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From: General Secretariat of the Council
To: Delegations

Subject: Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of '**Eurodac**' for the comparison of biometric data for the effective application of Regulation (EU) XXX/XXX [Regulation on Asylum and Migration Management] and of Regulation (EU) XXX/XXX [Resettlement Regulation], for identifying an illegally staying third-country national or 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 Regulations (EU) 2018/1240 and (EU) 2019/818

- comments from the Delegations

Following the Informal meetings of the Asylum Working Party on 21 September 2021, delegations will find attached a compilation of replies received from Member States on the abovementioned subject.

Written comments submitted by the Member States

Amended proposal for the Eurodac Regulation - document 11873/21

**following informal videoconferences of the members of Asylum Working Party
on 21 September 2021**

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BULGARIA

As a follow-up of our statement during the “Asylum” WP videoconference on September 21st, we confirm our substantive reservation on the amended proposal for Eurodac Regulation and a scrutiny reservation on the amendments introduced by the Presidency in the text, dated September 15th.

We maintain our position for package approach and our understanding is that the draft regulation should be negotiated together with the other proposals from 2016 as well as the ones from the Pact. The amended proposal should not be considered as a technical document, not bearing elements of the responsibility-solidarity balance. Given the systematic connection with the other draft acts of the CEAS reform packages and the proposals from the Pact, the proposal for Eurodac Regulation cannot be considered in isolation from the other legislative proposals that are currently being discussed and in its entirety define the balance in the field of asylum and migration.

It's not purpose-oriented to adopt in isolation a draft regulation that is conceptually linked with the current Pact discussions. In case of more in-depth analysis, a need to revise some clauses, agreed in 2018 could be identified, as the proposals in the Pact completely changed the concept of managing asylum and migration as well as the responsibility-solidarity model. Increased responsibility and perpetual responsibility for frontline Member States, new procedures and mechanisms and practically deleted opportunities for cessation of responsibility.

At procedural level, it's of utmost importance to create a consolidated text in order to have a complete, semantically connected version of the draft proposal for Eurodac Regulation. In this context, the necessity for in-depth analysis of the compromise text from September 15th with current asylum legislation remains on the agenda. As well as analysis of its links with the proposal from 2016, whose amendment is the current text. For us, the approach taken, to delink the amended proposal from the draft acts of the Pact and insert references to the current acquis is pretty technical and does not procedurally facilitate the discussions on the Eurodac developments.

CROATIA

The Republic of Croatia understands the reasons for which the PRES insists on the swift adoption of this Regulation, but we would like to point out that this requires a political consensus. We generally support the amendments made by PRES in document 1873/21 relating to the removal of disputed references to relocation and SAR, which are actually technical modifications. However, since data retention periods were not the subject of these amendments by SI PRES, we would like to reiterate the importance of introducing universal deadlines for data retention of 10 years, for the simple reason of security. Furthermore, as regards the proposed amendments in this document, we have some comments relating to practical application.

Recital 1 (4b) it is not clear why security checks still remain as a criteria for the application of Regulation 604/2013 (Dublin Regulation). We would like to make the same comment for Articles 12, 13 and 14.

Article 4, paragraph 6 System architecture and basic principles. We propose that the wording “**where necessary**” be deleted in order to make the procedures clearer and to not place too much burden on officers who take fingerprints to also be responsible for the results of fingerprint comparison. It is therefore not completely clear to which situations “**where necessary**” applies.

Article 10 Collection and transmission of biometric data - paragraph 1 (b)

It is our understanding that this subparagraph is related to the legal fiction of non-entry and we still do not quite understand how this would be applied in practice so it is not clear how biometric data could be taken from persons who are theoretically not allowed to enter the territory. We point this out only because legal fiction is a term that is only used in APD which has not been harmonised yet.

THE CZECH REPUBLIC

General comment:

Thanks Presidency for the opportunity to submit written comments following the latest Asylum Working Party. We would like to focus only on technical comments in this contribution.

Article 1 paragraph 1 letter b)

We would like to ask for the clarification whether the reference to the national resettlement schemes also covers the other national humanitarian admissions schemes. We think that persons admitted under those schemes, i. e. holders of future humanitarian residence permits are covered. Nevertheless the clarification is needed.

