



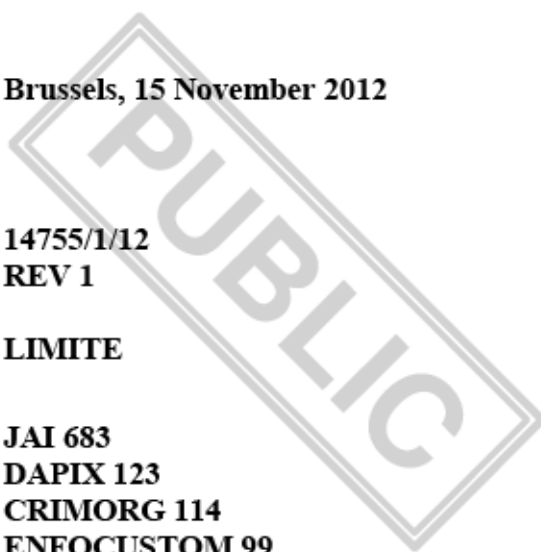
**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 15 November 2012**

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**JAI 683  
DAPIX 123  
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**NOTE**

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**From :** Presidency

**To :** Working Group on Information Exchange and Data Protection (DAPIX)

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**No. prev. doc.** 15278/11 JAI 715 DAPIX 130 CRIMORG 177 ENFOPOL 347 ENFOCUSTOM 116 COMIX 720

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**Subject:** Council Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union ("Swedish Framework Decision")

- Assessment of compliance pursuant to Article 11(2)
- Draft Report

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**1. Introduction**

Art. 11 (1) of the "Swedish Framework Decision"<sup>1</sup> (SFD) provides that Member States shall take the necessary measures to comply with its provisions before 19 December 2008. Article 11 (2) provides *i.a.* that the Council assess the extent to which Member States have complied with the provisions of the Framework Decision.

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<sup>1</sup> Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, published in OJ L 386, 29.12.2006, p. 89, corrected by Corrigendum, OJ L 75, 15.3.2007, p. 26

In line with the deadline of 19 December 2011 for that assessment, DAPIX drew up a report on Member States' compliance with the SFD of which the Council took note at its meeting of 27 and 28 October 2011 (doc. 15278/11 JAI 715 DAPIX 130 CRIMORG 177 ENFOPOL 347 ENFOCUSTOM 116 COMIX 720).

The current report aims both at updating the state of play of the SFD implementation and at completing the report one year after the first assessment. To that end, the Presidency submitted a questionnaire to Member States. Since the SFD constitutes a development of the provisions of the Schengen acquis, associated countries were invited to reply to the questionnaire as well.

## **2. Scope of the Framework Decision**

The SFD aims at an effective and expeditious exchange of information and intelligence between national law enforcement authorities for the purpose of conducting criminal investigations or criminal intelligence operations. Implementing the "principle of availability", Member States shall ensure that conditions for exchange of information are not stricter at cross-border than at national level. Also where a judicial agreement or authorisation is needed prior to providing information, the competent authority shall apply for its decision the same rules as in a purely internal case.

The SFD sets out common rules on procedures, time limits and grounds for refusal and proposes standard forms for the exchange of information. The SFD concept of "information and/or intelligence" covers information or data

- which is held by law enforcement authorities
- which is held by public authorities or by private entities and which is available to law enforcement authorities without taking coercive measures.

Information and intelligence shall also be shared with Europol and Eurojust insofar as the exchange refers to an offence or criminal activity within their mandate. The specific Europol handling codes can be filled in when using the SIENA and when inserting data into the Europol Information System (EIS).

### 3. Assessment of compliance

By 10 October, the questionnaire was replied to by 29 delegations<sup>1</sup>. The answers to the eight questions are set out in Annex and are summarised below.

#### 3.1 *Implementation / transposition into national law of SFD*

Except for 5 Member States, all delegations that replied indicated that the SFD was implemented and transposed into national legislation. BE, EL, IE, IT and LU (...) stated not yet having done so.

**In this context, BE explained that while the transposition process had reached the final stage and would shortly be concluded, the absence of a formal transposition had not hindered the Belgian police services from effectively applying the provisions examined.**

#### 3.2 *Business processes ensuring that the principle of equivalent access is applied*

Question No. 2 referred to Art. 3(3) which states that MS shall ensure conditions not stricter than those applicable at national law for cross-border exchange of information and intelligence. This provision, which is considered as the main step forward of cross-border law information exchange, implies that the principle of availability is implemented in a way that the access to available information is equivalent for both domestic and foreign competent authorities.

