



Council of the
European Union

Brussels, 30 October 2014
(OR. en)

10505/4/09
REV 4 ADD 1 REV 4

LIMITE

ENFOPOL 157
ENFOCUSTOM 55
CRIMORG 90
COMIX 465

NOTE

From:	General Secretariat of the Council
To:	Law Enforcement Working Party (Mixed Committee EU/Iceland, Norway and Switzerland, Liechtenstein)
Subject:	Manual on cross-border operations - national fact sheets

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (13.08.2015)

Delegations will find attached a compilation of national fact sheets, containing all the practical information necessary for carrying out cross-border operations.

Any updates, corrections or completions should be sent to lewp@consilium.europa.eu.

NATIONAL FACT SHEETS

Belgium
Bulgaria
Czech Republic
Denmark
Germany
Estonia
Greece
Spain
France
Ireland
Italy
Cyprus
Latvia
Lithuania
Luxembourg
Hungary
Malta
Netherlands
Austria
Poland
Portugal
Romania
Slovenia
Slovakia
Finland

<u>Sweden</u>
<u>United Kingdom</u>
<u>Iceland</u>
<u>Liechtenstein</u>
<u>Norway</u>
<u>Switzerland</u>

BELGIUM

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

- I.1 list of authorised officers:

Members of the federal police, members of the local police, customs officials for illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives and the illicit transport of toxic or harmful waste.

- I.2 designated authorities (specify for incoming and/or outgoing requests):

DELETED

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- I.3 specific statutory provisions (including, where relevant and useful, a general indication of applicable traffic regulations): -

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II. Controlled deliveries

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

- III.1 list of authorised officers:

Members of the federal police, members of the local police, customs officials for illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives and the illicit transport of toxic or harmful waste.

- III.2 designated authorities (if applicable): -

- III.3 authorities to be contacted in border regions when crossing borders:
the Communication and Information Centres (CIC)

DELETED

DELETED

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations):

Blue flashing light: must be used in cases of emergency

Siren: must be used in cases of emergency

Red lights: cannot be running only after making the stop. Traffic must not be put at risk. When a police or customs vehicle is coming, other road users must make way and stop if necessary.

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PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact point

DELETED

IV.2 procedure

Joint operations are only possible on request. All requests to the Belgian Police have to be made by means of the request form hereunder and have to be sent to the national contact point.

The competent authority in Belgium will immediately take a decision concerning the request. The decision will be sent as quickly as possible in writing to the competent authority of the requesting Party.

When carrying out the joint operation, the cross-border official must be in possession of a summary list of the means and material he has brought with him. He submits it on request to the competent authority of the host state.

Model request form
for joint operations on the basis of article 17 of the Council Decision 2008/615/JHA of
23 June 2008 on the stepping up of cross-border cooperation, particularly in combating
terrorism and cross-border crime

Requesting Party:

- ☐ The Kingdom of Belgium, represented by the Directorate of the National Contact Point
DGA/DAO
or
- ☐ The Federal Republic of Germany, represented by....
or
- ☐ The Kingdom of Spain, represented by....
or
- ☐ The French Republic, represented by....
or
- ☐ The Grand Duchy of Luxembourg, represented by the Director General of the Grand-Ducal
Police or his representative
or
- ☐ The Kingdom of the Netherlands, represented by....
or
- ☐ The Republic of Austria, represented by....
or
- ☐ ...

(To be completed)

requests

- ☐ The Kingdom of Belgium, represented by the Directorate of the National Contact Point
DGA/DAO
or
- ☐ The Federal Republic of Germany, represented by....
or
- ☐ The Kingdom of Spain, represented by....
or

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☐ The French Republic, represented by....

or

☐ The Grand Duchy of Luxembourg, represented by the Director General of the Grand-Ducal Police or his representative

or

☐ The Kingdom of the Netherlands, represented by....

or

☐ The Republic of Austria, represented by....

or

☐ ...

(To be completed)

for the following:

☐ **Police intervention** by police officers, as detailed in the annex to the present request, in order to contribute to the maintenance of public order and prevention of criminal offences at:

..... *(place, zone; date);*

under the operational command of
(name and function of the police officer).

☐ **For agreement:**

☐ **Police intervention** by police officers, as detailed in the annex to the present request, in order to set up training exercises for the operation as provided for in Article 17 at:

..... *(place, zone; date);*

under the operational command of
(name and function of the police officer).

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☐ **For agreement:**

☐ **The furnishing of means** for public order maintenance and prevention of criminal offences, as detailed in the annex to the present request.

These means will be deployed at
(*name of the place, name of the zone; date*);

under the operational command of
(*name and function of the police officer*).

☐ **For agreement:**

☐ **The dispatch of** police officers to accompany or operate the material means for that purpose.

☐ **For agreement:**

☐ **Other:**

☐ **For agreement:**

☐ **One border crossing**

☐ **Several border crossings during the following period:**

☐ **For agreement:**

Sovereign powers

☐ Requests to confer to the seconding State's officers the sovereign powers allowed by the host State.

☐ **For agreement:**

☐ Requests to allow the seconding State's officers to exercise their own sovereign powers in accordance with the seconding State's law. If granted, the seconding State's officers will have the same sovereign powers as in their own country.

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☐ **For agreement:**

Costs

- ☐ Each Contracting Party shall bear the costs incurred by its own authorities.
- or
- ☐ Other proposition for the sharing out of the costs:

☐ **For agreement:**

.....(*date*).....(*place*)

.....(*Signature*)

agreement

.....(*date*).....(*place*)

.....(*Signature*)

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V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

Contact point:

The operational chiefs of the services involved (the corps chief of the Local Police or the chief of unit of the Federal Police)

or

DELETED

V.2 procedure [if different from IV]

There is no formal procedure for setting up a joint patrol or joint check. It is sufficient that the operational chiefs of the services involved (in Belgium: the corps chief of the Local Police or the chief of unit of the Federal Police) come to a verbal or written agreement. If it is not possible to contact the Belgian operational chief, the national contact point should be contacted.

The operational chiefs make sure that every officer taking part in the operation is well informed about the mission and about who is responsible for what. If necessary, a meeting will be organised for the purpose.

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OTHER

VI. Special intervention units

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

The standard issue of weapons for a police officer is a handgun, a short truncheon and a spray with a small quantity of tear gas or another means of putting an attacker out of action. These weapons are always carried. Teams of officials may be issued with weapons jointly if it could not be foreseen that the border was to be crossed, but they may not be carried on the person or used. (Long firearms, submachine guns, grenades, spray with large quantities of tear gas or another means of putting an attacker out of action.)

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Authorised arms according to national law (firearms, truncheons, tear gas, knockout gas).

VII.3 arms, ammunition and equipment permitted and conditions of their use
(cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

- Belgium does not permit the use of firearms with a calibre that exceeds 9 mm;
- Belgium does not permit the use of firearms in fully automatic mode;
- Belgium does not permit the use of any type of handcuffs that can injure the apprehended person;
- Belgium permits the use of pepper spray but does not permit the use of tear gas Chloroacetophenone (CN);
- Belgium does not permit the use of electric truncheons but permits the use of ordinary truncheons;
- Belgium does not permit the use of TASER.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

1. Self-defence

Art 38 of the Law on the Police

Without prejudice to Art 37, police officers are allowed to use firearms against people only when acting in self-defence.

Art 416 of the Penal Code

Committing homicide or assault in legitimate self-defence may not be regarded as a crime or as an offence.

Explanation of Art 416 of the Penal Code.

- Self-defence applies to everybody, not only police officers.
- Acts of self-defence may occur against all kinds of violence, not only against firearms.
- In order to be regarded as self-defence, any situation has to fulfil the following requirements:

- * **The assault has begun or is about to begin.**

The victim's life must not necessarily be in danger. A real and serious risk of being injured or wounded is sufficient.

- * **The assault is illegal.**

There is no self-defence against legal and justified assault. For instance, it is not permitted to use violence against legal police actions.

- * **The assault must be committed against a person.**

In Art 416 of the Penal Code, insults are not regarded as assaults against persons.

- * **Self-defence must be necessary and proportional.**

If self-defence goes beyond the necessary limits, or if the defence is more violent than the assault, it itself becomes an assault. When assessing proportionality, the consequences of the use of a weapon must always be taken into account. For instance, hitting someone's head with a claw may be as lethal as a gunshot. If you are not in a position to defend yourself in another way and if your life is in danger, the use of a firearm is justified.

- * **Defence must occur at the same time as the assault.**

Self-defence must not be revenge and, consequently, must not occur when the assault is over.

Art 417 of the Penal Code

In addition to Art 416, Art 417 of the Penal Code gives two other instances that can be regarded as self-defence.

Both the following instances may be regarded as legitimate self-defence:

1. Homicide or assault committed by a person in the course of repelling, at night, an intruder who climbs a fence or a wall or breaks into an occupied house or flat or dependencies thereof, unless that person did not have grounds to believe that the intruder intended to attempt murder, either as a primary aim or as a consequence of the resistance of the occupants.
2. Homicide or assault committed while defending oneself against robbery with violence.

Giving a warning

In accordance with Article 37 of the Law on the Police, any use of force must be preceded by a warning, unless the warning makes the force ineffective.

The important point here is that it is possible to use a firearm in a preventive and repressive way. Preventive use of a firearm includes intimidating the opponent. In this case, no shot is fired. The firearm is only used preventively.

Repressive use can be subdivided into three parts:

- a. Intimidation shot. An intimidation shot is fired when the policeman is not directly threatened. He fires in the air to intimidate the opponent.
- b. Warning shot. A warning shot is fired when the policeman is threatened. In this case, he does not fire at the opponent.
- c. A shot aimed at people, animals or objects. This may occur in self-defence or in the other cases provided for in the Law on the Police.

In brief, we can state that the use of force is preceded by a warning. The warning may be a verbal order or a warning shot, unless the warning renders the use of force ineffective, or in cases of self-defence.

2. The use of force

In Belgium, firearms and ammunition can only be used in cases of legitimate self-defence. In accordance with Article 19 (2) of Council Decision 2008/615/JHA, however, the Belgian officer in charge of the operation may, in individual cases, give permission to use other authorised arms and equipment for purposes other than legitimate self-defence. However, the use of these arms and equipment will always have to be in accordance with Belgian national law.

Art 37 of the Law on the Police

In the exercise of his duties, any police officer may use force, on the following conditions:

1. He has to take into account all the risks of using force;
2. It has to be with a legitimate objective (that could not be attained otherwise);
3. The force used must be reasonable and proportional to the objective in view;
4. Use of force must be preceded by a warning (unless the warning renders the force ineffective).

Explanation of Art 37

The first three conditions of Art 37 may each be summarised in only one word:

1. Appropriateness: the policeman must take the risks of the use of force into account, from both the physical and material point of view.

e.g.: during a check, a policeman fires at the tyres of a departing vehicle but the bullet misses the target and hits an innocent passenger.

2. Legality: the use of force and coercion is allowed only in the cases and on the conditions provided for in the law.

e.g.: during an identity check, the person being checked attempts to punch your colleague. You react immediately by getting the person in a self-defence hold.

3. Proportionality: if the use of force and coercion is necessary, the least violent and most appropriate solution must be chosen.

e.g.: during a fight in a pub, a drunken person takes a bottle and makes as if to hit another person with it. The drunken person does not react to your verbal warnings. As this person is drunk and armed, you take your truncheon and try to overcome him.

In short, one always has to consider three questions before resorting to force.

1. Is it legal?
2. Aren't there any less violent and dangerous means?
3. Are the means proportional to the goal to be achieved?

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VIII. Definitions

VIII.1 self-defence (if not covered by point VII): -

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VIII.2 "home":

The inviolability of the home is guaranteed by Article 15 of the Constitution and penalties for infringement are laid down in Article 148 of the Penal Code. The concept "home" is not legally defined but must be understood as a dwelling and, in the more general sense, as "any place not accessible to the public".

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

BULGARIA

- I. [Cross-border surveillance \(pursuant to Article 40 Schengen Convention\)](#)
- II. [Controlled deliveries](#)
- III. [Hot pursuit \(pursuant to Article 41 Schengen Convention\)](#)
- IV. [Joint operations \(pursuant to Article 17 of Council Decision 2008/615/JHA\)](#)
- V. [Joint patrols \(pursuant to Article 17 of Council Decision 2008/615/JHA\)](#)
- VI. [Special intervention units](#)
- VII. [Arms](#)
- VIII. [Definitions](#)
- IX. [Other requirements following from national laws or regulations that need to be taken into account for cross-border operations](#)

SCHENGEN

- 1. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers
 - I.2 designated authorities (specify for incoming and/or outgoing requests)
 - I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

II. Controlled deliveries

- contact points

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

III.2 designated authorities (if applicable)

III.3 authorities to be contacted in border regions when crossing the border

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations):

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact point

DELETED

IV.2 procedure

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

DELETED

V.2 procedure [if different from IV]

DELETED

OTHER

VI. Special intervention units

Competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA):

GENERALVII. **DELETED**VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

According to the Law on the Ministry of the Interior, police bodies may use weapons as a last resort in the following cases: armed attack or threat by firearms; release of hostages and kidnap victims; after giving a warning, when arresting a person committing or having committed a crime of a general nature who resists or tries to escape; after a warning, in order to prevent the escape of a person detained by an order issued after a crime of a general nature has been committed. Police bodies must issue a report after weapons have been used. When using a weapon, police bodies must do everything possible to protect the life of the person being targeted and the life and health of other persons. Police bodies may use weapons without warning when guarding the state border in cases of armed attack against them and may also use weapons against persons who have put up armed resistance.

DELETED

VIII. Definitions

VIII.1 self-defence (if not covered by point VII):

An act of justifiable defence - in response to a direct illegal attack against state or public interests, or against the physical integrity or rights of the defender or of another person which causes damage to the aggressor only within the necessary limits is not considered socially dangerous.

The limits of justifiable defence have been overstepped when the act is obviously not in proportion to the nature of the assault and the danger it represents.

The perpetrator shall not be punished if, when committing such an act, he exceeds the requirements of justifiable defence because of fright or confusion.

VIII.2 "home"

Defined by Art. 33(1) of the Bulgarian Constitution: the home shall be inviolable.

No one shall enter or stay inside a home without the occupant's consent, except in cases expressly stipulated by law. Penalties for crimes against property are laid down in the Penal Code.

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations
-

CZECH REPUBLIC

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers
 - Members of surveillance units of the Police of the Czech Republic (central as well as territorial)*
 - Members of surveillance units of the Ministry of Finance General Customs Directorate (within investigation of a comprehensive list of crimes)
 - * Members of those units are provided with an "official authorisation", which testifies to their membership of a surveillance unit and authorises them to carry out cross-border surveillance.

- I.2 designated authorities (specify for incoming and/or outgoing requests)

Competent central authority contact data for communication concerning cross-border surveillance (preparation, implementation, follow-up information)

Police Presidium of the Czech Republic

International Police Cooperation Division

DELETED

Central judicial authority contact data for requesting legal assistance before or (in emergencies) during cross-border surveillance

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

The Police of the Czech Republic have no specific powers pursuant to Art. 2 Sec. 3 SC.

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CZECH REPUBLIC

II. Controlled deliveries

- contact points

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On the basis of the Naples II Convention a Central Coordinating Unit has been established within the General Directorate of Customs. This unit is responsible for receiving i.a. all requests for controlled deliveries under the above legal act and under bilateral agreements with AT and DE.

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

Members of the Police of the Czech Republic and members of the Ministry of Finance
General Customs Directorate

III.2 designated authorities (if applicable)

Competent central authority contact data for communication concerning cross-border pursuit (receipt of case information, measures taken during surrender (extradition) of a person from/to another country after detention, follow-up information)

Police Presidium of the Czech Republic
International Police Cooperation Division

DELETED

III.3 authorities to be contacted in border regions when crossing border

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CZECH REPUBLIC

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CZECH REPUBLIC

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III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Cross-border pursuit can be carried out on the basis of bilateral agreements with Austria, Germany, Slovakia and Poland.

Police officers engaged in a pursuit must be easily recognisable, e.g. wear a uniform or an armband or drive in a marked vehicle. Police officers in pursuit are not allowed to wear civilian clothes without an armband while driving an unmarked vehicle.

Cross-border pursuit can be carried out only in specifically defined cases; the aim is to detain a person who:

- is in the act of committing a criminal offence or is involved in a criminal offence or is prosecuted for a criminal offence subject to extradition pursuant to an international agreement,
- has fled in order to avoid a prison sentence, custody or protective medical treatment, or
- is evading border, customs or other police (e.g. investigation) checks and is fleeing to the territory of the neighbouring state.

A police officer cannot, in the territory of the neighbouring state, enter private homes and places not accessible to the public.

Once the offender pursued has been apprehended, the police officer may carry out only a security search of the person and confiscate his vehicle and any objects of relevance for the criminal prosecution. Thereafter the police office must proceed in accordance with the instructions of the local police authorities and hand the detained person over to them.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

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CZECH REPUBLIC

DELETED

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CZECH REPUBLIC

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CZECH REPUBLIC

DELETED

DELETED

IV.2 procedure

Practical aspects of joint operations:

Joint Patrols and other forms of joint deployment in the territory of another Member State

- Joint patrols and other forms of joint deployment under the heading of cooperation with neighbouring states in border areas are carried out pursuant to international bilateral agreements on police cooperation. Section 92 and 93 of Act No. 273/2008 Coll. on the Police of the Czech Republic as amended gives the legal basis for joint patrols and other joint operations carried out with non-neighbouring Member States or with neighbouring Member States, but not in border areas. The legal arrangement is in accordance with Council Decision 2008/615/JHA.
- Common entitlements of officers situated in the territory of another state pursuant to bilateral international agreements:

- Employees of police authorities active in the territory of the other state do not have any executive powers there. Their rights are generally set out in agreements on police cooperation. They are entitled to:
 - wear their uniform,
 - carry their service weapons and other means of coercion,
 - use their service weapons and other means of coercion for private defence (AT, DE, SK, PL) and in cases of extreme emergency (SK, AT),
 - enter the territory of the other contractual country and remain there at the necessary distance from the national border for the required period without a travel document. (In agreement with PL: “cross the state border using their service ID”),
 - operate their radio facilities (AT, in SK within an area of 15 km of the state borders),
 - use a service motor vehicle or a vessel (AT, SK, DE), and aeroplane (PL, DE, AT, SK).
- Specific entitlements of officers situated in the territory of another state according to bilateral international agreements:
 - AT
 - Officials who are members of such joint patrols are entitled to
 - check the identity of persons
 - intercept any person who tries to avoid an identity check
 - further measures shall be taken by the officials of the contractual party in the territory of which the patrol is acting unless their intervention requires participation of the officials of the other contractual party.

- Officers who operate in the territory of the other state under other forms of joint deployment are only entitled
 - to assistance and consultation within joint control groups, and
 - to participate in joint cross-border investigation.
- DE
 - Officers who operate in the territory of the other state under any form of joint deployment are only entitled
 - to assistance and consultation within joint patrols and task forces,
 - to participate in joint cross-border investigation,
 - to take part in interventions targeted primarily against nationals of the particular party,
 - to compose joint operational command.
- PL
 - Employees deployed in connection with ensuring safety of railway transport are authorised to
 - implement any measures necessary to ensure public order and the safety of persons and property in trains between the state borders and the closest railway station on the territory of the other party in which the relevant train makes a regular stop. Such measures must be in accordance with the legislation of the party on whose territory they are being implemented.
 - Employees may provide support to the authorities of the other party, but are subordinate to the authorities of the other party.
 - Service personnel of one party deployed on the territory of the other party within joint patrols are authorised to
 - perform ID checks.
 - intercept anyone failing to produce ID proving their identity or identified by the patrol as a wanted person.

- SK
 - Employees of the police authorities discharging tasks for the protection of public order and the safety of persons and property in railway transport have the right to take necessary measures to secure public order and safety of persons and property in railway transport, in particular to
 - detain a person,
 - carry out a search of persons and luggage.
 - Officers who operate in the territory of the other state under any form of joint deployment are only entitled
 - to assistance and consultation within joint patrols and task forces,
 - to participate in joint cross-border investigation,
 - within joint operational command.
- General information on joint patrols carried out with neighbouring countries in border regions
 - Joint patrols usually consist of three officers; two of whom are from the state on whose territory the joint patrol is being operated. The Czech officers who take part in joint patrols are mostly representatives of the aliens police service, public order police service, traffic police service and, occasionally, criminal police and investigation service. The officers have to pass a training course concerning in particular rights and duties in connection with the operation of joint patrols on the territory of the other state before they are allowed to join a joint patrol.

The officers in joint patrols have appropriate language skills. Usually vehicles of the state on whose territory the joint patrol is being operated are used. Joint patrols usually start and terminate at the former border checkpoint. Joint patrols have limited territorial competency: 10 km from borders with AT, 25 km from borders with PL, or the border regions with DE and SK.

- General legal arrangement for joint deployment carried out with non-neighbouring Member States or with neighbouring Member States, but not in border areas: Act No. 273/2008 Coll., on the Police of the Czech Republic, Sections 92 and 93
 - Section 92
 - A member of a foreign security force may, under certain conditions and within the scope and in the manner provided for in an International Agreement, execute in the Czech Republic the powers and duties of a Police officer under this Act.
 - With the consent of the Police President and a relevant authority of a foreign country, a member of a foreign security force may be used, within the scope and under the conditions stipulated by this Act or another legal regulation,
 - a) as an undercover officer
 - b) to perform a pretended transfer
 - c) to perform surveillance of persons and objects;
 - d) to use security technology;
 - e) to intervene against offenders of serious criminal offences;
 - f) to ensure public order and security in emergency security situations;
 - or
 - g) to ensure the security of protected places and premises or persons protected under this Act.

- 1) If it is necessary for ensuring public order and security or for preventing criminal offences, with the consent of the Police President and of a competent authority of a Member State of the European Union, a member of the security forces of a Member State of the European Union may be used to carry out the above tasks within the scope and under the conditions stipulated by this Act or any other legal regulation or regulations of the European Union on police cooperation.
- 2) If it is necessary for ensuring the safety of air, rail, water or road transport, with the consent of the Police President and of a competent authority of a Member State of the European Union, a member of foreign security forces may be used, within the scope and under the conditions stipulated by this Act or another legal regulation.
- 3) When carrying out actions pursuant to paragraph (2) a senior police officer, authorised by the Police Presidium, shall manage the activities of the member of a foreign security force and such officer shall be responsible for the activities of the member in question.
- 4) In the event of damages incurred during actions carried out under paragraphs (2) to(4), a member of a foreign security force shall be deemed to be a police officer.

○ Section 93

A police officer shall be authorised to operate in the territory of another country

- a) under the conditions, within the scope of and in the manner stipulated by an international agreement;

- b) within a peacekeeping operation or any other operation which the Czech Republic is participating in on the basis of a decision adopted by an international organisation of which the Czech Republic is a member or with which the Czech Republic has entered into a relevant international agreement, or on the basis of a decision adopted by a relevant authority or institution of the European Union; or
- c) if he/she is seconded to carry out police duties on the basis of a decision of the Minister of the Interior with the consent of the relevant authority of a foreign country or upon the request of the relevant authority of a foreign country.

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

- see point IV.

V.2 procedure [if different from IV]

- see point IV.

OTHER**VI. Special intervention units**

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

Conditions for assistance are defined in Act No. 273/2008 Coll. on the Police of the Czech Republic as amended.

In accordance with Section 92 of the Act, a member of a foreign security force may execute in the Czech Republic the powers and duties of a police officer in cases specified by special legislation with the consent of the Police President of the Czech Republic and with the consent of a competent authority of a Member State of the European Union.

In accordance with Section 93 of the Act, a Czech police officer shall be authorised to operate on the territory of another country if he/she is seconded to carry out police duties on the basis of a decision of the Minister of the Interior and with the consent of the relevant authority of a foreign country or upon the request of the relevant authority of a foreign country.

GENERAL

VII. Arms

VII.1 definition of service weapon

Weapon

The term weapon is defined in Section 56 of Act No. 273/2008 Coll. on the Police of the Czech Republic as amended. Under this Section a weapon shall mean a firearm including ammunition and any accessories, with the exception of a device having the nature of a weapon but with temporary paralysing effects in accordance with another legal regulation. The definition shall also include pointed and edged weapons, explosives, special explosive objects, explosives used to clear the way, and special charges and cartridges.

Coercive means

Coercive means pursuant to Act No. 273/2008 Coll. on the Police of the Czech Republic, **Section 52** shall be:

- a) self-defence holds, grips, blows and kicks;
- b) tear gas, electric or any other similar devices for temporarily incapacitating a person;
- c) a truncheon or other similar device;
- d) a projectile weapon, considered a firearm pursuant to another legal regulation, having temporary incapacitating effects;
- e) a projectile weapon not considered a firearm under Section 56 (5);
- f) a warning tape for obstructing the path of a vehicle or any other means for the forcible halting of a vehicle or for preventing a vehicle from departing;
- g) driving back with a vehicle;

- h) driving back with a shield;
- i) driving back with a horse;
- j) a police dog;
- k) water cannon;
- l) stun grenades;
- m) striking with a firearm;
- n) threat by aiming a firearm;
- o) warning shot;
- p) handcuffs;
- q) means of disorientation

The Binding Instruction of the Police President No. 156/2008 on security, allocating and carrying of service weapons and ammunition in the Police of the Czech Republic results from the Act on the Police according to which it determines conditions for issuing and carrying weapons used within the police service.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

- see point VIII.1

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

These are defined in Act. No. 119/2002 Coll. on firearms and ammunition as amended.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

In accordance with international bilateral agreements on police cooperation, officers from another State are generally allowed to carry their service weapons and other means of coercion. They have the right to use the service weapon and other means of coercion for private defence (AT, DE, SK, PL) and in cases of extreme emergency (SK, AT).

Use of a weapon according to Act No. 273/2008 Coll. on the Police of the Czech Republic - Section 56

- (1) A police officer shall be entitled to use a weapon
- a) in necessary defence or in a situation of extreme necessity;
 - b) if a dangerous offender against whom the officer is intervening ignores the officer's demand to surrender or is reluctant to leave his/her hiding place;
 - c) in order to prevent the escape of a dangerous offender whom the officer cannot stop in any other way;
 - d) if there is no other way to break active resistance designed to frustrate the police officer's intervention in a serious situation,
 - e) in order to avert a dangerous attack posing a threat to a guarded or protected building or place;
 - f) if there is no other way to halt a vehicle the driver of which is, by his/her reckless driving, seriously endangering the life or health of others and who fails to stop upon a repeated warning or signal given to him/her pursuant to a special regulation;

- g) if a person against whom coercive means have been used in the form of a warning shot or a threat to use a firearm fails to obey the officer's command aimed at protecting the officer's own security or the security of another person; or
 - h) if there is a need to incapacitate an animal endangering the life or health of a person.
- (2) The use of a weapon by a police officer in the cases referred to in paragraph (1) (a) to(f) shall be admissible only if the use of coercive means would apparently be ineffective.
- (3) Prior to using a weapon in the cases referred to in paragraph (1) (a) to(e), a police officer shall be obliged to warn the person against whom he/she is intervening that failure to refrain from the unlawful conduct will result in a weapon being used. Such a warning is not necessary where the life or health of a police officer or any other person is endangered and the intervention cannot be delayed.
- (4) When using a weapon, a police officer shall take the necessary care, in particular, not to endanger the life of other persons, and to spare, as far as possible, the life of the person against whom he/she is intervening.
- (5) Under this Title a weapon shall mean a firearm including ammunition and any accessories, with the exception of a throwing device having the nature of a shooting weapon in accordance with another legal regulation but with temporary incapacitating effects. A weapon shall also mean a pointed and edged weapon, explosive, special explosive object, explosives used to clear the way, and special charges and cartridges.

Extreme emergency

The term is defined in Section 28 of the Criminal Code. According to this definition, an otherwise criminal act by which someone averts an imminent danger to an interest protected by the Criminal Code is not a crime. It does not qualify as a case of extreme emergency if under the circumstances it would have been possible to avert the danger in another way or if the result of the act is clearly equally serious as or more serious than the result that would have ensued from the threatened danger.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

"Private defence" – means legitimate self-defence or defence of others

The term is defined in Section 29 of the Criminal Code. According to this definition an otherwise criminal act by which a person thwarts an imminent or actual attack is not a crime. That is not the case if the self-defence is clearly excessive. The following conditions have to be met if the act is to qualify as legitimate self-defence and thus exclude that person's criminal liability:

- the act must consist in thwarting an imminent or actual attack on an interest protected by this law;
- the attack must not be legitimate behaviour (e.g. action by a law-enforcement officer, legitimate self-help according to civil law, etc.);
- the self-defence must not be clearly excessive.

VIII.2 "home"

The inviolability of the home is guaranteed by Article 12 of the Charter of Rights and Freedoms. A home is an apartment or other premises used as a home, including dependencies. Entering a home and other premises not accessible to the public is possible only in cases specified by special legislation.

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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DENMARK

DENMARK

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
 - I.1 list of authorised officers
 - Police officers
 - Customs officers responsible for combating illegal trafficking in narcotic and psychotropic drugs, weapons and explosives, and the illicit transportation of toxic or hazardous waste.
 - I.2 designated authorities (specify for incoming and/or outgoing requests)

Contact details of the central authority responsible for forwarding requests for judicial and operational assistance:

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

.....

II. Controlled deliveries

- contact points

DELETED

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

III.1 list of authorised officers

- Police
- Customs officers responsible for combating illegal trafficking in narcotic and psychotropic drugs, weapons and explosives, and the illicit transportation of toxic or hazardous waste.

III.2 designated authorities

DELETED

III.3 authorities to be contacted in border regions when the crossing border

Under the bilateral agreement on police cooperation in border areas between Denmark and Sweden, when the border is crossed during pursuit into Denmark the following must be notified:

DELETED

DENMARK

Under the bilateral agreement on police cooperation in border areas between Denmark and Germany, when the border is crossed during pursuit into Denmark the following must be notified:

DELETED

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

In connection with joining Schengen cooperation, Denmark has concluded bilateral agreements with Sweden and Germany on police cooperation in border areas.

(a) The border with Sweden (the Oresund link)

- the Swedish authorities have the right to continue an ongoing pursuit into Danish territory along the Oresund link;
- hot pursuit along the Oresund link may be carried out in respect of any criminal offence which is subject to public prosecution under the national legislation of Denmark and Sweden;
- the Swedish authorities have the right to detain persons on the Oresund link in accordance with Article 41(2)(b) of the Schengen Convention;
- the Swedish authorities have the right to continue an ongoing pursuit into Danish territory up to a distance of 25 km from the end of the Oresund link;
- hot pursuit beyond the Oresund link may be carried out in respect of the offences listed in Article 41(4)(b) of the Schengen Convention;
- when carrying out hot pursuit beyond the Oresund link, the Swedish authorities do not have the right to apprehend persons within Danish territory.

