implementation of the fieldwork, as outlined in Activities 5-11.

The fieldwork will cover at least 6 EU Member States and the DMCPs of the selected EU Member States in at least 4 non-EU countries.

**Preparation for Activity 5 (Expert interviews):**

For each target group, the contractor should map the relevant institution/s from which to select the experts to be interviewed in each Member State (including their DMCPs) covered by the research and provide a list of possible interviewees to be approved by FRA (see Deliverable 2). The mapping should

include relevant experts to be interviewed for target groups 5 and 6 respectively in countries other than the six Member States covered by the research.

When contacting specific authorities i.e. asylum authorities, border guards and DMCP authorities, all the relevant fieldwork components should be discussed. For instance, when contacting asylum authorities, it should be agreed when to interview the authorities of the asylum reception (as part of Activity 3) as well as when to interview the asylum applicants (Activity 9).

#### **Preparation for Activity 6** (Qualitative interviews with 'right-holders')

For each of the six EU Member States covered by the research, the contractor should collect the following information:

- a. mapping of first reception asylum facilities
- b. mapping of locations where fingerprints of third country nationals apprehended internally are taken (e.g. police stations, mobile units etc)
- c. mapping of locations where fingerprints of third country nationals apprehended at the external border are taken (e.g. police stations, mobile units etc)

Based on this mapping the contractor is expected to suggest where to conduct the interviews with asylum seekers and with third country nationals apprehended internally and at the external border. This plan will need FRA's approval.

To support this task, the FRA will provide the contractor with results from Phase I of the project which include a mapping of main actors dealing with enrolment and reading of fingerprints of third country nationals apprehended at the external border or within the territory in each of the Member States covered by the research.

Once it has been agreed upon where the interviews with apprehended third country nationals and asylum seekers will take place in each Member State, the contractor shall contact the relevant authorities to negotiate when and where the interviews are to take place.

#### **Preparation for Activity 7** (Small scale survey of 'right-holders' at DMCPs)

The contractor should map the bodies acting as DMCPs for each of the six EU MS covered by the research in the selected non-EU countries. Some EU Member States have more than one DMCP in the same country or act through local representation agreements. The mapping should include information on the number of visa applications received by each DMCP. Based on this mapping the contractor shall suggest in which DMCPs to conduct Activity 7, 8 and 9 (these 3 activities shall take place in the same DMCP).

The final list of DMCPs where to conduct fieldwork will need FRA's approval.

Based on the sampling strategy agreed upon (see Activity 4 below), the contractor is expected to collect the relevant information needed to select the respondents for Activity 7.

#### **Preparation for Activity 8** (Small scale survey of DMCPs staff)

Once it has been agreed in which DMCPs will the fieldwork take place, the contractor shall contact the Ministry for Foreign Affairs and request information on number of staff working in the selected DMCPs in order to design the respondent's sample (see Activity 8).

#### **Preparation for Activity 9** (Non-participant observation at DMCPs)

The contractor shall contact the relevant DMCPs authorities to agree when the non-participant fieldwork shall take place and the locations from where the researchers can conduct the non-participant observation.

**Preparation for Activity 10** (Small scale survey of authorities at border crossing points in the selected Member States) **and 11** (Non-participant observation at border crossing points)

Once the BCPs to be covered by fieldwork have been agreed upon, the contractor shall contact the relevant border authorities and agree when to administer the questionnaires and the expert interviews and to which staff members.

The contractor shall contact the relevant border guard authorities to agree when the non-participant fieldwork shall take place and the locations from where the researcher/researchers can conduct the non-participant observation.

Furthermore, the contractor shall develop in the technical offer a **quality assurance and control plan** that clearly outlines all relevant procedures, such as monitoring the quality in all fieldwork components and all project deliverables. The quality assurance and control plan identifies the key indicators that will be monitored throughout the preparation and implementation of the project, including remedies for eventual problems, and outlines how the contractor will report on the quality assurance and control for each fieldwork component. The draft quality assurance and control plan provided in the technical offer will be discussed at the inception meeting. The final quality assurance and control plan shall be annexed to the inception report (Deliverable 1).

### Activity 3: Translation of the fieldwork materials

The contractor shall be responsible for translating the fieldwork tools (topic guides and questionnaires) – provided in English by FRA - into the necessary languages, as follows:

Fieldwork tool	Translations
Six (6) topic guides for expert interviews	National languages of the six EU Member States
One (1) topic guide for 'right-holders'	National languages of the six EU Member States + Arabic
One (1) short questionnaire for small scale survey of 'right-holders' at DMCPs	National languages of the six EU Member States + Thai + Ukrainian
One (1) short questionnaire for small scale survey of DMCPs staff	National languages of the six EU Member States
One (1) short questionnaire for small scale survey of authorities at border crossing points	National languages of the six EU Member States

The FRA will check the quality and consistency between the original English language version, and the translation, as the comparability of results between countries must be ensured. The contractor has to translate into the national language also the consent form provided by FRA. The translated consent forms should be duly filled in, and the originals signed and returned to the FRA after the finalisation of the research.

#### **Activity 4: Interviewer training**

The contractor shall ensure that all interviewers in each EU Member State will receive a dedicated in-person training of at least one day before commencing fieldwork.

The interviewer training aims to explain the objectives of the research and to ensure a uniform application of the fieldwork tools. The contractor should draft the training programme which is to be approved by FRA.

FRA staff might participate in interviewer training sessions to ensure the overall quality of the process. For this purpose the contractor is required to inform FRA a minimum of two weeks in advance of each interviewer training session, including the exact time and place of the training sessions.

#### **Activity 5: Expert interviews**

**Objective:** To collect the views and experiences of professionals, including those working for national authorities, working in the field of biometrics on the positive and negative fundamental rights implications in relation to enrolment, storage, access and exchange of biometric and other data included in VIS, EURODAC and SIS II.

