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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	8961/15 JAI 327 ASIM 26 FRONT 102 RELEX 385 CO EUR-PREP 24 9346/15 ASIM 29 EURODAC 4 COMIX 246
Subject:	Implementation of the Eurodac Regulation as regards the obligation to take fingerprints

1. The Commission's European Agenda on Migration (EAM), adopted on 13 May 2015¹, highlights the need to ensure that all Member States comply with their legal obligation to take fingerprints under Articles 9(1) and 14(1) of the Eurodac Regulation².

On 27 May 2015, the Commission presented a staff working document on implementation of the Eurodac Regulation as regards the obligation to take fingerprints (9346/15).

¹ 8961/15.

² Regulation (EU) No 603/2013 of the European Parliament and of the Council 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 L 180, 29.6.2013, p. 1.

2. On 16 June 2015, the Commission held an ad-hoc technical meeting with Member States and Associated Countries. The main focus of the meeting was to gain a deeper understanding of the challenges Member States face when taking fingerprints and to agree on a common best practice approach to taking fingerprints in circumstances where the migrant refuses to cooperate. At that meeting, participating Member States reiterated their different practices when fingerprinting asylum seekers and irregular migrants and talked about different ways to deal with non-cooperation and damaged fingertips. The meeting concluded with the unanimous agreement of all Member States present that the best practices put forward in the above Commission document should be followed.
3. The JHA Counsellors examined the Commission staff working document at their meeting on 17 July 2015. All delegations welcomed the document, which, based on existing EU law, provides useful guidance to facilitate the systematic taking of fingerprints in full respect of fundamental rights and more specifically of the right to data protection. The JHA Counsellors also took note of the Commission's intention to explore how in future more biometric identifiers could be used through the Eurodac system to assist with identification.
4. The JHA Counsellors suggest that the Member States should address their competent authorities to follow the 10-step approach set out in the Commission staff working document.
5. Coreper is therefore requested to recommend that the Council, at its meeting on 20 July 2015, invite the Member States to follow the mentioned 10-step approach.
