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NOTE

From:	General Secretariat of the Council
To:	Asylum Working Party
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Subject:	Proposal for a Regulation of the European Parliament and of the Council 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] , 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 (recast)

Delegations will find attached the results of the Consultative Working Party regarding the above-mentioned proposal.



GROUPE CONSULTATIF
DES SERVICES JURIDIQUES

Brussels, **06 OCT. 2016**

OPINION

**FOR THE ATTENTION OF THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

Proposal for a Regulation of the European Parliament and of the Council 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, 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 (recast)

COM(2016) 272 final of 4.5.2016 - 2016/0132 (COD)

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 31 May and 7 July 2016 for the purpose of examining, among others, the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a Regulation of the European Parliament and of the Council recasting 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

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.

resulted in the Consultative Working Party's establishing, by common accord, as follows.

1. The following should have been marked with the grey-shaded type generally used for identifying substantive changes:

- in the first citation, the proposed adding of a reference to Article 79(2)(c) of the Treaty on the Functioning of the European Union;
- in recital 46, the adding of the words '*and migration*';
- in Article 9(1)(b), the adding of the word '*subsequently*';
- the entire text of Article 15;
- in Article 26(6), the proposed deletion of the final words '*pursuant to Article 34 of Regulation (EU) No 604/2013*';
- in Article 37(2), the proposed replacement of the words '*serious risk*' with '*real risk*'.

2. In the title of Article 14, the word '*Comparison*' should have been marked with 'double-strikethrough'.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.



F. DREXLER
Jurisconsult



H. LEGAL
Jurisconsult



L. ROMERO REQUENA
Director General