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NOTE

From: German delegation
To: Delegations

Subject: Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States

- Discussion on providing information to the State of nationality in case of surrender
- = Paper by Germany

Delegations will find attached a paper by Germany relating to the application of the judgment of the Court of Justice of the European Union of 6 September 2016 in case C-182/15 (Petruhhin).

Background document by Germany

Council Framework Decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States

- Discussion on providing information to the state of nationality in case of surrender

When applying the judgment of the Court of Justice of the European Union of 6 September 2016 in case C-182/15 (Petruhhin), the question arises of whether the Member State of which the citizen in question is a national has to be informed by the competent authority of the requested Member State even when the person pursued explicitly does not agree to this.

The abovementioned judgment suggests this is the case. However, there are reasons why this might be inadvisable. Firstly, data protection rules in the legislation of the requested Member State may need to be considered. Also, the principle of '*nemo tenetur se ipsum accusare*' could be undermined because informing the Member State of which the citizen in question is a national could lead to further criminal proceedings in that State against the person pursued or his or her relatives. The Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, for example, do not require the requested Member State to inform the Member State of which the citizen in question is a national that the person pursued has been arrested.

Germany welcomes an exchange of views with other Member States on this issue.