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From: Mr Nuno Brito, Ambassador, Permanent Representation of Portugal to the European Union

date of receipt: 28 May 2020

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

Subject: Implementation of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence
- Notification by Portugal

Dear Sir,

Further to our communication 338/2020 of 5 May 2020, in the context of the implementation by the Portuguese authorities of Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence, please find herewith the corrected version of the information on competent national authorities (section I of ST 7854/20), with the date of entry into force of the implementing legislation.

(complimentary close)

Information to be communicated in the context of the implementation of Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence - corrigenda to section I of ST 7854/20

I – Competent authorities

For the issuing of a request for seizure of property, the competent authority is the Portuguese judicial authority competent for the same decision on property situated in Portugal (public prosecutor's office (Ministério Público), examining magistrate (juiz de instrução) or judge (juiz), depending on the nature of the property to be seized and the state of proceedings) (Article 4 of Law No 25/2009, of 5 June 2009).

For the execution of an application for seizure of property, the competent authority is the court with jurisdiction to carry out the criminal preliminary judicial stage in the place where the property affected by the seizure decision is situated on the date of the decision, or where the greater part of the property is located or, where that is not possible, the court that first takes cognizance of the seizure decision (Article 11 of Law No 25/2009, of 5 June 2009).

For the issuing of a decision to seize evidence, the competent authority is:

- the national judicial authority responsible for directing proceedings at the stage at which they stand, without prejudice to the competence of the examining magistrate (juiz de instrução) to authorise or order acts in the investigation stage;
- Portugal's national member of Eurojust, on the terms and in the circumstances provided for in Article 8(3) and (4) of Law No 36/2003, of 22 August 2003;
- in the case of administrative proceedings, the administrative entity responsible for processing administrative offences, with validation by the public prosecutor's office (Ministério Público)

(Article 12 of Law No 88/2017 of 22 August 2017).

For the execution of a request for the seizure of evidence, the competent authority is the national judicial authority competent to order the same measure on Portuguese territory (court (Tribunal), examining magistrate (juiz de instrução) or public prosecutor's office (Ministério Público)) in the district in which it is to be executed (Article 19 of Law No 88/2017 of 21 August 2017).

II — Entry into force of the implementing legislation

Article 20 of Law No 25/2009 of 5 June 2009 provides for entry into force 30 days after publication, i.e. on 5 July 2009.

Article 50 of Law No 88/2017 of 21 August 2017 provides for entry into force on the day following publication, i.e. on 22 August 2017.
