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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Production Orders and European Preservation Orders for electronic evidence in criminal proceedings and for the execution of custodial sentences following criminal proceedings (**first reading**)
- Adoption of the legislative act
= Statements

Statement by Hungary

Hungary is fully committed to the fight against crime and would welcome an effective instrument that promotes criminal justice and observes the protection of fundamental rights at the same time. However, we hold any reference in the Regulation to Article 7 TEU unacceptable, even in the recital. The reference to Article 7 TEU was not part of the general approach adopted by the Council, it has only been introduced on the request of the EP and we find its inclusion detrimental to the effectiveness of the new measure and also to the principles of mutual trust and mutual recognition, upon which it is based. Accordingly, Hungary is not in a position to support the adoption of the Regulation.

Statement by Finland

Finland recognizes the changing nature of criminality and the growing importance of cross-border cooperation to obtain electronic evidence in criminal proceedings swiftly and effectively.

During the negotiations, Finland has consistently underlined the necessity to find the right balance between effective law enforcement and criminal investigation and the protection of fundamental rights. From this perspective, the notification mechanism and its scope as well as the grounds for refusal are of particular importance. While the text has improved during the negotiations, we consider the mechanism still inadequate. We believe that in relation to production orders for the most sensitive data, judicial assessment should also be done by the competent authorities in the enforcing State.

Furthermore, Finland regrets that the grounds for refusal do not include a ground that would allow the enforcing authority to refuse a production order for traffic and content data in cases where the use of such measure is restricted under the law of the enforcing State to certain offences or to offences punishable by a certain minimum threshold.