(b) The border with Germany:

Under the provisions laid down in Article 41 (2), (3) and (4) of the Schengen Convention, the Government of Denmark has declared that hot pursuit into Denmark across the border with Germany may be carried out under the following conditions:

- the German authorities have the right to continue an ongoing pursuit into Danish territory up to a distance of 25 km from the border;
- the German authorities do not have the right to apprehend persons within Danish territory;
- hot pursuit may be carried out in respect of the offences referred to in Article 41(4)(a) of the Schengen Convention.

Statutory provisions of particular importance when exercising the right of pursuit: citizen's power of arrest

Denmark has not given the authorities of the other Schengen countries the right to detain a person being pursued on Danish territory; see Article 41. Under section 755(1) and (2), of the Danish Administration of Justice Act:

- (1) The police can arrest a person who on reasonable grounds is suspected of a criminal offence, which is prosecuted by the State, and the arrest must be considered necessary to prevent additional criminal offences, to secure his temporary presence or to prevent his contact with others.
- (2) The same authority is vested in any person who comes upon someone in the course of or in direct connection with the perpetration of a criminal offence, which is prosecuted by the state. The arrestee must be handed over to the police as soon as possible with information about the time of and grounds for the arrest.

The offence must have taken place on Danish territory. The arrest may not therefore be made in respect of an offence which has led to hot pursuit by the police, but only if a further offence has been committed on Danish territory.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

IV.2 procedure

The operation has to be the subject of a written agreement. The written agreement should indicate :

- the Member State authorities which are competent concerning the operation - the specific purpose of the operation
- the host Member State where the operation takes place
- the geographical area in the host Member State, where the operation takes place
- the period that the operation concerns
- the specific assistance that the initiating Member State has to provide to the host Member State, inter alia officers or other officials plus material and financial elements
- the officers who take part in the operation
- the officers who are going to run the operation
- the executive powers conferred on the officers and other officials of the seconding Member States during the operation
- the logistical rules on transport, accommodation and security and
- the payment of the expenses in connection with the joint operation

DENMARK

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points

The same as in IV.1

Under the bilateral agreement on police cooperation in border areas between Denmark and Sweden, when the border is crossed during pursuit into Denmark the following must be notified:

DELETED

Under the bilateral agreement on police cooperation in border areas between Denmark and Germany, when the border is crossed in pursuit into Denmark the following must be notified:

DELETED

V.2 procedure

The same as in IV.2

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

Only weapons provided by the police force can be used.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

DELETED

- VII.3 arms, ammunition and equipment permitted and conditions for their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

Under section 15 of the Danish Act on Police Activities, the Danish police may use force

- i) with a view to preventing and averting threats to public peace and order and threats to individual and public safety,
- ii) with a view to verifying whether or not a person is in possession of a weapon,
- iii) with a view to stopping the commission of a criminal offence or in connection with the investigation and prosecution of criminal offences,
- iv) in the context of assisting other authorities,
- v) as part of the performance of control and supervision tasks and
- vi) with a view to assessing whether a child or an intoxicated, ill or helpless person is in danger.

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Under section 16 (1 and (2), of the Danish Act on Police Activities:

- (1) All use of force by the police shall be necessary and reasonable and shall only take place using reasonable means that are proportionate given the interest such use of force is intended to protect. The assessment of proportionality shall include an assessment of whether or not the use of force entails a risk of injury to third parties.
- (2) Force shall be used as leniently as permitted by the given circumstances and in such a way to minimise any damage or injury.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defence: The concept of self-defence is defined in section 13 of the Danish Criminal Code:

- (2) Any person who exceeds the limits of lawful self-defence shall not be liable to punishment if his act could reasonably be attributed to the fear or excitement produced by the attack.
- (3) Similar rules shall apply to acts necessary to enforce lawful orders in a lawful manner, to carry out a lawful arrest or to prevent the escape of a prisoner or a person committed to an institution."

VIII.2 « home »

Home: The inviolability of the home is guaranteed by section 72 of the Danish Constitution. Section 264 of the Danish Criminal Code states that:

- "(1) Any person who unlawfully
- 1) obtains access to another person's house or any other place not freely accessible; or
 - 2) fails to leave another person's land, having been requested to do so, shall be liable to a fine, or to simple detention or to imprisonment for any term not exceeding 6 months.
- (2) If an act of the kind described in paragraph 1 of subsection (1) above is committed with the intention of procuring or making oneself acquainted with information about the trade secrets of a firm, or in other particularly aggravating circumstances, the penalty may be increased to imprisonment for a term not exceeding four years."

DENMARK

Permission to search homes and other dwellings, including offices, workshops, caravans, tents and huts, and localities other than dwellings, is regulated in Chapter 73 of the Danish Administration of Justice Act. The concept of "home" is not unambiguously defined in Danish law. In connection with cross-border operations, "home" is understood as an area (building, etc.) which is not accessible to the public.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

The Danish police have been given no special powers in border areas in connection with controls on aliens.

Under section 38(6) of the Danish Aliens Act, the police may stop a vehicle within the country in order to check whether it is transporting one or more aliens who have entered the country illegally.

Section 38 (6) only includes the right to stop a vehicle, and does not in itself authorise the police to undertake a search of the vehicle's baggage compartment or other enclosed spaces. If, in connection with a check under section 38(6) of the Aliens Act, the police find that there are reasonable grounds to suspect that the vehicle contains, in its baggage compartment or other enclosed spaces, one or more aliens who have entered the country illegally, then under the relevant provisions of the Administration of Justice Act, the police may search the baggage compartment and other enclosed spaces.

This provision applies throughout the country and is therefore not specific to checks in border areas.

GERMANY

GERMANY

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

DELETED

GERMANY

DELETED

GERMANY

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Statutory provisions of particular importance when exercising the right of surveillance

- (a) *Exercise of special rights in respect of road traffic regulations:* Foreign officers authorised to exercise the right of surveillance in Germany under international agreements are exempt during surveillance within the territory of the Federal Republic of Germany from the provisions of the German Road Traffic Regulations (*Straßenverkehrsordnung - StVO*) pursuant to § 35, par. 1a, in conjunction with § 35, par. 1, of the Road Traffic Regulations if there is an urgent requirement in connection with the performance of sovereign tasks. Special rights may be exercised only with due regard for public safety and law and order (§ 35, par. 8 of the Road Traffic Regulations).
- (b) If required, surveillance must be entrusted to the competent regional officer.

DELETED

GERMANY

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

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III.3 **DELETED**

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III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Statutory provisions of particular importance when exercising the right of hot pursuit

(a) Citizen's power of arrest

In addition to the right to detain a person, the provisions governing citizen's arrest pursuant to the first sentence of § 127, para. 1 of the Code of Criminal Procedure continue to apply (when someone is caught in the act of committing an offence):

"If a person is caught in the act or is being pursued, any person shall be authorised to arrest him provisionally, even without judicial order, if there is reason to suspect he may abscond or if his identity cannot be immediately established."

The provisionally arrested person should immediately be handed over to the first available police officer or public prosecutor.

(b) Exercise of special rights in respect of road traffic regulations

Foreign police officers authorised to exercise the right of hot pursuit in Germany under international agreements are exempt during hot pursuit within the territory of the Federal Republic of Germany from the provisions of the German Road Traffic Regulations (*Straßenverkehrsordnung - StVO*) pursuant to § 35, par. 1a, in conjunction with § 35, par. 1, of the Road Traffic Regulations if there is an urgent requirement in connection with the performance of sovereign tasks. Special rights may be exercised only with due regard for public safety and law and order (§ 35, par. 8 of the Road Traffic Regulations).

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- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SPECIFIC NATIONAL MEASURES

Under the following conditions, the Federal Police and the police authorities of Baden-Württemberg, Bayern, Brandenburg, Hessen Niedersachsen, Mecklenburg-Vorpommern, Saarland, Sachsen, Sachsen-Anhalt and Thüringen have the power to carry out checks on persons without concrete reason or suspicion, which pursuant to Articles 20 to 25 of the Schengen Borders Code remain unaffected by the provisions thereof.

GERMANY

Federal Police (Borders):

§ 22 (1a) of the Federal Police Law (BPolG)

For the purpose of preventing or stopping unauthorised entry into German territory, the Federal Police may, on trains and on the premises of the Federal railways (§ 3 Federal Police Law), and in areas serving air traffic and in airport facilities (§ 4 Federal Police Law) with cross-border traffic, briefly stop persons, question them and demand that they hand over for inspection any identity papers or border documents they have with them, as well as any objects, provided that on the basis of their knowledge of the situation or border police experience it can be assumed that these places are being used for the purpose of unauthorised entry.

§ 23 (1.3) of the Federal Police Law

The Federal Police may check a person's identity:

within 30 km of the border for the purpose of preventing or stopping unauthorised entry into German territory or in order to prevent offences within the meaning of § 12 (1) No 1 to 4 of the Federal Police Law.

§ 44(2) of the Federal Police Law

The Federal Police may also search an object within 30 km of the border for the purpose of preventing or stopping unauthorised entry into German territory or in order to prevent offences within the meaning of § 12 (1) No 1 to 4 of the Federal Police Law.

GERMANY

Baden-Württemberg police:

§ 26(1.6) of the Baden-Württemberg Police Law (PolG BW)

The police may check a person's identity:

in public areas serving international traffic as well as on transit routes (Federal motorways, European roads and other roads used extensively for cross-border crime) for the purpose of combating cross-border crime.

Administrative ruling of the Ministry of the Interior on § 26(1.6) of the Baden-Württemberg Police Law (excerpt)

Public facilities serving international traffic are, in particular, airports, railway stations, trains, petrol stations and service areas, harbours, landings, canals and locks, provided that they are extensively used for international traffic.

§ 26(1.6) contains a legal definition of what constitutes transit routes: Federal motorways, European roads and other roads used extensively for cross-border crime. Rather than focusing on a particular type of road, this definition covers all roads which, it is assumed, are used by international criminals and which, as a result, play an important part in combating cross-border crime.

BayernPolice:

Article 13 (1.5) of the BayernLaw on Police Powers (PAG)

Pursuant to Article 13 (1.5) PAG, the police may check a person's identity within 30 km of the border and on transit routes (Federal motorways, European roads and other roads used extensively by cross-border traffic), in public areas serving international traffic for the purpose of preventing or stopping unauthorised crossings of the Bavarian border or unauthorised stays, and in order to prevent cross-border crime.

The Constitutional Court Bayern has interpreted the statutory wording of Article 13 (1.5) PAG as comprising certain elements which are liable to restrict activities (existence of corresponding knowledge of the situation, relevant police experience) (VerfGH 56, 28 <50>).

Art. 21 (1.2), Art. 22 (1.1 and 1.4) of the Bayern Law on Police Powers (PAG)

Further to the power to establish a person's identity pursuant to Art. 13 (1.5) PAG, Art. 21 (1.2) PAG authorises the police to search a person found in one of the locations referred to in Art. 13 (1.5) PAG. Pursuant to Art. 22 (1.1) PAG, they may search an object carried by a person who is liable to be searched pursuant to Art. 21. Pursuant to Art. 22 (1.4) PAG, they may also search an object found in one of the locations referred to in Art. 13 (1.5) PAG.

GERMANY

According to the case law of the Constitutional Court Bayern (VerfGH 59, 29 <43>), the rules on police searches of objects carried on an individual's person within the framework of the "Schleierfahndung" technique (Art. 22 (1.1) in conjunction with Art. 21 (1.3) and Art. 13 (1. 5) PAG) should be interpreted in such a way that the police may make use of the power to intervene only in the case of an increased abstract risk.

Notification of enforcement in relation to Art. 13 (1.5) PAG (excerpt)

Art. 13 (1.5) [PAG] confers the power to carry out controls on persons without concrete reason or suspicion in the areas laid down therein. [...] transit routes for international traffic include roads other than Federal motorways and European roads used extensively for cross-border traffic and therefore important for cross-border crime. Rather than focusing on a particular type of road, this provision covers the changing circumstances on the ground, as identified by the police's situation report. Public areas serving international traffic means airports, railway stations, trains and also petrol stations and service areas.

Brandenburg Police:

§ 11(3) of the Brandenburg Police Law (BbgPolG)

As a preventive measure to combat cross-border crime, the police may briefly stop persons in public traffic areas, question them and demand that they hand over for inspection any identity papers they have with them, as well as any objects. This measure is permissible only if, on the basis of the police's knowledge of the situation, it can be assumed that serious offences (§ 10(3)) will be committed. The place, time and scope of the measures may be determined only by the Chief Constable or his/her representative.

GERMANY

§ 12(1.5) and (1.6) of the Brandenburg Police Law

The police may check a person's identity:

5. in airports for the purpose of preventing or stopping the unauthorised crossing of the Federal Border, provided this does not fall within the competence of the Federal Police,
6. as a preventive measure to combat cross-border crime and to prevent serious offences (§ 10(3)) with an international aspect within 30 km of the Federal border.

§ 22(1.6) of the Brandenburg Police Law

The Police may search an object, if the object is a terrestrial vehicle, waterway vessel or aircraft carrying a person whose identity may be checked pursuant to § 12(1.4 or 1.6); the search may also extend to the objects in the vehicle.

§ 10(3) of the Brandenburg Police Law

Serious criminal offences include all crimes and all other offences listed in § 100a of the Code of Criminal Procedure.

Hessen Police:

§ 18(2.6) of the Hessen Law on Public Order and Safety (HSOG)

For the purpose of preventing cross-border crime, the police authorities may check a person's identity if that person is encountered in public areas serving international traffic, on roads or on federal waterways, provided that on the basis of their knowledge of the situation or police experience it can be assumed that these places are of particular importance for cross-border crime.

GERMANY

§ 37(2.4) of the Hessen Law on Public Order and Safety

The police authorities may search an object if the object is a terrestrial vehicle, waterway vessel or aircraft carrying a person whose identity may be checked pursuant to § 18(2.5 or 2.6) and, in the cases referred to in § 18(2.6), there are real grounds for assuming that there is an object in or on the vehicle which may be seized; the search may be extended to objects located in or on the vehicle.

Mecklenburg-Vorpommern Police:

§ 27a of the Law on Public Order and Safety in Mecklenburg-Vorpommern (SOG M-V)

Police may:

1. in public traffic areas to prevent serious crime (§ 49) or
2. within 30 km of the border, in public areas serving international traffic dealing directly with border matters, in coastal waters and in internal waters to prevent cross-border crime and to stop unauthorised stays

briefly detain persons and inspect their vehicles, in particular the boots and load platforms. Measures pursuant to point 1 above must be ordered by the head of service insofar as justified by police knowledge of the situation; such orders must be limited to a given place and time.

GERMANY

Official explanation for § 29 of the Law on Public Order and Safety in Mecklenburg-Vorpommern (excerpt) in the version of 25.3.98:

The term "border area" refers to the area at that part of the state border that is also an external border of the Federal Republic of Germany. The term "coastal waters" refers to the territory of Mecklenburg-Vorpommern in accordance with the scope of the law.

Official explanation for § 27a of the Law on Public Safety and Order Mecklenburg-Vorpommern (excerpt) in the version of 24.10.01:

Extension of the scope to cover "internal waters" pursuant to Article 8 of the United Nations Convention on the Law of the Sea of 10 December 1982 is necessary in order to allow inclusion of parts of Wismar Bay and the waters surrounding the Island of Rügen, which are not covered by the term "coastal waters".

Niedersachsenpolice:

§ 12(6) of the Law on Public Order and Safety of Niedersachsen (Nds.SOG)

For the purpose of prosecuting or preventing serious crime with an international dimension, the police may, on the basis of police intelligence, detain briefly and question any person found in a public place, request him to hand over identity papers in his possession for examination and inspect objects in his possession.

Implementing provisions of § 12(6) Nds.SOG (excerpt)

This provision allows checks to be carried out in public places for the purpose of combating crime with an international dimension. The checks may be conducted before a concrete threat and without the need for any other particular grounds (checks without concrete reason or suspicion, as they are termed). The location and the nature of the checks must afford a reasonable chance of success, based on experience or situation reports in the field of crime detection. Facts or actual grounds are not necessary. The territorial scope of such checks is not limited to particular regions (e.g. the border area or transit routes); they may be carried out throughout the land, depending on the prospect of successful crime detection.

The international character of criminal offences may be evident from the fact that:

- the offence is committed directly by crossing the border;
- the accomplices live abroad and enter the Federal Republic to commit the crime or assist in its commission from abroad;
- the accomplices live in the Federal Republic and travel abroad to commit the crime or assist in its commission from the Federal Republic;
- illegally obtained objects have been imported into the Federal Republic or taken abroad.

Consequently, serious crimes with an international dimension are, for example, illicit trafficking in motor vehicles, arms and drug trafficking, illegal import and export of nuclear materials, the smuggling of counterfeit currency, documents, medicines and works of art, trafficking in waste, facilitating trafficking and trafficking in human beings.

Saarland Police:

§ 9 and § 9a of the Saarland Police Law (SPolG)

- (1) For the purpose of preventing cross-border crime, law-enforcement officers, acting on police situation reports, may detain briefly and question any person within 30 km of Germany's external borders with France and Luxembourg and request him to hand over identity papers in his possession for examination and inspect objects in his possession.
- (2) If he/she is in a place where it can be assumed, on the basis of substantive indications, that
 - (a) persons are conspiring to commit, preparing or committing serious crimes or that
 - (b) offenders are hiding;
- (3) If he/she is in or on transport or supply premises or facilities, public transport vehicles, an official building or any other property which is especially at risk, or in the immediate vicinity thereof, and facts justify the assumption that offences are to be committed in or against that property such as to pose an immediate danger to person(s) in or on that property or to the property itself.
- (4) Where there are no grounds to believe that a threat exists or that an offence has been committed, the personal data collected as a result of these measures are not stored; Article 30 is also applicable.

GERMANY

Sachsen Police:

§ 19 (1.5) of the Police Law Sachsen (SächsPolG)

(1.5) The police may check a person's identity for the purpose of preventing cross-border crime within 30 km of the border with the Republic of Poland and the Czech Republic, and in public places, facilities or modes of transport serving international traffic or in the immediate vicinity thereof, and on federal trunk roads and other roads of particular relevance for cross-border crime.

Administrative regulation of the Ministry of Interior Sachsen:

§ 19(2) of the Police Law Sachsen

Under § 19(2) of the Police Law Sachsen, a person subjected to an identity check is not required to carry a passport or identity card. There is no legal obligation to carry such papers. Identity can be checked by other means (e.g. production of a driving licence, confirmation of personal particulars by telephone, consultation with the Federal Border Guard, inter alia). These alternatives should in any event be exhausted before a person is detained for any length of time or brought to the station.

GERMANY

Sachsen-Anhalt Police:

§ 14(3) of the Law on public Safety and Law and Order of Sachsen-Anhalt (SOG LSA)

For the purpose of preventing cross-border crime, the police may detain briefly and question any person found on federal roads, motorway service areas or a road connecting a motorway to a service area and request him to hand over identity papers in his possession for examination and inspect objects in his possession. Measures pursuant to the first sentence are permissible only if it can be assumed on the basis of information concerning the situation that serious crimes will be committed.

The location, time and scope of the measures are determined by the head of the service or a person authorised to act on his behalf, who must be a senior officer belonging to category A. The person questioned pursuant to the first sentence is obliged to give his surname, forename, date and place of birth, address and nationality.

Thüringen Police:

§ 14 (1.5) of the Police Law Thüringen (PAG)

(1.5) The police may check a person's identity:
on transit routes (Federal motorways, European roads and other roads used extensively by cross-border traffic) and in public areas serving international traffic for the purpose of preventing or stopping unauthorised crossing of state borders or unauthorised stays and to prevent cross-border crime, in so far as this is not the responsibility of the Federal Police.

ESTONIA

ESTONIA

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

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- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

An international **letter of request**, as well as the request form, is required for cross-border surveillance pursuant to **the Code of Criminal Procedure § 472 (1)** (*consolidated text of March 2010 is available in English at the web page of the Ministry of Justice at the following address www.just.ee > ENG > Looking for act or draft > English translations of Estonian legal acts can be found here: Legaltext > Estonian legislation in English > Search > Code of Criminal Procedure*).

Items of information collected by surveillance agencies when conducting surveillance activities are state secrets and the partner must meet the requirements in order to have **a right for access to state secrets** (possess a Permit to Process State Secrets). The procedure for the protection of state secrets and classified information of Foreign States is laid down in **the Protection of State Secrets and Classified Information of Foreign States Act** (*available in English at the web page of the Estonian National Security Authority at the following address www.nsa.ee/files/SSCIFSA.pdf*).

The procedure is the following:

(1) With respect to information collected by surveillance agencies during surveillance, and information concerning the methods, tactics and means used for the collection of such information, the following shall be state secrets:

- 1) information collected for the purpose of witness protection in the course of surveillance. Such information shall be classified as secret for 25 years;

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- 2) information collected by surveillance agencies by way of surveillance. Such information shall be classified as restricted for 25 years. Classification of such information shall expire where it is entered in the criminal file or is communicated to the person who was under surveillance, or to the person whose private or family life was violated by surveillance;

Pursuant to the § 8 of the Protection of State Secrets and Classified Information of Foreign States Act, the following are treated as **state secrets related to the maintenance of law and order**:

- 1) items of information collected by surveillance agencies when conducting surveillance activities and the methods, tactics and technical equipment used for collection thereof, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'top secret' or lower level for a maximum period of fifty years. Classification shall expire if such information is used in a criminal file or is communicated to the person who was the subject of the surveillance, or to the person whose private or family life was violated by the activities;
- 2) items of information concerning the persons and undercover agents recruited for secret co-operation by surveillance agencies. Such information shall be classified at the 'top secret' or lower level for a maximum period of seventy-five years. Classification shall expire if twenty years have passed since the death of the person specified in this clause but not earlier than fifty years since the classification of the information;

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- 3) items of information concerning police agents of surveillance agencies. Such information shall be classified at the 'restricted' level for a maximum period of seventy-five years. Classification shall expire upon use of such information in a criminal file. Classification of information not included in a criminal file shall expire if twenty years have passed since the death of a person specified in this clause but not earlier than fifty years since the classification of the information;
- 4) items of information concerning the structure, composition and tasks of the witness protection sub-unit of the Central Criminal Police, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'secret' or lower level for a maximum period of fifty years;
- 5) items of information concerning the assets and distribution of the budget of the witness protection sub-unit of the Central Criminal Police, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'top secret' or lower level for a maximum period of thirty years;
- 6) items of information concerning the methods and tactics of the application of witness protection, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'top secret' or lower level for a maximum period of fifty years;
- 7) items of information concerning witness protection methods and tactics, applied to a specific person, except information which, if disclosed, would not damage the safety of the protected person. Such information shall be classified at the 'top secret' or lower level for a maximum period of seventy-five years. Classification shall expire if twenty years have passed since the death of a person specified in this clause but not earlier than fifty years since the classification of the information;

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- 8) items of information concerning the national action plan for response in a state of emergency or in war-time, as described in the national crisis management plan, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'top secret' or lower level for a maximum period of fifty years. Classification shall expire upon public use of such information in an emergency situation or state of war;
- 9) items of information concerning guarded objects subject to serious risk and special requirements applicable to their safety for the purposes of the Security Authorities Act, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'confidential' or lower level for a maximum period of twenty years;
- 10) items of information concerning the national action plan of the Ministry of Defence and the Ministry of Internal Affairs for response in an emergency situation, except information which, if disclosed, would not damage the security of the Republic of Estonia. Such information shall be classified at the 'confidential' or lower level for a maximum period of twenty years. Classification shall expire upon public use of such information in an emergency situation.

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Under the **Police and Border Guard Act** (*consolidated text of 1 January 2012 is available in English at the web page of the Ministry of Justice at the following address www.just.ee > ENG > Looking for act or draft > English translations of Estonian legal acts can be found here: Legaltext > Estonian legislation in English > Search > Police and Border Guard Act*):

§ 7⁴². Cross-border pursuit

- (1) A police officer in pursuit, on the territory of his or her country, of a person apprehended upon commission of a criminal offence specified in the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.07.2002, p 1–20) or of an accessory to the criminal offence shall be permitted to proceed with the pursuit on the territory of another Member State of the European Union without a previously requested authorisation if:
 - 1) due to the urgency of the matter it was not possible to notify competent authorities thereof prior to the entry on the territory of the other Member State; or
 - 2) the competent authorities of the other Member State failed to arrive in time at the scene of the event to take over the pursuit.
 - (2) Subsection (1) of this section shall also be applied in case the person being pursued has escaped from a penal institution while held in custody or serving an imprisonment.
 - (3) Cross-border pursuit may take place only across land frontiers.
 - (4) The foreign country where the cross-border pursuit shall be conducted shall be the country of location.
- [RT I 2009, 62, 405 – entry into force 01.01.2010]

§ 7⁴³. Procedure for notifying of cross-border pursuit

- (1) A police officer shall contact immediately but not later than upon crossing the state border the competent authority of the state on whose territory the cross-border pursuit shall be conducted.
- (2) In notifying of the crossing of the state border, the pursuing police officer shall be required to notify the country of location of the following circumstances:
 - 1) the time and the place of the presumable crossing of the state border;
 - 2) the type and make of the service weapon of the police officer;
 - 3) the means of communication.
- (3) In notifying of a cross-border pursuit, the competent authority in Estonia is the Police and Border Guard Board.
- (4) The procedure for documenting operations of a police officer of a foreign state related to cross-border pursuit on the territory of Estonia shall be established by the Minister of the Interior by a regulation.

[RT I 2009, 62, 405 – entry into force 01.01.2010]

§ 7⁴⁴. Conduct of cross-border pursuit

- (1) A person being pursued shall be detained by the police officers of the country of location. In case the competent authorities of the country of location do not demand termination of the pursuit but fail to take over the pursuit quickly enough, the pursuing police officer shall detain the person and hand him or her over to a police officer of the country of location for the establishment of identity or for arrest.
- (2) In cross-border pursuit, a police officer:
 - 1) shall follow the laws of the country of location and the instructions and orders of the competent authority;
 - 2) shall be recognisable by his or her police uniform or use a police vehicle;
 - 3) shall present his or her identification in proof of the performance of functions;
 - 4) may carry a service weapon and use it only for self-protection;
 - 5) may, for ensuring safety, examine the detained person and his or her belongings and take away the items carried by the person;

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- 6) may use handcuffs on the detained person in taking him or her to the police authority of the country of location;
- 7) may not enter private premises or another place not intended for public use;
- 8) shall appear in the police authority of the country of location after the termination of the pursuit and notify of the operations performed;

[RT I, 29.12.2011, 1 – entry into force 01.01.2012]

- 9) shall remain at the disposal of the competent authority of the country of location until the circumstances related to the pursuit are sufficiently clear;
 - 10) shall assist, at the request of the competent authority of the country of location, with the conduct of the criminal proceedings after the pursuit, including the court proceedings.
- (3) Cross-border pursuit shall be terminated
- 1) when the objective has been achieved;
 - 2) when one hour has passed since the crossing of the state border of the country of location;
 - 3) on the demand of the country of location.
- (4) If the person detained is not a citizen of the country of location, he or she shall be released after the passing of six hours from his her detention at the latest if the competent authorities of the country of location have not received a request for the arrest of the person for the purposes of extradition or handover of the person.
- The period from 12 a.m. to 9 a.m. shall not be included in the period of detention.
- [RT I 2009, 62, 405 – entry into force 01.01.2010]

§ 7⁴⁵. Police officer of foreign country conducting cross-border pursuit

In case of a criminal offence committed against or by a police officer of a foreign country conducting a cross-border pursuit, he or she shall be deemed equal to a police officer of Estonia.

[RT I 2009, 62, 405 – entry into force 01.01.2010]

The form of the report of the results of cross-border pursuit pursuant to the § 7⁴³ (4) of the **Police and Border Guard Act** and under the regulation No. 26 of 28 March 2008 issued by the Minister of the Interior is the following.

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Under the § 1 (4) of the **Government Regulation** No 216 of 21 December 2009 which defines the emergency and road service vehicles, procedure for their identification and the applicable traffic rules, **the emergency and road service vehicle of the Member States of the EU is** considered to be **a emergency vehicle**, when performing tasks within the territory of the Republic of Estonia on the basis of an international agreement and has notified the competent authority of the Republic of Estonia.

Pursuant to this Regulation, if the blue revolving or flashing lamps of an emergency vehicle are switched on, whether with or without a siren, the driver of the vehicle may ignore the Traffic Code. Except, the driving shall not be entrusted to a person who is in a state specified in this Code and the driving of a power-driven vehicle or tram shall not be entrusted to a person who does not hold a corresponding driving licence. The driver of an emergency vehicle has to comply with the traffic control requirements and shall ensure the road traffic safety when not complying with the Traffic Code.

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GENERAL

VII. Arms

VII.1 definition of service weapon

Under the Arms Act § 3 (1) 2), service weapons are weapons which are prescribed by law for government agencies exercising public authority, local government bodies and agencies and for courts in order to ensure the performance of their judicial tasks; and for public service institutions of higher education for study purposes and the performance of their tasks.

ESTONIA

The police officers may use the following weapons for the performance of their tasks pursuant to **the Police and Border Guard Act**:

§ 28. Service Weapons

- 1) firearm
- 2) gas weapon
- 3) pneumatic weapon
- 4) cut-and-thrust weapon
- 5) electric shock weapon.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Regulation No. 6 of 19 January 2009 of the Minister of the Interior on the subtypes of service weapons carried by armed air marshals and officials of competent authorities of the Member States and the procedure for handling service weapons and ammunition carried by officials of competent authorities of the Member States provides in **§ 2** the classification of service weapons which the official may use:

An official is permitted to carry the following subtypes of service weapons:

- firearm – rifle, pistol, revolver;
- gas weapon;
- cut-and-thrust weapon – baton ; telescopic truncheon;
- pneumatic weapon;

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried and used

Under **the Police and Border Guard Act**, among physical force and special equipment also use of weapons is allowed as a form of direct compulsion.

According to § 30 (3) the use of weapon without previously issuing a **binding administrative act** is allowed only in case when the issuance of the act is not possible due to an urgent need to avert direct serious danger or an urgent need to combat a breach of public order. The police officer has to provide a **warning** before the use of direct compulsion. According to § 31 (4) the use of weapon without providing prior warning is allowed only in case of urgency to avert serious danger or urgency to combat a breach of public order. And, it is mandatory to give warning before using a firearm against a crowd.