Recording of security concerns

Unfortunately, in our view current Regulation 604/2013 does not allow the marking of persons posing the possible security risks. Therefore the other parts of the proposal should be deleted. We can mention recital 4b, Article 12 paragraph 1b letter j), Article 13 paragraph 2a letter f) and Article 14 letter g).

The other option is, but we are not sure if feasible, to find another legal basis in the currently applicable acquis allowing marking and recording the persons who may pose a security risk in Eurodac.

FRANCE

Remarques générales

La France remercie la présidence de ce nouveau compromis et soutient une adoption prochaine du règlement Eurodac, en raison de son intérêt opérationnel. Elle encourage la présidence à poursuivre les discussions sur la base de son compromis qui est une bonne base de travail.

Eléments de langage

- **Sur l'articulation des articles du règlement Eurodac examinés lors des discussions du paquet asile (2016-2019) avec les articles examinés dans le cadre du pacte sur l'asile asile et migrations (2020-2021) :**

La France rappelle la nécessité de disposer d'une version consolidée de l'ensemble des articles de la refonte d'Eurodac à l'instar de ce qui avait été fait lors de la présidence allemande en octobre 2020.

Cette version consolidée permettra aux Etats membres de prendre toute la mesure des amendements ciblés proposés par la présidence et de travailler dès aujourd'hui au niveau national sur l'inclusion de la refonte d'Eurodac dans le cadre de l'interopérabilité (par exemple : la gestion des liens jaunes générés par Eurodac), mais également sur les scénarii de mise en œuvre techniques d'Eurodac III. Elle ne pourra que faciliter la poursuite des échanges sur ce règlement.

- **Sur la question des amendements à la refonte d'Eurodac**

La France souhaiterait obtenir les garanties de la part de la Commission que des « *consequential amendments* » puissent être prévus dans chacun des règlements en cours de négociation dans le pacte : « Gestion de l'asile et de la migration » (AMR), « Procédure commune » (APR), « Qualification », « Filtrage » et « Réinstallation ».

Ainsi, sans préjuger des résultats des négociations, la France souligne son attachement à ce que les trois nouvelles catégories de données (SAR (« *search and rescue* »), réinstallation et relocalisation) supprimées dans le compromis de la présidence slovène puissent être réintroduites ultérieurement par le biais de « *consequential amendments* ». Dans un esprit de compromis, en vue de l'adoption du règlement Eurodac, la France serait toutefois prête à accepter de ne réintroduire qu'une partie des trois catégories considérées.

- **Sur l'introduction dans Eurodac des admissions humanitaires**

La France soutient la demande faite par les autorités tchèques et italiennes s'agissant de l'inclusion de la référence aux admissions humanitaires dans l'article 1, sous b), concernant les réinstallations. Cette introduction aurait en effet un intérêt statistique non négligeable sur l'activité des États membres.

- **Sur l'inclusion des autorités chargées de l'asile comme éligibles à la consultation du système d'entrée/de sortie (EES)**

La France soutient la proposition néerlandaise de modifier le règlement d'entrée/de sorties (EES) afin que les autorités chargées de l'asile puissent avoir un accès en consultation des dossiers. Cette consultation serait notamment très utile pour vérifier la date, le lieu et le point de passage frontalier qui a été utilisé par un demandeur pour entrer sur le territoire des États membres. Cette modification du règlement EES avait fait l'objet d'une déclaration du Conseil et de la Commission le 20 novembre 2017 soulignant l'importance d'un accès direct aux données pertinentes par les services de l'asile.

- **Sur le maintien dans le compromis de la capacité à exercer des contrôles sécuritaires sans référence au règlement screening (considérant 4b)**

Si la présidence slovène a précisé que les contrôles sécuritaires dans Eurodac sont maintenus malgré la disparition de la référence au règlement filtrage (*screening*), la France souhaiterait toutefois plus d'éclairage sur la possibilité de « *flagger* »/« indiquer » une personne qui présenterait un danger pour la sécurité intérieure après un contrôle de sécurité et notamment sur le fondement juridique retenu, ainsi que les modalités opérationnelles envisagées.

