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European Union

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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	8138/15 COPEN 93 EUROJUST 76 EJN 33
Subject:	Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders - Notification made by Spain

Delegations will find attached the notification made by Spain in relation to Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

This notification is also included in doc 8138/15, comprising several notifications by Spain, but is distributed in this individual format at the request and for the convenience of delegations.

Council Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders

- In accordance with Article 22(2) of the Framework Decision, we hereby inform you that these obligations have been implemented under Title VIII of Law 23/2014.
- Article 3(1) of the Framework Decision requires Member States to inform the GSC which authority is competent for the purposes of the Framework Decision. Under Article 158 of Law 23/2014, the authorities responsible for issuing a confiscation order are the Criminal Courts or Judges presiding over the enforcement of sentences where the confiscation of property is imposed as an additional consequence. The authority competent to recognise and execute the confiscation order is the Criminal Court for the place in which any of the property to be confiscated is located. Should the location of the property change, it will not result in loss of jurisdiction for the Criminal Court which ordered the recognition and execution of the confiscation order sent to Spain. If the certificate has been issued in respect of several items of property located in different districts, the Criminal Court which first received it and in whose district at least one of those items of property is located will be competent to preside over the confiscation of the rest. If the issuing authority does not know where the item to be confiscated is located but the certificate does indicate the place of residence or registered office of the person in respect of whom the decision has been issued, the Criminal Court for that place will be competent, even if it is later found that the property is located in a different district or that the person has moved. If a single certificate has been issued in respect of several people residing in several different places within Spanish territory, the Criminal Court which first received it and in whose district at least one of those residences or registered offices is located will be competent to preside over the confiscation ordered in respect of the rest of the people mentioned on the certificate.

- In accordance with Article 7(5) of the Framework Decision and Article 170(1)(b) of Law 23/2014, the competent Criminal Court will refuse to recognise and execute a confiscation order issued under the extended powers of confiscation referred to in Article 2(d)(iv) of the Framework Decision when it considers that order to be incompatible with the fundamental rights and freedoms recognised in the Spanish Constitution.
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