Under § 32³, the use of firearm is provided for:

- (1) Police may use a firearm to avert serious danger, if this is not possible by some other means of direct compulsion or the use of other means of direct compulsion is not possible at the right time and taking into consideration that with the use of a firearm everything is done to guarantee that another important benefit is not jeopardised.
- (2) A police officer may use a firearm against a person only to render them incapable of assault, resistance or escape if it cannot be achieved by other means of direct compulsion and if it is also necessary:
 - a) to avert direct danger to life or physical immunity;
 - b) to prevent or combat the commission of an imminent or an already ongoing violent crime of the first degree, or criminal offence punishable by life imprisonment or
 - c) to detain a suspect, the accused or a convicted offender or to prevent the escaping of a person who may be lawfully deprived of liberty or who has lawfully been deprived of liberty for committing a violent crime of the first degree or for committing a criminal offence punishable by life imprisonment.

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(3) A police officer may use a firearm against an animal only for rendering the animal incapable of attacking, if this purpose is not achievable by some other means of direct compulsion.

Under **the Animal Protection Act** police may use a firearm for killing of an animal who is in a helpless state as a result of an accident or emergency:

§16. Killing of animal in helpless state

An animal who is in a helpless state as a result of an accident or emergency may be killed, if survival would cause long-time suffering to the animal, or if the animal cannot be granted the mode of living appropriate for its species or if the re-introduction of the animal to its natural habitat proves to be impossible.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Regulation No. 6 of 19 January 2009 issued by **the Minister of the Interior** on the subtypes of service weapons carried by armed air marshals and officials of competent authorities of the Member States and the procedure for handling service weapons and ammunition carried by officials of competent authorities of the Member States regulates the carrying of a service weapon:

§ 4 of the regulation issued by the Minister of the Interior (19.01.2009 No 6, State Gazette 27.01.2009, 10, 120) regulates the carrying of a service weapon:

§ 4. Carrying a service weapon

(1) An official in uniform shall carry the service weapon in a holster attached to the belt. An official in private clothes shall carry the service weapon concealed.

ESTONIA

- (2) It is forbidden for an official carrying a service weapon to:
 - 1) hand the service weapon over to an unauthorised person;
 - 2) carry the service weapon while under the influence of alcohol, narcotic or psychotropic substances;
 - 3) carry the service weapon at a rally, demonstration, festive occasion or other public event except in connection with the performance of official duties.

§ 5. Storing a service weapon and its ammunition

- (1) The person responsible for organising a joint operation can designate a structural unit from among the police or border surveillance authorities that will store an official's service weapon and its ammunition during the time the official is not immediately involved in the joint operation.
- (2) A legal instrument regarding the depositing of a service weapon and its ammunition and the return thereof (henceforth: legal instrument) is prepared when a service weapon and its ammunition are deposited and returned. The legal instrument is filed with the police authority or border surveillance structural unit storing the weapon (Annex 1).
- (3) An official's service weapon and its ammunition are stored and returned on production of an identity document.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Under **the Penal Code** (*consolidated text of 14 April 2012 is available in English at the web page of the Ministry of Justice at the following address www.just.ee > ENG > Looking for act or draft > English translations of Estonian legal acts can be found here: Legaltex > Estonian legislation in English > Search > Penal Code*):

§ 28. Self-defence

- (1) An act is not unlawful if the person is attempting to prevent a direct or immediate unlawful attack on his or her legal rights or on those of another person and in so doing violates the legal rights of the attacker, provided that the limits of self-defence are not exceeded.
- (2) A person is deemed to have exceeded the limits of self-defence if the person with deliberate or direct intent defends himself by means which are manifestly disproportionate to the danger arising from the attack or if the person with deliberate or direct intent causes manifestly excessive harm to the attacker.
- (3) An opportunity to avoid an attack or to request assistance from another person shall not preclude the right to self-defence.

VIII.2 « home »

The Constitution § 33 provides that the home is inviolable. No one's dwelling, immovable or personal property under his or her control, or place of employment shall be forcibly entered or searched, except in the cases and pursuant to procedures provided by law, to protect public order, health or the rights and freedoms of others, to combat a criminal offence, to apprehend a criminal offender, or to establish the facts in a criminal procedure.

Estonian legislation does not use the definition "private home". "Dwellings" or "living quarters" are defined as residential buildings or apartments used for permanent residence. This definition may be extended to any other separate room that meets the requirements laid down for a dwelling. It may be a garage, cellar, caravan, etc. as well as public institutions, offices, etc.

ESTONIA

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

Pursuant to the provision of **the Police and Border Guard Act**, the competent authority of other country can be involved upon implementation of supervision within the territory of the Republic of Estonia on the basis of **the international agreement or the EU legal act**. Minister of Interior shall determine country's competent authority in police activities except where international agreement or the EU legal act shall provide otherwise.

Extract from **the Police and Border Guard Act** (*consolidated text of 1 January 2012 is available in English at the web page of the Ministry of Justice at the following address www.just.ee > ENG > Looking for act or draft > English translations of Estonian legal acts can be found here: Legaltex > Estonian legislation in English > Search > Police and Border Guard Act*):

§ 7⁸. International cooperation

- (1) Under an international agreement or legislation of the European Union, a competent authority of another state may be involved in performance of supervision on the territory of the Republic of Estonia. Participation of an official of a competent authority of another state in the activity of the police shall be decided by the Minister of the Interior, unless otherwise provided for by an international agreement or legislation of the European Union.
- (2) An official of a competent authority of another state may apply on the territory of Estonia the measures provided for in sections 7¹⁶, 7¹⁸, 7²⁵, 7³³, 7³⁴ and 7³⁶ of this Act, unless otherwise provided by an international agreement, legislation of the European Union or law.

[RT I 2009, 62, 405 – entry into force 01.01.2010]

GREECE

GREECE

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers

DELETED

GREECE

I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

....

II. Controlled deliveries

- contact points

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GREECE

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

DELETED

III.2 designated authorities (if applicable)

DELETED

III.3 authorities to be contacted in border regions when crossing the border

DELETED

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

....

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

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IV.2 procedure

The Hellenic authority responsible for receiving and sending a request to carry out joint operations is the 1st Section (EU, International Relations and Missions) of the International Police Cooperation Division/Hellenic Police Headquarters.

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

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V.2 procedure [if different from IV]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

According to Articles 1 and 2 of Law 3169/2003:

[Individual service weapon is the weapon the police officer is issued with by his/her agency to have in his/her possession while on duty. Individual private weapon is the weapon whose ownership belongs to the police officer. The individual private weapon the police officer carries while on duty is considered as a service weapon.]

GREECE

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GREECE

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

According to Article 2 of Law 3169/2003:

1. *The police officer is permitted to have in his/her possession and carry the weapon he/she has been trained to use, provided he/she is deemed physically and mentally fit. The police officer carries the weapon in compliance with the national legislation (Presidential Decree 141/91). The police officer shall always carry his/her individual weapon while on duty and he/she is permitted to carry it while off duty. He/she shall not carry a weapon in exceptional cases, according to the national legislation (Article 9 of Law 2168/1993), if forbidden by the elections legislation and following an order. This order is given if it is deemed that, in this particular case, to carry weapons is not necessary or endangers the mission or the safety of the officer or citizens or the safe custody of weapons.*
2. *The police officer, while off duty or when he/she is not permitted to carry a weapon while on duty, may hand over his/her individual service weapon to his/her agency for safe custody.*
3. *The officer is forbidden to carry a weapon if he/she is on long-term sick leave or does office work or has been made permanently redundant for disciplinary reasons or has been placed under temporary suspension or permanent suspension from duty or has been deemed unfit to carry a weapon.*

GREECE

4. *The police officer should hand over his/her individual service weapon to his/her agency:*
- (a) *when he/she is forbidden to carry a weapon, unless, for special reasons related to his/her safety, the Chief of the Hellenic Police allows him/her to carry a weapon;*
 - (b) *when he/she has been brought to justice for any offence provided for by this Law (3169/03) or Law 2168/1993 or when he/she has been sentenced, even with a final decision, for breaking the aforementioned laws. In the latter case, the officer shall not carry a weapon for a period of two (2) years from the time he/she hands over his/her weapon.*

If, before the completion of this two-year period, the officer is discharged or acquitted by a final decision, his/her weapon is returned to him/her.

- (c) *when he/she is ordered to do so by his/her commander or the latter's superiors, because there are grave indications of misuse or negligent storage of his/her weapon, in particular due to health reasons or infringement of safety regulations and measures. If the misuse of the weapon is due to psychological reasons, the opinion of the agency's psychologist is required, if available. The officer may appeal against the aforementioned order before the superior of the person who issued the order within ten (10) days. The deadline and the appeal against the order do not suspend the order. The order shall cease to be effective at the end of a three-month period beginning on the date of its issuance. The Chief of the Hellenic Police may extend the order by three (3) more months. If the indications of misuse are due to psychological reasons, the Chief may refer the police officer before the Committee provided for in Article 4 of Law 3169/03 (Health Committee).*
- (d) *When his/her ability in weapons handling has not been established during the regular training period.*
- (e) *When he/she is characterized as unfit to bear arms, in accordance with the provisions of Article 4/paragraphs 2 and 5 (Evaluation by the Health Committee).*
- (f) *When his/her service capacity comes to an end.*

GREECE

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

According to Article 3 of Law 3169/03:

1. *The police officer may, while on duty, deploy the firearm, where there is a risk of an armed attack against him/her or other people.*
2. *The police officer may use a firearm, if this is necessary for the performance of his/her duty, and if the following conditions are met:*
 - (a) *All means less severe than gunfire are exhausted, unless these means are not available or operational in the event in question. "Less severe means" are usually advice, commands, the use of barriers, physical force, a baton, chemicals approved for such use or other special means, a warning of the officer's intent to use a firearm, and a threat of use of a firearm.*
 - (b) *The police officer has stated his/her authority and has given a clear and understandable warning of the imminent use of a firearm, giving sufficient time for a response, unless to do so would be futile under the specific circumstances or would heighten the risk of death or bodily harm.*
 - (c) *The use of a firearm does not constitute excessive force when compared to the type of harm threatened and the seriousness of the threat.*
3. *When the conditions of the above paragraph are met, a less severe use of a firearm is required, unless to do so would be futile under the specific circumstances or would heighten the risk of death or bodily harm. A "less severe use of a firearm" is its use to such an extent as to cause the least possible, and only necessary damage. (Depending on the target, gunshots are classified as follows: (a) gunshots to intimidate, when the purpose is not to hit a target, (b) gunshots at objects, when objects are targeted, (c) gunshots to immobilise, when non-vital areas of the human body, especially the lower limbs, are targeted, and (d) gunshot to neutralise the threat, when a person is targeted and death can occur.*

GREECE

4. *Gunshots to intimidate and gunshots at objects are permitted, especially in the case of danger from an animal or as a warning of the officer's intent to shoot a person, provided all necessary measures have been taken so that no person is injured by bullets missing the target or by ricocheted bullets. Gunshots at vehicles which may result in injury to passengers are permitted only under the conditions of the next paragraph.*
5. *Gunshots to immobilise are permitted, if they are necessary in order to:*
 - (a) *repel an armed attack, if the attack has already started or is about to start and any delay to respond makes defence ineffective;*
 - (b) *prevent a felony committed with the use or under the threat of physical violence from being committed or from continuing to be committed;*
 - (c) *arrest a person who has been convicted or is awaiting trial or is pursued and caught in the act of committing a felony or a misdemeanour, if he/she resists arrest by the police officer and there is immediate danger of an arm being used;*
 - (d) *prevent the illegal entry to or exit from the country of persons who practise trafficking in human beings or objects and carry weapons such as those referred to in Law 2168/1993 (a weapon is any machine that, with the use of a propellant force produced in any way, launches a bullet or chemical substances or rays or flames or gases and can cause injury or damage to objects or cause a fire, in particular any firearm, hand grenade or mine of any type, as well as any device that can produce the aforementioned effects in any way).*
 - (e) *protect public utilities or areas where objects that are dangerous to public health or public order or crime evidence are stored, if their storage is the responsibility of the police officer and there is imminent risk of a violent entry, attack or removal of the objects guarded by an armed person;*

GREECE

- (f) prevent the escape of a prisoner or the attempt to free a prisoner through the use of an armed attack;*
 - (g) protect a police officer from being disarmed while on duty.*
- 6. Gunshots to neutralise are permitted, if they are necessary in order to:*
 - (a) repel an attack that may result in death or grievous bodily injury,*
 - (b) rescue hostages who run the risk of death or grievous bodily injury.*
- 7. Gunshots to immobilise or neutralise are forbidden:*
 - (a) if there is imminent danger of killing people due to bullets missing their target or ricocheted bullets,*
 - (b) if they are used against an armed crowd, where there is imminent danger of hurting unarmed people,*
 - (c) if they are used against a minor, unless they are the only means to avoid death. A minor is any person under 18 years of age,*
 - (d) if they are used against a person who runs away when asked to undergo a legitimate check.*
- 8. When police officers act within a team, the use of firearms requires an order by the head of the team, unless the police officer is under attack which may result in grievous bodily injury or death.*
- 9. An order for the use of a firearm which is given by a superior and is unconstitutional or obviously unlawful does not dispel the illegitimate character of the officer's action.*
- 10. Any case of firearms use by a police officer should immediately be referred to the competent Police and Judicial authority.*

GREECE

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

According to Articles 22, 23 and 24 of the Penal Code,

1. *An act committed in self-defence is not unjustified.*
2. *Self-defence is a necessary assault by an individual as a defence against an unjustified and immediate attack directed against him/her or another.*
3. *The necessity of self-defence shall be determined by the degree of danger posed by the attack, the extent of the threatened harm, the manner and intensity of the attack and other circumstances.*
4. *Anyone who intentionally exceeds the limits of self-defence shall be punished by a lesser punishment; if the excess was negligent, the punishment shall be as provided for in case of negligence. If the excess is the result of fear or the confusion of the attack, it shall not be imputed to the perpetrator and he/she shall not be punished.*
5. *Anyone who intentionally provokes an attack by another person for the purpose of committing an offence against that person by reason of self-defence shall not avoid punishment under the law.*

VIII.2 « home »

According to Article 51 of the Civil Code,

[A person has his/her home at the place of his/her main and permanent residence. No person can have more than one home at the same time. Where there is reference to the exercise of a profession, the private home of the person is deemed to be the place where he/she exercises his/her profession. This place constitutes the centre of his/her biotic, professional and social activities.]

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

.....

SPAIN

SPAIN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Spanish L.O. 10/1995 23 November, Penal Act (amended by L.O: 4/2005 10 October)

Art. 20. - There shall be exemption from criminal liability in the following situations:
...//...

20.4. Where the person acts in legitimate defence of other persons, his/her own rights or a third person's rights, if all the following requirements are met:

SPAIN

1. Unlawful aggression. In the case of defence of one's own goods, any criminal action against them or any action that could lead to imminent loss or damage would be considered as unlawful aggression.
2. Rational need to use certain means to prevent or repel the aggression
3. Lack of sufficient provocation by the defending party

Spanish L.O. 2/86 13 March. Law Enforcement Agencies

In the preamble, there is a reference to the UN General Assembly Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Council of Europe Declaration on the Police, whose principles are taken into account to establish the general guidelines for the use of firearms and force by Law Enforcement Officers.

In Chapter II, Art. 5, Basic Principles of intervention, it is stated that the use of weapons is only permissible in situations where there is a rationally serious risk to one's life or physical integrity or to that of third persons. The use of weapons is also permissible in circumstances that may pose a serious risk to the security of citizens, and in accordance with the law.

Spanish Instruction of the Secretariat of State for Security on 14.04.1983 establishing guidelines for the use of firearms:

Requirements for the use of firearms:

1. Aggression that entails danger to life and/or physical integrity.
2. Use of firearms needed to avoid the aggression and no other suitable means available (proportionality between the aggression and the measure carried out).
3. If possible, prior warnings to be made before using the firearm.
4. Shots in the air (firstly) or to the floor (secondly) to be made.

SPAIN

5. Only when the abovementioned measures have failed or if, owing to the violence, imminence and risk of the attack, it was not possible to carry them out: shots to non-vital parts of the body, on the principle of “least possible damage”.
6. If there is a reasonable doubt concerning the effectiveness of this measure, it is better to refrain from using the weapon.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

"An act committed to defend a person, one's own rights or those of another, provided the following conditions are all met:

- **Defence of a person:** 1. Unlawful assault, 2. Reasonable need for the means deployed to prevent or repel the aggressor, 3. Lack of sufficient provocation by the defending party.
- **Defence of property:** In the case of defence of property, unlawful use of force is considered an attack on property which constitutes an indictable or summary offence putting the property under serious threat of damage or causing its imminent loss.
- **Defence of one's home (residence):** In the case of defence of one's home or its outbuildings, unlawful use of force is taken to mean unlawful entry into the residence or outbuildings (Article 20(4) Criminal Code).

VIII.2 « home »

Any closed space, not accessible to the public, which is used by the inhabitant to exercise a human activity.

SPAIN

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations.

The competent authorities of each Member State will determine the measures and coordination procedures.

FRANCE

FRANCE

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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VIII. Definitions

VIII.1 self-defence

All the following conditions have to be satisfied for a person to be deemed to have acted in self-defence and therefore not to be held criminally liable (Article 122(5) of the new Penal Code):

In the case of an attack on persons:

- the person in question or another person is the victim of an unjustified attack
- the means of defence deployed must be commensurate with the seriousness of the attack
- the defensive act must occur at the same time as the attack
- the act of defence must be necessary to defend the person subjected to the unjustified attack.

In the case of an attack on property:

- the act of defence must be strictly necessary to interrupt the commission of a crime or offence against property
- the means used must be commensurate with the seriousness of the offence
- the act of defence must not be one of voluntary manslaughter.

VIII.2 « home »

Any place where a natural or legal person resides permanently or temporarily, including the annexes thereto.

FRANCE

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SPECIFIC NATIONAL MEASURES

Article 78(2), eighth paragraph, of the Code of Criminal Procedure

In an area between the land border of France and the States party to the Convention signed in Schengen on 19 June 1990 and a line 20 km to this side of that border, and in the public areas of ports, airports and rail or coach stations open to international traffic and officially designated as such, the identity of any individual may be checked, in accordance with the provisions of paragraph 1, for the purpose of ensuring the individual in question meets the necessary requirements concerning the holding, carrying and production of papers and documents provided for by law. Should the identity check reveal an offence beyond that of failing to comply with the abovementioned requirement, that shall not constitute grounds for nullifying any other proceedings arising. For the application of this subparagraph, compliance with the obligation to hold, carry and produce the papers and documents provided for by law may be monitored only for a period not exceeding six consecutive hours in a single location and cannot take the form of systematic checks on the persons present in or moving within the areas and locations referred to in the same paragraph.

[paragraph 1: Senior judicial police officers and, under their command and jurisdiction, judicial police officers and deputy judicial police officers referred to in Articles 20 and 21(1) may call on any individual to prove his/her identity by whatsoever means]

In application of Article 78(2) of the Code of Criminal Procedure, published in the JORF of 10.5.2006, the order of 26 April 2006 designates the rail stations open to international traffic.

FRANCE

Article 67c of the Customs Code

As of the date of entry into force of the Convention signed in Schengen on 19 June 1990, authorised customs officers may, in an area between the land border of France and the States party to the abovementioned Convention and a line of 20 km to this side of that border, and in the public areas of ports, airports and rail or coach stations open to international traffic and officially designated as such, check compliance with the requirements concerning the holding, carrying and production of papers and documents provided for in Article 8 of Order No 45-2658 of 2 November 1945 on the conditions governing the entry and residence of aliens in France. (...)

Articles L 611-8 and L 611-9 of the Code on the entry and stay of aliens and the right to asylum (CESEDA)

In an area between the land border of France and the States party to the Convention signed in Schengen on 19 June 1990 and a line 20 km to this side of that border, senior judicial police officers and judicial police officers and deputy judicial police officers under their command and jurisdiction as referred to in Articles 20 and 21(1) of the Code of Criminal Procedure may, with the consent of the driver or, where that is not given, on instructions from the public prosecutor, search vehicles travelling on the public highway, with the exception of private vehicles, for the purpose of investigating and detecting offences connected with entry into and residence in France (...)

France has adopted a number of compensatory measures to ensure that the free movement of persons enshrined in the Schengen Borders Code is not deflected from its objective and does not foster the development of illegal immigration networks or illegal trafficking.

FRANCE

As a result, the new provisions contained in Article 78(2), eighth paragraph, of the Code of Criminal Procedure and Article 67c of the Customs Code allow judicial police officers to carry out identity checks, and entitle customs officers to check papers and documents produced by aliens.

*NB: France's recourse to the safeguard clause provided for in **Articles 23 to 31 of the Schengen Borders Code** has no bearing on these provisions, which have been applicable on French territory since 26.3.95.*

Article 78(2), eighth paragraph, of the Code of Criminal Procedure

- Its provisions authorise, by way of derogation from usual procedures, the abovementioned officers to carry out identity checks on individuals with following conditions:
 - = in an area extending 20 km inside the land border between France and the Schengen States,
 - = within a period of time of maximum 6 hours, in the same place, no systematic control,
 - = in public areas at ports, airports and rail or coach stations open to international traffic and designated as such (and, in airports not permanently open to international traffic, only during opening hours).
- The following officers are authorised to carry out checks:
 - = senior judicial police officers;
 - = under the authority of senior judicial police officers, judicial police officers and deputy judicial police officers in accordance with Articles 20 and 21(1) of the Code of Criminal Procedure (this does not include local police officers). The fact that the check reveals another offence is not sufficient grounds for nullification; secondary proceedings would then be brought.

FRANCE

Article 67c of the Customs Code

- This article applies to the same geographical areas as those laid down in Article 78(2), eighth paragraph, of the Code of Criminal Procedure.
- This article does not authorise customs officers to carry out identity checks, but rather to "check compliance with the requirements concerning the holding, carrying and production of papers and documents provided for *in Articles L 611-8 and L 611-9 of the Code on the entry and stay of aliens and the right to asylum (CESEDA)* on the conditions governing the entry and residence of aliens in France".
- However, such checks may be carried out only where there is sufficient objective reason, judging from the external circumstances surrounding that person, to believe that the person concerned is an alien. Therefore, before any checks on aliens' entry and residence documents can be carried out, it is essential that there be some external sign that they are foreign nationals, such as:
 - = stickers or posters in a foreign language,
 - = the fact that they are in a car with a foreign registration number,
 - = entry to and exit from an embassy or foreign consulate, etc.
- Whatever the case, checks have to be based on objective criteria and should not be in any way discriminatory, which thus rules out individuals' physical appearance or characteristics.
- Only some categories of officers may carry out such checks (heads of units and officers appointed to the rank of "contrôleur" or of a higher rank).

FRANCE

Articles L 611-8 and L 611-9 of the Code on the entry and stay of aliens and the right to asylum (CESEDA) contains various provisions relating to immigration

France has also adopted, in accordance with the above article, a compensatory measure authorising "*perfunctory searches*" of vehicles, subject to the following limits and conditions (*Since the law does not provide any definition of perfunctory search, the Constitutional Court has ruled that, unlike a search, a "perfunctory search" is for the sole purpose of ascertaining whether anybody is hidden in the vehicle (Decision No 97-389 DC of 22.4.97):*

- Such perfunctory searches may be carried out only in an area between the land border of France and the Schengen States and a line 20 km to this side of that border; the ports and airports mentioned above are not covered by this provision.
- The officials responsible for carrying out these perfunctory searches are senior judicial police officers assisted by judicial police officers and deputy judicial police officers such as referred to in Articles 20 and 21(1) of the Code of Criminal Procedure.
- Such perfunctory searches may be carried out only with the consent of the driver or, where this is not given, on instructions from the public prosecutor. Whilst awaiting such instructions, the vehicle may be stopped for up to 4 hours.
- Such searches may be carried out only on vehicles travelling on the public highway, with the exception of passenger vehicles.
- The driver should always be present during such searches, which must be kept as short as possible.
- The purpose behind such searches is to investigate and detect offences relating to entry and residence of aliens in France.
- A report must be drawn up after each search giving the relevant date and the times at which the search started and finished. One copy must be given to the driver and another is sent to the public prosecutor.

IRELAND

IRELAND

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

Ireland does not participate in Article 40 of the Schengen Convention

- II. Controlled deliveries

Not applicable

- III. Hot pursuit (pursuant to Article 41 Schengen Convention)

Ireland does not participate in Article 41 of the Schengen Convention

IRELAND

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

This provision of the Treaty is not mandatory. A Member State can decide that it does not wish to participate in or host joint operations.

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

This provision of the Treaty is not mandatory. A Member State can decide that it does not wish to participate in or host joint patrols.

OTHER

VI. Special intervention units

Not applicable. The competent authority for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA) will be stated in the national legislation currently being drafted.

GENERAL

VII. Arms

Not applicable

IRELAND

VIII. Definitions

Not applicable

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

Not applicable

ITALY

ITALY

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

DELETED

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Article 11(3) of Legislative Decree No 286 of 25.7.98

In accordance with the guidelines adopted by the Ministry of the Interior, provincial prefects at land borders and prefects in the capitals of the coastal regions must take the requisite measures to coordinate border controls and land and sea surveillance. They must do so in agreement with the prefects of the other provinces concerned, after consulting the police commissioners and the heads of the border police, the maritime and military authorities and the heads of the police forces above the provincial level that might be concerned and must monitor the implementation of the guidelines in this area.

ITALY

Article 12(7) of Legislative Decree No 286 of 25.7.98

During police operations to tackle illegal immigration, provided for in the guidelines referred to under Article 11(3), the public security officials and officers operating in the bordering provinces and in the territorial waters may carry out controls and inspections on means of transport and transported goods, despite their being subject to special customs arrangements, where there are serious grounds, including specific circumstances relating to time and place, for believing that they may be being used to commit one of the offences provided for in this article. A report must be drafted, using the appropriate forms, after the controls and inspections have been carried out. That report must be sent, within 48 hours, to the public prosecutor. The public prosecutor must then examine the facts and give his/her authorisation within the 48 hours which follow. The Criminal Investigation Department officials and officer may then carry out a search, in accordance with the provisions laid down in Article 352(3) and (4) of the Code of Criminal Procedure.

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VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defense is defined in Article 52 of the Penal Code.

A person is deemed to have acted in self-defence and is therefore not liable to criminal prosecution under the following conditions:

- the defence is in response to an unwarranted attack on the rights of the defending party or a third party;
- the actual need for defence is real and present;
- the defence is in proportion to the attack.

ITALY

DELETED

ITALY

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CYPRUS

CYPRUS

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
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SCHENGEN

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CYPRUS

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

As the Republic of Cyprus has no land borders, hot pursuit under Article 41 of the Schengen Convention is not applicable.

III.1 list of authorised officers

.....

III.2 designated authorities (if applicable)

.....

III.3 authorities to be contacted in border regions when crossing the border

.....

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

.....

CYPRUS

DELETED

CYPRUS

DELETED

- VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

The Firearms and Non Firearms Law of 2004 (L.113(I)/2004 as amended) (Section 4, paragraph 3 (a)) empowers the Chief of Police to grant, for any period of time and under any conditions he considers appropriate, a special permit for the carrying of firearms or ammunition of Category B2 or B3 (i.e. semi-automatic or repeating short firearms and single-shot short firearms with rim fire percussion whose overall length is less than 28 cm), to members of foreign missions, foreign states or international organisations when these are visiting, transiting or residing in the Republic or in exceptional circumstances to very important persons (VIPs) visiting the Republic. The quantity of ammunition allowed to be carried is stated in the temporary permit issued by the Chief of Police.

In addition, Section 4, paragraph 3 (c) of L.113(I)/2004 empowers the Chief of the Police to grant, for any period of time and under any conditions he considers appropriate and subject to the approval of the Council of Ministers, a special permit for the use of any weapon for a particular purpose.

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

Please refer to point VII.2 above.

CYPRUS

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CYPRUS

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VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

The right to life and corporal integrity is regulated by Article 7 paragraph 1 of the Constitution of the Republic of Cyprus. Paragraph 3 of the same Article provides that deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of person or property against the infliction of a proportionate and otherwise unavoidable and irreparable evil;
- (b) in order to effect an arrest or to prevent the escape of a person lawfully detained;
- (c) in action taken for the purpose of quelling a riot or insurrection when and as provided by Law.

CYPRUS

Also relevant is Section 17 of the Criminal Code (Chap.154), which provides for the circumstances under which *an act or omission which would otherwise be an offence may be excused (act of necessity) if the person accused can show that it was done or omitted to be done only in order to avoid consequences which could not otherwise be avoided, and which if they had followed, would have inflicted upon him or upon others whom he was bound to protect inevitable and irreparable evil, that no more was done that was reasonably necessary for that purpose, and that the evil inflicted by it was not disproportionate to the evil avoided.*

VIII.2 « home »

Article 16 of the Constitution of the Republic of Cyprus provides for the inviolability of the home, and that there shall be no entry in any home or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster.

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

Apart from cross-border operations pursuant to Schengen and Prüm provisions, joint investigations teams may be set up in the context of judicial cooperation in criminal matters and controlled delivery operations may be carried out. In particular, the relevant national legislation provides the following:

- ❑ The Joint Investigation Teams Law of 2004 (L.244(I)/2004), enacted to align national law with the Council Framework Decision of 13 June 2002 on joint investigation teams, provides for the setting up of joint investigation teams for a specific purpose and a limited period, which may be extended by mutual consent, to carry out investigations in one or more of the Member States setting up the team. Section 3 of the Law provides that this team may function for the joint investigation into crimes of unlawful trafficking in drugs and psychotropic substances, trafficking in human beings and terrorism.
- ❑ The Crime Suppression (Controlled Delivery and other special provisions) Law of 1995 (L.3(I)/1995), provides for the controlled delivery of prohibited substances and objects (such as psychotropic substances, weapons, etc.) by the Chief of Police and the Director of Customs and Excise Department and under certain circumstances authorises either or both of them to apply such a method, pursuant to prior notice to the Attorney General of the Republic who is in turn allowed to give any necessary orders/instructions.