Most MS indicated that business processes are in place which implement that principle or that competent authorities concerned are aware of the principle. Some replies, however, did not seem to address the cross-border dimension of the question and reduced the reply to equivalent access procedures at domestic level. It should furthermore be noted in this context that Art. 39 CISA has been replaced by the SFD (for the SFD's scope).

#### 3.3 *Information sharing with Europol*

The SFD provides for sharing information and intelligence also with Europol insofar as the exchange refers to an offence or criminal activity within the Europol mandate.

MS generally do this by using SIENA as the communication channel.

#### 3.4 *Use of state of the art IT tools*

Nearly all MS affirmed to use state of the art IT tools and mainly mentioned to do this by exchanging information via SIENA.

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<sup>1</sup> No reply was received from IC.

### *3.5 Use of SFD forms*

The SFD proposes standard forms to be used for the transmission (Annex A form) and for the request of information (Annex B form). Question No. 5 of the questionnaire focussed on criteria for using the Annex B form. MS indicated a request of urgency as the main reason for using the form. Another criteria was the fact that the use of form B is legally binding. However, 10 MS clearly stated not to use the form at all and others prefer the form provided by SIENA.

### *3.6 Non-use of SFD forms*

A variety of reasons for not using the forms was mentioned but the main cause was that they are considered time-consuming and of little added value compared to other possibilities to share information. In this context, it should be noted that Art. 39 CISA has been replaced by the SFD (for the SFD's scope).

### *3.7 Ability to respond within less than 8 hours in urgent requests*

The SFD sets out common rules on time limits and according to Art. 4(1), Member States shall respond within at most eight hours to urgent requests for information and intelligence. The question referred to the often voiced concern that judicial procedures slow down the pace of investigations. All Member States replied that they respect the time limits provided that the law enforcement authorities concerned have direct access to the relevant data bases. However, several stated to be unable or, at least, voiced doubts to respect the time limit if judicial authorities are implied.

### *3.8 Production of complete and comparable statistics*

In the previous assessment report, the lack of statistical material was one of the obstacles to clearly assess the SFD potential. Once more, it has to be stated that the majority of Member States does not produce complete and comparable SFD statistics: 14 MS of those having implemented the SFD clearly have no such statistics, 5 indicated to keep annual statistics and 5 do so only with regard to information shared with Europol.

#### 4. Conclusions

The implementation / transposition into national law of Framework Decision 2006/960/JHA has been concluded to a great extent by Member States and the associated countries. **It is, however, to be noted that the implementation / transposition process is slowed down in some Member States due to the dilemma whereupon the information and intelligence supposed to be shared between law enforcement authorities is defined, in accordance with national law, as judicial and not police information.**

The crucial challenges of the information exchange process according to the SFD were tackled, i.e. the implementation of the principle of availability and the respect of time limits in urgent cases. It is however, to be stated that these time limits are unrealistic when judicial authorities have to be implied.

The main concern of Member States remains the use of SFD forms which, if ever, are only reluctantly used. They are considered as time consuming and labour intensive without producing an added value. In this context, the agreement on the use of forms for information exchange as set out in the guidelines to the SFD<sup>1</sup> should be reminded.

With regard to the requested information sharing with Europol, Member States replied that information is generally shared with Europol when the information is within the scope of the Europol mandate and that information is mostly exchanged via SIENA.

The key deficiency for assessing the impact of the SFD on information exchange, the lack of reliable **quantitative and comparable** statistics, has not been remedied. The majority of Member States does not keep SFD statistics at national level. Statistics exist, however, as a by-product of information sharing with Europol via SIENA.

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<sup>1</sup> see doc. 9512/3/10 DAPIX 59 CRIMORG 90 ENFOPOL 125 ENFOCUSTOM 36  
COMIX 346

**In view of the main objectives of the Framework Decision, it was suggested that any further assessment should scrutinise, foremost and above all, the effective implementation of the principle of availability and, in particular, the respect for time limits for law enforcement cooperation when judicial authorities are implied.**

**1. Have you finalised the implementation of Framework Decision 2006/960/JHA, i.e. have you transposed it into national legislation?**

yes: BG, CZ, FR, DK, EE, ES, FI, HU, LT, LV, NL, RO, SI, UK, PL, DE, AT, SE, CY,  
SK, PT, MT, LI, **NO**, CH

no: BE, **EL**, IE, IT, LU,

**2. Which routines have you implemented / are foreseen in your business processes to ensure that the principle of equivalent access is applied?**

