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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 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters - Notification made by Spain

Delegations will find attached the notification made by Spain in relation to Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters.

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 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters

- In accordance with Article 23(2) of the Framework Decision, we hereby inform you that these obligations have been implemented under Title X of Law 23/2014.
- In accordance with Article 3 of the Framework Decision, Article 188 of Law 23/2014 provides that in Spain, the authorities responsible for issuing European evidence warrants are the Judges or Courts presiding over the proceedings that require the document, object or data to be obtained, as well as the Public Prosecutors conducting the investigation proceedings in which the warrant is to be used.

The Prosecution Service is also an authority competent to recognise and execute European evidence warrants, provided it can obtain the objects, documents or data without adopting measures that restrict fundamental rights.

Otherwise, when the Prosecution Service considers that it must refuse to recognise or execute the warrant, the competent authority will be the Examining Magistrate for the place in which any of the objects, documents or data that the warrant is intended to obtain are located.

Should the location of the objects, documents or data change, it will not result in loss of jurisdiction for the Prosecution Service or the Examining Magistrate that ordered the recognition and execution of the European evidence warrant sent to Spain.

If the certificate has been issued in respect of several objects, documents or data located in different districts, the Public Prosecutor or, where appropriate, the Examining Magistrate who first received it and in whose district at least one of those objects, documents or data is located will be competent to preside over the acquisition of the rest.

- Pursuant to Article 8(2) of the Framework Decision and in accordance with Article 6(3) of Law 23/2014, the Ministry of Justice will be the central authority responsible for assisting the judicial authorities.
- Article 23(3) of the Framework Decision requires Member States to make a declaration if the grounds for refusing to recognise or execute the warrant laid down in Article 13(1)(f) of the Framework Decision are to be transposed into their national law. We therefore declare that both grounds have been transposed into Spanish law by means of Articles 32(3) and 198(1)(d) of Law 23/2014.
