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## EURODAC REGULATION ON COMPARISON OF FINGERPRINTS OF ASYLUM APPLICANTS AND CERTAIN OTHER ALIENS

The Council reached a political orientation on the draft Eurodac Regulation with the exception of its provisions on the territorial scope of the text. It is recalled that, following the entry into force of the Amsterdam Treaty, the Commission had tabled a proposal last July aimed at transposing into a Community instrument the texts of the "frozen" draft Eurodac Convention and Protocol on which the Council had reached agreement respectively in December 1998 and March 1999.

Eurodac will be a central data base, set up at the Commission, to which Member States shall communicate fingerprints taken from asylum applicants and certain other aliens, in order to control whether a person has already applied for asylum in another Member State. The system would contribute to a better functioning of the 1990 Dublin Convention (which determines the Member State responsible for examining an asylum application) that entered into force on 1 September 1997.

In particular, the Council reached agreement on the procedure for approving implementing measures of the Regulation (comitology question). Under the agreed procedure, certain implementing powers will be reserved for the Council, in particular those that would affect the direct responsibility of the Member States and those that would also have financial implications for the Member States. The Council will vote on the first category by qualified majority, on the second group by unanimity. All the other implementing measures will be decided upon in the framework of a regulatory committee composed of representatives from the Member States.

Commissioner VITORINO expressed his institution's disagreement with this arrangement recalling that it had proposed a regulatory committee responsible for all implementing measures.

The Council decided to reconsult the European Parliament on this arrangement, given that it substantially amended the previous text, on which the Parliament had already given its opinion on 18 November 1999.

According to the draft Regulation, fingerprints will only be taken from persons of at least 14 years of age. The draft Regulation distinguishes between asylum applicants and "certain other aliens", namely aliens apprehended in connection with the irregular crossing of an external border as well as aliens found illegally present in a Member State. While fingerprints of asylum seekers will be taken and sent to the central unit for comparison where they will be stored normally for 10 years, fingerprints of "aliens apprehended in connection with the irregular crossing of an external border" will also be taken and sent to the central unit but only for comparison with fingerprints of asylum applications transmitted subsequently. Furthermore these fingerprints can only be stored for up to two years. Finally, fingerprints of aliens found illegally present in a Member State may be communicated to the central unit with the sole purpose of controlling them with fingerprints of asylum seekers already recorded in the central data base. They cannot be stored in the central unit.

Moreover, the draft Regulation also establishes that fingerprint data will be erased under certain circumstances, such as the acquisition of citizenship of any Member State, and blocked if a person is recognised and admitted as a refugee in a Member State.

The draft Regulation contains provisions on data use, data protection security and liability and sets out the rights of the data subject as well as the role of both the national and the joint supervisory authorities.

The Regulation will apply both to Ireland and the UK, as they have notified, on the basis of their respective Protocols to the Amsterdam treaty, that they wish to take part in the adoption and application of this Regulation. Denmark will at this stage be excluded, given that, according to its Protocol, it has not the possibility to join up only to a single act in the area of asylum and migration when it is not Schengen-related, unless it concludes an intergovernmental agreement with the Community. It has, however, already indicated that it wishes to take part in the Eurodac system and that, to that end, an arrangement should be drawn up.