- **Sur le remplacement du terme « *register* » par « *lodge* » (article 10)**

La France remercie la Commission pour ses explications relatives au remplacement du terme « *registered* » par « *lodged* » en référence à l'arrêt CJUE C-670/16 « *Mengesteab c/ Allemagne* du 26/07/2017. Le terme « *lodging* » (introduire) aurait en effet le même sens que « *registration* » (enregistrement) dans le règlement Dublin III actuellement en vigueur. Selon la Cour, ces termes n'ont pas la même signification dans les règlements Eurodac et Dublin III, par rapport à la directive Procédures.

Pour plus de clarté, les autorités françaises souhaiteraient l'ajout d'un considérant explicitant que les termes « *registered* » et « *lodged* » au sens des règlements Dublin et Eurodac ont la même signification et que celle-ci diffère de celle retenue dans la directive Procédures.

COURTESY TRANSLATION FROM FR TO EN

General comments

We thank the Presidency for this new compromise text and are in favour of its being adopted in the near future, in light of its operational value. We encourage the Presidency to continue discussions on the basis of its compromise text, which is a good foundation for future work.

Topics for discussions

- **On the relationship between the articles of the Eurodac Regulation examined during discussions regarding the asylum package (2016-2019) and the articles examined in the context of the Pact on Asylum and Migration (2020-2021)**

We would recall the need for a consolidated version of all the articles of the Eurodac recast to be made available, as was done during the German Presidency in October 2020.

This consolidated version will allow Member States to properly evaluate the targeted amendments proposed by the Presidency and to start work now, at national level, on including the Eurodac recast in the interoperability framework (e.g. the management of yellow links generated by Eurodac), but also on options for the technical implementation of Eurodac III. It can only facilitate further discussions on this Regulation.

- **On the issue of amendments to the Eurodac recast**

We would like assurance from the Commission that ‘consequential amendments’ can be provided for in each of the regulations currently under negotiation within the Pact: Asylum and Migration Management (AMR), Asylum Procedure (APR), Qualification, Screening and Resettlement.

Thus, without anticipating the outcome of the negotiations, we would emphasise that we are keen to ensure that the three new data categories (search and rescue, resettlement and relocation) that have been deleted in the Slovenian Presidency’s compromise text can be reintroduced at a later stage by means of ‘consequential amendments’. In the spirit of compromise, however, and with a view to the adoption of the Eurodac Regulation, we would be prepared to agree to only part of the three categories concerned being reintroduced.

- **On the inclusion of humanitarian admissions in Eurodac**

We support the request made by the Czech and Italian authorities to include the reference to humanitarian admissions in Article 1, under point (b), on resettlements. This inclusion would have significant statistical value in terms of Member States’ activity.

- **On the inclusion of asylum authorities as eligible to consult the Entry/Exit System (EES)**

We support the Dutch proposal to amend the Entry/Exit System (EES) Regulation so that asylum authorities can access the files for consultation. This would be very useful, in particular, for verifying the date, place and border crossing point used by an applicant to enter the territory of the Member States. This amendment to the EES Regulation was the subject of a statement by the Council and the Commission on 20 November 2017 underlining the importance of direct access to relevant data for asylum services.

- **On retaining in the compromise text the possibility to carry out security checks without reference to the Screening Regulation (recital 4b)**

Although the Slovenian Presidency has clarified that security checks in Eurodac are being retained despite the disappearance of the reference to the Screening Regulation, we would nevertheless like more clarity on the possibility to ‘flag’, following a security check, a person that could pose a threat to internal security, and in particular on the relevant legal basis and the operational arrangements envisaged.

- **On the term ‘register’ being replaced by ‘lodge’ (Article 10)**

We thank the Commission for its explanation regarding the replacement of the term ‘registered’ by ‘lodged’, with reference to the judgment of the Court of Justice of 26 July 2017 in case C-670/16 *Mengesteab v Bundesrepublik Deutschland*. The term ‘lodging’ would have the same meaning as ‘registration’ in the Dublin III Regulation currently in force. According to the Court, these terms do not have the same meaning in the Eurodac and Dublin III regulations as they do in the Procedures Directive.

