Eurodac system for the comparison of the fingerprints of applicants for asylum and certain other aliens for the effective application of the Dublin Convention

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PURPOSE : to establish "Eurodac" for the comparison of the fingerprints of applicants for asylum and certain other aliens. CONTENT : the Eurodac system would function through the collection of fingerprint data by Member States and their transmission to a central unit, which would compare individual sets of fingerprints against the data retained in the system. This proposal for a Regulation is the first Commission proposal in the field of asylum under Title IV of the Treaty of the European Union. Its purpose is to assist in determining the Member State which is responsible pursuant to the Dublin Convention for examining an application for asylum lodged in a Member State and otherwise to facilitate the application of the Dublin Convention under the conditions set out in the proposal. A Regulation is warranted in view of the need to apply strictly defined and harmonised rules in relation to the storage, comparison and erasure of fingerprints, for otherwise the system would not work. These rules constitute a set of precise, unconditional provisions that are directly and uniformly applicable in a mandatory way, and by their very nature, require no action by the Member States to transpose them into national law. The new Title IV of the EU Treaty, which applies to the matters covered by this proposal for a Regulation, is not applicable to the United Kingdom and Ireland, unless they "opt in". However, these 2 Member States have announced their intention of being fully involved with activities in this field. Denmark, on the other hand, has not given notice of an intention to participate in the Eurodac system. The proposal provides for the establishment of a Central Unit within the Commission which will be equipped with a computerized central database for the comparing of fingerprints of asylum applicants and certain other persons. The draft regulation provides for the fingerprints of 3 different groups to be transmitted to the Central Unit : a) applicants for asylum (data stored for 10 years); b) persons apprehended in connection with the irregular crossing of an external border (data stored for 2 years); c) persons found illegally present within the territory of a Member State (destroyed as soon as the comparison within Eurodac has been carried out). The rules governing Eurodac shall also apply to operations effected by the Member States as from the transmission of data to the Central Unit until use is made of the results of the comparison. Without prejudice to the use of data intended for the Member State of origin in databases set up under the latter's national law, fingerprints and other personal data may be processed in Eurodac only for the purposes set out in Article 15 (1) of the Dublin Convention. Collection : each Member State shall promptly take the fingerprints of every applicant for asylum of at least 14 years of age and shall promptly transmit the data. Transmission : fingerprint data transmitted by any Member State shall be compared by the Central Unit with the fingerprint data transmitted by other Member States andalready stored in the central database. Direct transmission to the Member State of origin of the results of the comparison shall be permissible where the technical conditions for such purpose are met. Responsibility : the Member State of origin shall be responsible for ensuring that : - fingerprints are taken lawfully; - fingerprints and other data are lawfully transmitted to the Central Unit; - data are accurate and up-to-date when they are transmitted to the Central Unit; - data are lawfully recorded, stored, corrected and erased; - the results of fingerprint comparisons transmitted by the Central Unit are lawfully used. It is necessary that the Member State of origin : - prevents any unauthorized person from having access to national installations in which the Member State carries out operations in accordance with the aim of Eurodac; - prevents data from being read, copied, modified, recorded or erased by unauthorized persons. Liability : any person who, or Member State which, has suffered damage, whether physical or moral, as a result of an unlawful processing operation or any act incompatible with the provisions laid down in this Regulation shall be entitled to receive compensation from the Member State responsible for that damage suffered. Claims for

compensation against a Member State shall be governed by the provisions of national law of the defendant Member State. In accordance with Article 12 of the Directive 95/46/EC, the person shall obtain communication of the data relating to him or her recorded in the central database and of the Member State which transmitted them to the Central Unit. An independent joint authority shall be set up, consisting of a maximum of 2 representatives from the supervisory authorities of each Member State. Each delegation shall have 1 vote. The joint supervisory authority shall be responsible for the examination of implementation problems in connection with the operation of Eurodac. The Commission shall assist it in the performance of its tasks. The costs incurred by the national units and the cost for their connection to the central database shall be borne by each Member State. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission. The Commission shall submit to the European Parliament and the Council an annual report on the activities of the Central Unit.