CYPRUS

Under this Law, "controlled delivery" is defined as the technique of allowing prohibited substances or prohibited objects to pass out of, through or into the territory of one or more countries with a view to identifying persons involved in committing prescribed offences. For the purposes of this Law, the prescribed offences are defined in Section 3, paragraph 2 of the Law and are listed below:

- (a) *Offences under Article 3 paragraph 1 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, which was signed on behalf of the Republic of Cyprus on 20/12/1988 and ratified by Ratification Law 49/1990, and which constitute offences according to the Law of the Republic of Cyprus*
- (b) *Offences in connection with unlawful import, export, possession, use, trading, carrying or trafficking of firearms and explosive substances;*
- (c) *Offences in connection with import, export, possession, use, trading, carrying or trafficking of stolen articles;*
- (d) *Offences relating to import, export, possession, usage, trade or transfer of nuclear material, as these are defined in the Convention on the Physical Protection of Nuclear Material (Ratification and other Provisions) Law 1998 (L.3(III)/1998).*

LATVIA

LATVIA

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According to the Law on Police Section 12 "General Rights of Police Officers", when performing duties assigned to them under the remit of the service, police officers have the right:

- 1) to ask persons to cease violations of law and other actions that interfere with the execution of police authority, as well as to use the prescribed compulsory means of constraint against persons violating the law;
- 2) to check personal identification documents of persons suspected of having committed violations of the law, as well as other documents necessary in order to check the observance of such legal norms, where control and monitoring have been assigned to the police;
- 3) to arrest military persons who have violated the law and to hand them over to the National Armed Forces;
- 4) in accordance with procedures prescribed by law, to arrest and to hold under guard persons suspected of committing criminal offences or administrative violations;

LATVIA

- 5) to arrest persons up to the age of 16 who have without permission left their residence or an institution for children and to hold them in custody in a police institution until handing them over to the parents or their substitutes, or to institutions for children;
- 6) to arrest persons who have violated the requirements of alien and stateless persons entry, residence, exit and transit regulations until they are handed over to competent institutions;
- 7) to convey to a medical treatment institution or a dwelling persons who, as a result of the use of alcohol, narcotic, psychotropic or toxic substances, have lost the ability to move independently or are disorientated, or who may do harm to others nearby or themselves, but, if that is not possible, convey them to a police institution and hold them in custody there in specially equipped premises until sober, for no longer than 12 hours;
- 8) to convey to a medical treatment institution persons with unmistakable mental dysfunction and who through their actions create obvious danger to themselves or to persons nearby;
- 9) to convey to a medical treatment institution persons who have attempted to commit suicide, and to clarify the circumstances of the incident;
- 10) to observe public places and persons, also using technical means, for the purposes of deterring and detecting violations of public order and criminal offences, as well to find out persons and means of transport for which a search has been declared;
- 11) to temporarily restrict or suspend transport or pedestrian traffic on streets and roads, as well as the entry or exit of persons in specific places or facilities, if required in the interests of public safety, saving the lives of persons, protection of health and property, as well as for investigation purposes;

LATVIA

- 12) to gain entry at any time of day or night to a residential unit without the permission of the residents therein (if necessary, through the use of physical force) in cases where a person is to be arrested at the scene of the crime, or when the lives of other persons are endangered;
- 13) to gain entry at any time of day or night to non-residential premises and the territory of land parcels (if necessary, through the use of physical force), except such non-residential premises and territory of land parcels that have extraterritorial or other special regime status, in cases where a person is to be arrested at the scene of the crime, the lives of other persons are endangered, if justified doubts have arisen that a person who is suspected, accused or is a defendant or has been convicted of serious or particularly serious crimes evades investigation, court or the serving of a sentence, or if missing minors are there, as well as in cases of natural disasters and other emergencies when the safety of persons and society is endangered.

In each instance when police officers in cases provided for in this Section have gained entry into a residential unit against the will of the inhabitants or through the use of physical force, they must notify the prosecutor in writing without delay, not later than within 24 hours.

In any other case, entry into residential premises and other premises for the purpose of performing a search is permitted only in cases prescribed by law on the basis of a decision by a judge, or in emergency cases with the consent of the prosecutor.

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- 14) pursuant to the instructions of the Chief of the State Police or of the chief of the territorial police department during the implementation of a planned measure, to stop means of transport and inspect them (except means of transport of diplomatic and consular representatives) in order to arrest persons and means of transport for which a search has been declared or to detect drivers of means of transport who are intoxicated with alcohol, under the influence of narcotics or other intoxicating substances, as well as persons who do not have documents for the use of the specific means of transport;
- 15) to conduct an inspection of the carry-on baggage and other baggage of aeroplane passengers and, if necessary, also an examination of the passengers, with the exception of inspection and examination of the baggage and persons of diplomatic and consular representatives and members of the parliament of the Republic of Latvia;
- 16) to stop a means of transport and conduct an inspection of it if there is reason to believe that the driver of the means of transport has violated the requirements of regulations governing road traffic or if the means of transport is being used for the purpose of committing a violation of the law; to prohibit the use of a means of transport whose technical condition endangers the safety of transport movement; to suspend from driving a means of transport persons who are intoxicated with alcohol, under the influence of narcotics or other intoxicating substances, as well as persons who do not have documents for the use of the specific means of transport or a driver's licence for the relevant category of the means of transport; to convey a means of transport to a police institution for the purpose of performing a necessary examination if a search for it has been declared or there are grounds for suspecting that the registration documents, State registration number or the vehicle identification number of the means of transport have been unlawfully changed or forged, or there are no documents relating to means of transport registration or ownership rights verification and it is not otherwise possible to determine the legality of the use of the means of transport;

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- 17) to remove and convey to a police institution a wrecked means of transport abandoned at the scene of a road-traffic accident until such time as the circumstances of the matter are clarified;
- 18) to restrict or to prohibit repair and construction as well as performance of other work on streets and roads if the requirements regarding the guaranteeing of public safety and traffic safety are not being observed;
- 19) to remove objects, articles and substances, the manufacture, acquisition, storage or sale of which is prohibited by law or which are being stored without a permit, if that is required under the law, as well as to remove documents with indications of falsification;
- 20) in urgent cases, with the consent of the driver of the means of transport, to utilise means of transport belonging to institutions, private law legal persons and unions of persons (except the means of transport of foreign diplomatic, consular and other representation offices and international organisations, as well as specialised means of transport) to drive to the site of the incident or to convey persons to medical treatment institutions, if such persons require urgent medical assistance, as well as the pursuit of persons who have committed crimes, and the emergency conveyance of arrested persons to a police institution;
- 21) without payment, to utilise electronic communications facilities belonging to State and local government institutions for service requirements;
- 22) without payment, to utilise State and local government means of mass communication in order to ascertain the circumstances in which a criminal offence was committed and identify the persons who committed it, search for criminals and missing persons, as well as to carry out crime prevention measures;
- 23) in accordance with procedures prescribed by law, arrest and hold under guard persons to whom compulsory expulsion from the State is being applied or may be applied;

LATVIA

- 24) stop a recreation vessel and conduct an inspection if there is reason to believe that the driver has violated the regulations regarding water traffic safety in internal waters; perform an examination if it is determined that a search for the vessel or the motor thereof has been declared, or there are justified suspicions that the identification number of the vessel, the motor number, registration documents or the drivers licence of the person have been forged; to remove from the controls of a recreation vessel a person who is under the influence of alcohol, narcotic, psychotropic, toxic and other intoxicating substances or whose speed of reaction and attention is reduced due to medication or has such a level of illness or tiredness that it may affect the ability to work as driver and water traffic safety; remove from the controls of a recreation vessel a person who does not have documents which certify the registration of the vessel (if the relevant vessel needs to be registered), or a drivers licence for the relevant vessel (if such is necessary); prohibit the use of a recreation vessel which is not in running order, is not equipped with the necessary equipment and life-saving appliances, as well as recreation vessels that should be registered and which do not have the State registration number signs or name in the correct place; if necessary convey the recreation vessel to the nearest quayside intended for recreation vessels if it is determined that the driver of the vessel has not observed the regulations regarding water traffic safety in internal waters.

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GENERAL

VII. Arms

VII.1 definition of service weapon

According to the Law on Police - a service weapon is a firearm issued to officers for use in the line of duty.

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According to the Law On the Handling of Weapons, police officers are permitted to acquire, possess, carry and utilise the following weapons, munitions and accessories:

- 1) automatic firearms;
- 2) firearms that are camouflaged as other objects;
- 3) munitions with armour-piercing, explosive or incendiary bullets or bullets of such munitions (armour-piercing munitions – military munitions the shell of which has been enclosed in a hard case and contains an armour-piercing hard core; explosive munitions – military munitions the shell of which contains explosives triggered on impact with a target; incendiary munitions – military munitions the shell of which has been filled with chemical substances, which start burning as the result of a burst of air or as the result of impact with a target);
- 4) cartridges of guns and revolvers with expansive bullets (expansive bullet – a firearm hollow-pointed bullet or a bullet which splits or expands on entering a target);
- 5) military smooth-bore firearms;
- 6) Category B short-barrelled semi-automatic, non-automatic or single-shot hunting firearms;
- 7) silencers (mufflers of shooting noise);
- 8) munitions filled with nerve paralysing gases or the munitions of gas pistols (revolvers) that are capable of causing personal injury or the death of a person shooting from a distance of more than a metre;
- 9) gas grenades, munitions filled with substances of irritating and paralysing effect and not intended for gas pistols (revolvers), light and sound devices of psychological effect.

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According to paragraph 13 of the Law on Police ("Rights of Police Officers to Use Physical Force and Special Means"), police officers have the right to use:

- 1) physical force;
- 2) special means fighting techniques;
- 3) special means;
- 4) special means of transport;
- 5) service dogs and horses.

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

According to the Law on Police, before using a firearm a warning of intent to do so must be given. If necessary, a warning shot may also be fired.

A firearm may be used without warning if:

- an attack is sudden or weapons, military equipment, or any type of mechanical means of transport is used in the attack;
- it is necessary to free hostages;
- an escape from detention is in progress with the use of a weapon or a means of transport, or detainees are escaping from a means of transport while it is in motion.

According to the Law on Police, police officers have the right to use physical force, special fighting techniques, handcuffs, special means, special means of transport, service dogs and horses as well as to hold arrested persons in service premises and in means of transport for this purpose in order to:

- 1) repel an attack on persons, police officers and persons who are performing their duties of service in guaranteeing public safety and in the fight against crime;

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- 2) repel an attack on buildings, premises, structures and means of transport regardless of their ownership, or free facilities occupied by armed persons;
- 3) free hostages;
- 4) prevent mass disorder and group violations of public order;
- 5) arrest and convey persons violating the law to a police institution, as well as restrain detained, arrested and convicted persons during conveyance and incarceration if such persons do not submit to or resist police officers, or if there is reason to believe that such persons may escape or do harm to other persons nearby or themselves; and
- 6) stop intentionally wrongful resistance to lawful requests made by police officers or other persons performing service duties in guaranteeing public order or in the fight against crime.

Firearms may not be used at locations where, as a result of such use, other persons may be injured; also, firearms may not be used against women or minors except in cases when they are executing an armed attack, showing armed resistance, or endangering the lives of other persons or police officers as part of a group attack.

Special means (except handcuffs and means of tying) fighting techniques, special means of transport or service dogs and horses may not be used against women, persons with obvious signs of disability or pre-teens, except in cases when they are participating in mass disorder or group violations of public order, as well as in cases when the lives or health of other persons are endangered or in cases of armed resistance or armed attack.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

See point VII.3

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

According to the Criminal Law, self-defence is an act which is committed in defence of the interests of the State or the public, or the rights of oneself or another person, as well as in defence of a person against assault, or threats of assault, in such a manner that harm is caused to the assailant. Criminal liability for this act applies if the limits of necessary self-defence have been exceeded.

VIII.2 « home »

According to the Declaration of Place of Residence Law, home or place of residence is a place connected with immovable property freely selected by any person, in which the person has voluntarily settled with an intention to reside there expressed directly or implicitly, in which he or she has a lawful basis to reside and which has been recognised by him or her as a place where he or she is reachable in terms of legal relations with the State or local government.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

LITHUANIA

LITHUANIA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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GENERAL

VII. Arms

VII.1 definition of service weapon

Service weapons are issued by the authorities to armed and security forces to perform their duties.

Service weapons are divided into:

- Duty weapons - non-lethal or less-lethal weapons causing pain and temporary injuries, issued by the law enforcement authority to officers, to be used on duty as a duty tool for self defence and to tame offenders and/or place them in to custody.
- Duty firearms - lethal weapons given to the law enforcement officers to be used strictly in accordance with the law, when conducting direct service functions, duties and responsibilities.

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Arms, ammunition and equipment prohibited to be carried or used:

According to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction of 1999, anti-personnel mines are prohibited to be carried and used in Lithuania.

LITHUANIA

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)
(Law on Police Activities 17 October 2000 No. VIII-2048 as last amended
on 22 December 2011 No. XI-1900)

Types of Coercion and Conditions of the Use Thereof (Article 23 of the Law on Police Activities)

1. A police officer shall have the right to use coercion when it is necessary to prevent violations of law, to apprehend persons who have committed such violations, and in other cases when protecting and defending the lawful interests of an individual, society, or the State. Coercion which could cause bodily injuries or death may be used to the extent which is necessary for the fulfilment of the official duty, but only after all possible measures of persuasion and other measures have been used to no effect. The type of coercion and the limits of the use thereof shall be selected by the police officer, taking into account the concrete situation, the nature of the violation of the law and individual features of the offender. When using coercion, police officers must seek to avoid detrimental consequences.
2. A police officer may, in the manner and cases provided for by the law, use mental or physical coercion, firearms and explosives.
3. When used in this Law, mental coercion shall mean a warning of the intention to use physical coercion, a firearm or explosives. Demonstration of a firearm and warning shots shall be regarded as mental coercion, but such measures of mental coercion may be used only in the presence of the conditions laid down in paragraphs 2 and 4 of Article 25 of this Law (see below).

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4. When used in this Law, physical coercion shall mean:
 - 1) the use of physical force of any kind as well as methods of combat wrestling;
 - 2) the use of special equipment, i.e. of truncheons, handcuffs and restraining devices, gas, police dogs, methods of stopping transport by force, and other means of active and passive defence of the police, permitted by the law and approved by an order of the Minister of the Interior.
5. Before using physical coercion or a firearm, a police officer must warn the person of his intention, giving that person an opportunity to fulfil the requirements of the law, with the exception of cases in which delay poses a threat to the life or safety of the police officer or another person, or when such warning is impossible.
6. If a police officer is not carrying special equipment or a firearm with him, he may use any additional measures necessary to repel an attempt or to eliminate sources of danger.
7. A police officer who has used coercion without violating the requirements of this Law but who has inflicted damage on assets protected by the law shall not be held liable.
8. The prosecutor's office shall immediately be informed of the use by a police officer of coercion which has caused an individual's death or injuries.
9. Police officers must undergo special training and be periodically checked to ascertain whether they are able to act in situations involving the use of physical coercion, firearms or explosives.

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Basis for the Use of Physical Coercion (Article 24 of the Law on Police Activities)

1. A police officer shall have the right to use physical coercion:
 - 1) when defending himself or another person from an started attack or an attack posing a direct threat to life or safety;
 - 2) when apprehending a person who has committed a violation of the law and who evades arrest by active means;
 - 3) when an attempt is made to commit an offence against facilities controlled or guarded by the police, means of transportation, firearms, explosives, measures of special communication, active or passive defence, or against other police property;
 - 4) during mass riots or group actions which violate public order;
 - 5) while stopping means of transport, in the event of official exigency.
2. The use of methods of combat wrestling and special equipment against women who are visibly pregnant, against persons who are visibly disabled and against minors (if the police officer knows their age or if their appearance corresponds to their age, with the exception of cases in which they resist in a manner which is a threat to life or health, or a group of such persons attack and that attack poses a threat to life or health) shall be prohibited.

LITHUANIA

Use of Firearms (Article 25 of the Law on Police Activities)

1. When other coercive measures are ineffective, a police officer shall have the right to use a firearm as an extraordinary measure.
2. A police officer shall have the right to use a firearm against persons in the following cases:
 - 1) when defending himself or another person from an actual criminal attack or a criminal attack which poses a direct threat dangerous to life or health;
 - 2) when apprehending a person who has committed a criminal act and who evades arrest by active means, if it is impossible to apprehend him in any other way, and where that person refuses to fulfil the requirements of the law and put down a weapon or other object with which it is possible to injure an individual, if a threat is posed to the life or health of the police officer or another individual and it is impossible to disarm him in any other way;
 - 3) when repelling an attack on guarded facilities;
 - 4) when it is necessary to free hostages or to prevent an act of terror;
 - 5) in the event of escapes from a place of imprisonment or riots therein.
3. A police officer shall have the right to use a firearm against means of transport and animals.
4. The use of firearms in public gathering places shall be prohibited if it endangers innocent people; it shall be prohibited against women who are visibly pregnant, against persons who are visibly disabled, and against minors, if the police officer knows their age or their appearance corresponds to their age, except where such persons resist in a manner dangerous to human life or health or a group of such persons attacks and that attack poses a threat to life or health.

LITHUANIA

Guarantees of Personal Security of the Armed Police Officer (Article 27 of the Law on Police Activities)

1. A police officer shall have the right to take a firearm from its holster and prepare it for use where he thinks that he might have to use it in a concrete situation.
2. A police officer shall, without posing a threat to assets protected by the law, have the right to fire a firearm when it is necessary to give alarm signals, to call help or give warning of the possible use of a firearm.
3. A police officer shall have the right to use physical or mental coercion when a person who is being arrested or who is arrested tries to use force or approaches a police officer and does not obey that officer's order to keep his distance as directed or attempts to seize a firearm from a police officer. If the coercive measures used appear to be ineffective, their use is not possible because of the violence of the other person's actions, or delaying poses a threat to the police officer's life, the police officer may use a firearm.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defence is defined by Article 28 of the Penal Code

1. A person has the right to defend himself. He may exercise that right regardless of whether he has the possibility of avoiding the attempt or calling for assistance from another person or authority.

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2. A person who acts in a way which would otherwise formally constitute a criminal act or a misdemeanour as provided in the criminal statute shall not be liable under criminal statutes if his act is committed in self defence or defence of another, in defence of property, the inviolability of the person's dwelling, or other rights, or in defence of the interests of society or the state, from a direct and imminent threat, provided that by so acting the person does not go beyond the limits of self defence.
3. The limits of self defence are exceeded where the defence is clearly disproportionate to the nature and degree of danger of an attack or where homicide is committed or a serious health impairment is caused with specific intent; however, no criminal liability is incurred when the limits of self defence are exceeded by reason of extreme confusion or fright caused by the attack, or where the person is defending a dwelling against breaking and entering.
4. Where a person exceeds the limits of self defence and incurs criminal liability, the penalty may be reduced pursuant to Article 62 of this Code.

VIII.2 « home »

The inviolability of the home is guaranteed by the Constitution of the Republic of Lithuania and sanctioned by the Penal Code:

The Constitution of the Republic of Lithuania, Article 24, states:

“The home of a human being shall be inviolable. Without the consent of the resident, entrance into his home shall not be permitted otherwise than by a court decision or the procedure established by law when this is necessary to guarantee public order, apprehend a criminal, save the life, health, or property of a human being.”

LITHUANIA

The Penal Code, Article 165 reads:

“1. Any person who, unlawfully and by violence or deceit, secretly or openly, enters into another person’s house, apartment or any other private residence or its fixtures, including the private grounds, shall be punished by community service, or a fine, or restriction of liberty, or detention, or imprisonment for a period of up to two years.

2. Prosecution for the acts specified in paragraph 1 of this Article may be instituted subject to a complaint being filed by the victim or a statement by his authorised representative or at the prosecutor’s request or when the pre-trial investigation was initiated after the indications of domestic crime had been detected.”

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

LUXEMBOURG

LUXEMBOURG

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers

List of officers authorised to carry out surveillance

Members of the police and customs officers dealing with illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives and the illicit transport of toxic and harmful waste.

LUXEMBOURG

I.2 designated authorities (specify for incoming and/or outgoing requests)

Contact details of the central authority:

DELETED

I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

II. Controlled deliveries

- contact points

DELETED

LUXEMBOURG

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

List of officers authorised to exercise the power of pursuit

Members of the police and customs officers dealing with illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives and the illicit transport of toxic and harmful waste.

Restrictions on the power of pursuit in Luxembourg

Luxembourg imposes different restrictions on the power of pursuit in Luxembourg depending on the border in question.

(a) Border with Belgium:

- *Except where a person has escaped, the power of pursuit may be exercised where the person has been detained for an extraditable offence (maximum penalty of at least 6 months)(Art 41(4)(b));*
- *there are no restrictions on the duration and territorial scope of pursuit;*
- *the pursuing agents have the right to stop and question.*

(b) Border with France:

- *Except where a person has escaped, the power of pursuit may be exercised where the person has been caught in the act of committing or participating in one of the offences mentioned in Article 41(4)(a);*
- *pursuit may take place within 10 km of the border;*
- *the pursuing agents do not have the power to stop and question.*

LUXEMBOURG

(c) Border with Germany:

- *Except where a person has escaped, the power of pursuit may be exercised where the person has been caught in the act of committing or participating in one of the offences mentioned in Art. 41(4)(a);*
- *there are no restrictions on the duration and territorial scope of pursuit;*
- *the pursuing agents have the right to stop and question.*

Statutory provisions of particular importance when exercising the right of pursuit: Citizen's power of arrest

In cases of cross-border pursuit where the police officers of the neighbouring states do not have the power of arrest, a distinction must be made between the following two situations:

- *The pursued person has not committed an offence in Luxembourg: the pursuing police officers do not have the power of arrest.*
- *The pursued person has committed an offence in Luxembourg: the provisions of Article 43 of the Luxembourg Code of Criminal Procedure apply. Article 43 stipulates that any person is entitled to arrest a person caught in the act of committing a summary or indictable offence punishable by imprisonment. The person arrested must be taken immediately to the nearest criminal police officer.*

III.2 designated authorities (if applicable)

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III.3 authorities to be contacted in border regions when crossing the border

DELETED

LUXEMBOURG

- III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

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PRÜM

- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

- IV.1 contact points

DELETED

- IV.2 procedure

.....

- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

- V.1 contact points [if different from IV]

.....

- V.2 procedure [if different from IV]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

Service weapons: individual or collective firearms, truncheons, tear gases or other gases and handcuffs regularly issued to police officers.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

All service weapons may only be used in legitimate self-defence or defence of others.

LUXEMBOURG

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

All service weapons may only be used in legitimate self-defence or defence of others.

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

All service weapons may only be used in legitimate self-defence or defence of others.

VIII. Definitions

- VIII.1 self-defence (if not covered by point VII)

Self-defence: legitimate (self-) defence is defined by Articles 416 and 417 of the Criminal Code. For an individual to be deemed to be acting in legitimate (self) defence, and therefore not criminally punishable for homicide, the following conditions must all be met:

Attack on a person (Art. 416):

1. defence must be in proportion to an attack on the bodily integrity of a person;
2. counter attack must be dictated by the necessity of defence at that moment;
3. there must be an unjustified attack on bodily integrity.

LUXEMBOURG

Attack on property (Art. 417):

1. defence must be intended to prevent a person from climbing or breaking in over fences, walls or through entrances to a house, apartment or its outbuildings;
2. the attack must be at night;
3. it must not be established that, given the circumstances, the defender could not believe in an attack on a person.

VIII.2 « home »

Home: for cross-border operations, the "home" is a concept which must be interpreted as any place (building or annex) which is not accessible to the public.

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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HUNGARY

HUNGARY

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- 1. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

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HUNGARY

DELETED

I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Under **Act LIV of 2002 on the international co-operation of the law enforcement agencies**

HUNGARY

Article 13

- (1) The member of the foreign authority acting in the territory of Hungary may
- a) use physical restraint for the purpose laid down in Article 47 of the Act on Police, use hand-cuff for the reasons laid down in Article 48 of the Act on Police, may also use chemical or electrical shocking devices as well as baton in cases laid down in Paragraph (1) a), b) of Article 49¹ of the Act on Police; may carry his/her service weapon, but it can only be used in cases of legitimate self defence or extreme need. Other coercive measures stated in the Hungarian legislation can not be applied by the member of the foreign authority;
 - b) apprehend the person caught in the act of committing an offence, may hold the offender at the location of the apprehension, however he/she is obliged to hand over the person to the Hungarian authorities without delay. A member of a foreign authority may not apply other measures stated in the legislation concerning the Hungarian law enforcement authorities.
- (2) A member of foreign authority acting in Hungary is obliged to obey the instructions of the head of the Hungarian law enforcement agency. The member of a foreign authority should be informed about the requirements of the application of measures and coercive measures stated in Paragraph (1).

Article 47 of the Act on Police

In taking police measures, the police officer may use force (physical restraint) on a person to act or to stop acting in a certain way or in order to stop resistance.

HUNGARY

Article 48 of the Act on Police

The police officer may use hand-cuffs in order to prevent a person whose personal freedom is or is to be restricted

- a) from self-destruction
- b) from attacking
- c) from escaping, and
- d) to stop such person's resistance.”

Article 49 of the Act on Police

- (1) The police officer shall be entitled to use police-standard chemicals, electrical shocking devices, truncheons and flat of sword
 - a) in order to ward off an assault directly endangering others' or his/her own life or corporeal integrity or the security of property;
 - b) to stop resistance against a lawful police measure.
- (2) The police officer shall be entitled to use police-standard rubber bullets, pyrotechnic devices, teargas grenades, capture nets, irritating gases and water-cannons to eliminate direct danger to others' or his/her own life or corporeal integrity or the security of property or if the conditions for using a firearm (Article 54) exist.

HUNGARY

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HUNGARY

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HUNGARY

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HUNGARY

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations):

Under **Act LIV of 2002 on the international co-operation of the law enforcement agencies**

Article 13

- (1) The member of the foreign authority acting in the territory of Hungary may
- c) use physical restraint for the purpose laid down in Article 47¹ of the Act on Police, use hand-cuff for the reasons laid down in Article 48² of the Act on Police, may also use chemical or electrical shocking devices as well as baton in

¹ Article 47 of the Act on Police: “In taking police measures, the police officer may use force (physical restraint) on a person to act or to stop acting in a certain way or in order to stop resistance.”

² Article 48 of the Act on Police: “The police officer may use hand-cuffs in order to prevent a person whose personal freedom is or is to be restricted

- a) from self-destruction
- b) from attacking
- c) from escaping, and
- d) to stop such person's resistance.”

cases laid down in Paragraph (1) a), b) of Article 49¹ of the Act on Police; may carry his/her service weapon, but it can only be used in cases of legitimate self defence or extreme need. Other coercive measures stated in the Hungarian legislation can not be applied by the member of the foreign authority;

- d) apprehend the person caught in the act of committing an offence, may hold the offender at the location of the apprehension, however he/she is obliged to hand over the person to the Hungarian authorities without delay. A member of a foreign authority may not apply other measures stated in the legislation concerning the Hungarian law enforcement authorities.

¹ Article 49 of the Act on Police:

- “(1) The police officer shall be entitled to use police-standard chemicals, electrical shocking devices, truncheons and flat of sword
- a) in order to ward off an assault directly endangering others' or his/her own life or corporeal integrity or the security of property;
 - b) to stop resistance against a lawful police measure.
- (2) The police officer shall be entitled to use police-standard rubber bullets, pyrotechnic devices, teargas grenades, capture nets, irritating gases and water-cannons to eliminate direct danger to others' or his/her own life or corporeal integrity or the security of property or if the conditions for using a firearm (Article 54) exist.
- Article 54 The police officer shall be entitled use a firearm
- a) to ward off a direct threat or attack endangering human life;
 - b) to ward off a direct attack seriously threatening corporal integrity;
 - c) to prevent or stop acts causing public danger, act of terrorism or acts aiming at seizing control of an aircraft, any means of railway, water or road transport or any means of freight transport by force or threat;
 - d) to prevent the commission of criminal acts using firearms, explosives or other means suitable for causing human death;
 - e) to prevent acts aimed at unlawfully and forcefully seizing firearms or explosives;
 - f) to ward of an armed attack against an establishment of vital importance for the operation of the State or the provision of the public;
 - g) to capture, or prevent the escape of, a perpetrator of willful murder;
 - h)
 - i) against a person who does not perform the police order to lay down a weapon or other dangerous device in his/her possession and whose behaviour indicates an intention to directly use such weapon or dangerous device against another person or persons;
 - j) to prevent the forceful freeing of or to capture a detainee captured, arrested or detained on the basis of a judicial decision;
 - k) to ward of an attack against his/her own life, corporal integrity or personal freedom.”

HUNGARY

- (2) A member of a foreign authority acting in Hungary is obliged to obey the instructions of the head of the Hungarian law enforcement agency. The member of a foreign authority should be informed about the requirements of the application of measures and coercive measures stated in Paragraph (1).

Article 31 *on hot pursuit*

- (1) A member of a foreign authority may continue to pursue a person in the territory of Hungary without previous authorisation, if the person
- a) is suspected that he or she has committed a criminal offence listed in Article 29 or has attempted to commit such offence abroad and he/she has been caught in such act;
 - b) escaped from provisional custody, detention or while serving a sentence involving imprisonment,

and the notification of the Hungarian law enforcement agency may cause such delay, which would hamper the apprehension of the person or prejudice the interest of the crime detection and it is presumable that the Hungarian law enforcement agency can not take over the pursuit in time.

- (2) The Hungarian law enforcement agency can continue the hot pursuit started within the national territory of Hungary on the territory of a foreign state in accordance with the terms and conditions of a relevant international agreement.
- (3) The member of the foreign authority described in Paragraph (1) should notify the Hungarian authority designated in the international agreement without delay.
- (4) The pursuit should be ceased immediately if the competent Hungarian law enforcement agency requests it.

HUNGARY

Article 32

Without prejudice to Article 31, hot pursuit in the territory of Hungary may be carried out only by the member of the foreign authority who wears or holds any marks indicating his/her official status as well as carries documents certifying his/her relation to the foreign authority.

Article 33

After the hot pursuit has ended, the member of the foreign authority who has carried out the operation should act according to the international agreement.

Article 47 of the Act on Police on Coercive measures

In taking police measures, the police officer may use force (physical restraint) on a person to act or to stop acting in a certain way or in order to stop resistance.

Article 48 of the Act on Police

The police officer may use hand-cuffs in order to prevent a person whose personal freedom is or is to be restricted

- a) from self-destruction
- b) from attacking
- c) from escaping, and
- d) to stop such a person's resistance.

HUNGARY

Article 49 of the Act on Police

- (1) The police officer shall be entitled to use police-standard chemicals, electrical shocking devices, truncheons and flat of sword
 - a) in order to ward off an assault directly endangering others' or his/her own life or corporeal integrity or the security of property;
 - b) to stop resistance against a lawful police measure.
- (2) The police officer shall be entitled to use police-standard rubber bullets, pyrotechnic devices, teargas grenades, capture nets, irritating gases and water-cannons to eliminate direct danger to others' or his/her own life or corporeal integrity or the security of property or if the conditions for using a firearm (Article 54) exist.

DELETED

HUNGARY

DELETED

HUNGARY

DELETED

MALTA

MALTA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

DELETED

MALTA

DELETED

MALTA

DELETED

MALTA

DELETED

MALTA

DELETED

GENERAL

VII. Arms

VII.1 **DELETED**

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

There is no specific provision with regard to arms, ammunition and equipment that may be used in legitimate self-defence. However, Article 99 (1) of the Police Act (Chapter 164) specifies that:

In exceptional circumstances the Force may, in the execution of its duties, use fire-arms and other offensive weapons or materials.