The research with professionals should cover the following issues:

##### **1. Enrolment of fingerprints**

- 1.1. Implications for the individual in case of unwillingness to enrol fingerprints in Eurodac, including use of coercive measures
- 1.2. Implications for the individual in the case of physical impossibility to enrol fingerprints
- 1.3. Right to information of travellers whose fingerprints are collected on the procedure, the storage of data and the access to the collected data

##### **2. Reading fingerprints for checking with those stored in the database**

- 2.1 implications for the individual in case of physical impossibility or failure to read fingerprints
- 2.2 Implications for the individual in case of unwillingness to provide biometrics for checking
- 2.3 Right to information of travellers whose fingerprints are collected

##### **3. Quality of fingerprints**

- 3.1 Low quality - risk for mistaken identity and negative fundamental rights implications on the individual
- 3.2 Good quality - security about the identity and positive fundamental rights implications on the individual, such as tracing missing persons and prevention of discrimination

##### **4. Quality of other data in the database**

- 4.1 Low quality - risk for mistaken identity and negative fundamental rights implications on the individual
- 4.2 Good quality - security about the identity and positive fundamental rights implications on the individual, such as tracing missing persons and prevention of discrimination

5. **Right of data subjects to access to information and correct data.**
6. **Right to protection of personal data**
7. **Open questions on related issues not directly covered above**
8. **A quality assurance and control plan**
  - 8.1 Identifying key indicators for monitoring implementation
  - 8.2 Identifying remedies for possible problems
  - 8.3 Reporting on the quality assurance and control for each fieldwork component

**Methodology:** Semi-structured in-depth face to face interviews

The number of interviews should be outlined by the tenderer in their technical offer and should reflect the size of the Member State as follows: **in large Member States (Italy, Germany, Spain and Poland) at least 30 interviews should be conducted; in medium-size Member States (Belgium and Sweden) at least 20 interviews should be conducted.** The interviews will be carried out in the territory of the Member States as well as in DMCPs.

The contractor is expected to conduct expert interviews with the 6 target groups of professionals, as follows:

1. Controller of the data: as each EU Member State has a different institution controlling the collection and processing of data collected in VIS, Eurodac and SIS II, **at least 3 interviews** per Member State, one with each of the three IT databases controller, should be conducted
2. National data protection authorities: **at least 1 interview** per Member State
3. National authorities in charge of inserting and searching fingerprints and other data: **at least 12 interviews** to be conducted with staff of the following bodies:
  - (i) Border guards: interviews should be conducted with shift leaders: **at least 2 interviews** per Member State
  - (ii) Police: including interviews with shift leaders of the foreign/aliens' police as well as the criminal police: **at least 4 interviews.** Interviews with foreigners'/aliens' police officials should be administered in at least two different regions (or according to applicable level of geographic disaggregation i.e. *Länder* in Germany, *län* in Sweden, autonomous communities in Spain and *województwa* in Poland).
  - (iii) Asylum authorities: including front-line officers who physically enrol/read fingerprints and persons in charge of the team responsible for fingerprinting enrolment an reading: **at least 2 interviews** per Member State in reception facilities belonging to two different regions.
  - (iv) Immigration authorities: **at least 1 interview** per Member State with the person in charge for fingerprinting enrolment an reading
  - (v) DMCPs: interviews should be conducted with the ambassador, the head of the DMCP or someone acting in this capacity. **At least 1 interview** in each DMCP covered by the research (that is, at least 2 interviews per Member State)
4. Lawyers and providers of legal assistance: **at least 3 interviews per Member State.** Interviews with these should take place in the EU Member States. Lawyers

and providers of legal assistance with experience in relation to enrolment, storage and or access to data in VIS, EURODAC and/or SIS II should be chosen.

5. Business/industry providers of biometric and IT technologies for border control: **4-6 interviews overall** (all Member States considered). The professionals might be residing in countries other than those covered by the research. In this case, telephone interviews should be administered.
6. Experts in biometrics and database management, including IT professionals and experts in the ethical, social and fundamental, rights implications of biometrics: **4-6 interviews overall** (all Member States considered). The professionals might be residing in countries other than those covered by the research. In this case, telephone interviews should be administered. Part of the interviews with this target group should be conducted at the end of the fieldwork and after the interviews with the other groups of professionals have taken place, in order to take stock of the results, clarify issues related to biometrics and technological aspects.

FRA will support the contractor in identifying lawyers and providers of legal assistance to be interviewed through the results of Phase I of the project, which include a list of all major providers of legal assistance to asylum seekers and irregular migrants, such as immigration lawyers and NGOs, in EU Member States.

The ten thematic areas outlined in 2.2 (Scope of work) are the core of the topic guides for the expert interviews. Building on them, FRA will provide six (6) interview guidelines, one for each of the 6 target groups. The contractor is expected to comment on the five draft guidelines prior to their finalisation by FRA.

Interviews should be conducted face-to-face. In case of difficulties in organising face-to-face interviews, the contractor should inform FRA in advance, justifying the need for conducting telephone interviews. Only after written approval from the FRA may the contractor carry out telephone interviews though the number of phone interviews cannot exceed 30% of all interviews to be carried out. This limitation can be exceeded in geographically large Member States with interviewees at different locations. Interviews with biometric authentication and IT experts residing in countries other than those covered by the research should be conducted by telephone.

The interviews should last between 45 minutes and 1 hour.

The tenderer is expected to provide an English summary of all interviews conducted following a template that will be provided by FRA and to provide verbatim transcription of 30% of the interviews conducted. Transcriptions should be provided at different stages, as indicated in the deliverables list below. The selection of interviews to be transcribed should be based on two criteria: (i) at least one transcription should be provided for each of the six target groups covered by the research; (ii) the most informative interviews should be transcribed.