For more clarity, we would like a recital to be added stating that the terms ‘registered’ and ‘lodged’, within the meaning of the Dublin III and Eurodac regulations, have the same meaning, and that this is different from that used in the Procedures Directive.

GERMANY

General comments

DE continues to advocate for a swift adoption of the Eurodac reform, which is why we welcome and support the Presidency's approach to delink the regulation from the other new proposals.

We can support the approach chosen by the Presidency and Council Legal Service, not to keep the cross references to other legal texts of the New Pact, but to propose instead a clear regulation to ensure legal certainty.

The changes proposed by COM in 2020 are urgently needed, for instance to ensure full interoperability. Not only being able to count applications in the EU, but also being able to query the number of persons in the EU (via the already existing Eurodac data) is equally overdue. The presentations of eu-LISA and COM in the Asylum Working Party of 08.09.2021 also made the urgency of the reform very clear, among other things by pointing out the expected costs for maintaining the no longer provided support for the current system.

Notwithstanding the need to reflect the changes of the Asylum and Migration Management Regulation (AMMR) in Eurodac to ensure full consistency, we see a more urgent need to update Eurodac as soon as possible. When progress on the AMMR is achieved in the future, consequential amendments in Eurodac will then have to be discussed.

We can accept that no separate category of persons disembarked following **SAR** operations is created with this proposal. We understood that according to this proposal this group will have to be entered as a CAT2. If technically possible, we would however welcome to mark this group as a SAR case, without creating a new category. This could provide an even better picture about migratory flows and enable a better evidence-based policy-making.

We also would welcome a technical possibility to mark in Eurodac that a person has been **relocated** in the context of voluntary solidarity from one Member State to another Member State. We understood, however, that these so-called relocations happening today are legally a determination of responsibility according to Art. 17 para. 2 (discretionary clause) in the current Dublin-III-regulation and therefore have to be entered in Eurodac in accordance with Art. 10 and 11 Eurodac Regulation. Nevertheless, we

would welcome, if this use of the discretionary clause exercising voluntary solidarity, could be reflected in a recital.

Further remarks on the draft proposal

Amendment (1), recital (4a):

We propose the following **addition**, to reflect the so-called voluntary “relocations” taking place under the current Dublin-III-Regulation:

‘(4a) Moreover, for the purposes of effectively applying {Regulation (EU) 604/2013 ~~XXX/XXX~~ *{Regulation on Asylum and Migration Management}*} and in accordance with the rules thereof, it is necessary to clearly mark in Eurodac the fact that there has been a shift of responsibility between Member States, ~~including in cases of relocation~~. **This includes cases in which a Member State has made use of the discretionary clause, providing voluntary solidarity to another Member State.**

Amendment (1), recital (4b):

Since security checks are not foreseen by the current Dublin-III-Regulation, but they are referred to in the presidency’s proposal for EURODAC, it should be stated that security checks should be conducted in accordance with national law, the recital (4b) should read as follows:

(4b) ~~{Furthermore,~~ **To facilitate the preparation of a transfers for the purposes of applying Regulation (EU) No 604/2013 ~~XXX/XXX~~ *{Regulation on Asylum and Migration Management}* it is necessary to flag whether, following security checks **conducted in accordance with national law**, ~~during screening~~, it appears that a person could pose a threat to internal security.’};**

In our opinion, their purpose should be stated clearly, as proposed above. Otherwise, it would be unclear which purpose those security checks are supposed to fulfil.

The reference to security checks conducted in accordance with national law should be added in Art. 12 (1a) (j), Art. 13 (2a) (f) and Art. 14 (2a) (g) accordingly.

Amendment (11), Article 4:

The references in Article 4 (2) seem not yet aligned with the changes made to Article 12 (e.g. the reference to Article 12 (1a) (a) should probably now refer to Article 12 (1) (i)).

Additionally, in the last sentence, we think the reference to the “Central System” means more specifically the “central unit” as defined in Article 4 (1) (a) (i).

