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"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters (**first reading**)

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

= Statement

Statement by Austria

The Austrian delegation welcomes the adoption of the Directive on the European Investigation Order. However, the Directive does not provide for the best solution in relation to the existing Framework Decision 2008/978/JHA of 18.12.2008 on the European evidence warrant: Art. 29 para. 2 provides that the Framework Decision is only “replaced” in relation to Member States which participated in the adoption of the Directive. This seems to give rise to legal uncertainty for Member States implementing this Directive as well as for those who do not participate. Much more legal clarity could have been achieved by simply providing that Framework Decision 2008/978/JHA is “repealed” (as provided for in Article 9 of Protocol No. 36).