#### **Activity 6: Qualitative interviews with 'right-holders'**

**Objective:** the aim of the interviews is to collect the views and experiences of asylum seekers and migrants in an irregular situation apprehended at the external border or internally within the territory of one of the EU Member States covered by the research and who had their fingerprints or other data inserted and/or checked against EURODAC, SIS II and VIS. The research should cover the following issues:

1. **Right to information** of travellers whose fingerprints and other data are collected on the procedure, the storage of data and the access to the collected data.
2. **Enrolment/reading of fingerprints and inserting/searching other data**  
Were all fingerprints checked/enrolled? How long did the procedure take? Were there issues with reading of fingerprints or was it straightforward? In case of unwillingness to enrol fingerprints, was forced use? Were there issues with inserting/searching other data?
3. **Access to remedies**  
Were problems experienced in relation to enrolling, searching, accessing, or correcting biometric and non-biometric data contained in VIS, Eurodac or SIS II? What remedies were available? Were these remedies effective?

**Activity 6** should be conducted within the territory of the Member State, as follows.

- interviews with apprehended third country nationals: these could take place either with third country nationals who applied for asylum following apprehension or with apprehended irregular migrants in return procedures or otherwise present in the community. However, the interviews should take place shortly after fingerprints have been taken by the authorities. Interviews should take place with migrants in an irregular situation placed in detention, as well as with those who are not deprived of their liberty (but might still be under restrictions of freedom of movement).
- interviews with asylum seekers: asylum seekers could be interviewed in reception facilities, including closed or semi-open facilities run by non-governmental organisations (NGOs), the state or privately, as well as asylum seekers living privately accommodated in the community. However, the interviews should take place shortly after fingerprints have been taken by the authorities. Interviews should take place with asylum seekers in detention, as well as with those who are not deprived of their liberty (but might still be under restrictions of freedom of movement).
- Interviews with 'complainants': a possible way of accessing this group would be to contact immigration lawyers and providers of legal assistance in the EU Member States.

The contractor is expected to outline in the technical offer how she/he could access these three groups in each of the six EU Member States, including reference to partner organisations that could facilitate access to potential respondents.

The responsibility for negotiating support for this research and access to facilities for the fieldwork with the responsible authorities in the EU Member States covered lies with the contractor.

The number of interviews should be outlined by the tenderer in their technical offer and should include **at least 20 interviews** for this group. The contractor should guarantee a balanced distribution between interviews with asylum seekers, migrants in an irregular situation apprehended internally as well as at the border and 'complainants'.

The sample designed by the tenderer should allow a good distribution by gender, age and ethnic background. The disaggregation by age should allow for comparisons between the situation of children, adults and older persons.

In their Technical Offer tenderers should, in particular, outline where they will interview this target group and explain how they will identify and select the sample of migrants who will be interviewed. The final decision on where to interview this group will be based on the results of the desk research (Activity 1). The methodology to select respondents will have to be approved by the FRA.

Cooperation with local civil society organisations, non-governmental organisations, or local community leaders as a means to gain access to the target groups is strongly recommended.

The tenderer is expected to provide an English summary of all interviews conducted following a template that will be provided by FRA and to provide verbatim transcription of 50% of the interviews conducted. Transcriptions should be provided at different stages, as indicated in the deliverables list below. The selection of interviews to be transcribed should be based on two criteria: (i) at least one transcription should be provided for each of the three sub-groups (apprehended third country national, asylum seekers and complainants, respectively); (ii) the most informative interviews should be transcribed.

### Activity 7: Survey of 'right-holders' at DMCPs

**Objective:** To collect the experiences and views of third country nationals who had their fingerprints enrolled in VIS when applying for a visa at a DMCPs of the four non-EU countries covered by the research. The thematic focus of this component of the research will be:

1. **Right to information** of travellers whose fingerprints are collected on the procedure, the storage of data and the access to the collected data
2. **Enrolment/reading of fingerprints and inserting/searching other data**  
Were all fingerprints checked/enrolled? How long did the procedure take? Were there issues with reading of fingerprints or was it straightforward? In case of unwillingness to enrol fingerprints, was forced use? Were there issues with inserting/searching other data?
3. **Refusal of visa due to a wrong entry in SIS II.**  
How are visa applicants whose visa applications are refused due to an alert in SIS II treated? In case an applicant whose visa has been refused considers that the SIS II alert contains mistakes or should have been deleted, can the visa applicant effectively take steps to correct the alert?

For each EU Member State covered by the research, the fieldwork should take place in the DMCPs of at least two different non-EU countries e.g. for Sweden, the fieldwork could cover one Swedish DMCP in Thailand and one in Colombia. At the same time, for each non-EU country the fieldwork should take place in the DMCPs of at least two different EU Member States e.g. in Nigeria the fieldwork could take place in one Italian one Spanish DMCPs. In each non-EU country, only one DMCP should be covered for each Member State. Overall, no less than **600** interviews should be administered to third country nationals applying for a visa. No less than 50 interviews should be administered in each DMCP, with the exception of Polish DMCPs in countries other than Ukraine.<sup>38</sup> The DMCP selected for fieldwork for

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<sup>38</sup> Due to the low number of visa applications in the Polish DMCPs in Thailand, Nigeria, Peru' and Colombia, the minimum number of interviews with right-holders in Polish DMCPs in any of the above mentioned countries is 30.

each EU Member States and the number of interviews there administered there should reflect the number of visa applications received by the Member State in that country.<sup>39</sup> Consular and diplomatic representations are of course under the jurisdiction of their respective Member States' Ministries of Foreign Affairs and fieldwork would not take place outside such premises or those of their service providers.