AT	There is nothing like an agreed principle of equivalent access in the EU legislation. The Hague Programme has defined the principle of availability. This principle was implemented by the Swedish Framework Decision and the Prüm Decision. Both instruments have been fully implemented by Austria.
BE	Requests within the SFD are received at the National Contact Point, which integrates all information exchange channels on international & national level, the staff of that contact point has a direct access to most national Police databases or is in the possibility to forward the request to competent Belgian Police units. These procedures ensure an answer within the set deadlines.
BG	According to business procedures, all SFD request are processed by officers of the International Operational Cooperation Directorate who are law enforcement officials. According to national legislation, they have access to all information/databases managed and directly accessible by law enforcement authorities and to some information/databases managed by other authorities. All results from the performed checks are sent to the requesting MS. Additionally there are provisions in our Penal Procedure Code and some relevant acts ensuring the application of the principle of equivalent access.
CY	Incoming requests within the SFD are received by the ENU or the NCB, the personnel of which have direct access to most national Police databases or direct/indirect access to any other national databases.
CZ	Routines in our business processes based on the SFD are specified in the binding instruction of the Police President no. 126/2010. This binding instruction is fully in compliance with the SFD and all the principles set out in the SFD.
DE	If the legal requirements for sharing any information requested are met at the national level, that information is also forwarded to other European countries. The national central units (the state criminal police offices and the Federal Criminal Police Office [ <i>BKA</i> ]) are responsible for examining those legal issues. Within the Police Working Group on Terrorism (PWGT) network, the information flow takes place on the basis of the MoU concluded between member states.

DK	The Framework Decision is introduced to the staff working at the Front Desk by the National Centre of Investigation (NCI) and is available via the NCI IT systems. As the national standards are already in line with the SFD principles, no further routines have been implemented.
EE	Adequate training of law enforcement authorities.
EL	<b>The principle of equivalent access is applied through Art. 39 and 46 of the Schengen Convention.</b>
ES	The ones foreseen by the Framework Decision 2006/JHA.
FI	The officers in charge of answering requests have online access from their desktops to all relevant databases and are trained to consult these.
FR	Within the framework of international police cooperation, France has always provided its partners with all available information.
HU	According to the workflow of the International Law Enforcement Cooperation Centre (ILECC), all incoming messages are checked by the duty officers of the Front Office (24/7) within a short time from arrival. The SFD forms can be handled according to the deadline indicated within.
IE	Staff are aware of the concept and this is re-iterated in formal training courses.
IT	The principle of equivalent access is applied through art.39 and 46 of the Schengen Convention.
LT	The principle of equivalent access is duly applied. The same conditions are applied for information exchange on national level and for external information exchange on EU level. No additional requirements are foreseen.
LU	Before setting new rules for international information exchange in the context of police cooperation, new rules have to be defined for the internal information exchange. In Luxembourg a great part of the information processed by police forces is considered to be judicial information which is not meant to be exchanged on the base of the SFD 2006/960/JHA.
LV	Latvia would appreciate if the Presidency could give an explanation what is meant by this question (namely, to what this principle of equivalent access must be applied?) After the clarification we will give our answer if it will be still necessary.
MT	Staff handling such requests is aware of the principle of equivalent access and follow it accordingly. This therefore ensures that there are no different requirements for access to information between local and external agencies.
NL	The business processes to ensure that the principle of equivalent access is applied via written instructions to all relevant law enforcement agencies and the follow up of these instructions are permanently monitored.
PL	Internal procedures were implemented, allowing equivalent access to all available databases and answering the SFD requests 24/7. Within the International Police Cooperation Bureau, the National Contact Point (SPOC) maintains the exchange of information based on the SFD between the National Police HQs and the competent law enforcement authorities which had been designated as the partners of information exchange in the Act on exchange of information with the law enforcement authorities of the EU Member States.