MALTA

DELETED

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

The circumstances of legitimate self-defence are covered by Article 223 of the Criminal Code (Chapter 9) which reads as follows:

No offence is committed when a homicide or bodily harm is ordered or permitted by law or by a lawful authority, or is imposed by actual necessity either in lawful self-defence or in the lawful defence of another person.

VIII.2 "home"»

Any place which is not a public place or a place accessible to the public.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

None.

NETHERLANDS

NETHERLANDS

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

- I.1 list of authorised officers

"Police officers appointed for the performance of police tasks" (Article 3 Police Act 1993); investigating officers of the police and the 'Koninklijke Marechaussee' (Royal Netherlands Military Constabulary), a police organisation with a military status, that performs police tasks in conformity with article 6 Police Act 1993.

N.B. In general surveillances are conducted by especially trained and equipped law enforcement officers (Dutch implementing law Convention implementing the Schengen Agreement)

For tasks relating to: illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives, the illicit transport of toxic and harmful waste: "officials responsible for import duties and excise at the Fiscal Intelligence and Investigation Department"

NETHERLANDS

- I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Details applicable in the Netherlands:

1. The National Public Prosecutor for cross-border surveillance needs all the information material to the case before ordering a special search operation such as surveillance.
2. The use of technical equipment either per se as a surveillance method or in support of cross-border surveillance requires the prior consent of the Public Prosecutor.
3. The rule is that a surveillance operation mounted abroad – whether routine or urgent - is taken over by a Dutch surveillance team once the Dutch border is crossed.
4. Two situations are applicable which have an effect in the followed procedure by the Public Prosecutor:
 - a) The location where surveillance needs to occur is known. The local public prosecutor can be identified and will be designated. The request will be transferred to the local public prosecutor and the local Surveillance Team (and if no capacity a Schengen Surveillance Team).

NETHERLANDS

- b) The location where surveillance needs to occur is unknown. Therefore no local public prosecutor can be identified and designated. The National Public Prosecutor for cross-border surveillance together with the Schengen Surveillance Team will execute the request until situation (a) occurs. Then transfer of the request to the local public prosecutor and the local surveillance team will take place.

To ensure that the operation proceeds properly in accordance with points 1-4 above, the requesting agency must contact the central authority (i.e. the *Landelijk Coördinatiepunt Grensoverschrijdende Observatie*) by telephone. This applies to cross-border surveillance of all types.

Members of the requesting surveillance/search team may take part provided that their participation is deemed by the responsible authorities in the Netherlands to be to the benefit of the investigation and/or the surveillance operation to be carried out in the Netherlands.

DELETED

NETHERLANDS

DELETED

NETHERLANDS

DELETED

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

“Police officers appointed for the performance of police tasks” (Article 3 Police Act 1993); investigating officers of the police and the 'Koninklijke Marechaussee' (Royal Netherlands Military Constabulary), a police organisation with a military status, that performs police tasks in conformity with article 6 Police Act 1993.

N.B. For tasks relating to: illicit trafficking in narcotics and psychotropic substances, trafficking in arms and explosives, the illicit transport of toxic and harmful waste: “officials responsible for import duties and excise at the Fiscal Intelligence and Investigation Department”.

III.2 designated authorities (if applicable)

The relevant police force at the border.

NETHERLANDS

III.3 authorities to be contacted in border regions when crossing the border

Information should be communicated to the emergency room of a regional police station near the point at which the border is crossed. Special arrangements are in place at bilateral level with Germany and Belgium.

N.B. In exceptional circumstances, where it is expected that the border will be crossed during a pursuit operation but the actual place at which the border will be crossed is not known precisely, the authority mentioned under 1.2 may be contacted.

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Citizen's power of arrest: Article 53 of the Code of Criminal Procedure provides for the citizen's power of arrest in the event of an offender's being caught in flagrante delicto.

DELETED

NETHERLANDS

DELETED

NETHERLANDS

DELETED

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

NETHERLANDS

DELETED

NETHERLANDS

DELETED

NETHERLANDS

DELETED

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NETHERLANDS

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NETHERLANDS

OTHER

VI. Special intervention units

- *competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)*

DELETED

GENERAL

VII. Arms

DELETED

NETHERLANDS

DELETED

NETHERLANDS

DELETED

NETHERLANDS

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

According to the Netherlands Police Act-1993 (Articles 8 and 9) a police officer who is appointed to carry out a police task:

- is authorised to use force in the lawful performance of his job, if the relevant goal justifies such, taking account of the risks inherent in the use of force and such goal cannot be achieved in a different manner. If possible the use of force shall be preceded by a warning.
- has access to every location, insofar as such is reasonably necessary to provide assistance to those who require such.
- is authorised to search the clothing of persons in the exercising of a power granted to him by law or when carrying out an action to perform a police task, if facts or circumstances show that there is an immediate risk for their life or safety, or the life or safety of the officer himself or of third parties and this search is necessary to deflect that risk.

The exercising of the powers must be reasonable and proportionate to the intended goal.

The implementation of the use of power is laid down in an official instruction. Rules are established by ministerial regulation regarding measures which can be applied to persons lawfully deprived of their liberty with an eye to their detention.

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

(Currently under consideration)

NETHERLANDS

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

The necessary defence of one's own or another's life, decency or property against immediate unlawful assault.

VIII.2 "home"

For cross-border operations, "home" is a concept which must be interpreted as meaning any place (building or annex) not accessible to the public.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

AUSTRIA

AUSTRIA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

DELETED

AUSTRIA

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AUSTRIA

DELETED

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

(a) Citizen's power of arrest:

If there are sufficient grounds for assuming that an individual is committing, or has just committed, an act that is a punishable offence or that the individual is wanted for such an offence, any citizen is entitled to detain the individual in question by reasonable means.

The person making the citizen's arrest is, however, obliged to report the arrest immediately to the nearest public security authorities (pursuant to Article 80 paragraph 2 Code of Criminal Procedure).

(b) Exercising special rights in respect of road traffic regulations:

Duty vehicles (fitted with blue flashing lights and sirens) are in principle not covered by traffic limits or prohibitions. The following limits, however, apply:

- A vehicle may not go through a red light at a crossroad without first stopping briefly; the driver must be certain that in going through the red light the vehicle poses no threat either to persons or to objects.
- Duty vehicles may go up one-way streets the wrong way and ignore lanes (filtering traffic according to direction) only if the destination cannot be reached by another route or cannot be reached in the time available.

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GENERAL

DELETED

- (a) **Self-defence:** Self-defence is legitimate if the following prerequisites are met:
- there must be an existing or immediate threat of an unlawful attempt on the life, health, bodily integrity, freedom or property of the official or of another person;
 - the means deployed to avert the assault and the extent to which they are used must be necessary; the victim may therefore use only the minimum appropriate means of prevention and must deploy these as sparingly as possible;
 - the assaulted party must not have deliberately encouraged or provoked the attack.
- (b) **Home:** Under Austrian law and the case law of Austrian courts, the inviolability of the home applies to *a dwelling and outbuildings to that dwelling which are not accessible to the public*, such as shops or offices, doctor's private surgeries, or cellars not adjoining the dwelling.

DELETED

VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

The use of means of force and service weapons is regulated in the Federal Law of 27 March 1969 on the 'Use of Weapons by Officers of the Federal Police and police at community level ("Use of Weapons Act 1969")'; Federal Law Gazette No. 149/1969 (in the version of Fed.Law Gazette No. 146/1999).

AUSTRIA

Article 2. Officers of the federal and municipal police are authorised in accordance with the provisions of this Federal Law, to make use of their service weapons if the need arises when exercising their duty:

1. in the case of legitimate self-defence;
2. to overcome resistance against justified law enforcement intervention;
3. to enforce a lawful arrest;
4. to prevent the escape of a detained person;
5. to avert a danger arising from anything non-human.

Article 3. Service weapons in the meaning of this Federal Law are

1. rubber truncheons, and other truncheons used in police intervention,
2. tear gas and other irritants, which cause only a short-term health impairment,
3. water canons,
4. firearms, except the ones listed in category I., Z 3 of the Annex I to the State Treaty concerning the Restoration of an Independent And Democratic Austria, Federal Law Gazette No. 152/1955, which support the officers listed in Article 2 to fulfil their duty as instructed by their superior authority or their service.

Article 4. Use of arms is admissible only, if lesser measures, such as the order to restore lawful condition, threat of use of firearms, pursuit of a fugitive, use of physical force, or other available lesser means, such as handcuffs or technical barriers, appear unsuitable or have proven ineffective.

Article 5. If different types of weapons are available, only the weapon that appears least dangerous but still effective under the prevailing circumstances may be used.

AUSTRIA

Article 6. (1) Use of weapons directed against human beings may only serve the purpose of making an individual incapable of attacking, resisting or fleeing. In the cases outlined in Article 2(2 to 5), the damage expected by use of weapons must not be disproportionate to the intended effect.

(2) Each weapon must be used with the greatest possible caution and care for human beings and property. Weapons may be directed against human beings only if use of weapons against property would be ineffective.

Life-threatening use of weapons

Article 7. Use of weapons presenting a threat to the life of human beings is admissible only:

1. in the case of legitimate self-defence to defend a human being;
2. to suppress a riot or insurgence;
3. to enforce an arrest or prevent the escape of an individual strongly suspected of a crime than can only be committed deliberately and is liable to a prison term of more than one year, which in itself or in connection with the suspect's behaviour during arrest or escape shows there is a general security risk to the state, to himself or property;
4. to enforce arrest or prevent the escape of a mentally deranged person who poses a general security risk to himself or property.

Article 8. (1) A distinct warning must be given immediately before life-threatening use of weapons against human beings. If there is a crowd, the warning must be repeated. Firing a warning shot also counts as warning.

(2) Life-threatening use of weapons is admissible only if there is no risk for innocent by-standers, unless it appears inevitable in order to prevent a crowd from violent actions, posing a direct or indirect security risk to individuals.

(3) In the case of legitimate self-defence, the provisions of paragraphs 1 and 2 do not apply.

AUSTRIA

Use of means other than service weapons and of means having the effect of a weapon

Article 9. If a suitable service weapon is not available, also other weapons, or means having the effect of a weapon, may be used by applying the provisions of the federal law mutatis mutandis.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

See point VII.

VIII.2 "home"

See point VII.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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POLAND

POLAND

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers
 - a) officers of the Police,
 - b) officers of the Border Guard,
 - c) officers of the Internal Security Agency (on the common border with the Slovak Republic and Lithuania)

POLAND

I.2 designated authorities (specify for incoming and/or outgoing requests)

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POLAND

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POLAND

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

LITHUANIA:

Cross-border surveillance between the Republic of Poland and the Republic of Lithuania is regulated in the Agreement (Article 12) between the Republic of Poland and the Republic of Lithuania on cooperation in combating organized and other crime and cooperation in border regions signed in Vilnius on 14 March 2006 (Dz.U.07.177.1244). The Agreement allows for surveillance of a person by the designated authorities of the Contracting Party, following a prohibited act, which could constitute the basis for extradition or for issuing a European arrest warrant. The observation could be continued on the territory of the state of the Contracting Party having obtained the prior consent of that Party's competent authority.

Surveillance is carried out in cooperation with officials of the competent authorities or border forces of the requested Party, to whom the surveillance should be handed should they so request.

Carrying out surveillance is acceptable only under the following terms and conditions:

- 1) officers carrying out surveillance have an obligation to respect this Agreement and the provisions of the domestic law of the Contracting Party on whose territory surveillance is being carried out. They are obliged to comply with the orders given by that Party's appropriate authorities or border forces ;
- 2) officers carrying out surveillance must be in possession of a document granting the relevant permission;

POLAND

- 3) officers carrying out surveillance must have in their possession officers' ID cards and official means of communication;
- 4) officers carrying out surveillance are not allowed to enter flats or other places not accessible to the public;
- 5) officers carrying out the surveillance may neither detain nor arrest a person under surveillance.

In special emergencies, a prior request for approval is impossible, officers may continue surveillance on the territory of the Contracting Party under the following terms and conditions:

- 1) surveillance is continued in relation to the prohibited act, referred to in Article 40(7) of Schengen Convention;
- 2) the time and the place of crossing the state border should be reported immediately, at the same time as the surveillance takes place, to the competent appropriate authority, and border appropriate forces of the Party, on the territory the state where surveillance is being carried out;
- 3) one should immediately forward the request, stating reasons justifying continuing the surveillance without prior approval; surveillance should be stopped, when an appropriate authority of the Party, on whose territory surveillance is being carried out, requests so or when the relevant permission is not granted within five hours after the state border was crossed.

POLAND

THE CZECH REPUBLIC:

Cross-border surveillance between the Republic of Poland and the Czech Republic is based on Article 40 of Schengen Convention;

GERMANY:

Cross-border surveillance between Poland and Germany is regulated by:

1. Schengen Convention (Article 40) – if the surveillance will be conducted on the territory of more than one voivodships;
2. the Agreement (Article 13) of the Government of the Republic of Poland and the Government of the Federal Republic of Germany on the cooperation of police and border guard forces in border regions, signed in Berlin 18 February 2002 (Dz.U.05.223.1915) - if the surveillance will be conducted within the borders of one voivodship.

Surveillance may be carried out on the territory of the other Contracting Party of a person, in connection with a punishable act which may constitute the basis for extradition, with the consent given by the appropriate authority.

Where surveillance is being carried out in cooperation with officials of the competent authorities of the requested Party, upon their request, the surveillance should be handed over to the officials of the competent authorities of that Party.

A request for consent is sent in the Republic of Poland by the appropriate authority of the Party requesting to the Police Commander in Chief (if the surveillance will be conducted on the territory of more than one voivodships) or Commander of the Regional Police Headquarters (if the surveillance will be conducted within the borders of one voivodship) with territorial jurisdiction or to the Commander-in-Chief of the Polish Border Guard, and in the Federal Republic of Germany to the Prosecutor's office with territorial jurisdiction. Territorial jurisdiction is established according to the presumed place of the border crossing.

POLAND

The requesting Party provides the copy of the application in the Republic of Poland to the Police Commander in Chief or, in the event of offences related to cross-border trade in goods, to the General Customs Inspector (at present to the Ministry of Finance) and in the Federal Republic of Germany, to the Federal Criminal Office or, in the event of offences related to cross-border trade in goods, to the Customs Criminal Office.

If, in special emergencies, a prior request for approval is impossible, officers may continue surveillance on the territory of the Contracting Party in accordance with the following terms and conditions:

- 1) crossing the state border should be reported immediately, during the observation, in the Republic of Poland, to the Police Commander in Chief or to the Commander of the Regional Police Headquarters with territorial jurisdiction in Szczecin, Gorzów Wielkopolski, Wrocław or to the Commander-in-Chief of the Polish Border Guard; and in the Federal Republic of Germany, to the Federal Criminal Office or to the National Criminal Office with territorial jurisdiction for Mecklenburg-Western Pomerania, Brandenburg and Saxony or Federal Police.
- 2) the request should be forwarded immediately, and should state the reasons justifying surveillance without prior approval. The surveillance should be stopped, when an appropriate authority of the Party, on whose territory the surveillance is being carried out requests, or when the relevant permission is not granted within five hours after the state border was crossed.

POLAND

Surveillance is acceptable where the following terms and conditions are fulfilled:

- 1) officers carrying out the surveillance are bound by the provisions of the aforementioned Agreement and national law of the Contracting Party on the territory of which the surveillance is being carried out, and are also obliged to comply with the orders of that Party's appropriate authorities;
- 2) officers must be in possession of a document granting the relevant permission;
- 3) officers carrying out surveillance must have ID cards;
- 4) officers carrying out surveillance are neither entitled to detain persons nor allowed to enter flats or other places not accessible to the public;
- 5) after every surveillance operation, a special report should be submitted immediately to the appropriate authorities of the state on whose territory the surveillance was conducted, there is also a possibility to summon the officers, who carried out the surveillance, in person.
- 6) the appropriate authorities of the Contracting Party, for whom officers are carrying out surveillance, provide assistance with subsequent proceedings e taken by authorities on the other Contracting Party's territory ; this assistance is provided upon submission of request;
- 7) where there is no permission for surveillance, it may be continued only by reason of an act punishable by a penalty of imprisonment, for which the upper limit is at least four years;.

Authorities which are entitled to carry out surveillance :

- 1) in the Republic of Poland: police officers, officers of the Border Guard and the Customs Inspectorate;
- 2) in the Federal Republic of Germany: officers of the Federal Police, officers of National Police (Landespolizei) and the Customs Criminal Service.

POLAND

SLOVAKIA:

The issue of cross-border surveillance is regulated by an Agreement between the Polish Republic and the Slovak Republic on cooperation in the border regions and on combating crime, signed in Warsaw on 23 March 2004. (Dz. AT. 07.85.568), amended by an Agreement on 12 May 2012.

Surveillance may be carried out on the territory of the other state of a person presumed to have committed a punishable act which, under national law, may constitute the basis for extradition or the issue of a European Arrest Warrant. Surveillance on the state territory of the Contracting Party is carried out with the consent of the appropriate authority.

Where surveillance is conducted in cooperation with officers of the requested Party's competent authorities, if they so request, surveillance should be handed over to the officers of the authorities of that Party.

A request for consent is sent by the appropriate authority of the requesting Party to the Polish SIRENE Bureau, which forwards the request to the competent authority for the execution.

POLAND

If, in special emergencies, a prior request for approval is impossible, the officers may continue surveillance of a person on the territory of the Contracting Party whilst observing the following terms and conditions:

- 1) crossing the state border should be reported immediately, during the surveillance, to the national SIRENE Bureau of Member State currying out surveillance, which forwards the information immediately to the national SIRENE Bureau of the Party, on whose territory surveillance is being carried out;
- 2) the request should be forwarded immediately, and should state reasons justifying continuing the surveillance without prior approval; surveillance should be stopped, when an appropriate authority of the Party, on whose territory surveillance is being carried out, requests so or when the relevant permission is not granted within five hours after the state border was crossed.

Surveillance is acceptable only if the following terms and conditions are observed:

- 1) officers carrying out surveillance are bound by the provisions of Agreement and the national law of the Contracting Party, on whose territory surveillance is being carried out, as well as being obliged to comply with the orders given by that Party's appropriate authorities;
- 2) officers must be in possession of a document granting the relevant permission;
- 3) officers carrying out surveillance must have in their possession ID cards;
- 4) officers carrying out surveillance may carry service weapons and use official means of communication, technical surveillance equipment and duty vehicles which they may use solely in accordance with the domestic law of the Contracting Party, on whose territory the surveillance is being conducted; service weapons may be used only in cases of lawful defence;

POLAND

- 5) officers carrying out surveillance may neither detain persons nor enter flats or other places not accessible to the public;
- 6) after every surveillance operation, a special report should be submitted immediately to the appropriate authorities of the state on whose territory the surveillance was conducted, there is also a possibility to summon the officers, who carried out the surveillance, in person.
- 7) the appropriate authorities of the Contracting Party, for whom officers are carrying out surveillance, provide assistance with subsequent proceedings taken by authorities on the other Contracting Party's territory ; this assistance is provided upon submission of a request;
- 8) where there is no permission for surveillance, it may be continued only by reason of an act punishable by a penalty of imprisonment, for which the upper limit is at least three years.

According to the art 40 of the Convention implementing the Schengen Agreement, the above mentioned term and conditions enable for continuing the surveillance on the other Contracting Party's territory; however, this does not exempt from obtaining authorization to conduct any further surveillance activities. Should the consent to carry out the activities concerned not be granted by the party receiving the request, the surveillance shall be ceased.

II. Controlled deliveries

- contact points

DELETED

POLAND

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DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

- a) officers of the Police;
- b) officers of the Border Guard;
- c) officers of the Internal Security Agency (at the common border with the Czech Republic and Slovakia).

POLAND

III.2 designated authorities (if applicable)

DELETED

III.3 authorities to be contacted in border regions when crossing the border

DELETED

DELETED

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POLAND

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POLAND

- III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Exercising special rights in respect of road traffic regulations (Traffic

Act: Articles 9 and 53):

Duty vehicles (fitted with blue flashing lights and sirens) are, in principle, not covered by traffic limits or prohibitions.

Duty

- vehicle, under extraordinary precorsion, is permitted not to follow road traffic rules, as regards stopping, signs, traffic lights, speed limits etc.

Drivers are obliged to give way to emergency vehicle giving signals.

Conditions for the exercise of the power of pursuit in Poland:

At the common border with Germany:

Authorised officers of Federal Republic of Germany may carry out pursuit for extraditable offences (Article 41(4)(b) Schengen Convention).

Pursuit can be continued in relation to the person suspected of committing an extraditable offence.

At the common border with Lithuania:

- all extraditable offences;
- in the event of offences which may constitute grounds for the issue of a European Arrest Warrant;
- when the person concerned has escaped from a place of detention

(Article 11 paragraph 1 of the Agreement between the Republic of Poland and the

POLAND

Republic of Lithuania on cooperation in combating organized and other crime and cooperation in border regions, signed in Vilnius on 14 March 2006).

At the common border with the Czech Republic:

- where the person concerned is suspected of committing a deliberate criminal offence punishable by the national laws of both the Contracting Parties by a custodial sentence for at least one year (Article 11(a) of the Agreement between the Republic of Poland and the Czech Republic on cooperation in combating crime, the protection of public order and collaboration in border regions, signed in Warsaw on 21 June 2006);
- where the person concerned has escaped from arrest, a penal institution, a house of correction or psychiatric institution in which he was placed by a legal decision (Article 11(b) of the abovementioned Agreement).

At the common border with Slovakia:

- all extraditable offences;
- in the event of offences which may constitute grounds for the issue of a European Arrest Warrant;
- when the person concerned has escaped from a place of detention.

(Article 8a of the Agreement between the Republic of Poland and the Slovak Republic on cooperation in the border regions and on combating crime, signed in Warsaw on 23 March 2004 amended by the Agreement between the Republic of Poland and the Slovak Republic signed in Bratislava on 12 May 2010).

POLAND

Restrictions on the power of pursuit in Poland:

At the common border with Germany:

Authorised officers of the Federal Republic of Germany may carry out pursuit without limit in space or time (Article 41(3)(b) Schengen Convention).

If no request to cease the pursuit is made and if the competent local authorities are unable to intervene quickly enough, the pursuing officers may detain the person pursued until the officers of the Contracting Party in whose territory the pursuit is taking place, who must be informed without delay, are able to establish the person's identity or make an arrest (Article 41(2)(b) of the Schengen Convention).

At the common border with Lithuania:

Officers pursuing a person must report the following to the competent officials (and competent border guards) of the (contracting) party in whose territory the pursuit is to be continued: They should indicate the time and the place where the person being pursued crossed the State border as well as their arms and technical means. Those particulars must be reported without delay, before the border is crossed.

Pursuit can be continued up to a maximum radius of 100 kms from the border and for no longer than one hour (Article 11 paragraph 4 of the Agreement between the Republic of Poland and the Republic of Lithuania on cooperation by police and border guard forces in border regions and in combating crime, signed in Vilnius on 14 March 2006).

The competent authorities of the contracting party in whose territory the pursuit is being continued must immediately take over the pursuit.

POLAND

Should the competent officers not be able to take over the pursuit without delay, the officers continuing the pursuit have the right to stop the pursued person and transfer him immediately to the competent officials of the contracting party in whose territory the pursuit was continued (Article 11 paragraph 5(2) of the abovementioned Agreement).

At the common border with the Czech Republic:

There are no restrictions on the duration and territorial scope of the pursuit.

If the competent local authorities are unable to intervene quickly enough, the pursuing officers may apprehend the person pursued until the officers of the Contracting Party in whose territory the pursuit is taking place, who must be informed without delay, are able to establish his identity or arrest him (Article 11 paragraph 6 of the Agreement between the Republic of Poland and the Czech Republic on cooperation in combating crime, the protection of public order and collaboration in border regions, signed in Warsaw on 21 June 2006).

At the common border with the Slovak Republic:

There are no restrictions on the duration and territorial scope of the pursuit.

Officers pursuing a person must report the following to the nearest PCCC of the Party in the territory of which the pursuit is to be continued: they should indicate the time and the place where the person being pursued crossed the State border as well as the officers of the appropriate organs of the Party continuing the pursuit and their arms and technical equipment.

POLAND

The competent authorities of the contracting party in the territory of which the pursuit is being continued must immediately take over the pursuit.

(Article 8a of the Agreement between the Republic of Poland and the Slovak Republic on cooperation in the border regions and on combating crime, signed in Warsaw on 23 March 2004).

On 12 May 2010 the Agreement between the Republic of Poland and the Slovak Republic was signed in Bratislava amending the Agreement between the Republic of Poland and the Slovak Republic on cooperation in combating crime and cooperation in border regions signed in Warsaw on 23 March 2004. Article 8 A paragraph 6 of the Agreement signed on 12 May 2010 introduces regulations concerning hot pursuit. The Agreement came into force on 31 of July 2011.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

Article 145h and 145i of the Act on the Police and Article 147s of the Border Guard Act

Police and Border Guard officers and Police and Border Guard staff are authorized to perform official duties on the territory of another Member State of the European Union in order to carry out tasks in the form of joint patrols and other joint operations in order to protect public order and safety, as well as to prevent the crime referred to in Article 17 of the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime.

Procedures providing for the rules of the participation of Polish officers in joint operations on the territory of other states, have been set forth in section 10b of the *Police Act* (article 145h and 145i).

The consent to perform duties on the territory of another Member State of the European Union by decision shall be granted, by way of a decision, by the Commander in Chief of the Police - in the case of joint patrols or other joint operations referred to in art. 17 of Council Decision 2008/615/JHA, while the Minister of Interior, by way of regulation, provides such consent in the cases where it provides for granting support in relation with gatherings, mass events or similar events, natural disasters, referred to in art. 18 2008/615/JHA, and also in the case of providing assistance by a special intervention unit referred to in *Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations*.

In the Act of 7 February 2014 on participation of foreign officers or workers in common operations or common rescue actions on the territory of the Republic of Poland (Journal of Laws of 2014 item, 295) one set up the rules for the participation of foreign officers executing joint operations with Polish officers on the territory of the Republic of Poland.

POLAND

The key rules and regulations for undertaking a joint operation are as follows:

- 1) bodies authorized to conduct joint operations are officers or staff of the Police, Border Guard, State Fire Service and the Government Protection Bureau;
- 2) requesting bodies, depending on the type of joint operations, their duration and the number of foreign officers, are as follows: Police Commander in Chief, the Border Guard Commander in Chief, the Minister of Interior, and the Council of Ministers;
- 3) the request to the competent body of the sending country may be directed directly or through the contact point referred to in art. 145j paragraph 1 item 5 of the Police Act and Art. 147v of the Border Guard Act;
- 4) foreign officers participating in joint operations in the territory of the Republic of Poland are authorized to wear a uniform, to bring in and carry in the territory of the Republic of Poland firearms, ammunition, and coercive measures, to use coercive measures and firearms to repel a direct and unlawful attempt on life, health, or freedom of foreign officers or other persons or by order of the commander in the cases provided for in the Act.

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

See IV.1

V.2 procedure [if different from IV]

See IV.2

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

In the Act of 7 February 2014 on participation of foreign officers or workers in common operations or common rescue actions on the territory of the Republic of Poland (Journal of Laws of 2014 item 295) one set up the rules for the participation of foreign officers executing joint operations with Polish officers on the territory of the Republic of Poland.

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3. the request to the competent body of the sending country may be directed directly or through the contact point referred to in art. 145j paragraph 1 item 5 of the Police Act and Art. 147v of the Border Guard Act;
4. foreign officers participating in joint operations in the territory of the Republic of Poland are authorized to wear a uniform, to bring in and carry in the territory of the Republic of Poland firearms, ammunition, and coercive measures, to use coercive measures and firearms to repel a direct and unlawful attempt on life, health, or freedom of foreign officers or other persons or by order of the commander in the cases provided for in the Act.

POLAND

The contact point is:

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

Firearms: pistols, revolvers, smooth-bore weapons (shotguns), machine pistols, submachine guns, assault rifles, machine guns, grenade launchers.

Article 16 of the Law on the Police and Law of 24 May 2013 on the means of direct force and firearms (Polish Official Journal of Law of 2013 pos. 628 with additional amendments) provide as follows:

Article 4

Whenever the law mentions:

- use of a firearm – shall mean firing with penetrating ammunition at a direction of a person;
- utilization of a firearm – shall mean firing with penetrating ammunition at the direction of an animal, object or other direction providing no harm to persons.

Article 45

A firearm may be used whenever at least one of the following circumstances occurs:

- 1) in order to fend off a direct and illegal attack on:
 - a) the life, health or liberty of authorized member of law enforcement services (*eg member of Police, Border Guard or Government Protection Bureau*) or another person, or the necessity to prevent actions aimed directly to such an attack,
 - b) important objects, facilities, areas or the necessity to prevent actions aimed directly to such an attack,
 - c) property, when such attempts are simultaneously related to direct threats to authorized member of law enforcement services or another persons life, health or liberty or the necessity to prevent actions aimed directly to such an attack,

POLAND

- d) integrity of the national border by a person who forces passing of the national border using a vehicle, firearm or a dangerous object,
- e) the security of a convoy or escorts/delivery of a detained person;
- 2) the necessity to oppose a person:
 - a) who fails to comply with an order to drop immediately a weapon, explosive or other dangerous tool, the use of which can threaten the life, health or liberty of the authorized member of law enforcement services, or another person;
 - b) attempting illegally and forcibly to take firearms from the authorized member of law enforcement services, or another person authorized to possess firearms;
- 3) in direct pursuit of a person in connection with whom:
 - a) the use of firearms is lawfully admissible in the cases mentioned in paragraph 1 a-d and paragraph 2,
 - b) or a person who can reasonably be suspected of having committed crimes mentioned in art. 115 § 20, art. 148, art. 156 § 1, art. 163-165, art. 197, art. 252 and art. 280-282 of The Penal Code;
- 4) the necessity:
 - a) to detain a person:
 - against whom the use of firearms is lawfully admissible in the cases mentioned in paragraph 1 a-d and paragraph 2,
 - who can reasonably be suspected of having committed crimes mentioned in art. 115 § 20, art. 148, art. 156 § 1, art. 163-165, art. 197, art. 252 and art. 280-282 of The Penal Code,
 - who had committed a crime mentioned in paragraph 1 d or e,
 - who has taken refuge in a hardly accessible place, and the accompanying circumstances indicate that that person may use firearms or another dangerous tool;
 - b) to apprehend or prevent the escape of a person in custody, temporarily arrested or serving a prison sentence, if:
 - the escape of this person represents a danger to the authorized member of law enforcement services, or another person life or health,
 - reasonable suspicion exists that this person may use firearms, explosives or other dangerous tools, or
 - the deprivation of liberty was carried out on grounds of reasonable suspicion or conviction for crimes mentioned in art. 115 § 20, art. 148, art. 156 § 1, art. 163-165, art. 197, art. 252 and art. 280-282 of The Penal Code.