In the technical offer the contractor should outline the following:

- (i) the planned number of questionnaires to be administered to visa applicants;
- (ii) a provisional list of DMCPs to be covered during fieldwork in each non-EU country. In the case of EU Member States with several DMCPs in the same country, the contractor should outline in which DMCP the fieldwork will take place.
- (iii) the sampling grid i.e. the optimal allocation of interviews considering the overall number of visa applications received by each EU Member State.
- (iv) Respondents should be selected in a systematic way, the contractor shall clarify in their offer how they intend to select respondents. The sampling strategy will need FRA's approval.

The FRA will be in charge of designing the questionnaire. The contractor is expected to comment on it prior to finalisation. The questionnaire will be short including approx. 15-20 questions, mainly closed ended.

**Methodology:** short questionnaire administered by the interviewer to third country nationals applying for a visa at the DMCPs of the selected EU Member States in the 4 non EU Member State covered by the research.

#### **Activity 8: Small scale survey of DMCPs staff**

**Objective:** To explore the views and experiences of consular authorities in charge of the visa application, including the enrolling of fingerprints for visa purposes. The thematic focus of this component of the research will be:

1. **Right to information** of travellers whose fingerprints are collected on the procedure, the storage of data and the access to the collected data.
2. **Enrolment of fingerprints:** Implications for the individual in case of unwillingness to enrol fingerprints or physical impossibility to enrol fingerprints
3. **Quality of fingerprints**

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<sup>39</sup> The number of visa applications received by EU Member States disaggregated per country of origin is available at the following link European Commission, DG Migration and Home Affairs from the following website:

[http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index\\_en.htm](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm)

3.1 Low quality - risk for mistaken identity and negative fundamental rights implications on the individual

3.2 Good quality - security about the identity and positive fundamental rights implications on the individual, such as tracing missing persons and prevention of discrimination

4. **Quality of other data in the database**, amongst others possible refusal of visa due to a wrong entry in SIS II

5. **Right of access** to information and correction of data

Interviews should take place with front-line officers in charge of physically enrolling fingerprints at DMCPs and service providers, where relevant. Service providers are outsourcing companies who receive visa applications and enrol fingerprints of visa applicants.

The number of interviews per DMCP shall reflect the staff size of the DMCP and should range between 5 and 20 interviews per DMCP. Overall, all DMCPs considered, at least **120** interviews shall be conducted. The final allocation of interviews per DMCP will be agreed with the FRA at the inception meeting, Activity 5 should take place in the same DMCPs where Activity 4 was conducted.

The structure of and questions for interviews will be drafted by the FRA. The contractor is expected to comment on it prior to finalisation. The questionnaire will be short including approx. 15-20 questions, mainly closed ended.

**Methodology:** short questionnaire administered by the interviewer to front-line officers in charge of enrolling biometrics at the DMCPs covered by the research.

#### **Activity 9: Non-participant observation at DMCPs**

**Objective:** This activity complements activity 7 and 8. The purpose is to observe which information on enrolment of fingerprints is provided to visa applicants, how enrolment of fingerprints is done in practice and how consular authorities deal with issues that may emerge such as impossibility to enrol fingerprints or existence of entry bans.

The non-participant observation should look into the following issues:

- Provision of information to visa applicants on reading and enrolment of fingerprints, and on access to data, and storage of data
- Observation of the procedure of taking fingerprints, including length, type of machine used and quality issues e.g. problems with reading and/or collection of fingerprints; alternatives put in place in case of impossibility to collect fingerprints,
- behaviour of the authorities in charge of collecting fingerprints

The non-participant observation shall include, where possible, different positions within the setting, including observations taken from the perspective of the DMCP staff (e.g. sitting next to them in the back office) and observations taken from the perspective of the visa applicants (e.g. sitting with them in the waiting room).

The contractor is expected to carry out **at least one day** of participatory observation in each DMCP covered by the research. The day should be an 'average' day. In case only few visa applicants are visiting the DMCP premises that day, the non-participatory observation should be repeated another day.

A template for the non-participant observation will be drafted by the contractor, and will be revised and approved by the FRA prior to implementation in the field.

**Methodology:** non-participatory observation in consulates and external services.

### **Activity 10: Small scale survey of border guards at border crossing points - Member States**

**Objective:** To explore the views and experiences of border guards in charge of reading fingerprints and checking other data against VIS and SIS II at border crossing points.

The research should cover the following issues:

1. **Right to information** of travellers whose fingerprints are collected on the procedure, and on access to data, and storage of data
2. **Reading of fingerprints:** Implications for the individual in case of unwillingness or impossibility to provide fingerprints
3. **Quality of fingerprints**
4. **Quality of other data in the database**, amongst others possible refusal of entry due to a wrong entry in SIS II
5. **Right of access** to information and correction of data

The number of interviews should be outlined by the tenderer in their technical offer and should include at least **30 interviews conducted with border guards at the border crossing point selected for each EU Member State**. The questionnaire should be administered to front-line and second-line officers (not shift leaders, who are interviewed as part of Activity 5 – Expert interviews).

The structure of and questions for interviews will be drafted by the FRA. The contractor is expected to comment on it prior to finalisation. The questionnaire will be short including approx. 15-20 questions, mainly closed ended.

**Methodology:** questionnaire administered by the interviewer to border guards at six border crossing points, one per each of the six Member States covered by the research.

### **Activity 11: Non-participant observation at border crossing points – Member States**

**Objective:** This activity complements activity 10. The purpose is to observe the fundamental rights implications of reading fingerprints of third country nationals holding a visa whose data have been read for searches in VIS and SIS II when entering an EU Member State. The non-participant observation should look into the following issues:

- Provision of information to visa applicants on reading and enrolment of fingerprints, access to data, storage of data
- Observation of the procedure of taking fingerprints, including length, type of machine used and quality issues e.g. problems with reading and/or collection of fingerprints; alternatives put in place in case of impossibility to collect fingerprints,
- Behaviour of the authorities in charge of collecting fingerprints in first and second line checks

As the research does not collect the views and experiences of third country nationals that hold a visa and whose fingerprint are read when crossing the border to enter a EU Member State, particular focus should be placed on this Activity in order to understand the fundamental rights issues that emerge when reading fingerprints at BCPs.