PT	The principle of equivalent access was already part of our procedures even before the Swedish Initiative. The requests can be sent to the various national contact points set by law n° 74/2009. After the research, they are disclosed only to the law enforcement agency which has the requested information.
RO	Internal procedures were implemented, allowing equivalent access to all available databases. In this respect, the Romanian International Police Cooperation Centre has access to all databases with police relevance. For this access, there is no need for an authorisation or fulfilling a special condition. Data and information obtained from consulting these databases are at disposal of law enforcement authorities from Member States, without any supplementary approvals, in the framework of international police cooperation, according to the provisions of Romanian Governmental Emergency Decision no. 103/2006 on some measures for facilitating international police cooperation. Also, at the level of the Romanian International Police Cooperation Centre there have been implemented specific work procedures to ensure the fulfilment of equivalent access principle, for units responsible for international police information exchange, e.g. National Focal Point, Europol National Unit, Interpol
SE	In those (few) cases where information relevant for the Swedish Framework Decision is held by other agencies than the police or within the private sector, routines are in place to ensure competent national law enforcement authorities access to the information. The same routines will be used by our contact point to forward requests from other MS competent law enforcement agencies according to the Swedish Framework Decision, thus ensuring the principle of equivalent access. For further information please see the factsheet provided by Sweden to the implementation guidelines (doc. 9512/10).
SI	We have a 24/7 duty office in the Division for International Police in our Criminal Police as the central service for enhancing information which is equivalent to receiving and replying to all requests. The Regulation on simplifying the exchange of information and data between Police and Custom administration of the Republic of Slovenia and enforcement authorities of the Member States of the European Union was published in Official Journal of the Republic of Slovenia No. 67/2008 of 4. 7. 2008 which covers the SFD.
SK	A Single Point of Contact 24/7 was established at the Bureau of International Police Cooperation that sheltered Europol, Interpol, Sirene Office and a net of bilateral liaison officers. Each of the mentioned channels can route incoming/outgoing SFD.
UK	Any requests coming into the UK for the use of coercive powers or other matters requiring judicial authority must be submitted through Mutual Legal Assistance channels. In England and Wales requests are handled by the Serious Organised Crime Agency (SOCA) Asset Recovery Office (ARO). In Scotland they are handled by the Scottish Crime and Drug Enforcement Agency (SCDEA) Asset Recovery Office (ARO). There are no other restrictions on any SFD request submitted, so all intelligence which would be available to a UK agency without the use of coercive powers is theoretically available to a foreign agency making a request. Therefore the principle of equivalent access is applied. All requests are scrutinized to ensure that they are legal, proportionate and justified; and consideration is always given to the factors in Article 10 of the 2006/960 before formulating a response.
IC	

CH	According to Article 6 of the Federal Act of 12 June 2009 on Schengen Information Exchange (SIEA) (Official Record of Swiss Legislation ref. 362.2) whose title is “Equality of treatment”, Switzerland does not make a difference between a request from a national authority and a request from an authority of another Schengen State.
LI	The staff of the National Police is well trained on this issue. The relevant information and the internal guidelines are available for all police staff on an internal police website. The ‘International Police Cooperation’ who is in charge of all international police cooperation matters deals also exclusively with information exchange based on the Framework Decision. <b>The principle of equivalent access is applied according to Art. 35 h of the National Police Law.</b>
NO	No routines have been implemented yet.

**3. Which mechanism did you implement / are foreseen for sharing relevant information also with Europol?**

AT	The Europol Decision and SFD
BE	SFD messages are basically sent and answered via SIENA and shared with Europol either as CC message or Europol as recipient. A national procedure defines as far as possible the use of Europol as a channel where the mandate foresees exchange and sharing of information.
BG	According to the Ministry of Interior Act, the International Operational Cooperation Directorate is competent to exchange information under Framework Decision 2006/960/JHA. The International Operational Cooperation Directorate (Interpol, Europol, SIRENE and bilateral cooperation) is acting as a single point of contact for information exchange in the framework of international law enforcement cooperation. Bulgaria decided that all requests, even urgent ones (in the office hours) are sent through SIENA (Europol channel) in order to share the relevant information. In cases of urgency after office hours and during weekends/holydays, the requests are sent through the Interpol channel to Member States for execution and later, they are sent to Europol if the request falls within Europol's mandate. Bulgaria decided to use SIENA because there is a special form in SIENA Information exchange under the SFD involves only EU countries and Europol is common to all EU Member States. Another advantage is the performance of crosschecks in Europol databases.
CY	Information relayed via Europol to another MS is usually forwarded to the relevant Unit/AWF of Europol when and if this is within their competence.
CZ	Generally, the Czech Police share relevant information with Europol. Also other units within the police of the Czech Republic closely cooperate with the Czech national Europol unit. The Europol national unit also uses the joint case management system together with the SIRENE and the Interpol Bureau. Therefore, they can share all relevant information easily.
DE	In the framework of the exchange of information, Europol is involved if their mandate is affected. For that purpose, the appropriate procedures have been agreed upon. Thus, for example, the EIS is provided with German data in an automated way with the help of a dataloader. In addition, any information or police correspondence can be exchanged via SIENA. In order to improve this technical possibility, DE currently carries out a pilot project between Europol and the BKA. In the framework of this pilot project, it is foreseen to interlink the BKA's case management system ( <i>VBS</i> ) to the SIENA information network via a webservice.
DK	The Framework Decision is available for use via the Europol channel, but no mechanisms have been implemented, cf. the preceding response on routines.
EE	Mechanisms are available at SIENA.
EL	<b>SFD messages are sent and answered via SIENA and shared with Europol either as CC message or Europol as recipient.</b>
ES	<b>The requests are sent to Europol if they fall within Europol's mandate.</b>