POLAND

Article 46

1. Firearms shall not be used or utilized by organized detachments (*eg Police or Border Guard*).
2. In a situation that threatens the authorized member of law enforcement services, or another person life or health, an organized detachment of the authorized member of law enforcement services can use or utilize a firearm on the basis mentioned in this law.

Article 47

A firearm can be utilized when the necessity of carrying out of at least one of the following actions occurs:

1. Stopping a vehicle of which actions threaten the authorized member of law enforcement services, or another person life or health or threaten important objects, facilities or areas;
2. Overcoming an obstacle:
 - a) that prevents or hinders apprehension of a person or for the purpose of saving the authorized member of law enforcement services, or another person life or health or saving property;
 - b) in case of violation of public order and security by a person lawfully deprived of liberty, apprehended or located in a secure facility or arrest for the purpose of expulsion.
3. for the purpose of alarming or calling for help;
4. in order to neutralize objects or devices that present the threat of exploding that may simultaneously directly threat authorized member of law enforcement services or another persons life or health;
5. in order to neutralize an animal that behavior directly threatens authorized member of law enforcement services or another persons life or health;
6. to fire a warning shot.

POLAND

Article 48

1. Before the use of a firearm authorized member of law enforcement services shall perform the following actions:
 - 1) identifies his/her service by giving a shout (*eg “POLICJA”, “STRAŻ GRANICZNA” or other - depending on what law enforcement service represents*)
 - 2) calls the person to behave lawfully, especially to:
 - a) immediately to dispose of the weapon or other dangerous tool that use of can threaten police force member or another persons life, health or liberty,
 - b) desist form escaping;
 - c) withdraw from the use of violence.
2. In case the person does not subordinate to the calls mentioned in paragraph 1.2, the police force member warns the person about the use of a firearm by giving a shout “Stój, bo strzelam”, and when this call is ineffective the police force member fires a warning shot at a safe location.
3. The procedure mentioned in paragraph 1 and 2 or its particular elements, especially the warning shot, can be abandoned, if their performance could directly threat authorized member of law enforcement services or another persons life or health.
4. Before a convoy or escort/delivery of a detained person, the authorized member of law enforcement services warns the person lawfully deprived of liberty about the possibility of using towards him/her a firearm in case the persons undertakes an escape attempt.

General rules and conditions of the use and utilization of firearms:

Article 6

1. Means of direct enforcement shall be used or utilized in a manner indispensable for the purpose of the current use or utilization, proportionally to the level of threat, selecting the possibly least harmful.
2. Firearms shall be used or utilized only if the use or utilization of means of direct enforcement:
 - 1) demonstrated to be ineffective for the purpose of accomplishing the objective of the use or utilization or
 - 2) is impossible for the reason of a given incident circumstances.

POLAND

Article 7

1. Means of direct enforcement or firearms shall be used or utilised in a manner that causes the least possible damage.
2. The use or utilisation of means of direct enforcement or firearms shall be abandoned when the objective of the use or utilisation became accomplished.
3. Means of direct force shall be used or utilized with extreme caution, taking into account their characteristics, that can become a threat to the authorized member of law enforcement services, or another person life or health.
4. When deciding on the use or utilization of firearms, extreme cautiousness shall be taken into account and the use shall be considered as a final resort.

Article 9

1. A police force member shall use only physical overpowering as a mean of direct force towards women being in evident pregnancy, persons whose appearance indicates that they are below 13 years of age or persons whose appearance indicates evident disability.
2. In cases when there is a necessity to fend off a direct, illegal attack against a authorized member of law enforcement services, or another person life or health and the use of physical overpowering towards a person mentioned in paragraph 1 is insufficient or impossible, a authorized member of law enforcement services can use other means of direct force or firearms.
3. In cases mentioned in paragraph 2 means of direct force can be used taking into account their characteristics as well as the condition of the person towards whom the means are being used.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

See point IV.

POLAND

VII.3 arms, ammunition and equipment permitted and conditions of their use
(cf. Article 19(2) of Council Decision 2008/615/JHA)/arms, ammunition and equipment that may not be carried or used.

See point IV.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

See point IV.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defence (The Penal Code, Chapter 3, Article 25):

The Polish Penal Code, Chapter 3, Article 25, reads:

"1. Whoever in necessary defence repels a direct illegal attack on any asset protected by law, shall not be deemed to have committed an offence.

2. If the limits of necessary defence have been exceeded, in particular when the perpetrator has used a mean of defence disproportionate to the danger of the attack, the court may apply extraordinary mitigation of the penalty and even refrain from imposing a penalty.

3. The court shall refrain from imposing a penalty if exceeding the limits of necessary defence resulted from fright or emotional distress, as justified by the circumstances of the attack."

VIII.2 "home"

Home (The Penal Code, Chapter 23, Article 193):

Inviolability of the home is guaranteed by the Constitution and sanctioned by Penal Code.

The Polish Constitution, Chapter 2, Article 50 states that:

"The inviolability of the home shall be ensured. A search of a home, premises or vehicle may be carried out only in cases and in a manner specified by statute".

The Polish Penal Code, Chapter 23, Article 193, reads:

"A person who breaks into another person's house, apartment, premises, quarters, or a fenced plot of land, or, despite being asked by an authorised person, does not leave such a place shall be subjected to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to one year."

"Home" is not legally defined, but it has been developed by case law. The definition of "home" includes dwelling, yard, stairway, holiday house and premises actually occupied for living, e.g. hotel room, caravan, tent, vessel. Factories and offices are also protected against unlawful intrusion.

POLAND

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

Means of direct enforcement (Provisions of the Law on the Police and the Border Guard Act):

Law of 24 May 2013 on the means of direct force and firearms (Polish Official Journal of Law of 2013 pos. 628 with additional amendments) provide as follows:

Article 4

Whenever the law mentions:

- use of means of direct force – shall mean applying means of direct force towards a person;
- utilization of means of direct force – shall mean applying means of direct force towards an animal or applying the mean in order to block or stop a vehicle or overcome an obstacle.

Article 12

1) The following means are defined as means of direct force:

1. physical force as techniques of:
 - a) transportation,
 - b) self-defense,
 - c) attack,
 - d) overpowering;
2. cuffs/restraints:
 - a) hand cuffs,
 - b) ankle cuffs,
 - c) complex cuffs (hands and ankles),
3. straitjacket;
4. humane restraint belt;
5. capture net;

POLAND

6. protective helmet,
 7. police baton,
 8. overpowering water jets;
 9. police dog;
 10. police horse;
 11. non-penetrating ammunition;
 12. chemical overpowering means as listed below:
 - a) hand throwers of overpowering substances;
 - b) back-pack mounted throwers of overpowering substances;
 - c) tear-gas grenades;
 - d) other devices meant for throwing overpowering substances;
 13. devices designed for overpowering persons by electroshock;
 14. preventive and isolation room
 15. traffic spikes and other means designed for stopping and immobilizing mechanical vehicles;
 16. duty vehicles;
 17. means, including explosives, designed for overcoming locks or other obstacles;
 18. pyrotechnic means designed for stunning or blinding;
- 2) Means of direct force mentioned in paragraph 1 b-d, paragraph 5, 7, 8 and 11-13 can be utilized towards an animal that behavior directly threatens authorized member of law enforcement services or another persons life or health.

Accordance with Article 23 of The Border Guard Act application and use of force and firearms, and documentation of the application and usage takes place under the terms of the Act of 24 May 2013 on measures of direct coercion measures and firearms. Officers of Border Guard may use coercive measures referred to art. 12, paragraph. 1, point 1-7, paragraphs 9-11, paragraph 12 point. a, c and d, paragraphs 13 -18 (in paragraph 14 only isolation room) of this Act, or use these measures. In the cases referred to Art. 45 points 1-3 and point 4. a and b, and in art. 47 of the Act of 24 May 2013 on measures of direct coercion and firearms, officers may apply or use firearms.

PORTUGAL

PORTUGAL

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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PORTUGAL

GENERAL

VII. Arms

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PORTUGAL

VII.4 practical aspects of the use of authorized arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Decree-Law n.º 457/99, 5 November

The use of a firearm is only allowed when strictly necessary, as a last resort measure, whenever the use of other less dangerous means remain ineffective and as long as the use of these means are considered to be proportional to the circumstances.

In that case, the law enforcement agent must make all the necessary efforts in order to reduce injuries and damages to a minimum and in order to respect and preserve human life.

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PORTUGAL

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defence: Self-defence is an action carried out as a matter of necessity for the purpose of averting immediate unlawful assault on legally protected interests of oneself or a third person (Article 32 of assault of the Criminal Code). For self-defence to apply, all the conditions set out below must be fulfilled:

- The person acting in self-defence must not have brought about, desired or provoked the situation, and his/her response must be unavoidable.
- The situation must involve an unlawful and immediate threat to the life of the person or third party and/or an attack on his/her property or rights.
- Means used to prevent or avert the assault must be necessary and reasonable, i.e. in proportion to the threat.

VIII.2 « home »

Home: Within the meaning of the Penal Code and the Constitution a home is a person's residence or a furnished or unfurnished place regularly or occasionally occupied for the purpose of conducting a private life either alone or with others. A home does not mean the professional residence or the head office of legal persons but does include tents, caravans, hotel and lodgings.

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

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ROMANIA

ROMANIA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

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ROMANIA

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ROMANIA

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Cross-border surveillance is regulated by Articles 170 and 187⁸ (Title VII – Judicial assistance in criminal matters) of Law No. 302/2004 on International judicial cooperation in criminal matters, with subsequent amendments; in addition, Article 187¹⁰ regulates the liability of foreign officers involved in cross-border surveillance.

ARTICLE 170

- (1) Subject to any contrary provisions existing in the convention applicable in relation to that State, officers of a foreign State who, within the framework of a judicial investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the abovementioned person, shall be authorised to continue their observation in the territory of Romania, based on a request for judicial assistance which has been previously submitted. On request, the observation may be entrusted to the competent Romanian authorities.
- (2) The request for judicial assistance referred to in paragraph 1 must be sent to the Prosecutor's Office attached to the High Court of Cassation and Justice and contain all the relevant information on the case, according to the provisions of the applicable convention. Through its authorisation, the Prosecutor's Office attached to the High Court of Cassation and Justice may impose certain conditions.

ROMANIA

- (3) When, for particularly urgent reasons, the prior authorisation of Romania cannot be requested, the foreign officers conducting the observation within the framework of a criminal investigation shall be authorised to continue in Romanian territory the observation of a person presumed to have committed any of the offences listed in paragraph 5, provided that the following conditions are met:
- a) the crossing of the border shall be notified at once, during the observation, to the Prosecutor's Office attached to the High Court of Cassation and Justice, as well as to the structure of the Border Police operating within the border crossing point;
 - b) a request for judicial assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted without delay.
- (4) The observation referred to in paragraphs 1 and 2 shall be carried out only under the following conditions:
- a) The officers conducting the observation must observe this Article and Romanian law;
 - b) Subject to the conditions in paragraph 3, the officers shall, during the observation, carry a document certifying that authorisation has been granted;
 - c) The officers conducting the observation must be able at all times to provide proof that they are acting in an official capacity;
 - d) The officers conducting the observation may carry their service weapons during the observation, save where specifically otherwise decided by the Prosecutor's Office attached to the High Court of Cassation and Justice through the authorisation; their use shall be prohibited save in cases of legitimate self-defence;

ROMANIA

- e) Entry into private homes and places not accessible to the public shall be prohibited;
 - f) The officers conducting the observation may neither stop and question, nor arrest the person under observation;
 - g) All operations shall be the subject of a report to the Prosecutor's Office attached to the High Court of Cassation and Justice, which may require that the officers conducting the observation appear in person;
 - h) The authority of the State from which the observing officers have come shall, when requested by the competent Romanian authority, assist the enquiry subsequent to the operation in which they took part, including legal proceedings;
 - i) the authorities of the State from which the observing officers have come shall, at the request of the Romanian authorities, contribute to the proper course of the investigation subsequent to the operation in which they took part, including legal proceedings.
- (5) The observation referred to in paragraph 3 may take place only for one of the following acts:
- a) homicide, assassination and murder;
 - b) serious sexual offences, including rape and sexual abuse of children;
 - c) destruction and aggravated destruction, committed through arson, explosion or any other such means;
 - d) counterfeiting and forgery of means of payment;
 - e) aggravated theft and robbery, as well as receiving stolen goods;
 - f) extortion;
 - g) kidnapping;
 - h) traffic in human beings and related offences;
 - i) traffic in narcotic drugs or precursors;

ROMANIA

- j) breach of the laws on arms, ammunition, explosives, nuclear materials and other radioactive substances;
 - k) illegal carriage of toxic and dangerous waste;
 - l) smuggling of aliens;
 - m) blackmail.
- (6) The observation referred to in paragraph 3 shall cease where the authorisation has not been obtained within 5 hours of the border being crossed, as well as at the request of the Prosecutor's Office attached to the High Court of Cassation and Justice.

ARTICLE 187⁸

Cross-border surveillance

In applying this Section, the list in Article 170 (5) is hereby supplemented with the following acts:

- a) manslaughter;
- b) serious fraud;
- c) money laundering;
- d) illicit traffic in nuclear and radioactive substances;
- e) participation in criminal organisations, mentioned in Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union;
- f) offences of terrorism provided in Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism.

ROMANIA

ARTICLE 187¹⁰

Liability of foreign officers

- (1) During the operations and activities mentioned in Article 187⁸ (...), the foreign pursuing officers shall be equated with the persons who have the same capacity in Romania as far as the offences committed against them or by them are concerned.
- (2) In the event that, in the course of the operations referred to in Article 187⁸, the foreign officers cause damage, the State from which they came shall be liable for this damage, according to Romanian law.
- (3) The State whose officers have caused damage to any person in the territory of Romania shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.
- (4) Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, Romania shall refrain in the case provided for in paragraph 2 from requesting reimbursement of damages it has sustained from another State.

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ROMANIA

- III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Hot pursuit is regulated by Government Emergency Ordinance (GEO) No. 103/2006 on measures for facilitating international police cooperation, as follows:

CHAPTER 5

HOT PURSUIT

Article 17

- (1) Hot pursuit consists of a set of operative measures taken on the territory of several states, with the purpose of catching a person who has been caught in the act of committing an offence or who participated in such an offence, or any person who managed to escape from provisional custody or while serving a sentence involving deprivation of liberty.
- (2) Hot pursuit may be performed by officers of the competent authority of a Schengen Member State on the Romanian territory, if the Romanian competent authorities have been informed by direct means of communication about the entry to the Romanian territory.
- (3) The Romanian competent authorities mentioned under paragraph (2) are the Romanian Police and the Romanian Border Police.
- (4) Upon the Romanian competent authorities' request, the hot pursuit shall immediately be ceased.

ROMANIA

Article 18

(1) The competent authorities of a Schengen Member State which are pursuing in their country a person who is in one of the situations stipulated under Article 17(1) may continue the pursuit on Romanian territory, without previously informing the Romanian competent authority, if the following conditions are cumulative fulfilled:

- a) given the particular emergency of the situation, the Romanian competent authorities could not be previously informed, by direct means of communication, about their entry to the Romanian territory, or where the Romanian competent authorities were unable to reach the scene in due time in order to take over the pursuit.
- b) hot pursuit may take place only for one of the following offences:
 - 1. manslaughter, murder, first degree murder, aggravated murder;
 - 2. sex offences ;
 - 3. destruction committed through arson, explosion or any other such means;
 - 4. forgery of money or other assets;
 - 5. first degree theft and robbery, concealment and support of the perpetrator;
 - 6. blackmail;
 - 7. illegal deprivation of freedom;
 - 8. trafficking in human beings and other related offences;
 - 9. trafficking in drugs or precursors;
 - 10. breach of the laws on arms and explosives, nuclear materials and other radioactive materials;
 - 11. infringement of the provisions regarding the import and/or export of waste and residuals;
 - 12. leaving the site of an accident without approval from the police who are performing on-site investigation, by the driver of any vehicle that has been involved in an accident which has resulted in death or injury to the corporal integrity or health of one or more persons;

ROMANIA

(2) The pursuing officers shall, no later than when crossing the state border, contact the Romanian Border Police or the Romanian territorial competent authority which may request the immediate cessation of pursuit.

Article 19

- 1) Upon the request of the pursuing officers, the Romanian competent authorities shall take all the necessary measures in order to establish the identity of the pursued person or to order the arrest or preventive detention of the pursuer, under the conditions set forth by the law.
- 2) In the case of the arrest of the person mentioned under paragraph (1), the arrest measure cannot exceed 6 hours, unless the Romanian competent authorities have previously received a request for that person's preventive detention with a view to extradition, in any form whatsoever. The period of six hours shall be calculated without including the hours between midnight and 9.00 a.m.

Article 20

- (1) Hot pursuit may be carried out only in accordance with the following general conditions:
 - a) the pursuing officers must comply with Romanian legislation and they must obey the instructions issued by the Romanian competent authorities;
 - b) the pursuit shall be carried out over land borders;
 - c) the entry of the officers into private homes and places as well as into places not accessible to the public shall be prohibited;
 - d) the pursuing officers shall be easily identified, either by their uniform, by wearing a visible inscription on their clothes or by the accessories fitted to their vehicles. The use of civilian clothes combined with the use of unmarked vehicles without the aforementioned identification means is prohibited. The officers shall always be able to justify their official status;

ROMANIA

- e) the pursuing officers may carry their service weapons; their use shall be prohibited, excepting the cases of legitimate self-defence;
- f) after each operation referred to under Article 17, the pursuing officers shall personally inform the Romanian competent authority on their mission.
Upon the request of the Romanian competent authority, the officers shall remain at its disposal until the circumstances surrounding their action have sufficiently been clarified; this condition shall apply even if the pursuit has not resulted in the arrest or the preventive detention of the pursued person;
- g) upon a request of the Romanian competent authority, the authority of the State the pursuing officers belong to may assist the enquiry subsequent to the operation they took part to, including the judicial proceedings;

(2) If the bilateral agreements concluded according to Article 24 paragraph (1) provide that the pursuing foreign officers may apprehend the pursued person, in order to bring him/her before the Romanian competent authorities, the person may be subject to a bodily search; handcuffs may be used during the transfer. The objects carried out by the pursued person may be seized, according to the law.

Article 21

In respect to the responsibility of the transborder pursuing foreign officers, the provisions provided for under Article 187¹⁰ under Law 302/2004, as amended and supplemented, shall accordingly be applied.

ROMANIA

DELETED

ROMANIA

DELETED

GENERAL

DELETED

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Law No. 218/2002 on the organisation and functioning of the Romanian Police, with subsequent amendments, stipulates as follows:

Article 34

For discouraging, stopping and neutralising the aggressive actions of persons disturbing public order and safety, actions that could not be removed or stopped by the use of other means, the police officers can use protection shields, helmets, rubber sticks, sticks with electrostatic energy, items with tear irritant and paralysing substances, water jets, rubber bullet guns and handcuffs, trained dogs as well as other means of immobilisation which do not endanger life or cause serious body harm.

ROMANIA

- (1) The means stipulated in paragraph 1 can be used against persons who:
 - a) perform actions that endanger the corporal integrity, health or property of others;
 - b) unlawfully obstruct, public thoroughfares; try to enter, enter without authorisation or refuse to leave the premises of public authorities, of political parties, or of institutions or organisations of public or private interest; jeopardise in any way their integrity or security or that of their personnel, or disturb the normal conduct of their activity;
 - c) are obstructive towards representatives of the public authorities in the performance of their duties;
 - d) resist and disobey, by any means, a police officer's lawful requests, but only if there is a legitimate fear that their actions can endanger the police officer's corporal integrity or his life.
- (2) The use of the means stipulated in paragraph 1 against participants in aggressive actions shall be made gradually, after forewarning the persons concerned that those means will be used and giving them the time needed in order to cease their actions and to comply with the police officer's lawful request; extreme cases shall be considered the exception. Any action performed in public in such extreme cases shall be accompanied by the announcement: "Police!".
- (3) The use of the means stipulated in paragraph 1 must not exceed those really needed to stop or neutralise aggressive actions.

ROMANIA

Article 35

- (1) If necessary, police officers may use, in the situations and conditions stipulated by law, firearms and offensive weapons. Firearms shall be used only after the warning: "Halt, or I will shoot!" has been issued.
- (2) In cases of legitimate defence, police officers may use firearms without such warning.
- (3) The use of service weapons, in the conditions and situations stipulated by law, shall remove the penal character of the deed.

VII.3 arms, ammunition and equipment permitted and conditions of their use
(cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

Romanian national legislation does not specify which weapons and equipments it is prohibited for the police to carry and use.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

Law No. 218/2002 on the organisation and functioning of the Romanian Police, with subsequent amendments, stipulates as follows:

Article 36

It is forbidden to use the means stipulated in Articles 34 and 35 against women showing obvious signs of pregnancy, handicapped persons and children, except in situations in which such persons carry out armed or group attacks that endanger the life or corporal integrity of one or more persons.

ROMANIA

Article 37

(1) The Romanian Police may use force, in the conditions laid down by the law, against those who endanger the life, integrity or health of persons or order structures, as well as against those who threaten to destroy buildings or property of public or private interest.

(2) The means in question shall be used only after the participants have been warned, by loudspeaker that they must obey the rules and cease to infringe public order. If, after they have been warned, they continue to violate the rules and public order, the police officer designated as head of the police presence or the hierarchical superiors shall warn the participants as follows:

- Firstwarning: "Attention, please leaveWe will use force!" followed by sound and visual signals. If after the period necessary for them to disperse, those warned do not obey, a further warning shall be given, as follows: "Leave...We are using force!".

(3) If such situations, as well as those mentioned in Article 47 of Law No. 17/1996 on the firearms and ammunitions regime, require the use of guns, it shall be preceded by a final warning, as follows: "Leave...We are using firearms!"

(4) The use of the means of dispersal and coercion shall cease as soon as public order is restored.

Article 38

Each situation in which firearms are used shall immediately be reported to the officer's superiors. The report shall be given in writing as soon as possible. If, a person's death or serious corporal harm has resulted from the use of a firearm, this shall be immediately communicated, in accordance with the law, to the competent prosecutor.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

ARTICLE 44 – Romanian Criminal Code

Self-defence

(1) An act provided for in criminal law, which is committed in self-defence, shall not be an offence.

(2) A person shall be considered to be acting in self-defence when he/she commits the act in order to remove a material, direct, immediate and unjust attack, which is directed against him/her, against another or against a public interest, and which seriously jeopardises the person or the rights of the person attacked or the public interest.

(2¹) A person shall be presumed to have acted in self-defence also when he/she commits the act in order to reject another person's unauthorised intrusion using violence, villainy, force or other such means, into an abode, a room, outbuildings, or a place that is enclosed or delimited by clear boundary signs.

(3) A person shall be considered to have acted in self-defence also when, out of confusion or fear, they exceeded the limits of defence that is proportional to the seriousness of the danger and to the circumstances under which the attack took place.

ROMANIA

VIII.2 « home »

Government Emergency Ordinance (GEO) No. 97/2005 on the records, domiciles, residence and identity cards of Romanian citizens, with subsequent amendments:

ARTICLE 26

Domicile

- (1) The domicile of a natural person shall be the address which he/she declares as his/her main residence.
- (2) The domicile of an under-age person shall be the domicile of his/her parents or of the parent with whom he/she lives or, depending on the case, of his/her legal guardian or of the natural or legal person to whom he/she is entrusted.
- (3) The provisions of paragraph 2 shall also apply to natural persons without legal capacity.

ARTICLE 29

Residence

A natural person's residence shall be the address which he/she declares as his/her secondary establishment, other than his/her domicile.

DELETED

SLOVENIA

SLOVENIA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

- I.1 list of authorised officers

Criminal Police Officers of the Special Assignment Division of the Criminal Police Directorate (within the General Police Directorate).

SLOVENIA

I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

SLOVENIA

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Legal powers concerning border control are conferred upon all police units in the Republic of Slovenia. In addition, at national level, a specialised national unit for border control exercises those police powers throughout Slovenian territory. Since Slovenia joined the Schengen area, six specialised units (Police Stations for Compensatory Measures) have been set up at police directorates (regional level of organisation); these units exercise police powers and implement compensatory measures in the areas along the internal borders.

This area has since 2011 been regulated in the **Road Traffic Rules Act** in Article 49, which reads as follows:

Article 49 (Permissible speed for police vehicles and vehicles of the Slovenian Intelligence and Security Agency in the performance of special tasks)

Speed limits defined by traffic rules and speed limits displayed on traffic signs are not binding for the following vehicles:

1. of the Police, equipped with speed measuring devices used by police officers to check the speed of vehicles in traffic,

SLOVENIA

2. of the Police, of the Slovenian Intelligence and Security Agency and of the Intelligence and Security Service of the Ministry of Defence, when police officers, officials from the Agency or from the Intelligence and Security Service use them on the basis of authorization from the Public State Prosecutor, investigating judge, Director of the Slovenian Intelligence and Security Agency or the Minister of Defence, to implement covert investigative measures within their competence according to the law governing the tasks, responsibilities and powers of the Police, or according to the law governing criminal procedure and special forms of data acquisition based on law governing the operation of the Slovenian Intelligence and Security Agency, or according to the law governing the operation of the Intelligence and Security Service of the Ministry of Defence.

Drivers of such vehicles must adopt a driving style and drive at a speed that will enable them to exercise full control over the vehicle at all times and must not endanger other road users or their property.

SLOVENIA

II. Controlled deliveries

- contact points

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

Paragraph one of Article 43 of the ORGANISATION AND WORK OF THE POLICEACT (ZODPol, Official Gazette of the Republic of Slovenia), no. 15/13

provides): "**Police officers** shall be uniformed or non-uniformed police personnel, who discharge police tasks and have the right and duty to enforce police powers."

Paragraph 4 provides: "Police officers shall carry police badges which shall be evidence of their authorisation to exercise police powers."

SLOVENIA

Restrictions on the power of pursuit in Slovenia:

The Republic of Slovenia The following conditions must be met if the right of pursuit is exercised in Slovenia:

- criminal acts which constitute a basis for pursuit: all extraditable criminal acts (Article 41((4)(b)); on borders with Hungary: for criminal acts for which a person can be surrendered;
- pursuit is not limited in time or space (Article 41-(3)(b));
- pursuing officers have the right to detain the person pursued (Article 41((2)(b));
- pursuit can be carried out only on land borders; with Hungary and Austria.

III.2 designated authorities (if applicable)

DELETED

SLOVENIA

III.3 authorities to be contacted in border regions when crossing the border

DELETED

SLOVENIA

DELETED

SLOVENIA

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

Legal powers concerning border control are conferred on all police units in the Republic of Slovenia. In addition, at national level, the Specialised Unit for State border control exercises those police powers throughout Slovenian territory. Since Slovenia joined the Schengen area, six specialised units (Police Stations for Compensatory Measures) have been set up at police directorates (regional level of organisation); these units exercise police powers and implement compensatory measures in the areas along the internal borders.

Special road traffic rights: Article 101 (4) of the Road Traffic Rules Act lays down that traffic rules are not binding for Police vehicles using devices for producing audible signals and blue light.

The drivers of such vehicles must adopt a driving style and drive at a speed that will enable them to exercise full control over the vehicle at all times and must not endanger other road users or their property. Foreign police officers have the same rights as national police officers in this respect.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

SLOVENIA

DELETED

SLOVENIA

DELETED

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

DELETED

POLICE TASKS AND POWERS ACT

Article 157 (Cooperation of the police in other EU Member States)

(2) Decisions on the assistance and support of the police in crisis situations in another EU Member State, as defined in Council Decision 2008/617/JHA, on the basis of a request, shall be made by the Minister.

GENERAL

VII. Arms

VII.1 definition of service weapon

In accordance with the special regulations, police officers carry short-barrel firearms and ammunition cases, for which they are individually responsible. Such firearms include all types of pistols and revolvers except flare and air pistols. Long-barrel firearms (all types) and automatic guns are carried if so ordered by the head of the regional police unit or if necessary due to the nature of work (when patrolling, police officers also carry long-barrel firearms – usually a Heckler & Koch, 9 mm). Officers also carry equipment for maintaining public order, i.e. truncheons, instruments for handcuffing and tying, gas spray, gas instruments and other instruments of temporary incapacitation and other means of restraint.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

POLICE TASKS AND POWERS ACT

Article 157

(Cooperation of the police in other EU Member States)

- (1) In order to prevent criminal offences, and maintain and secure law and order during public gatherings and in the event of natural and other disasters, the police may cooperate with security authorities in the territory of another EU Member State on the basis of a request, in accordance with Council Decision 2008/615/JHA and Council Decision 2008/616/JHA. Decisions on cooperation shall be made by the Director General of the Police.

SLOVENIA

- (2) Decisions on the assistance and support of the police in crisis situations in another EU Member State, as defined in Council Decision 2008/617/JHA, on the basis of a request, shall be made by the Minister.
- (3) When the police cooperate with security authorities in another EU Member State pursuant to this Act, police tasks may be performed and instruments of restraint may be used only under the authority of the competent security authority of the EU Member State if so determined by Council Decision 2008/615/JHA, Council Decision 2008/616/JHA, Council Decision 2008/617/JHA or the law of the EU Member State.
- (4) In accordance with the preceding paragraph, police officers may only use firearms in cases referred to in the first indent of the first paragraph of Article 96 of this Act.

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

POLICE TASKS AND POWERS ACT

Article 158 (Cooperation of the police with security authorities of other EU Member States in the Republic of Slovenia)

- (1) On the basis of a request by the police, security authorities of other Member States may participate in preventing criminal offences, maintaining and securing law and order during public gatherings and providing assistance in the event of natural and other disasters in the Republic of Slovenia, in accordance with Council Decision 2008/615/JHA and Council Decision 2008/616/JHA.
- (2) On the basis of a request by the Minister, security authorities of other Member States may cooperate with the police in crisis situations in the Republic of Slovenia, as defined by Council Decision 2008/617/JHA.