It will be the responsibility of the FRA to obtain access to BCPs from the responsible authorities.

The contractor is expected to carry out **at least three days** of non-participant observation in each BCP covered by the research. The non-participant observation shall include, where possible, different positions within the setting, including observations taken from the perspective of the border guards (e.g. sitting next to them) and observations taken from the perspective of the third country nationals crossing the border.

A template for the non-participant observation will be drafted by the contractor, and will be revised and approved by the FRA prior to implementation in the field.

**Methodology:** non- participant observation at border crossing points.

#### **Activity 12: Processing of data**

**Objective:** the contractor will analyse the qualitative and quantitative data collected during fieldwork. The contractor will export the quantitative data collected from all completed questionnaires in Activity 7, 8 and 10 in an SPSS-compatible computer file or in Excel, or equivalent. The computer files should be fully documented – that is, all the variable names and value labels must be included, in English, and the variable names should make reference to the relevant question numbers in the questionnaire. The contractor is expected to clarify how they will analyse the qualitative as well as the quantitative and provide information on which software/s they intend to use.

#### **Activity 13: Analysing and presenting data and information**

**Objective:** This activity consists in analysing all the data collected through Activities 1 and 5-11 as well as additional data and information that may be provided to the contractor by the FRA, as specified under Deliverables 5-6 and 10-22.

## 4. Deliverables

All deliverables must be submitted in English and copy-edited prior to submission by a native speaker. They must be written in a clear and unambiguous way, providing information and analysis that can be readily understood by a non-academic reader. The style should be balanced and contain no unsubstantiated statements. For detailed advice please see the FRA Style Guide.

The documents must be delivered in PC-compatible MS-Word electronic files. They should contain visual elements (for example graphs, boxes or pictures) to enhance readability. The size of each deliverable is defined in terms of A4 pages applying Times New Roman font 11pt, single spaced.

The Contractor must provide the Agency with the deliverables, respecting the deadlines agreed at the inception meeting (see below Section 7.2 (Inception Meeting)). All deliverables must be revised by the contractor according to the Agency's recommendations, as necessary, and returned within the agreed deadline.

The following table provides an overview of the deliverables described in this Section.

	<b>Deliverable</b>	<b>Pages</b>	<b>Timelines</b>
1	Inception meeting report	5-7 pages	Month 1
2	Six (6) draft lists of interviewees (expert interviews) per Member State	1-2 pages each	Month 1
3	Translation of research material (such as topic guides, questionnaires, consent forms etc.)	As applicable	Month 2
4	Six (6) final lists of interviewees (expert interviews)	1-2 pages each	Month 2
5	Six (6) desk research summary reports	5-8 pages	Month 2
6	Six (6) national training session reports	2-3 pages	Month 3
7	Provision of reporting templates and transcripts – first 2 expert interviews per Member State	As applicable	15 days after initiation of fieldwork
8	Provision of reporting templates and transcripts - first 2 interviews of third country nationals per Member State	As applicable	1 month after initiation of fieldwork
9	Fieldwork progress reports (every 14 days, only during fieldwork)		Every 2 weeks during fieldwork
10	Six (6) draft country summary reports	30-40 pages	Month 12
11	Six (6) final country summary reports	30-40 pages	Month 13
12	Excel file with the list of all interviews conducted	n.a.	Month 13

13	Data sets and codebook	10	Month 13
14	All audio-files, transcriptions and consent forms delivered to FRA	n.a.	Month 13

## Deliverables required:

### Deliverable 1: 6 Inception meeting report

Within five working days after the inception meeting, the contractor shall submit a brief inception report to FRA. The report shall list the decisions made in the inception meeting concerning the work, a timetable with actual dates for the submission of deliverables and a quality assurance and control plan.

The final Quality Assurance and Control Plan, the first draft of which will be discussed at the inception meeting, shall be annexed to the Inception report. The quality assurance and control plan shall include, for example:

- quality objectives and controls for each specific fieldwork component
- management roles and responsibilities
- control of documents and data (records)
- resources employed (financial and human resources, materials and infrastructure)
- communication within the project
- design and development of specific phases and deliverables
- remedies for eventual problems.

**Size:** 5-7 pages + 4-5 pages Final Quality Assurance and Control Plan

**Language:** English

**Deadline:** 5 days after Inception meeting

**Linked to:** Activity 5-12

### Deliverable 2: Six (6) draft lists of interviewees

A list of experts to be interviewed as part of Activity 5 (Expert Interviews) in each of the six Member States covered by the research. The list should include the experts the contractor plans to interview, the name of the organisation they work for, its mandate and the role of the interviewee, the area of residence. A specific template will be provided by FRA.

**Size:** Six lists of interviewees, approximately 1-2 pages each

**Language:** English

**Deadline:** 1 month after signature of contract

**Linked to:** Activity 1 and 2

### Deliverable 3: Translation of research material

The contractor should submit the translation of research material as listed in Activity 3 to be approved by FRA. FRA comments should be incorporated and the final version to be provided by the contractor 10 days after receiving FRA comments.

**Size:** as applicable

**Language:** English

**Deadline:** 2 months after signature of contract

**Linked to:** Activity 3

#### **Deliverable 4: Six (6) final lists of interviewees**

The contractor should provide the final list of experts to be interviewed as part of Activity 5 in each of the six MSs covered by the research.

**Size:** as applicable

**Language:** English

**Deadline:** 2 months after signature of contract

**Linked to:** Activity 2 ad 5

#### **Deliverable 5: Six (6) desk research summary reports**

The six desk research summary reports should be based on the analysis of the material collected during the desk research (Activity 1) as well as information collected for the preparation of the fieldwork (Activity 2). The outline of the desk research summary reports will be agreed at the Inception meeting.