Amendment (4), recital (11a):

Reference to the Asylum Procedure Regulation (APR) will have to be removed to delink the proposals.

Amendment (9), Art. 1 lit. a (also Amendment (14), Art. 10 para 1 lit. (a) and other):

This change is acceptable to us, as “lodging” is defined by the current Dublin-III-Regulation and therefore to be read as registration under the Asylum Procedure Directive (APD), as interpreted by ECJ in the “Mengesteab” ruling (C 670/16).

Amendment (12), Art. 8a (2):

We would like to suggest the following changes, aiming to specify how the data from ETIAS and EURODAC should be compared:

“(2)...to compare the data in ETIAS with the data in Eurodac collected on the basis of Articles 12, 13, and 14 of this Regulation using and limited to the data categories listed in Annex II of this Regulation corresponding.”

Amendment (12), Art. 8b (2):

The ETIAS national units should have access to the data in EURODAC, which is necessary to conduct their tasks. This could be specified as follows:

“(2) For the purposes of Article 1(1)(f), the ETIAS National Units, shall have access to and may consult the data in Eurodac, collected on the basis of Articles 12, [12c, 12f,] 13 and 14 and limited to the data categories listed in Annex II of this Regulation as well as the facial images, scanned colour copies of an identity or travel document, Member State of origin, Member State responsible, reference numbers and dates when the person concerned left or was removed from the territory of the Member States. This data is provided in a read-only format, for the purpose of examining applications for travel authorisation.“

Amendment (12), Art. 9:

We very much welcome the proposal, which enables eu-LISA to draw cross-system-statistics using data from Eurodac, Entry/Exit System (EES), ETIAS and the Visa Information System (VIS). The aim, to know for example how many of the third country nationals who were issued a short-stay-visa by a Member State, proceeded to enter legally (and where) and then proceeded to apply for international protection (and where), has our full support.

We would, however, suggest substantiating and concretising the norm as follows:

3. For the purpose of supporting the objective referred to in Article 1(c), eu-LISA shall produce monthly cross-system statistics. Those statistics shall not allow for the identification of individuals and will use data from Eurodac, the Visa Information System, ETIAS and the Entry/Exit System.

The cross-system statistics may be based on the categories referred to in paragraph 1 (a) to (f) and be supplemented by data from the other information systems as referred to in

Article 45a [VIS-Regulation], Article 84 [ETIAS-Regulation] and Article 63 [EES-Regulation].

In particular, such supplementary data may be used to further disaggregate those categories to include, where applicable,

(a) the number and type of visa that have been issued, refused or extended by a Member State prior to the entry in Eurodac,

(b) the number of applicants whose travel authorisation was issued or refused by a Member State prior to the entry in Eurodac,

(c) the number of entries, exits, refusals of entry and overstayers prior to the entry in Eurodac.

These statistics shall be made available to the Commission, to the [European Union Agency for Asylum], to the European Border and Coast Guard Agency and to the Member States. The Commission shall, by means of implementing acts, specify the content of the monthly cross-system statistics. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 41a(2).

We kindly ask COM to check whether the implementation of the cross-system statistics should be accompanied (with EURODAC or separately) by consequential amendments to the Regulations for the Entry/Exit System (EES), ETIAS and the Visa Information System (VIS), which provide for their own rules on using data for statistical purposes.

Amendment (10) (b), Art. 3 para 1 lit. (u):

No objection to the draft. We've noticed however, that the here defined wording "identity data" is only used once in the entire proposal, in a recital.

Amendment (15), Art. 11 lit. (d):

We welcome the addition of this paragraph, which can facilitate the application of Articles 19 (2) and 20 (5) of the Dublin-III-Regulation.

Amendment (15), Art. 11 para 3:

Please explain, why the shift of responsibility according to

- Art. 28 para 3 subpara 2

- Art. 25 para 2

- Art. 22 para 7

- Art. 3 para 2 subpara 3

- Art. 3 para 2 subpara 1

is not enlisted here.