SLOVENIA

- (3) In the cases referred to in the first and second paragraphs of this Article, security authorities of other Member States shall wear uniforms, carry firearms, accompanying ammunition and other instruments of restraint, and use vehicles and other equipment necessary for performing police tasks with their markings and symbols. The Director General of the Police may limit the entry and use of certain means and equipment.
- (4) Security authorities of other Member States shall perform police tasks referred to in the first and second paragraphs of this Article and use instruments of restraint pursuant to this Act and under the authority of the Slovenian police. They may use firearms only in cases referred to in the first indent of the first paragraph of Article 96 of this Act.
- (5) In their cooperation with the police, security authorities of other Member States shall be provided with the same assistance and support as Slovenian police officers. Their national legislation shall apply to employment relationships and disciplinary responsibility of security authorities of other Member States.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

POLICE TASKS AND POWERS ACT

Use of firearms

Article 96 (Use of firearms)

- (1) When performing official tasks, police officers may use firearms only if otherwise unable
- to prevent an unlawful assault directed concurrently against themselves or any other person that puts lives in jeopardy, or
 - to prevent a person who in circumstances showing elements of the commission of a criminal offence has in his possession a firearm ready for use, explosives or other dangerous objects or substances for endangering the life of one or more persons.

SLOVENIA

- (2) An assault on police officers or any other person referred to in the first indent of the preceding paragraph shall also be deemed to be a situation in which a person reaches for a weapon or any other dangerous object or substance, pulls them out or tries to do so or holds them in a position indicating the possibility of an imminent assault.
- (3) Before using their firearms, police officers shall, if with regard to the police officers' or other people's safety circumstances allow, caution the person against whom the firearms are to be used by calling out "Police! Freeze or I will shoot!" and fire a warning shot in a safe direction.

Article 97 (Special conditions for using firearms)

- (1) In the event that a person against whom police officers are allowed to use firearms is fleeing or retreating towards a group of people or is in the midst of them, a police officer may only shoot if the person in question is directly threatening people's lives.
- (2) In the event that a person against whom police officers are allowed to use firearms is in the vicinity of the state border or is approaching it, police officers shall shoot so that the projectile does not fly over the state border.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Self-defence (Article 11 of the Penal Code of the Republic of Slovenia):

Self-defence is understood to mean such defence as is absolutely necessary for the actor to avert an immediate and unlawful attack on himself or on any other person.

VIII.2 « home »

Home:

The Slovenian Constitution does not guarantee equal protection for all premises. It is understood that the inviolability of homes and other premises is based on the right to privacy. The Constitution provides guarantees only for premises in which an individual can reasonably expect to enjoy privacy. Open and public premises are not included in this category.

Generally, a **home** means premises which are intended for permanent or temporary residence, and other appurtenant rooms (such as an attic, cellar, shed, workshop etc.). A caravan, a mobile home (a modified van, truck or other vehicle), a tent, and habitable rooms on vessels or other provisional living spaces also fall within this category.

- **Other premises** are, for instance, business premises, company premises or the premises of other legal entities.

SLOVENIA

- The problem arises with regard to **open spaces** (courtyards, fields etc.), which owners usually consider an essential part of their home or property and where they expect to enjoy privacy. Neither the Constitution nor the law provides a solution to this problem or specifies any criteria according to which such premises could enjoy Constitutional protection. One judicial criterion is that the owners should display clearly that they wish to protect their privacy (e.g. by means of a fence, hedge etc.).

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SLOVAKIA

SLOVAKIA

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)

- I.1 list of authorised officers

The cross-border surveillance is performed by Special Police Activities Bureau.

SLOVAKIA

I.2 designated authorities (specify for incoming and/or outgoing requests)

Contact details of the central authority:

DELETED

In urgent cases when cross-border surveillance continues on to the territory of the Slovak Republic and prior official permission would delay the surveillance, the police officers must inform the above-mentioned authority.

SLOVAKIA

- I.3 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

The relevant **bilateral agreements** on police cooperation between law enforcement authorities of the Slovak Republic and of neighbouring countries stipulate the following provisions (all of which have priority over the laws of the Slovak Republic):

- **with Austria (entry into force: 1 July 2005)**
 - Conditions for cross-border surveillance:
 - extraditable offence (to prevent the preparation and perpetration of such an offence);
 - to ensure the execution of a sentence of imprisonment;
 - to avert the criminal activities of an organised group;
 - in urgent cases Austrian police officers may continue cross-border surveillance without prior official permission on condition that they immediately inform the Police Presidium, **DELETED**;
 - cross-border surveillance must be stopped if the permission is not granted within 12 hours after crossing the border, or if the Slovak side so requires;
 - police officers exercising cross-border surveillance on the territory of the Slovak Republic are bound by Slovak legislation and obliged to follow the instructions of the Slovak designated authorities and authorised officers; they are also obliged to prove their status as police officers;
 - police officers exercising cross-border surveillance are not allowed to enter private facilities or facilities that are inaccessible to the public; they may access public premises only during working hours;
 - police officers exercising cross-border surveillance shall immediately submit a report to the Slovak authorised officers;

SLOVAKIA

- police officers exercising cross-border surveillance are allowed to use service technical means as well as service motor vehicles;
- Austrian service motor vehicles used for cross-border surveillance are considered to be equivalent to Slovak service motor vehicles and, if necessary, the use of flashing lights (including sirenes) is allowed.
- **with Poland (entry into force 18 December 2006)**
 - the only condition is that the offence must be extraditable according to the Slovak legislation;
 - police officers exercising cross-border surveillance on the territory of the Slovak Republic are bound by Slovak legislation and obliged to follow the instructions of the Slovak designated authorities and authorised officers;
 - police officers exercising cross-border surveillance are obliged to prove their status as police officers by means of a police identity card;
 - police officers exercising cross-border surveillance must have permission for their operation; without such permission, which must be obtained in advance, the police officers of one side may continue in surveillance only if the offences involved are punishable by a maximum sentence of at least 3 years' imprisonment, or in the case of an offence punishable by an extraordinary prison sentence (life imprisonment);
 - police officers exercising cross-border surveillance are allowed to wear their service weapons and to use service technical means and service motor vehicles;
 - when using a service motor vehicle, they are obliged to comply with the traffic regulations of the Slovak Republic;
 - service weapons may be used only for necessary self-defence;
 - police officers exercising cross-border surveillance are not allowed to detain persons or to enter private facilities or facilities that are inaccessible to the public;
 - police officers exercising cross-border surveillance shall immediately submit a report to the authorised officers of the host country.

SLOVAKIA

- **with Hungary (entry into force 1 May 2007):**
 - police officers are allowed to exercise cross-border surveillance on the territory of the Slovak Republic if the person under surveillance is suspected of an intentional offence which is punishable by a sentence of at least five years' imprisonment, or is a member of an organised criminal group, or is in contact with such a group;
 - police officers exercising cross-border surveillance must have permission for their operation; without such permission, which must be obtained in advance, the police officers of the contracting party may continue their surveillance only if a delay would endanger public security or would jeopardise the detection of crime;
 - cross-border surveillance which continues on to the territory of the Slovak Republic has to be stopped if the police officers carrying out the operation do not receive authorisation from the designated authorities of the Slovak Republic within 5 hours of crossing the border, or if those officers are asked to cease their surveillance;
 - police officers exercising cross-border surveillance on the territory of the Slovak Republic are bound by Slovak legislation and obliged to follow the instructions of the Slovak designated authorities and authorised officers;
 - police officers exercising cross-border surveillance are obliged to prove their police status by means of a police identity card;
 - police officers exercising cross-border surveillance are not allowed to enter private facilities or facilities that are inaccessible for the public; they may access public premises only during working hours;
 - police officers exercising cross-border surveillance must immediately submit a report to the authorised officers of the host country;
 - police officers exercising cross-border surveillance are allowed to use service technical means in compliance with Slovak legislation; when using service motor vehicles, they are obliged to follow the traffic regulations of the Slovak Republic;
 - cross-border surveillance may be exercised without limitation in space.

SLOVAKIA

II. Controlled deliveries

- contact points:

DELETED

SPOC is required to forward the request to the competent national authorities depending on the character of the delivery (Customs Directorate of the Slovak Republic, Customs Criminal Office, Prosecutors' Offices, etc.).

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

Officers of the Police Force of the Slovak Republic and officers of other authorities as stipulated in the relevant bilateral agreements on police cooperation between law enforcement authorities of the Slovak Republic and:

1. Czech Republic (in force since 24 February 2005) (including customs authorities – Art. 8 and 15 of the Agreement)
2. Austria (in force since 1 July 2005) (including customs authorities and Railway Police – Art. 3 and 8 of the Agreement)

SLOVAKIA

3. Poland (in force since 31. July 2011) (including customs authorities and Railway Police – Art. 8a of the Agreement)
4. Hungary (in force since 1 May 2007) (including customs authorities and Railway Police – Art. 1 and 13 of the Agreement).

III.2 designated authorities (if applicable)

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III.3 authorities to be contacted in border regions when crossing the border

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SLOVAKIA

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SLOVAKIA

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SLOVAKIA

III.4 specific statutory provisions (including, where relevant and useful, a general indication of the applicable traffic regulations)

In accordance with Article 41 of the Schengen Convention:

in relation to the Republic of Poland, the Czech Republic, the Republic of Austria and the Republic of Hungary, hot pursuit shall be exercised on the territory of the Slovak Republic under the following conditions:

- a) together with the right to apprehend (Article 41(2)(b)),
- b) without limit in space or time (Article 41(3)(b)),
- c) for extraditable offences (Article 41(4)(b)).

Bilateral agreements in force regulating hot pursuit with the Czech Republic, the Republic of Austria, the Republic of Hungary and the Republic of Poland (hot pursuit to be included soon) are considered as extending the application of Article 41(1) of the Schengen Convention.

General provisions applying to hot pursuit exercised on the territory of the Slovak Republic by the police officers of the neighbouring countries:

- police officers exercising hot pursuit on the territory of the Slovak Republic are bound by the Slovak legislation and obliged to follow the instructions of the Slovak designated authorities and authorised officers;
- police officers exercising hot pursuit are allowed to use service technical means as well as service motor vehicles;
- police officers exercising hot pursuit are obliged to prove their police status, e.g. by uniform, by special or additional equipment fixed to their motor vehicles. Officers are not allowed to wear civilian clothes when using police motor vehicles without police identification;
- police officers exercising hot pursuit are allowed to detain persons, but they are not allowed to enter private facilities or facilities that are inaccessible to the public; they may access public premises only during working hours;

SLOVAKIA

- police officers exercising hot pursuit shall immediately report to the authorised officers of the host country; moreover, they are expected to provide adequate assistance to the authorities of the host country;
- coercive measures (body search, handcuffing) may be applied only in well-defined situations;
- the pursued person may be detained for questioning but must be released within 6 hours of being detained (hours between 12.00pm and 9.00am are not covered by that limit);
- the person detained during the pursuit shall be questioned by the police authorities on whose territory he/she had been detained.

In the bilateral agreement with Czech Republic the following specific conditions for hot-pursuit have been agreed:

- the pursued person may be detained for questioning by the police authorities on whose territory he/she had been detained, the person must be released within 24 hours of being detained;

In the bilateral agreement with Austria the following specific conditions for hot-pursuit have been agreed:

- the Austrian police officers exercising the hot pursuit may use their service motor vehicle in the same way as the Slovak police officers, e.g. they, too, are allowed to use flashing lights including sirenes;
- the pursued person may be detained for questioning by the police authorities on whose territory he/she had been detained, the person must be released within 6 hours of being detained;

In the bilateral agreement with Hungary the following specific conditions for hot-pursuit have been agreed:

- the Hungarian police officers may continue in hot pursuit into the territory of the Slovak Republic without prior permission if the person pursued has committed or attempted to commit an offence punishable by a sentence of at least 1 year's imprisonment.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

SLOVAKIA

DELETED

SLOVAKIA

IV.2 procedure

In accordance with Article 17 officers or other civil servants with the right to participate in police operations are:

- officers of Police Force, and customs officers

Slovak legislation in general allows police officers¹ of other Member States to use the powers of the police officers of the Slovak Republic, to the extent and under the conditions stipulated by an international agreement or by another act (e.g. Council Decision 2008/615/JHA). The official procedure for setting up joint operations according to Article 17 of Council Decision 2008/615/JHA has not been stipulated. If there is a need to set up a joint operation, the requesting Member State must send a request to the abovementioned contact points. The further procedure, extent and conditions of use of the police powers of the other Member State are decided by the Slovak police officer in charge of the joint operation. This means that the other Member State's police officer would have only those powers intended for that specific joint operation, and they would always be exercised under the instructions and in the presence of the Slovak police officer.

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

- see point IV.1 (the same)

¹ Police officer in context of the IV. 2 and V. 2 means: officer of the Police Force, officer of the Railway Police or customs officer depending on the concrete joint operation.

SLOVAKIA

V.2 procedure [if different from IV]

The action of police officers of other Member States during patrols is always under the command of the Slovak police officer, who determines the extent and the conditions of use of the specific powers.

The Slovak Republic has concluded bilateral agreements on police cooperation with neighbouring countries (Hungary, Poland, Austria and the Czech Republic) that regulate the functioning of joint patrols in the border regions within a range of 10 kilometres inland (on trains, joint patrols are carried out up to the first station where the train stops). Joint patrolling in the border region is designed to protect public order and combat organised crime.

During patrols the police officers of the other Member States may identify and detain a person according to national legislation and in exceptional, well-defined cases use coercive means. They may wear their uniforms or other police identification, use police means of communication, technical equipment for surveillance and police motor vehicles. Moreover, those police officers are also allowed to carry service weapons, which may be used only in the case of necessary self-defence.

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

The authorising authority is the Chief of the Police Force.

Submission of requests regarding the deployment of special intervention units is carried out through:

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

A (service) weapon is one of the coercive means in the Slovak Republic and may be used in compliance with national legislation (e.g. Act on Police Force, Act on Railway Police). Firearms, edged weapons and mass effect weapon are considered to be (service) weapons.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

The police officers of other Member States are allowed to use the following coercive means on the territory of the Slovak Republic:

- hand holds, grabs, hits and kicks in self-defence,
- means for subduing resistance or averting an attack,
- handcuffs,
- police dog,
- spiked barrier strips and other means for stopping vehicles by force,
- strike by a firearm,
- threat by firearm,
- warning shot in the air,
- weapon.

SLOVAKIA

VII.3 arms, ammunition and equipment permitted and conditions of their use
(cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment that may not be carried or used

- Permissible service weapons: different types of pistols defined as short firearms using 9 x 19 mm Luger ammunition (e.g. CZ 75 and 85, GLOCK 17 and 19, SigSauer 226, etc.).
- Permissible ammunition: 9 x 19 mm Luger ammunition (modified) is allowed; this is used in a given type of service weapons certified for use on the territory of the Slovak Republic.
- Permissible equipment: see VII.2 note.
- Prohibited service weapons: shotguns, signal pistols, automatic machine guns, mass effect weapons and any other firearms.
- Prohibited ammunition: special ammunition with rubber charge, ammunition with indelible dye charge, ammunition with tear-gas charge.
- Prohibited equipment: binding belts, binding straps, crowd control by motor vehicles and mounted crowd control, technical means for immobilising vehicles, special water cannon, stun devices, use of special ammunition, use of planes.

Before using a weapon, a police officer is obliged to order the person he is challenging to desist from unlawful conduct, and warn the person that a weapon will be used.

Before using a firearm, the police officer must fire a warning shot in the air. A police officer can refrain from the warning and the warning shot in the air only if he/she is personally attacked, or the life or health of another person is endangered, or the matter cannot be delayed.

SLOVAKIA

While using a weapon, the police officer must exercise caution and shoot to injure only, so that the life and health of others is not endangered.

A police officer is authorised **to shoot** in necessary self-defence as a rule when tackling an assailant whose resistance cannot be subdued by other means.

A police officer is authorised to **fire a warning shot in the air** in order to:

- a) ensure his or another person's safety, if the person challenged does not desist from the attack, there is an immediate threat of an attack, the attack continues or all the signs indicate that it is likely to continue,
- b) bring in, detain, catch, arrest or bring to prison a person who actively resists,
- c) prevent a disturbance, fight, deliberate damage to property or otherwise rowdy conduct whereby the public peace is breached,
- d) prevent forced entry by unauthorised persons into guarded premises or a place where entry is forbidden,
- e) prevent the escape of a person being pursued or guarded who is to be detained, arrested or taken into lawful custody or conveyed to prison,
- f) to prevent the illegal crossing of the state border.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

- **Use of weapon**

A police officer is authorised **to use a weapon only**

- a) in case of necessary self-defence and extreme necessity,
- b) if a dangerous perpetrator against whom the police officer is taking action, after having been given an order, does not surrender or hesitates to leave his/her hideaway,

SLOVAKIA

- c) if the resistance, which is preventing him from fulfilling his duty, cannot be subdued by any other means,
- d) in order to prevent the escape of a dangerous perpetrator who cannot be stopped by any other means,
- e) if a person who has been challenged by the use of a weapon or a warning shot in the air does not comply with the police officer's instructions aimed at ensuring his or another person's safety,
- f) if there is no other possibility of stopping a vehicle whose driver, after repeated orders to stop, or a sign given in accordance with special regulations, does not stop and seriously endangers the life and health of other persons with his careless driving,
- g) in order to avert a dangerous attack which threatens guarded premises or a place where entry is forbidden, and after a challenge to stop the attack has been unsuccessful,
- h) to render harmless an animal threatening human life or health,
- i) to force a vehicle to stop within the area of the state border, if its driver does not stop after repeated orders to do so, or signs given in accordance with special regulations.

Before using coercive means, the police officer is obliged to challenge the person he is acting against to stop the unlawful conduct, and warn him/her that one of the coercive means will be applied. The police officer can omit the challenge or warning only if he himself has been attacked, or the life and health of another person is endangered and the matter cannot be delayed, or if permitted by other circumstances.

The choice of which coercive means are to be used is decided by the police officer in the light of the actual situation, so as to ensure that the purpose of the intervention can be attained and the coercive means and intensity of their application are not clearly inadequate to the dangerousness of the attack.

SLOVAKIA

- **Use of various coercive means**

1. Handholds, grabs and kicks used in self-defence to subdue resistance and avert an attack

A police officer is authorised to use handholds and kicks in self-defence and other means to overcome resistance and avert an attack in order to:

- a) safeguard his or another person's protection against an attack if, after challenging the assailant, the attack does not stop, there is an immediate threat of an attack, the attack continues, or all the signs indicate that it is likely to continue,
- b) to prevent a disturbance, fight, deliberate damage to property or otherwise rowdy conduct whereby public peace is breached,
- c) bring in, detain, arrest, take into custody, or convey to prison a person who actively resists,
- d) prevent forcible entry of an unauthorised persons into guarded premises, or a place where entry is forbidden,
- e) overcome the active resistance of the restrained person pursuant to Article 27a.

A police officer is authorised to use grabs and holds in order to:

- a) bring in, detain, arrest, take into custody, or convey to prison a person who passively resists or who resists providing identification pursuant to Article 20a,
- b) overcome the passive resistance of the restrained person pursuant to Article 27a.

2. Handcuffs

A police officer is authorised to use handcuffs

- a) to handcuff a person being brought in, caught, detained or arrested, or a person who should be conveyed to prison or taken into custody and who actively resists or attacks other persons or a police officer, damages property even after an unsuccessful challenge to refrain from such conduct,

SLOVAKIA

- b) to handcuff together two or more persons being brought in, caught, detained or arrested under the conditions referred to in letter a) herein,
- c) when carrying out actions or procedures regarding the persons brought in, detained, caught or arrested, or the persons in lawful custody or deprived of liberty in prison, if there is well-grounded suspicion they will attempt to escape,
- d) when carrying out police transport of aliens through the territory of the Slovak Republic to the state border of neighbouring state.

The person referred to above, can also be handcuffed to an appropriate object if required by circumstances, however, this may last only as long as the reasons above continue to obtain.

3. Police dogs

A police officer is authorised to use a police dog in order to:

- a) ensure his own or another person's safety if, after a challenge, the attack has not ceased, there is an immediate threat of an attack, the attack continues or all the signs indicate that it is likely to continue,
- b) prevent a disturbance, fight, deliberate damage to property or otherwise rowdy conduct, whereby public peace is breached,
- c) prevent forcible entry by unauthorised persons into guarded premises, or a place where entry is forbidden,
- d) pursue a person on the run, who is to be detained, arrested or taken into lawful custody or conveyed to prison,
- e) force a person in hiding who is to be detained, arrested, taken into lawful custody or conveyed to prison to leave his/her hideaway,
- f) guard a person brought in, detained, caught or arrested who is to be taken into lawful custody or conveyed to prison,

SLOVAKIA

- g) pursue a person, who, near the state border, has not stopped when challenged, tries to escape and cannot be stopped in another way,
- h) ensure his own or another person's safety during police transport of aliens through the territory of the Slovak Republic to the state border of the neighbouring state.

The police dog must be muzzled. If required by the nature and intensity of an attack, or in order to overcome a person's resistance or his method of action, the officer can use a police dog without muzzle.

4. Spiked barrier strips or other means of stopping a vehicle by force

A police officer is authorised to use a spiked barrier strip or other means to stop a vehicle by force if the driver, after repeated challenges or a sign given in accordance with special regulations, does not stop and if there is:

- a) a serious threat to life, health or property caused by careless driving,
- b) well-grounded suspicion that the vehicle is transporting perpetrators of deliberate criminal acts, wanted person, weapons, ammunition, explosives, narcotic and psychotropic substances and poisons, the proceeds of crime or things connected with crime,
- c) an undoubted suspicion that the driver will attempt to enter guarded premises or places where entry is forbidden using force,
- d) well-grounded suspicion that the vehicle will attempt to cross the state borders using force.

"Other means" as referred to in the first paragraph mean, in particular, a police vehicle, other vehicles, or building and construction equipment.

SLOVAKIA

5. Use of a firearm

A police officer is authorised to strike a person with a firearm in necessary self-defence as a rule when tackling an assailant whose resistance cannot be subdued by other means.

6. Threat using a weapon and warning shot in the air

A police officer is authorised to use his weapon to issue a threat and to fire a warning shot in the air in order to:

- a) ensure his or another person's safety, if the person challenged does not desist from the attack, there is an immediate threat of an attack, the attack continues, or all the signs indicate that it is likely to continue,
- b) bring in, detain, catch, arrest or bring to prison a person who actively resists,
- c) prevent a disturbance, fight, deliberate damage to property or otherwise rowdy conduct whereby the public peace is breached,
- d) prevent forced entry by unauthorised persons into guarded premises or a place where entry is forbidden,
- e) prevent the escape of a person being pursued or guarded who is to be detained, arrested or taken into lawful custody or conveyed to prison,
- f) to prevent the illegal crossing of the state border.

• **Obligations of a police officer after the use of coercive means**

As soon as the police officer discovers that a person has been injured subsequent to the use of coercive means, he is obliged, if circumstances allow, to give the injured person first aid and ensure his/her medical treatment.

SLOVAKIA

A police officer is obliged to report immediately to his superior officer each service action where he has used coercive means. If any doubts arise with regard to the legitimacy or adequacy of the use of coercive means, or if their use resulted in death, detriment to health or damage to property, the superior officer is obliged to ascertain that those means were used in accordance with the law. He shall submit an official report on his findings. If a police officer has used coercive means in an area other than that of his operational task force, he shall report its use to the nearest division of the Police Force.

- **Special restrictions**

During a service action against a pregnant woman, an elderly person, a person clearly physically handicapped or ill, or against a person under the age of 15, a police officer may use only handholds and handcuffs. A police officer is authorised to use other means of force only if the attack by such persons imposes an immediate threat to other persons or to the police officer's life and health, or if there is a serious threat of damage to property and this danger cannot be averted by any other means.

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

In accordance with the national legislation of the Slovak Republic there are two categories of self-defence: "necessary self defence" and self-defence in "extreme necessity". The definition of both terms is given below (defined in the Criminal Code of the Slovak Republic of 2005).

SLOVAKIA

- **Necessary self-defence**

An act which would otherwise give rise to criminal liability by which one eliminates directly impeding or continuous attack on an interest protected by the Criminal Code of the SR is not a criminal offence.

There is not "necessary self-defence" if the defence was manifestly inappropriate to the attack, particularly to its manner, place and time, to circumstances related to the attacker or to the defender. A person who eliminates an attack in such a manner shall not be criminally liable, if he/she acted under the emotion caused by the attack, particularly as a consequence of confusion, fear or fright.

If, having regard to the circumstances of a case, a person considers by mistake that there is a threat of an attack, this shall not exclude the person's criminal liability for the act committed by negligence, if the error consists in negligence.

- **Extreme necessity**

An act which would otherwise give rise to criminal liability which is committed in order to eliminate the threat directly impeding the interest protected by the Criminal Code of the SR, shall not be considered a criminal offence.

There is not "extreme necessity", if the threat directly impeding the interest protected by the Criminal Code could be averted or if the consequence of the act is manifestly more serious than the consequence of the original threat. Neither is there extreme necessity if the person who was directly threatened was obliged to bear the threat by the generally binding effect of legal regulation.

VIII.2 « home »

Proving police status

A police officer must prove membership of the Police Force before carrying out a police action, if the character and circumstances of that action so allow.

Membership of the Police Force is proven by:

- a) police uniform with identification number and when the officer is on duty also by a name-tag showing the officer's name and surname and academic title if applicable
- b) service identity card
- c) badge of criminal police or financial police
- d) verbal declaration “Polícia”.

Note: Officers of the Railway Police of the Slovak Republic, a corps regulated by a different Act, do not wear name tags, only uniforms with identification numbers. Furthermore, the verbal declaration of their police status is: “Železničná polícia” (Railway Police).

A police officer in civilian clothes is obliged to prove membership of the Police Force by a verbal declaration and service identity card or badge of membership of the criminal police or financial police before carrying out a police action.

SLOVAKIA

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

According to the Act on the authorities of state administration in customs matters, the Customs criminal office has powers to conduct cross-border surveillance and hot pursuit within the limits and **under the conditions laid down** by international treaty.

The Financial Administration of the Slovak Republic acquired these powers for the purpose of executing the Naples II Convention.

According to the Naples II Convention a Central Coordination Unit has been established:

DELETED

FINLAND

FINLAND

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
 - I.1 list of authorised officers
 - Police officers;
 - Customs officers under the conditions laid down in the appropriate bilateral agreements referred to in Article 40(6), with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;
 - Members of the Frontier Guard, as regards trafficking in human beings, as referred to in Article 40(7).

FINLAND

- I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, general indication of the applicable traffic regulations)

Police Act

Chapter 4, Section 27

Surveillance and technical surveillance undertaken by public officials of foreign States

A competent public official of a State applying the Schengen acquis has the right, as provided in the Schengen acquis binding on Finland, to continue the surveillance or technical surveillance of a person in the territory of Finland for the purpose of investigating an offence if the surveillance or technical surveillance started in the territory of his or her own country. An additional requirement is that a Finnish police officer, or within the limits of his or her authority, a Finnish Border Guard officer or a Finnish customs officer, is not able to immediately continue the surveillance or technical surveillance in the territory of Finland.

The surveillance may be carried out using the technical means that a Finnish police officer has the right to use under the provisions on technical surveillance. A report on the surveillance and technical surveillance shall be submitted to the local police department of the area in which most of the activities took place.

FINLAND

II. Controlled deliveries

- contact points

DELETED

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

III.1 list of authorised officers

- Police officers
- Members of the Frontier Guard, as regards trafficking in human beings
- Customs officers under the conditions laid down in the appropriate bilateral agreement, with respect to their powers regarding illicit trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste.

III.2 designated authorities (if applicable)

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FINLAND

III.3 authorities to be contacted in border regions when crossing border

DELETED

III.4 specific statutory provisions (including, where relevant and useful, general indication of the applicable traffic regulations)

Police Act

Chapter 2, Section 22

Powers of public officials of foreign States

A competent public official of a State applying the Schengen acquis referred to in Article 41 of the Convention implementing the Agreement (Schengen Convention) has the right to pursue in the territory of Finland an offender caught in the act of committing an offence in or observed escaping from the territory of the public official's country, and to apprehend and carry out a security search on the offender in the territory of Finland, as provided in the Schengen acquis binding on Finland. The provisions of section 11(1) on stopping vehicles, section 12(1) on searches in connection with action affecting personal liberty, and section 12(4) on the removal of dangerous objects and substances also apply to the stopping of vehicles and security searches.

However, the right to use force to apprehend a person caught in the act of committing an offence or who is in the process of escaping only applies to situations in which the person concerned offers resistance to avoid capture and no competent Finnish public official is immediately available to provide assistance in the apprehension. What is provided elsewhere in this Act and in the Criminal Code also applies to the preconditions for and use of force.

Where an apprehension is based on subsection 1, the person apprehended shall, without delay, be handed over to the local police department of the municipality in which the apprehension took place, and the local police department shall also be notified of any other measures carried out in the territory of Finland and their consequences.

The provisions of Chapter 8 on liability for damages apply to compensation for injury or damage caused by the actions of a competent public official referred to in subsection 1 above.

FINLAND

Coercive Measures Act, Chapter 2, section 2: *Citizen's power of arrest*

Any person may apprehend an offender caught when committing an offence or escaping, provided that the offence is subject to imprisonment or if the offence is petty assault, petty theft, petty embezzlement, petty unauthorised use, petty stealing of a motor vehicle for temporary use, petty criminal mischief or petty fraud (615/2002). Any person may also apprehend a person who, according to a warrant issued by an authority, is subject to arrest or detention. The apprehended person must be surrendered to a police officer without delay.

Traffic Act, Chapter 2, section 48: *Exceptions from the provisions of this Act*

The driver of a vehicle in a convoy led by an emergency or police vehicle may on urgent duty, by exercising necessary caution, depart from the traffic rules and regulations which do not apply to him. He or she shall however yield to trains and other devices running along railway tracks. The driver of an emergency or police vehicle leading a convoy shall give prescribed sound and light signals.

Police officers, customs officers and frontier guardsmen carrying out surveillance, police officers and customs officers carrying out technical surveillance, and police officers carrying out undercover activities and transactions, by exercising special caution, have the same right to depart from the provisions of this Act as the drivers of police vehicles giving prescribed signals.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

IV.2 procedure

The operation has to be the subject of a written agreement. **DELETED**

FINLAND

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

DELETED

V.2 procedure [if different from IV]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

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GENERAL

VII. Arms

VII.1 definition of service weapon

Any weapon issued by the authorities to police officers, frontier guard officials or customs officers for the performance of their duties: pistol, shotgun, rifle, truncheon, tear gas- or pepper spray. An officer is normally equipped with a pistol, truncheon and spray.

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

.....

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment the carrying and use of which is prohibited

.....

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

.....

VIII. Definitions

- VIII.1 self-defence (if not covered by point VII)

Self-defence, Penal Code, Chapter 4, section 4:

An act that is necessary for defence against an ongoing or imminent unlawful attack is lawful as self-defence, unless the act manifestly exceeds what is deemed justifiable in an overall assessment, taking into account the nature and force of the attack, the identity of the defender and the attacker and the other circumstances.