**Size:** 5-8 pages

**Language:** English

**Deadline:** 2 months after signature of contract

**Linked to:** Activity 1 and 2

#### **Deliverable 6: Six (6) national training session reports**

The contractor should conduct a training session for interviewers at the national level and submit a short report to FRA assessing the training and highlighting any issues prior to conducting the first interviews.

**Size:** 1-2 pages each

**Language:** English

**Deadline:** 3 months after signature of contract

**Linked to:** Activity 4

#### **Deliverable 7: Provision of reporting templates and transcripts – first 2 expert interviews conducted in each Member State**

The contractor shall provide the verbatim transcripts of the first two expert interviews (in the language of the countries where fieldwork was conducted) with their reporting templates (in English). The two interviews should be conducted with different target groups. No further expert interviews should take place until FRA has approved and provided comments on these two interviews.

**Size:** as applicable

**Language:** language of the countries where fieldwork was conducted + English

**Deadline:** 15 days after initiation of fieldwork

**Linked to:** Activity 5

**Deliverable 8: Provision of reporting templates and transcripts - first 2 'right-holders' interviews conducted in each Member State**

The contractor provides the verbatim transcripts of the first two interviews with 'right-holders' (in the language of the countries where fieldwork was conducted) with their reporting templates (in English). The two interviews should be conducted with different target groups. No further interviews with 'right-holders' should take place until FRA has approved and provided comments on these two interviews.

**Size:** as applicable

**Language:** language of the countries where fieldwork was conducted + English

**Deadline:** 1 month after initiation of fieldwork

**Linked to:** Activity 6

**Deliverable 9: Fieldwork progress reports (every 14 days, only during fieldwork)**

Every 2 weeks since initiation of the fieldwork the contractor provides a brief report, in the form of an email, on the progress made and any problems encountered, strategies on how to overcome these. The contractor should provide an updated list of interviewees (if any changes) – with planned and completed interviews indicated clearly in the update on the basis of a template provided by FRA.

**Size:** 2-3 pages

**Language:** English

**Deadline:** every 2 weeks during fieldwork phase

**Linked to:** Activity 5-11

**Deliverable 10: Six (6) draft country summary reports**

The country report should be based on the analysis of the material collected during the fieldwork, namely qualitative interviews, questionnaires and non-participant observation. The country summary reports should be structured following the fundamental rights areas outlined in Section 3.2 (Scope of Work). The report must contain examples and illustrative quotes from the fieldwork research, as appropriate. In addition, the final country summary report should also integrate, as relevant, an analysis of the findings of the reports resulting from the Preparatory Phase of the project carried out by the FRA, on the institutional and legal setting underpinning the use of biometrics in large IT-systems (the approximate length of these reports is 15 pages). FRA will provide a structure for the final report, on which the contractor will be requested to comment before the FRA provides the final version.

FRA will review the six draft summary reports and share comments with the contractor within 20 days.

**Size:** Each country summary report should consist of approximately 30-40 pages

**Language:** English

**Deadline:** Month 12 after signature of contract

**Linked to:** Activities 12 and 13

**Deliverable 11: Six (6) final country summary reports**

The contractor shall incorporate FRA comments to the draft country summary reports in the final version which shall be submitted within 15 days.

**Size:** Each country summary report should consist of approximately 30-40 pages

**Language:** English

**Deadline:** submitted within 15 days from submission of FRA comments to six draft country summary reports

**Linked to:** Activities 12 and 13

Note: The reports will be put in the public domain and will therefore be expected to be of the highest standard. The contractors, should they wish to do so, are encouraged to publish findings based on the reports as soon as they are published.

#### **Deliverable 12: Excel file with the list of semi-structured interviews conducted**

Excel file with the list of all semi-structured interviews conducted as part of Activity 5 (Expert interviews) and Activity 6 (Qualitative interviews with 'right-holders') which should include the following information: identification number of the interview; date and place of interview; sex, age of interview etc. The final list of variables to be recorded in the excel file will be provided by FRA.

**Size:** as applicable

**Language:** English

**Deadline:** Month 14 after signature of contract

**Linked to:** Activity 5, 6 and 13

#### **Deliverable 13: Databases with all the data from the questionnaires inputted**

The data sets include the quantitative data from the completed questionnaires, as carried out in Activity 7 (Small scale survey of 'right-holders' at DMCPs), Activity 8 (Small scale survey of DMCPs staff) and Activity 10 (Small scale survey of authorities at border crossing points). The deliverables consist of the fully documented data set and code book describing the variables of the data files.

**Size:** as applicable

**Language:** English

**Deadline:** Month 14 after signature of contract

**Linked to:** Activity 13

## 5. Project management

### 5.1. Responsible body

The overall responsibility for executing the contract, including the implementation of all measures necessary to provide the Agency with deliverables of the highest quality on time lies with the contractor.

## 5.2. Management structure

The Technical Offer must indicate how the tenderer intends to organise the research team, which must include one Project Coordinator, one Country Manager for each of the EU Member States covered by the research and a number of other experts, as detailed in Section 8 (Description of profiles). The Project Coordinator is responsible for coordination and administrative tasks, as well as for contacting and informing the Agency about all aspects relating to the execution of the contract. The Country Managers are responsible for the coordination of the research at the national level (including in their respective DMCPs in the non-EU countries covered by the research) and the scientific quality of all final deliverables.

The tenderer must supply Curricula Vitae for the members of the proposed research team outlining a list of their publications and other relevant qualifications, as required in Section 8 (Description of profiles). Country Managers can coordinate the research in more than one EU Member State, provided that they have enough work experience in all the countries of which they are in charge of. Such experience should be clearly documented in the Curricula Vitae and list of publications. Any changes in the composition of the team shall be notified to the Agency in writing. The Agency is not required to agree to the proposed changes. The agreement of the Agency needs to be in writing following a review of the Curriculum Vitae of the proposed replacements, which must comply with the requirements of the present Technical Specifications.

