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'I/A' ITEM NOTE

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

Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (**first reading**)
- Adoption of the legislative act
= Statement

Portugal has requested that the following statement be entered in the Council minutes

Portugal welcomes all efforts aimed at further strengthening victims' rights. In this regard, Portugal broadly supports the compromise package.

However, Portugal maintains its objection to the reference to abortion in the recitals. Such a reference trespasses upon the national competence of the Member States and constitutes an overreach, contrary to the principles of subsidiarity and proportionality.

In addition, the co-legislators have not agreed to operative provisions detailing specific treatments for victims of sexual violence, including but not limited to abortion. Guideline 10 of the Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union Legislation provides that *the purpose of the recitals is to set out concise reasons for the chief provisions of the enacting terms, without reproducing or paraphrasing them*. Recitals should also *not include provisions of a non-normative nature, such as wishes or political declarations*.

The recitals are the section of a legal act in which the institutions must substantiate that they have acted within the scope of their competences, that the objectives pursued cannot be adequately achieved by the Member States alone, and that the action at Union level remains confined to what is necessary to fulfil the objectives of the Treaties. In this context, the inclusion of such a reference in recital 13 sets an undesired and unjustifiable precedent.
