



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 5 June 2012**

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**Interinstitutional File:  
2009/0157 (COD)**

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**10569/1/12  
REV 1 ADD 1**

**CODEC 1475  
JUSTCIV 208  
EJUSTICE 47  
OC 264**

**ADDENDUM TO THE REVISED "I/A" ITEM NOTE**

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from: General Secretariat of the Council

to: COREPER/COUNCIL

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No. Cion prop.: 14722/09 JUSTCIV 210 CODEC 1209

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Subject: Proposal for a Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions, acceptance and enforcement of authentic instruments in matters of succession and the creation of a European certificate of succession **(first reading)**

– Adoption of the legislative act **(LA + S)**

=Statement

**COMMON GUIDELINES**

**Consultation deadline: 6.6.2012**

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**Statement by Malta**

Malta regrets that the draft Regulation of the European Parliament and of the Council on jurisdiction, applicable law, recognition and enforcement of decisions and authentic instruments in matters of succession and the creation of a European Certificate of Succession, does not take into account Malta's concerns.

Throughout the negotiations, Malta made it very clear that this Regulation will have far-reaching effects on the fundamental elements of Malta's legal regime regulating succession, in particular as regards the rules concerning the applicable law and the adoption of a single rule to regulate the whole estate of the deceased without any distinction between movable and immovable property. The common law approach that lies at the core of Malta's succession law has always served to indicate with clarity and certainty the legal regime that is to be applied in inheritance matters. The law applicable to the formal validity of dispositions *causa mortis* will irremediably complicate matters for Malta's practitioners and citizens alike as it is going to introduce new types of wills such as holograph wills which do not guarantee legal certainty and formality. Likewise, the new rules regarding the administration of the estate that will be adopted under the Regulation as well as the provisions on agreements as to succession, will create uncertainty under Maltese law. In view of the above, Malta is voting against the adoption of the draft Regulation.

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