## 6. Recording and data protection

The contractor shall comply strictly with **national and EU data protection legislation**, especially Regulation EC No. 45/2001 and Directive 95/46/EC, as well as regulation EC No. 322/97 on the processing of data for statistical purposes. In particular, data collected in interviews carried out with individuals in respect of their personal experiences will be processed **anonymously**, ensuring that the person cannot be identified. With respect to data subjects interviewed on an identified basis as a result of their contact details being known, the FRA shall be entitled to request and obtain access to the data processed on its behalf from contractors at any time. The FRA shall be informed promptly by contractors of any request of access and rectification that they receive directly from data subjects; contractors shall await instructions from the FRA before responding to any such request, and shall act promptly upon receiving instructions from the FRA.

All semi-structured interviews conducted as part of Activity 5 (Expert interviews) and Activity 6 (Qualitative interviews with 'right-holders') should be recorded in audio format and must be forwarded to the FRA using a secure postal service, or via upload to FRA's secure external database. Any copies held by the contractor must be destroyed after executing the services of the contract. All the written, signed informed consent of interviewees, with appropriate data protection measures in place should be delivered to FRA. The number of the signed consent forms should correspond the number of the interviews carried out. All transcriptions, reporting templates and fieldwork notes should be delivered to FRA. The contractor is not allowed to retain or publish any transcripts or other elements of the fieldwork (in accordance with data protection legislation).

## 7. Logistics

### 7.1. Communication and meetings

Communication between the contractor and the Agency shall be possible by phone during the Agency's working days and hours and through electronic and surface mail. Any written communication sent by the Agency shall be answered within five (5) working days.

### 7.2. Inception meeting

As soon as possible after contract signature the Agency will convene an **inception meeting** with the contractor to discuss various aspects of the research work, as addressed in the Technical Specifications. The aim of the meeting which will take place in Vienna is to fine-tune specific points with respect to the research, in particular the exact geographical locations to cover, the methodology, the content of the deliverables and other issues that may arise.

Within 5 working days after the inception meeting the contractor will submit a brief Inception Report to the Agency.

The costs for the participation of non-FRA staff in inception and other meetings will be at the expense of the contractor.

### 7.3. Other meetings

Before the initiation of fieldwork, a one-day 'train-the-trainer' session will take place at the FRA's premises. The **Project Coordinator** and the **Country Managers** must participate in the meeting. The purpose of the 'train-the-trainer' session will be to discuss the methodology, the selection of interviewees and to go through the different fieldwork component tools (topic guides and questionnaires). The one-day meeting will also include a presentation of the legal issues related to the use of biometrics in order to facilitate interviewer training at the national level. The 'train-the-trainer' session will be organised once the inception meeting has been held.

In addition, regular telephone conferences will be organised between the FRA and the contractor, including field researchers and other relevant staff. During the field work, telephone conferences will be carried out on a monthly basis.

The FRA will set up a steering group, including representatives of the countries covered for the entire duration of the project, to follow the implementation of the project.

## 8. Description of profiles

Tenderers should pay attention to the need to ensure that the research team fulfils the requirements listed below in terms of qualifications and experience.

The project team should consist of the following profiles, plus additional members as necessary.

### 8.1. Project Coordinator

#### *Qualifications and professional experience*

- University degree (at least bachelor's degree or equivalent) which can be replaced by proven experience as a manager or coordinator of at least three (3) major international research projects – overall total duration at least 3 years)
- Proven experience in research management, as a manager or coordinator of at least three (3) major international research projects which include a social fieldwork component.
- Proven experience in working with law enforcement border agencies (police, asylum, immigration, borders) in some research and/or other professional capacity (minimum two years of experience is required).
- Proven experience in the area of border, immigration, asylum and/ or biometrics and technology of science.
- Excellent knowledge of English (Common European Framework of Reference (CEF) level C1).

### 8.2. Country managers

#### *Qualifications and professional experience*

- University degree (at least bachelor's degree or equivalent) in social or political sciences, or law
- Proven experience in taking part in international research projects (at least 2 projects required – overall total duration at least 1 year)
- Proven experience in supervising national research projects with a social fieldwork component (at least 2 projects are required)
- At least three (3) publications in the field of migration and asylum and/or biometrics and technology of science; this can include articles in peer reviewed journals or authorship of reports for research projects.
- Excellent knowledge of English (Common European Framework of Reference (CEF) level C1).

## 8.3 Interviewers

Staff deployed by the contractor for the field work in relation to each of the six Member States should have the necessary skills to carry out interviews, administer questionnaires and understand the research subject matter to respond to questions which may emerge during the fieldwork. Specific language skills will be needed for each DMCP and border crossing point to be able to communicate with different categories of 'right-holders'. In addition to the languages of the six EU Member States covered by the research, the following languages need to be covered: English (all border crossing points), Thai (for fieldwork in DMCPs in Thailand) and Ukrainian (for fieldwork at the Polish-Ukrainian BCP and in DMCPs in Ukraine). These language needs shall be covered by the contractor by deploying researchers with the specific languages required or interpreters accompanying the researchers.

### *Qualifications and professional experience of interviewers*

- University degree (at least bachelor's degree or equivalent) in social or political sciences, or law;
- Excellent knowledge of English (Common European Framework of Reference (CEF) level C1).
- Knowledge of another language used for the research (the six national languages of the six Member States covered by the research + Thai and Ukrainian, where relevant, minimum level B2 (CEF))
- Passport and relevant visas to allow for travel must be secured after contract signature to allow for fieldwork

## 8.4 Research Experts

In addition to the profiles listed above, a successful project team will be composed of an adequate number of research experts representing the following disciplines:

- Sociological qualitative fieldwork research and analysis
- Sociological quantitative fieldwork research and analysis
- Technology of science and biometrics

These experts are to be considered as part of the 'core' project team (it is not requested to have such experts for each of the six Member States covered by the research).