HUNGARY

Hungary underlines the importance of Eurodac and the added value of its technical update, including its inclusion in the interoperability framework and by this preventing the misuses of the asylum systems. At the same time, Hungary still considers the Eurodac Regulation as an inseparable part of the package, as it is deeply interconnected with the European responsibility framework. Therefore, maintaining our previous position, Hungary cannot support the Presidency's compromise proposal which would lead to the adoption of the Eurodac Regulation separately from other legislative proposals being part of the reform of the Common European Asylum System.

THE NETHERLANDS

In addition to the Dutch interventions at the Asylum working group on 21 September, we hereby send you our written contribution.

With regard to article 1 paragraph 1 sub paragraph b, the Netherlands asked whether it is true, that resettlement on the basis of national policies, through which an EU resettlement program (scheme) is implemented, is automatically included here. During the working group COM confirmed that this is indeed the case.

With regard to Article 4 paragraph 2 and Article 12 the Netherlands wishes to remark that these articles are connected, but seemingly are not yet fully aligned, specifically where it concerns the scanned colour copy of an identify or travel document.

With regard to Article 10 paragraph 1 subparagraph b, the Netherlands wishes to remark that in our opinion ‘lodging’ should be used instead of ‘making’ when referring tot the moment the biometric data needs to be taken. This, to ensure that Eurodac is filled in a uniform way and because it is the moment of ‘lodging’ that determines which Member State is responsible for the application for international protection.

With regard to Article 11 the Netherlands wishes to remark the following:

Firstly, that the distinction between Article 11 paragraph 1 (which refers to determining responsibility) and Article 11 paragraph 3 (which refers to a shift in responsibility after responsibility has been established) is important and needs to be upheld. Therefore, it seems more logical, to here only state that, if the Member State conducting the procedures for determining the responsible Member State does meet the deadline established in article 21, that Member State registers it’s responsibility. From this it follows that article 11 paragraph 3 needs to be adapted accordingly.

Secondly, the Netherlands beliefs it is more logical to turn around subparagraphs c and d of article 11 paragraph 2. This would bring the text more in line with the current Eurodac regulation.

In addition, in answer to the presidency’s questions we can provide the following:

With regard to the deletion of ‘relocation’ in the text. We can follow the presidency in that ‘relocation’ is not included in the text in an effort to fully de-link the text with proposals that are currently under negotiation.

The Netherlands also asked to explain the usage of the word ‘appropriate’ in Articles 13 and 14 and wishes to remark that this was done not because it forms any hindrance, but merely because the word seems unnecessary here.

Lastly, the Netherlands would like to request a consolidated version of the Eurodac proposal for further negotiations.

POLAND

We have to keep in mind, that the proposal to amend the Eurodac Regulation is a part of a broader reform, so it should be adopted together with other legal acts from the Pact after reaching a consensus acceptable to all Member States.

In Poland's opinion only the package approach will ensure the appropriate procedural consistency and the complementarity of the various elements of the Pact. The reform of the asylum and migration system should be comprehensive.

ROMANIA

As a general remark, we appreciate the fact that the new compromise document has delinked the text of the draft Regulation from the other proposals of the Pact which are under negotiation. We consider this will make it possible to continue negotiation and possibly proceed to the adoption of the subsequent changes that will enable Eurodac to operate within the interoperability framework of EU information systems.

Having regard of the short time available to examine the document, we have a scrutiny reservation.

Nevertheless, taking into consideration that the references to the screening regulation have been removed from the text, we would appreciate some clarifications regarding the moment in time when the security checks are done as well as the possible consequences of these checks.

JOINT CONTRIBUTION (Cyprus, Greece, Italy, Malta, Spain)

The delegations of Cyprus, Greece, Italy, Malta and Spain would like to jointly submit the following written comments to the revised text of the draft Eurodac Regulation (Ref no 11873/21) following the discussions in the Asylum Working Party of 21 September 2021.

The MED5 countries reiterate their position that all proposed legislative files must advance in a coherent and cohesive manner, thus contributing to a sustainable, crisis-resilient and fair migration management system. Therefore, we cannot support the delinkage of Eurodac from the other legislative files of the Pact, since it is functional to policies on asylum, resettlement and irregular migration.