FI	Europol SIENA is to be the default tool for exchanging intelligence between EU-countries. Europol relevant information should be copied to Europol.
FR	At the SCCOPOL (national platform for international police cooperation), FR has set up the single contact point who receives and analyses French requests in order to select the most adequate channel for cooperation. Furthermore, in 2000, the Schengen co-operation unit (Art 39 to 46) was merged with the Europol National unit to create the European Cooperation bureau which is located in the same premises. Consequently, France has a flexible mechanism which can provide Europol with all the information within the scope of its mandate.
HU	The national accreditation of the Europol Secure Network is being processed. As soon as the use of SIENA will be granted at the ILECC, a copy of the messages can be easily sent to Europol using SIENA. At present, whenever Europol has to be informed regarding a specific case, it can be done via the Hungarian Liaison Bureau in The Hague.
IE	Europol is co-located with all other information exchange units and this aids the free exchange of information with Europol.
IT	Information can be shared with Europol, by means of ENU, when the information are related with Europol mandate.
LT	In the Lithuanian Government Decision of 17 June 2009, No. 633, it is foreseen that information or intelligence shall be exchanged with Europol when the exchange refers to an offence within its mandate.
LU	Form the technical point of view, we have developed a dataloader for the injection of information into the EIS. But since almost all relevant information is considered to be judicial information (even if the police is processing that information), a case by case authorisation by a public prosecutor or another judicial authority is needed before the information is shared.
LV	In accordance with provisions of Art.6 of Decision 2006/960/JHA relevant information/intelligence is provided to Europol if the information request from competent national law enforcement agency is related to investigation in the area of competency of the Europol. Europol National unit supplies information in accordance with art.8, p.4.a) of Council Decision 2009/371/JHA on establishing of European Police office (Europol).
MT	In handling requests under the Framework Decision 2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union ("Swedish Framework Decision"), the usual procedures in sharing information with Europol are adopted as in all other cases. That is, when handling such exchanges or requests, if this information falls within the mandate and remit of Europol as set out in the Council Decision 2009/371/JHA establishing the European Police Office (Europol), that information is exchanged also with Europol, irrespective of whether the Swedish Framework Decision is used or not.

NL	<p>Instructions are in place to use the Europol channel (Siena) as the default channel for outgoing SFD requests. The information included in these requests will also be shared with Europol. Answers on requests received from other countries via the Siena network will also be copied to Europol. In both options possible restrictions based on article 8 sub 5 of the Europol Council Decision will be respected.</p> <p>If requests are received from other countries via one of the other information exchange channels within the EU like e.g Interpol, no mechanisms have been developed to provide possible relevant information to Europol as well, unless the automated download of information via the dataloader to the EIS.</p> <p>Additionally, we can report that the number of requests received in which a formal reference is made to the SFD is negligible.</p>
PL	<p>The National Europol Unit - part of the International Police Cooperation Bureau - supports the National Contact Point (SPOC) in sending the Asset Recovery Office (ARO) requests on the basis of the SFD via the SIENA channel. Currently, the exchange of information is processed according to the bilateral agreements between MS: requesting and responding ones. In the future, due to the development of SIENA, it is considered to share the information directly with Europol.</p>
PT	<p>Relevant information is shared with EUROPOL regardless of the use of the SFD.</p>
RO	<p>If the answers to SFD requests are relevant for Europol activities, including AWF, the data are copied to Europol as well.</p> <p>Another mechanism was implemented for the day-to-day information exchange at the level of the International Police Cooperation Centre, and data in line with the Europol mandate are cross checked with Europol databases.</p>
SE	<p>To use the normal channels of communication, i.e. SIENA.</p>
SI	<p>Information which falls under the SFD is in majority sent via the EUROPOL channel.</p>
SK	<p>The mechanism of a special IT channel is used at national level. Moreover, SIENA has implemented the SFD form.</p>
UK	<p>In situations where it would be appropriate for the UK to share information with Europol, the SOCA ARO or SCDEA would seek to go through the UK's Europol national unit, which is also a SOCA responsibility.</p>
IC	
CH	<p>The law enforcement forces (cantonal or federal) responsible for a case may decide on their own whether information shall be shared with Europol or not. For doing this, it has to take contact with the Federal Office of Police (fedpol). For this reason, importance is given to passive and active information and to basic and continuous training of these forces. The "Europol National Unit" within the main Division "International Police Cooperation" of fedpol is responsible for the exchange of information with Europol. This Unit has also the possibility to contact the relevant authority (cantonal or federal) in order to suggest to share the information with and to send it to Europol.</p>
LI	<p>So far, the Liechtenstein National Police has no agreement with Europol. The Draft of an Operational Agreement is currently being under inspection of the Joint Supervisory Board of Europol</p>
NO	<p>We exchange relevant information with EUROPOL via SIENA on a daily basis.</p>