### *Qualifications and professional experience*

- University degree (at least bachelor's degree or equivalent) in the relevant field
- Proven experience in research relating to immigration, borders, asylum or technology of science and biometrics supported by relevant publications or references to past projects.
- Excellent knowledge of English (Common European Framework of Reference (CEF) level C1).
- Publications in relevant fields are desirable.

## 9. Project Implementation Monitoring

The Agency will monitor the research in technical and administrative terms. The contractor should report immediately to the Agency in writing any problems they encounter during the implementation of the contract.

Bi-weekly progress reports will be delivered as brief e-mails to the Agency's project manager, and should document overall research progress. This should be supported by additional e-mail and telephone contact, whenever necessary.

Agency staff may during the duration of the research visit the contractor's offices and/or the site, where research is carried out to assess the quality of the work.

## Inserting and searching information in Eurodac, SIS II and VIS

### Entry to the EU - regular or irregular

<p><b>Processing of visa applications</b></p> <p>Visa applicants:</p> <ul style="list-style-type: none"> <li>- Fingerprints, personal data, purpose of travel and sponsor are inserted in <b>VIS</b>:</li> <li>- Checked against <b>SIS II</b> to see if an alert exist.</li> </ul> <p>According to the smart borders proposal, biometrics of third country nationals wanting to sign up for the Registered Travellers Programme (RTP) would be enrolled together with other information on the applicant.</p> <p>→ <i>aim: control and facilitation of entry</i></p>	<p><b>Checks at borders</b></p> <p>Visa holders searched against:</p> <ul style="list-style-type: none"> <li>- <b>VIS</b> for verification purposes</li> <li>- <b>SIS II</b> to see if an alert exists</li> </ul> <p>Visa-free travellers searched against:</p> <ul style="list-style-type: none"> <li>- <b>SIS II</b> to see if an alert exists</li> </ul> <p>EU citizens checked against:</p> <ul style="list-style-type: none"> <li>- <b>SIS II</b> on a non-systemic basis</li> </ul> <p>According to the smart borders proposal, the biometrics of third country nationals would be collected in the Entry-Exit System (EES). Biometrics of third country nationals having signed up for the Registered Travellers Programme (RTP) would be searched against this database for speedy border control procedures.</p> <p>→ <i>aim: control and facilitation of entry</i></p>	<p><b>Apprehension of irregular migrants at the external borders</b></p> <p>Apprehended third country nationals:</p> <p>Fingerprints and gender are included in <b>Eurodac</b>, together with information on when and where the person was apprehended.</p> <p>→ <i>aim: functioning of Dublin rules to determine Member State responsible</i></p>
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### Possible fundamental rights implications

- Biometric identifiers contribute to fewer cases of mistaken identity
- Searches for missing children and victims of trafficking may be optimised by making use of information stored in the databases
- Use of technology may contribute to less profiling if correctly administered
- Methods for collecting fingerprints may be more or less intrusive on the privacy of the person
- Use of coercive measures if the person is unwilling to provide fingerprints
- The person may be suspected of having deliberately destroyed the fingerprints if being physically unable to provide readable fingerprints
- Low quality of fingerprints can lead to a false acceptance or a false rejection. The result of the false match can be mistaken identity or the person is suspected of hiding his or her identity
- Technical failure or lack of training of staff affecting the quality of the data of the person included in the database or access to procedures
- Information on the purpose of including his/her information in the databases is not provided to the person
- The person cannot exercise the right of access to data, according to the law, stored about him or her in the database
- The person has no access to procedures for correcting or deleting wrong data
- The person has no right to access information, according to the law, to the supplementary information or decisions on which the information stored in the database is based
- Decision affecting the person is based on wrong data
- Asylum seekers and visa applicants are more often associated with crime due to access of law enforcement authorities to the databases
- Purpose of use of information in the databases extending beyond original purpose

### Stay in the EU - regular or irregular

<p><b>Apprehension of irregular migrants within the territory</b></p> <p>Apprehended migrants are checked, against:</p> <ul style="list-style-type: none"> <li>- <b>Eurodac</b> in order to determine the Member State responsible for the person</li> <li>- <b>SIS II</b> to see if an alert exists</li> <li>- <b>VIS</b> for verification and identification purposes</li> </ul> <p>→ <i>aim: migration control</i></p>	<p><b>Requests for asylum</b></p> <p>Asylum applicants are checked against:</p> <ul style="list-style-type: none"> <li>- <b>Eurodac</b> and <b>VIS</b> to determine the Member State responsible for the asylum claim</li> </ul> <p>→ <i>aim: functioning of Dublin rules to determine Member State responsible</i></p>	<p><b>Processing of residence permits</b></p> <p>Applicants for residence permits are checked against:</p> <ul style="list-style-type: none"> <li>- <b>SIS II</b> to see if an alert exists</li> </ul> <p>→ <i>aim: migration control</i></p>	<p><b>Return</b></p> <p>The returnee is checked against <b>VIS</b> to help determine the country of origin, in case the identity is not clear</p> <p>→ <i>aim: efficient return policy</i></p>	<p><b>Fighting terrorism and serious crime</b></p> <p>Law enforcement authorities can search <b>Eurodac</b> (as of July 2015) and <b>VIS</b>.</p> <p>→ <i>aim: fighting crime and terrorism</i></p>
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### Fundamental rights affected

- Dignity
- Right to asylum
- Right to protection of personal data
- Right to privacy
- Right to information
- Access to remedy
- Discrimination
- Rights of the child
- Rights of victims of crimes
- Liberty and security of person
- Inhuman or degrading treatment

## **Annex 1:**