However, if the defence exceeds the limits of self-defence (*excessive self-defence*), the perpetrator is exempt from criminal liability if the circumstances were such that the perpetrator could not reasonably have been expected to have acted otherwise, taking into account the dangerousness and sudden nature of the attack and the situation.

- VIII.2 « home »

Home, Penal Code, Chapter 24, section 1: *Breach of domiciliary peace*

Domiciliary peace is protected by the Constitution and Penal Code. "Home" is not defined in the legislation, but it has been developed by case law. The definition of "home" includes dwelling, yard, stairway, holiday house, and premises actually occupied for living, e.g. hotel room, caravan, tent, vessel. Factories and offices are also protected against unlawful intrusion.

FINLAND

- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

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SWEDEN

SWEDEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

- I.1 list of authorised officers

According to Section 2 of the *International Police Cooperation Act (SFS 2000:343)* the authorised officers are:

- Police officers, in accordance with the *Police Ordinance (SFS 1984:387)*;
- Customs officers when authorised to perform police duties in accordance with the *Act on Penalties for Smuggling (SFS 2000:1225)*;
- Coast Guard officers in connection with maritime surveillance in accordance with the *Act on the Coast Guards' assistance in police surveillance (SFS 1982:395)*.

SWEDEN

I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

I.3 specific statutory provisions (including, where relevant and useful, a general indication on the applicable traffic regulations)

Foreign officers must comply with Swedish traffic regulations during cross-border surveillance.

SWEDEN

II. Controlled deliveries

- contact points

DELETED

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

III.1 list of authorised officers

According to Section 2 of the *International Police Cooperation Act (SFS 2000:343)*
the authorised officers are:

- Police officers, in accordance with the *Police Act (SFS 1984:387)*;
- Customs officers when authorised to perform police duties in accordance with the *Act on Penalties for Smuggling (SFS 2000:1225)*;

III.2 designated authorities (if applicable)

DELETED

SWEDEN

III.3 authorities to be contacted in border regions when crossing the border

DELETED

SWEDEN

- III.4 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

Foreign officers must comply with Swedish traffic regulations during hot pursuit.

The provisions for foreign officers to exercise the power of pursuit are laid down in the *International Police Cooperation Act (SFS 2000:343)*.

Restrictions on the power of pursuit in Sweden

All extraditable offences may entail exercise of the power of pursuit. There are no territorial or temporal restrictions on pursuit. Officers have the right to stop and question the person pursued.

Different restrictions at different borders

Foreign officers crossing Swedish land borders from Finland and Norway or from Denmark by the Öresund link have the power of pursuit as laid down in the *Schengen Convention* and the *International Police Cooperation Act (SFS 2000:343)*.

1. On the borders with Finland and Norway: All extraditable offences may entail exercise of the power of pursuit. There are no territorial or temporal restrictions on pursuits carried out across the borders. Police officers have the right to stop and question the person pursued.

SWEDEN

2. On the border with Denmark: In the area on and surrounding the Öresund link all extraditable offences may entail the exercise of the power of pursuit. There are no territorial or temporal restrictions on pursuits carried out across the borders and police officers have the right to stop and question the person pursued. Danish police officers may continue into Sweden a pursuit commenced in Denmark, motivated by any act that may be subject to public prosecution under Swedish and Danish law. Furthermore, a person who has absconded from any kind of deprivation of liberty that was the result of a criminal offence may also be pursued. Moreover, a person who has absconded from the kind of deprivation of liberty that could entail extradition to Denmark in accordance with *the Act on Extradition to Denmark, Finland, Iceland or Norway for Enforcement of a Decision concerning Care or Treatment (SFS 1970:375)*, may also be pursued. Finally, on the part of the Öresund Link that is Swedish territory, Danish police officers may also begin the pursuit of a person for any act that may be subject to public prosecution under Swedish and Danish law. In such a case they must immediately request assistance from the competent Swedish authority.

Statutory provisions of particular importance when exercising the right of pursuit

Please note that the following texts are not official translations of the acts, and that they only contain the sections directly relating to the power of pursuit.

The International Police Cooperation Act (SFS 2000 :343).

SWEDEN

Schengen cooperation

Section 5

If a person has been discovered in the act of committing an offence that may lead to extradition, or if someone who is in detention or serving a term of imprisonment has escaped, foreign officers may continue pursuit of that person commenced in their State over the land border into Swedish territory, provided that it is authorised by a competent Swedish authority.

Such pursuit may be carried out without prior authorisation if it has not been possible to inform a competent Swedish authority in advance because of the urgent nature of the matter, or if Swedish officers have not been able to take over the pursuit in time. The pursuing officers must request assistance from a competent Swedish authority no later than at the time of the border crossing.

The pursuit must cease immediately if a competent Swedish authority so requests.

Section 6

At the request of the pursuing officers, Swedish police officers will apprehend the person pursued.

The pursuing officers may stop and detain the fugitive until Swedish police officers can take over the detention or identify the person pursued.

SWEDEN

Section 7

When a person has been detained in accordance with Section 6, second paragraph, foreign officers may:

1. conduct a personal search of the person who has been detained, if it is carried out for reasons of security or to search for objects such as referred to in item 2;
2. confiscate objects that can be forfeited in accordance with Chapter 36, Section 3, item 2 of the Swedish *Penal Code (SFS 1962:700)*;
3. or which can be assumed to be of importance to the investigation of crime or have been taken from another person by criminal means;
4. handcuff the person who has been detained.

Objects that have been taken in accordance with the first paragraph, item 2, must be handed over to a Swedish police officer as soon as possible with a view to seizure in accordance with Section 8, second paragraph.

Police cooperation in the Öresund region

Section 9

Danish police officers on Swedish territory on the Öresund Link have the same powers to intervene to combat a threat to public order and security as Swedish police officers have in accordance with statutes or other legislation.

If a Danish police officer takes a measure in accordance with the first paragraph, the relevant Swedish regional police authority must be informed immediately. The measure may continue until a competent Swedish authority takes over the intervention or requests that it should be discontinued.

SWEDEN

Section 10

Danish police officers may, in accordance with Section 5 and with the powers established in Sections 6 and 7, continue into Sweden a pursuit commenced in Denmark, motivated by any act that may be subject to public prosecution under Swedish and Danish law. In addition to the provisions of Section 5, a person who has absconded from any kind of deprivation of liberty that was the result of a criminal offence may also be pursued. Moreover, a person who has absconded from the kind of deprivation of liberty that could entail extradition to Denmark in accordance with the *Act on Extradition to Denmark, Finland, Iceland or Norway for Enforcement of a Decision concerning Care or Treatment (SFS 1970:375)*, may also be pursued.

On Swedish territory on the Öresund Link, Danish police officers may also commence pursuit as referred to in the first paragraph. In that event they must immediately request assistance from the competent Swedish authority.

Common provisions

Section 11

When they exercise powers under this act, foreign officers must comply with Swedish law and other legislation as well as instructions issued by competent Swedish police authorities. During cross-border pursuit or surveillance, they may not enter dwellings or other places that are not open to the public. Service weapons may be used only in legitimate self-defence. Foreign officers must at all times be able to prove their identities and that they are acting in an official capacity.

SWEDEN

It is stated in Chapter 11, Section 1, item f of the *Weapons Act (SFS 1996:67)* that exceptions may be made from the provisions of the act, as regards the right of representatives of the authorities of foreign powers to carry firearms and ammunition when temporarily serving in Sweden.

Section 12

The provisions in Chapter 17 of the Swedish *Penal Code (SFS 1962:700)*, Sections 1, 2 and 4 regarding violence or *threats to a public servant, outrageous conduct towards a public servant* and *violent resistance* also apply when foreign officers are exercising official powers in Sweden in accordance with this act.

The provisions in Chapter 20, Section 1 of the Swedish *Penal Code (SFS 1962:700)* regarding *misuse of office* also applies to foreign officers who exercise official powers in Sweden in accordance with this act.

Section 13

If foreign officers perform tasks in accordance with this act in Sweden, the Swedish State rather than the foreign authority or officer will offer compensation for any damage that arises in conjunction with cross-border pursuit, surveillance or other interventions for which the foreign authority or officer would have been liable to pay damages if Swedish law had been applicable to them. However, the Swedish State will not offer compensation for any damage caused to the foreign authority or officer.

Section 14

Provisions concerning the liability of the Swedish State to offer compensation for damage that Swedish officers cause will not apply when the damage is caused in another State in conjunction with cross-border pursuit or surveillance.

SWEDEN

The Swedish Code of Judicial Procedure (SFS 1942:740)

Chapter 24, Section 7

If there are grounds to arrest a person, a policeman may in the case of urgency apprehend the suspect without a decision for arrest. If a person who has committed an offence for which imprisonment may be imposed is observed in the act of committing the offence or fleeing from it, he may be apprehended by anyone. Similarly, anyone may apprehend a person posted as wanted. The person apprehended shall be promptly handed over to the nearest police officer.

PRÜM

Article 17 of Council Decision 2008/615/JHA (the Prüm Decision) has not yet been implemented in Swedish law. The legislative process is ongoing.

However, according to general rules, the National Police Board is competent to enter into agreements on international police cooperation with crime prevention authorities in EU Member States or in States having concluded an agreement according to the Convention implementing the Schengen Agreement of 14 June 1985. The National Police Board is therefore competent to receive requests for police assistance from crime prevention authorities in other Member States.

SWEDEN

OTHER

Article 8 of Council Decision 2008/617/JHA (the Atlas Decision) has not yet been implemented in Swedish law. The legislative process is ongoing.

However, the National Police Board is competent to receive requests for police assistance from crime prevention authorities in other Member States.

GENERAL

VII. Arms

VII.1 definition of service weapon

Service weapon: A service weapon permitted by the law of the sending country is also permitted in Sweden, according to Chapter 11 Section 1 item f of the *Weapons Act (SFS 1996:67)* together with Chapter 4 Section 4 of the *Weapons Ordinance (SFS 1996:70)*. However, according to Section 11 of the *International Police Cooperation Act (SFS 2000 :343)*, service weapons may be used only in legitimate self-defence

The Swedish Police use the following weapons: Pistols: SIG-SAUER 225, calibre 9x19 mm, SIG-SAUER 226, calibre 9x19 mm, SIG-SAUER 228, calibre 9x19 mm, SIG-SAUER 239, calibre 9x19 mm. Other weapons: Pumphagelrepeter, calibre 12 gauge, CG A5 P, calibre 5,56x45 mm, HK 53, calibre 5,65x45 mm, Accuracy International, calibre 7,62x53 mm, HK MZP 1, calibre 40 mm, SIG-SAUER 229 9x19 mm, HU MP5 9x19 mm.

SWEDEN

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

.....

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment prohibited to be carried and used

.....

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

.....

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

The Swedish Penal Code (SFS 1962:700)

Chapter 24, Section 1

An act committed by a person in *self-defence* constitutes a crime only if, having regard to the nature of the aggression, the importance of its object and the circumstances in general, it is clearly unjustifiable.

SWEDEN

A right to act in *self-defence* exists against,

1. an initiated or imminent criminal attack on a person or property,
2. a person who violently or by the threat of violence or in some other way obstructs the repossession of property when caught in the act,
3. a person who has unlawfully forced or is attempting to force entry into a room, house, yard or vessel, or
4. a person who refuses to leave a dwelling when ordered to do so.

Chapter 24, Section 5

If a person is empowered under Sections 1-4 of this Chapter or under Section 10 of the *Police Act (SFS 1984:387)* to commit an act which is otherwise subject to punishment, anyone who assists him is similarly empowered.

VIII.2 « home »

There is no legal definition of *home* in Swedish law. Some guidance can be found in the statute regarding *breach of domiciliary peace* and *unlawful intrusion* cited below. In order to clarify the difference between the places referred to in the second paragraph below and public places, it has been stated in Swedish case law that the key words *without authorisation* exclude places open to the public.

The Swedish Penal Code (SFS 1962:700)

Chapter 4, Section 6

A person who unlawfully intrudes or remains where another has his living quarters, whether it is a room, a house, a yard or a vessel, shall be sentenced to a fine for *breach of domiciliary peace*.

SWEDEN

A person, who, without authorisation, intrudes or remains in an office, factory, other building or vessel or at a storage area or other similar place, shall be sentenced to a fine for *unlawful intrusion*. [...]

- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

.....

UNITED KINGDOM

UNITED KINGDOM

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

The United Kingdom (excluding Gibraltar) does PARTICIPATE in Article 40.

The Channel Islands and Isle of Man do NOT PARTICIPATE in Article 40.

- I.1 list of authorised officers

Constables of the police services of England, Wales, Scotland and Northern Ireland

Members of the Serious Organised Crime Agency (SOCA)

Members of the Scottish Crime and Drug Enforcement Agency (SCDEA)

Officers of HM Revenue and Customs (HMRC)

N.B. SOCA will be replaced by the National Crime Agency by the end of 2013

Additionally, the SCDEA will become part of the new Police Service of Scotland on April 1st 2013 (details for both to be updated at the appropriate time).

UNITED KINGDOM

I.2 designated authorities (for incoming and/or outgoing requests)

DELETED

I.3 specific statutory provisions (including, where relevant and useful, a general indication on applicable traffic regulation)

Directed and intrusive surveillance conducted by UK Law Enforcement Agencies is authorised under the *Regulation of Investigatory Powers Act 2000* and the *Regulation of Investigatory Powers (Scotland) Act 2000* by senior police officers or equivalent

Where necessary, directed and intrusive surveillance conducted by UK Law Enforcement Agencies which includes surveillance abroad is authorised under the *Regulation of Investigatory Powers Act 2000* section 27 (3) by senior officers or equivalent.

UNITED KINGDOM

II. Controlled deliveries

- contact points

DELETED

UNITED KINGDOM

DELETED

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

The United Kingdom does NOT PARTICIPATE in Article 41.

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

DELETED

IV.2 procedure

All joint operations must be carried out on the basis of a formal agreement at Governmental or policing level (often detailed in bilateral protocols). This must take account of relevant operational, logistical and funding considerations, which should include:

- proposed policing function;
- operational need and/or benefit;
- health and safety considerations;
- complaints procedures and accountability;
- policing powers and policing cultures, in view of the variation in legal and constitutional arrangements across Europe;
- use of uniforms, weapons and protective equipment;
- sharing, use and retention of information and personal data;
- guarantees about accompanying host officers – deployed officers must be accompanied by officers from the host country,
- costs (the cost of meals and accommodation should be met by the host authorities).

UK officers will only be deployed in teams with their own line management, even when their activities are embedded in host policing operations. Officers taking part in a joint operation in the UK will do so in an advisory role and will have no policing powers. Similarly, UK officers taking part in a joint operation in another Member State will do so in an advisory role and will have no policing powers, unless an exceptional arrangement has been agreed and set out in the above protocols.

UNITED KINGDOM

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [see IV above]

.....

V.2 procedure [see IV above]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA):

DELETED

GENERAL

VII. Arms

VII.1 definition of service weapon

Any weapon or ammunition authorised for use by a chief officer of the police, for use by that chief officer's personnel. In any event these could include:

- Revolvers
- Self-Loading Pistols
- Shotguns capable of firing specialist munitions (e.g. CS and breaching rounds)
- Carbines
- Rifles
- Less lethal weapons such as Baton Guns, Tasers
- Launchers and smooth bore pistols capable of firing CS ammunition
- Ammunition for any of the above in accordance with specifications provided by the Home Office Scientific Development Branch
- Incapacitant Sprays
- Hand held Batons
- Rigid Handcuffs.

UNITED KINGDOM

- VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Under the common law a person may use reasonable force in self-defence, and, in extreme circumstances, may be justified in using lethal force. The statutory provision for the use of reasonable force in England and Wales is:

“A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large”

Criminal Law Act 1967 section 3

and in Scotland where there is no similar statutory law, this is covered by the common law authority for self-defence in Scotland which states:

“In certain cases an assault may be justified by showing that it was done under the authority of the law or in self defence. But in such cases the force used must be only so great as is necessary to effect the object in view”.

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment prohibited to be carried and used

Officers from other Member States entering, or seeking to enter, the territory of the United Kingdom, **may not routinely carry firearms** as service weapons.

Police officers in the United Kingdom are not routinely armed. Firearms are issued to officers to deal with specific circumstances where an appropriate threat to the public, police or any other person exists.

UNITED KINGDOM

Armed surveillance operations under Article 40 of the Schengen Convention will be taken over by armed UK surveillance teams. In order to decide whether United Kingdom police officers who are deployed to relieve surveillance by officers from another Member State travelling to the United Kingdom ought to be issued with service firearms, the United Kingdom Sirene Bureau will require the designated authority in the Member State concerned to furnish specific detail, in addition to that contained in the Article 40 request form, so that a risk assessment may be conducted.

In **strictly pre-planned operations**, foreign surveillance officers may be allowed to travel armed by sea or rail to the UK, but not by air. In order to comply with UK law, prior authorisation will be required.

Officers will not be allowed to carry their firearms beyond the confines of the port or rail station at which they arrive. The United Kingdom Sirene Bureau may be contacted to clarify the effect of this statement. Unless otherwise advised, service weapons must be left at the point of embarkation.

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Foreign officers on urgent operations under Article 40(2) of the Schengen Convention, or engaged in a joint operation or joint patrol, will not be able to carry firearms in any circumstances.

For the purposes of the 5-hours rule under Article 40(2), “entry into the UK” means when the foreign officers arrive at the port or airport; or, for Eurostar, when the train emerges from the tunnel and enters Kent.

UNITED KINGDOM

To comply with UK authorisation procedures and legislation, similar specific detail will be required in respect of technical devices deployed by another Member State to support their surveillance activity.

Officers in other Member States should be aware that owing to its unique history and environment **all** surveillance operations will be taken over by the Police Service of Northern Ireland on arrival in that part of the United Kingdom. At this time foreign officers will not be able to continue cross-border surveillance into that part of the United Kingdom on their own.

Owing to its geographical position the UK International Crime Bureau (UK ICB) would expect that all surveillance teams from other Member States should be able to contact the Bureau before embarking for the UK.

VIII. Definitions

VIII.1 self-defence

See VII above

VIII.2 « home »

Residential Premises in England and Wales: *Regulation of Investigatory Powers Act 2000*, Section 48(1)

Residential premises means so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used).

UNITED KINGDOM

It does not include a reference to so much of any premises as constitutes a common area to which he has or is allowed access in connection with his use or occupation of any accommodation.

Premises include any vehicle or mobile structure, in any place whatever, whether or not occupied as land. Vehicle includes any vessel, aircraft or hovercraft.

Residential Premises in Scotland: *Regulation of Investigatory Powers (Scotland) Act 2000*, Section 31

Residential premises means so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used).

It does not include a reference to so much of any premises as constitutes any common area to which the person has or is allowed access in connection with the person's use or occupation of any accommodation.

Premises include any vehicle or moveable structure and any other place whatever, whether or not occupied as land. Vehicle includes any vessel, aircraft or hovercraft.

- IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

The United Kingdom does NOT PARTICIPATE in Article 2(3) of the Schengen Convention. **DELETED**

ICELAND

ICELAND

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 Schengen Convention)
 - I.1 list of authorised officers
.....
 - I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

ICELAND

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

.....

II. Controlled deliveries

- contact points

DELETED

ICELAND

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

Not available

III.2 designated authorities (if applicable)

DELETED

III.3 authorities to be contacted in border regions when crossing border

DELETED

III.4 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

Not applicable

ICELAND

PRÜM

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

Not applicable as of yet

IV.2 procedure

Not applicable as of yet

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

Not applicable as of yet

V.2 procedure [if different from IV]

Not applicable as of yet

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

Not applicable

GENERAL

VII. Arms

VII.1 definition of service weapon

Not applicable

VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Not applicable

VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment prohibited to be carried and used

Not applicable

VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Not applicable

ICELAND

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Not applicable

VIII.2 « home »

Not applicable

IX. Other requirements following from national laws or regulations that need to be taken into account for cross-border operations

None

LIECHSTENSTEIN

LIECHTENSTEIN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

DELETED

I.2

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

Special rights in respect of road traffic regulations:

When carrying out a surveillance operation, officers are subject to the same traffic regulations as Liechtenstein police officers when performing their duties. They have right of way only if they signal their presence with a blue light and siren (Art. 25 sect. 2 Traffic Act).

When performing their duties the police are entitled - **if necessary and other traffic participants are not endangered** – to deviate from the above mentioned Traffic Act (Art. 94a sect. 2 Traffic Regulation Act).

LIECHSTENSTEIN

DELETED

III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)

DELETED

III.3 authorities to be contacted in border regions when crossing the border

DELETED

III.4 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

- **Citizen's power of arrest:**

Any private person may apprehend someone who has committed a felony or misdemeanour in his/her presence, or who they suspect on reasonable grounds of having committed a felony or misdemeanour. The private person must hand over the apprehended person to the police for arrest as soon as possible (see par. 55 sect. 2, code of criminal procedure). However, a private person may not apprehend someone on suspicion of a mere contravention. Furthermore, a private person may only apprehend someone if the police cannot be called to assist in time.

- **Exercise of special rights in respect of road traffic regulations:**

When carrying out a pursuit, officers are subject to the same traffic regulations as Liechtenstein police officers when fulfilling their duties. They have right of way only if they signal their presence with a blue light and siren (Art. 25 para. 2 Traffic Act).

When performing their duties the police are entitled - **if necessary and if other traffic participants are not endangered** – to deviate from the abovementioned Traffic Act (Art. 94a sect. 1 Traffic Regulation Act).

PRÜM

Council Decision 2008/615/JHA is not yet applicable to Liechtenstein

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

.....

IV.2 procedure

.....

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

.....

V.2 procedure [if different from IV]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

Council Decision 2008/617/JHA is not applicable to Liechtenstein

GENERAL

VII. Arms

DELETED

- VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Council Decision 2008/615/JHA is not yet applicable to Liechtenstein

- VII.3 arms, ammunition and equipment permitted and conditions of their use (cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and equipment prohibited to be carried and used

Council Decision 2008/615/JHA is not yet applicable to Liechtenstein

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment (cf. Article 19(4) of Council Decision 2008/615/JHA)

Council Decision 2008/615/JHA is not yet applicable to Liechtenstein

VIII. Definitions

- VIII.1 self-defence (if not covered by point VII)

Self-defence is legitimate if the following prerequisites are met:

- there must be an existing or immediate threat of an unlawful attempt on the life, health, bodily integrity, freedom or property of the official or of another person;
- the means deployed to avert the assault and the extent to which they are used must be necessary; the victim may therefore use only the minimum appropriate means of prevention and must deploy these as sparingly as possible;
- the assaulted party must not have deliberately encouraged or provoked the attack.

- VIII.2 « home »

Under Liechtenstein law and the case law of Liechtenstein courts, the inviolability of the home applies to a dwelling and outbuildings to that dwelling which are not accessible to the public.

LIECHSTENSTEIN

DELETED

NORWAY

NORWAY

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

DELETED

NORWAY

- I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

- I.3 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

Under Section 176 of the Norwegian Criminal Procedure Act, anyone has the right to apprehend a suspect caught in the act or pursued when so caught or on finding fresh evidence. However, the person making the arrest is required to hand the person arrested over to the police immediately. “When delay entails any risk, a police officer may make an arrest without a decision of the court or of the prosecuting authority. The same applies to anyone else if the suspect is caught in the act or pursued when so caught or on finding fresh evidence. Any person not a member of the police has made an arrest must immediately hand the person arrested over to the police”

NORWAY

As a result of Schengen cooperation, a new provision has been included in section 20A of the Norwegian Police Act:

“Police officers from countries other than Norway may continue surveillance and pursuit of, and if necessary arrest a person suspected of an extraditable offence. This will apply until Norwegian police authorities have taken over responsibility for the surveillance or pursuit, or have required it to be stopped, and only to the extent laid down in international agreements within the scope of Schengen cooperation. In the course of performing duties such as mentioned in the first paragraph, a police officer from a country other than Norway is to be regarded as a public servant pursuant to the provisions of the General Civil Penal Code.”

II. **DELETED**

NORWAY

DELETED

NORWAY

DELETED

NORWAY

DELETED

NORWAY

DELETED

NORWAY

DELETED

NORWAY

DELETED

DELETED

VIII. Definitions

VIII.1 self-defence (if not covered by point VII)

Under section 48 of the Norwegian General Civil Penal Code, self-defence is when an otherwise criminal act is committed for the prevention of or in defence against an unlawful attack.

The degree of physical force applied by the police officer to avert or defend against the attack must be necessary and in reasonable proportion to the attack.

VIII.2 « home »

Home means a private dwelling or other places to which the public does not have access. Examples of other places include a hotel rooms, a ship's cabin, a sleeping compartment on a train, a parked caravan or campervan equipped for use, a moored yacht or houseboat, a private office, private business property, private club premises and the like. In Norway an ordinary car cannot under any circumstances be regarded as a private dwelling. The same applies to a tent.

IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

.....

SWITZERLAND

SWITZERLAND

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)
- II. Controlled deliveries
- III. Hot pursuit (pursuant to Article 41 of the Schengen Convention)
- IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)
- V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)
- VI. Special intervention units
- VII. Arms
- VIII. Definitions
- IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

SCHENGEN

- I. Cross-border surveillance (pursuant to Article 40 of the Schengen Convention)

- I.1 list of authorised officers

Officers of the Federal Office of Police, of cantonal police forces as well as of the Swiss Border Guard.

SWITZERLAND

I.2 designated authorities (specify for incoming and/or outgoing requests)

DELETED

SWITZERLAND

- I.3 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

When carrying out a surveillance operation, foreign officers are subject to the same traffic regulations as Swiss police and customs officers when fulfilling their duties. According to Art. 90 para. 3 & 4 of the Federal Traffic Act (RS 741.01), important violations of speed limits may lead to prosecution.

Disregard of traffic lights or speed limit violations are to be communicated immediately to the authorizing authority.

II. Controlled deliveries

- contact points

DELETED

SWITZERLAND

DELETED

III. Hot pursuit (pursuant to Article 41 Schengen Convention)

III.1 list of authorised officers

Officers of the Federal Office of Police, of cantonal police forces as well as of the Swiss Border Guard.

III.2 designated authorities (if applicable)

DELETED

SWITZERLAND

DELETED

SWITZERLAND

III.3 authorities to be contacted in border regions when crossing border

DELETED

SWITZERLAND

DELETED

SWITZERLAND

III.4 specific statutory provisions (including, where relevant and useful, general indication of applicable traffic regulations)

(a) Arrest by private individuals

According to Art. 218 of the Swiss Criminal Procedure Code, where there is insufficient time to obtain police assistance, members of the public have the right to arrest a person if:

- a. they have caught the person in the act of committing a felony or misdemeanour or they have encountered him or her immediately after committing such an offence; or
- b. the public have been requested to assist in tracing of the person concerned.

Arrested persons must be handed over to the police as quickly as possible.

When making an arrest, private individuals may only use force in accordance with Article 200 as a last resort when carrying out compulsory measures; any force used must be reasonable.

(b) Exercise of special rights in respect of road traffic regulations

When carrying out pursuits, foreign officers are subject to the same traffic regulations as Swiss police and customs officers when fulfilling their duties. They have right of way only if they signal their presence with blue light and siren (Art. 27(2) of the Federal Traffic Act and Art. 16(1) of the Traffic Regulations Ordinance). Moreover, when carrying out urgent duties, the driver of a police car is not punishable for infringement of traffic regulations or special measures concerning traffic if he has made the necessary warning signals (use of blue light and siren) and has taken the care imposed by the circumstances (Art. 100(4) of the Federal Traffic Act). The urgent character of the duty is recognised in particular when the following tasks are concerned: saving a human life, defending public order and public security from a threat or danger, defending material property of great value or pursuing a fugitive. However, according to Art. 90 para. 3 & 4 of the Federal Traffic Act (RS 741.01) important violations of speed limits may lead to prosecution.

Disregard of traffic lights or speed limit violations are to be communicated immediately to the authorizing authority.

SWITZERLAND

PRÜM

The Council Decision 2008/615/JHA is not applicable to Switzerland

IV. Joint operations (pursuant to Article 17 of Council Decision 2008/615/JHA)

IV.1 contact points

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IV.2 procedure

.....

V. Joint patrols (pursuant to Article 17 of Council Decision 2008/615/JHA)

V.1 contact points [if different from IV]

.....

V.2 procedure [if different from IV]

.....

OTHER

VI. Special intervention units

- competent authorities for requesting and authorising assistance (cf. Article 8 of Council Decision 2008/617/JHA)

Council Decision 2008/617/JHA is not applicable to Switzerland

GENERAL

VII. Arms

VII.1 definition of service weapon

All weapons and their equipment carried by officials or employees of the Federal Office of Police, of cantonal police corps and of the Swiss Border Guard with the explicit permission of their superiors to carry out official duties are considered to be service weapons. Firearms, pepper sprays and multi-purpose police truncheons especially count as being service weapons. Within the scope of normal deployment, officers from Swiss police forces are usually equipped with a semi-automatic hand gun and a pepper spray. Uniformed police officers also carry a multi-purpose truncheon. Besides their service weapon, officials and employees can also have additional equipment such as handcuffs and a police dog, depending on the situation.

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- VII.2 arms, ammunition and equipment that may be used only in legitimate self-defence or defence of others (cf. Article 19(2) of Council Decision 2008/615/JHA)

Council Decision 2008/615/JHA is not applicable to Switzerland

- VII.3 arms, ammunition and equipment permitted and conditions of their use
(cf. Article 19(2) of Council Decision 2008/615/JHA) / arms, ammunition and
equipment prohibited to be carried and used

Council Decision 2008/615/JHA is not applicable to Switzerland

- VII.4 practical aspects of the use of authorised arms, ammunition and equipment
(cf. Article 19(4) of Council Decision 2008/615/JHA)

Council Decision 2008/615/JHA is not applicable to Switzerland

VIII. Definitions

- VIII.1 self-defence (if not covered by point VII)

Article 15 of the Swiss Criminal Code provides that if any person is unlawfully attacked or threatened with imminent attack, the person attacked and any other person are entitled to ward off the attack by means that are reasonable in the circumstances.

SWITZERLAND

VIII.2 « home »

The term "home" in connection with cross-border operations includes houses, flats, huts and other buildings and their direct surroundings if these surroundings are enclosed.

IX. Other requirements under national laws or regulations that need to be taken into account for cross-border operations

The Swiss Border Guard is empowered to retain people and check their identity as part of their customs duties and in order to combat illegal migration. The cantonal police forces of frontier cantons are also allowed to retain people and check their identity within the scope of combating illegal migration.