#### 4. Do you use state of the art IT tools?

AT	Yes
BE	For Europol mandate area messaging: SIENA APPLICATION, Sisnet and I27/7 secure network for SFD messages via those channels. Belgium is reviewing currently all national IT tools in order to implement the most performing and integrated IT tools available were needed and possible.
BG	No we have no specially designed IT tools and we use SIENA.
CY	SIENA and Interpol (24/7) for urgent requests
CZ	Of course we do. We use modern IT tools developed on national level as well as those, developed on international level, relevant information systems and databases as well as communication instruments (for instance: SIS, SIENA, I-link and many other).
DE	Yes
DK	Yes.
EE	We use the available IT tools
EL	<b>For SFD messages we use the SIENA application. We are also currently updating national IT tools in order to implement the most performing and integrated IT tools available were needed and possible.</b>
ES	<b>IT tools are used depending on which police department forwards the answer (e.g. SIENA, Interpol 24/7 and SISNET).</b>
FI	Yes
FR	To exchange information within the framework of police cooperation and for the implementation of the Decision 2006/960 JAI, the SCCOPOL uses the two usual communication tools, Sisnet mail and SIENA.
HU	The workflow system of the ILECC is capable of receiving, opening, processing and sending of SFD forms. No special IT tools are used.
IE	We are satisfied that the IT systems in use within the Garda Síochána are appropriate for a modern police force.
IT	Yes
LT	SIENA and SISNET are used to transmit SFD forms.
LV	No, we don't.
LU	As SFD 2006/960/JHA has not yet been transposed into national legislation, no specific national IT-Tools have been fully developed nor deployed by now. Anyhow, Luxembourg has done considerable efforts in order to provide the field police officers with efficient query and search tools for different types of both national and international categories of information.
MT	The same general IT tools, that is, dedicated secure systems/networks used in exchanges through Europol/Sirene/Interpol channels, are used in this case. Moreover, Malta is developing an automated Case Management System which is to be launched shortly.
NL	Yes

PL	Due to the implementation of Framework Decision 2006/960/JHA, the paperless internal workflow in the International Police Cooperation Bureau has been adjusted to service the 960-forms.
PT	Some law enforcement agencies change information by e-mail.
RO	The Romanian Police uses a single sign-on, single query application named INTERID. At the level of the International Police Cooperation Centre, a system for the registration of SFD Forms, named S960, was developed and implemented. This application allows queries of persons, vehicles, documents and other entities; it monitors the time limit of the international police assistance requests and generates statistics on information regarding criminal matters.
SE	The IT environment consists of a blend of legacy and state of the art tools. We choose the best solution available depending on the business demands. We are continuously modernising our environment according to our IT strategy.
SI	YES. The request is sent as free text, primary via the EUROPOL channel and in some operative cases via the INTERPOL channel or SISNET. Reply to the SFD is done via the channel used for a request.
SK	Yes, we use special IT tools such as the register of documents which is used by Interpol and Europol. Sirene Office will shortly be connected to this net together with the net of bilateral liaison officers. NUE uses SIENA as well.
UK	The UK has access to a range of IT tools through its competent law authorities. The normal transmission method for SFD requests is the Secure Information Exchange Network Application (SIENA). Where this is not available, we seek to work through SOCA overseas liaison officers or SCDEA Europol officers.
IC	
CH	Switzerland uses a protected system of encrypted messages in order to share information between the Operations Centre fedpol and the other partners (Cantonal polices, Border Guard Corps, etc.).
LI	Yes
NO	Yes

