



**COUNCIL OF
THE EUROPEAN UNION**

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ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council

to : COREPER / COUNCIL

Subject : Proposal for a Regulation of the European Parliament and of the Council concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EC) No .../...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) **(first reading)**

- Adoption of the legislative act (LA + S)

= Statement

COMMON GUIDELINES

Consultation deadline for Croatia: 19.6.2013

Statement by the Council

The Council notes that in so far as the amendments to the Eurodac Regulation (recast) concern the procedures for comparison and data transmission for law enforcement purposes as laid down in Articles 5, 6, 19 to 22, 33, 36, 39(3), 40(7) and 43 of the Regulation, these amendments, which are

based on police cooperation legal bases (Articles 87(2)(a) and 88(2)(a) TFEU), do not constitute a development building upon the provisions of Eurodac within the meaning of the agreements concluded by EU with Denmark, Norway, Iceland, Switzerland and Liechtenstein, and therefore fall outside of the scope of the said Agreements which have been concluded only for asylum purposes (for determining which State is responsible for considering an application for asylum or subsidiary protection, Article 78(2)(e) TFEU). Therefore, the provisions of the said agreements do not apply to the above listed articles of the Regulation. Once the Eurodac Regulation is adopted, the Commission may, as appropriate, submit recommendations for a Council decision authorising the opening of negotiations for complementing the said agreements to also cover the above listed law enforcement articles.
