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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	13471/15
No. Cion doc.:	17621/13
Subject:	Proposal for a Directive of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings - Information on declarations presented by the Commission

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On 4 November 2015, the Permanent Representatives Committee confirmed the final compromise text as it had been provisionally agreed during the 5th trilogue between the Presidency and representatives of the European Parliament. The text as confirmed is set out in the annex to document 13471/15.

During the meeting of the Committee, the Commission presented a declaration in relation to Article 6(5) for the minutes of the Council meeting at which the Directive will finally be adopted. This declaration is set out in the cover note of document 13471/15.

Subsequently to the meeting of the Committee, the Commission also presented a declaration in relation to Article 5 for the minutes of the Council meeting at which the Directive will finally be adopted. This declaration is worded as follows:

Declaration of the Commission

relating to Article 5 on the burden of proof

*"The Commission regrets the deletion of Article 5, paragraph 2, of its proposal for a Directive on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings. The Commission considers that the compromise in relation to Article 5 may lead to problems in the implementation of this Directive, in terms of legal certainty, monitoring and operability, which may increase the risk of unnecessary litigation, in particular at national level.*

*However, the Commission does not stand in the way of the adoption of this Directive "*

In the meantime, the text of the draft Directive has been revised by legal-linguists. Subsequently to the vote in the European Parliament, the Committee will again be invited for confirmation so as to allow the Council and the European Parliament to formally adopt the Directive.

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