**5. Based on what criteria do you decide to make use of the SFD form when sending out a request?**

AT	Legal and operational considerations
BE	SFD form are rarely used by BE, basically only in the framework of “Europol EIS Cross Border Crime Check exchanges” and in the framework of exchange between the Criminal Assets Recovery Office.
BG	The most important criteria are: <ul style="list-style-type: none"> <li>• information is requested for the purpose of detection, prevention or investigation of an offence</li> <li>• to have “factual reasons to believe that relevant information and intelligence is available in another Member State” (Art. 5 of FD 2006/960/JHA)</li> <li>• the time limits and their justification.</li> </ul>
CY	In cases when it is deemed necessary to forward a request within the SFD, via the Europol channel, the available automated form/layout is used. When this is sent via the Interpol channel, form A and B of the 2006/960/JHA are used. The most important criteria for sending a request within the SFD is urgency.
CZ	Using of forms is the preferred way of sending requests according to the binding instruction of the Police President no. 126/2010. Generally speaking, we consider the SFD an optional / supplementary legal instrument for sending requests for information. It means, that the SFD is used if there is no other suitable tool (for instance for the Asset Recovery Office purposes), or if the SFD seems to be the best choice in a particular case. We do not have any strict criteria that the use of the SFD is a mandatory in a certain case. But if we use the SFD, we usually use the form.
DE	Enquiries from other European countries as well as from national offices are dealt with in accordance with the Swedish initiative if by their content or form (by use of the forms) they bear an appropriate reference to the Council's decision on the Swedish Initiative.
DK	The SFD form is not used for outgoing requests, as the requests meet all SFD criteria.
EE	Main criteria is the member state to which a request is sent.
EL	<b>In the vast majority of cases, we leave the choice of the channel and the method of exchanging information to the individual police officer investigating a case. He/she is the one to decide which instrument he/she will use, in cooperation with the competent judicial authority.</b>
ES	According to the transposition of the SFD into national legislation, it is necessary to use of the form for our requests and for the replies to the requests received.
FI	The SFD form is used if we can not get an answer to urgent requests. Since today we haven't had such a case.
FR	In France, only field investigating officers having access to SIENA can use the SFD form, which is included in EUROPOL e-mail software. This form has not been widely used (less than 100 requests in three years). Most of these requests were sent by the French criminal Assets Recovery Office. The form of the SFD is not used for the international police cooperation requests which pass through the SCCOPOL.
HU	The SFD forms are not used by the officers of the ILECC in practice.



IE	SFD forms have not yet been used in the field of intelligence/information exchange.
IT	The SFD form is not used yet. First of all because we didn't implement the SFD yet and secondly because it is considered complicated. In Prague, during the Czech Presidency, another, simpler version of the form had been prepared.
LT	In outgoing requests from Lithuania, it is usually not referred to the SFD, annexed forms are not used.
LU	Basically, we leave the choice of the channel and the method of exchanging information to the individual investigator who decides in close collaboration with the competent judicial authority which instrument is used.
LV	There is no approved list of criteria. SFD forms are used on a case-by-case basis to particularly indicate and emphasize the urgency of the request, to detail the connection between the purpose for which the information or intelligence is requested and the person who is the subject of the information or intelligence, to point out restrictions on the use of information contained in the request for purposes other than those for which it has been supplied or for preventing an immediate and serious threat to public security.
MT	Malta has not made use of the Swedish Framework Decision form when sending out requests.
NL	If we use the SFD possibility in SIENA, we use the SFD form in this system. The daily practice, however, is that we hardly use this possibility. In case of a really "urgent request", the direct involvement of the Europol Liaison Officers is used to explain the "urgency" to a representative of the ELO office of the requested country. This leads directly to tangible results. The SFD is the legal basis on which this cooperation is based.
PL	The National Contact Point (SPOC) of the National Police HQs decides to use the SFD only when the request concerns an urgent case. This instrument rather efficiently forces the EU MS to send the response within the 8-hours limit for urgent cases. Polish ARO always uses the SFD.
PT	The SFD Form is not used.
RO	We do not use the SFD form, we use the forms agreed for each channel of cooperation. For instance, the Europol information exchange application SIENA provides facilities for marking the requests such as the SFD and consequently there is no need to use a SFD form.
SE	Sweden has no intention to use the SFD form unless the receiver specifically request the use of it.
SI	If the request is urgent and is in accordance with the SFD.
SK	Our special police units use the SFD form only in urgent cases because the usage of the SFD is not clear to all end users. Furthermore, since there are other tools to speedup the response process (using the net of bilateral liaison officers of the Europol channel), SFD forms are used, in general, very rarely.
UK	Use of the Swedish initiative within the UK is determined by the individual law enforcement agencies and dependant on the information required. The highest use of SFD in the UK is in relation to asset recovery, this is because Council Decision 2007/845/JHA mandates that SFD should be used in the circumstances set out in Article 3 of that measure.

IC	
CH	According to Article 10 (SIEA), the use of the form is mandatory. Switzerland uses the forms as described in Annex II of the Guidelines on the implementation of Council Framework Decision 2006/960/JHA. These forms were adapted for the purpose of the Swiss national competent authorities, i.e. forms are written in English/German, English/French and English/Italian, in order to facilitate their understanding and their use by our cantonal counterparts.
LI	As soon as a competent Liechtenstein authority would request for information from another EU/Schengen country based on the relevant Framework Decision, the SFD form will be used. (So far no request did reach the National contact point).
NO	As of today, we do not exchange information via SFD.