The new Asylum and Migration Pact should provide for the challenges faced by the States at the external border of the Union while addressing their singularities and ensuring a balance between responsibility and solidarity.

In this context, we uphold the position that the amended proposal on Eurodac should already properly include SAR category, return sponsorship and relocation, give clear indication on the shift of responsibility for all these categories and provide, where necessary, for a period of collection and transmission of data to Eurodac from 72 hours to five days. At the same time we would like to point out that there are still technical issues in the 2016 proposal/2018 text which need further consideration and alignment.

Attached, please, find the drafting suggestions, submitted with reference to WK 14060/2020 INIT, that reflect the core elements we deem appropriate to include in the amended proposal of Eurodac for further consideration.

JOINT PROPOSAL FROM DELEGATIONS OF CYPRUS, GREECE, ITALY, MALTA AND SPAIN ON THE AMENDED PROPOSAL FOR A REGULATION ON EURODAC

Delegations of Cyprus, Greece, Italy, Malta and Spain consider, following the discussions in the Asylum Working Party, that the files must advance in a coherent and cohesive manner among the different legislative proposals, thus building the whole system in a solid way. In this sense, the text of the proposal on Eurodac should already properly include the figure of return sponsorship and, in the same way, should be integrated the collection and transmission of data to Eurodac within the new system of asylum and migration. Therefore, they propose the following drafting:

‘Recital (4a)

Moreover, for the purposes of effectively applying [Regulation (EU) XXX/XXX [Regulation on Asylum and Migration Management]] and in accordance with the rules thereof, it is necessary to clearly mark in Eurodac the fact that there has been a shift of responsibility between Member States, including in cases of relocation **or as a consequence of a return sponsorship.**

‘Article 11

Information on the status of the data subject

...

3. Where responsibility shifts to another Member State, pursuant to [Articles 27(1), **55**

(2) and Article 58(3) of Regulation (EU) XXX/XXX [Regulation on Asylum and Migration Management]], the Member State that establishes that responsibility has shifted, the **Member State sponsoring return** or the Member State of relocation, shall indicate the Member State responsible.

...

Article 14

Collection and transmission of biometric data

1. Each Member State shall promptly take the [...] biometric data of every third- country national or stateless person of at least six years of age who is [...] illegally staying within its territory.

2. The Member State concerned shall **within 72 hours, and in any case no later than 5 days after** [...] **establishing** that the third-country national or the stateless person is illegally staying, transmit to the Central System and to the CIR as appropriate in accordance with Article 4(2) the following data in relation to any third-country national or stateless person, as referred to in paragraph 1:

(etc...)

The replacement of 72 hours with 5 days is accordingly to be done in articles 10.1, 13.2, 13.4, 14.2, 14.3, 14a.2, 14a.4. As a consequence, the second subparagraph of articles 10.2, 13.5, 14.4 and 14a.5 would be deleted. These amendments are aimed to simplify deadlines for collecting and transmitting data to Eurodac, avoiding derogations set out at current text and providing a clear deadline to be observed.

Article 14b

*Information on the status of relocation **or return sponsorship** of the data subject*

As soon as the Member State of relocation **or the sponsoring Member State** has confirmed that it will [...] relocate **or that it will transfer onto its own territory** the person concerned pursuant to [Articles **55 (2) and** 57(7) of Regulation (EU) XXX/XXX [*Regulation on Asylum and Migration Management*]], the benefiting Member State shall update its data set recorded pursuant to Articles 12, 13, 14 or 14a of this Regulation relating to the person concerned by adding the Member State of relocation **or the sponsoring Member State as the new responsible Member State**

When a person arrives in the Member State of relocation **or in the sponsoring Member State** following the confirmation by the Member State of relocation to relocate **or to transfer onto its own territory** the person concerned pursuant to [Articles **55(2) and** 57(7) of Regulation (EU) XXX/XXX [*Regulation on Asylum and Migration Management*]], that Member State shall transmit [...] a data set recorded in conformity with Articles 12 or 14 of this Regulation relating to the person concerned and shall include his or her date of arrival. The data set shall be stored in accordance with Article 17 (1) for the purpose of transmission under Articles 15 and 16.’;