**6. If you do not use the SFD form regularly for requests to other MS, what are the main reasons for not using it?**

AT	SFD is regularly used.
BE	Regular (very) urgent requests have proven to be answered satisfactorily in most of the cases, and a majority of requests, especially in Europol cases, go beyond obtaining basic, directly available police information.
BG	Bulgarian law enforcement services use the form annexed to the SFD in order to request information. But we consider the forms to be rather complex and time-consuming. The police officers prefer requests as well answers to requests to be made in an unstructured free-text format.
CY	N/A see answer 5 above
CZ	We usually use the form.
DE	In Germany, where the number of messages exchanged is very high, the SFD forms have proven to be of little practical use. Using them is labour-intensive. For that reason, they are not as accepted as initially expected. Please refer also to our reply to question number 5.
DK	The SFD form requires repetition of the contents of an ordinary request from the Danish NCI. Further to that, we experience only very few problems with responding countries not being able to meet the time frame in case of urgent requests. In case of very urgent requests, the ordinary bilateral channels via for instance telephone are taken into use to push on for a quick response.
EE	The information exchange, using the already existing forms and channels have been fluent without using the SFD form.
EL	<b>Incoming urgent requests have proven to be answered satisfactorily in most of the cases. In Hellas, the preferred channels for information exchange are Interpol and Europol or rogatory letters (MLA).</b>
ES	Art.39 of the CISA is used, due to the difficulties of the form, until its use is agreed at European level or not.
FI	The form is difficult to use and we aren't using the SFD request because urgent requests are answered in time.
FR	International cooperation requests coming from investigation departments of the National Police, the National Gendarmerie and the Customs have not been subject to strict formal requirements so far. Imposing the use of the SFD form to the 250,000 potential users would require some specific training and might dissuade investigation officers to use institutional cooperation channels. At the SCCOPOL level, converting the requests of French investigating officers into the SFD format would add another step to the processing of requests and thus slow it down. This is the reason why the French representative at the SFD form working group requested that the use of this form remains optional.
HU	Using these forms takes more time than sending "simple" messages through "sisnetmail" or the 24/7 channel. We also do not receive incoming SFD forms from other MS, so the case officers are not forced to use them while answering queries.

IE	It is the view of An Garda Síochána that exchange of intelligence information is in the main confined to a few key Member States such as the United Kingdom, Spain and the Netherlands. An Garda Síochána has liaison officers stationed in these countries and has well established systems of liaison, accordingly the opportunities for invocation of the Framework Decision are limited.
IT	Because it is found complicated. In Prague, during the Czech Presidency, it was suggested to use a simpler version of the form.
LT	The forms A and B are not used by case officers as they considered cumbersome and complicating the information exchange. Free text messages are preferred.
LU	In Luxembourg, information exchange is a limited competence of police investigators who are not free to exchange information but who have always to refer to the competent judicial authority. The preferred channels of information exchange is Interpol (text message) or a judicial letter of request (MLA).
LV	There are other standardised message formats, e.g. Europol SIENA messages. Also, requests through Interpol NCB`s are easier to prepare and process in free text form (if necessary, indicating the grounds for urgency and other key elements relevant to forms of SFD). Generally speaking, the SFD forms have not become an integral part for information and intelligence exchange because information/intelligence apparently can be obtained without using the forms.
MT	The Swedish Framework Decision form is deemed complicated for use by the operators.
NL	The forms are (with the exception for those available within Siena) not used. They are considered to be too extensive by the practitioners. Next to this, the direct contacts between ELO`s (see answer 5) do cover the needs for a speedy handling of the urgent requests.
PL	Although the forms are too long and too time-consuming for the police officers to fill them in, the current procedure foresees the use of forms agreed for each channel of cooperation. When the request is sent from PL, there is no practice to ask questions in the pdf. forms. In this case, the normal written request is prepared with the information that the answer is requested on the basis of Framework Decision 2006/960/JHA.
PT	There are several unnecessary fields which complicate completion of the Form and generate unnecessary work.
RO	The SFD form is time-consuming and brings no added-value to the requests.
SE	There are already existing and well-functioning formats that are used to provide the mandatory information for a request.
SI	/
SK	It takes more time for the police to fill in the SFD request form than requests in writing according to rules established by certain channels.
UK	The instrument is useful because it has a time limited deadline, however this timeline of 8 hours in urgent cases can in some circumstances, such as asset recovery, be too lengthy. Furthermore alternative formal information exchange methods are also available in addition to more informal polite requests. These can be quicker than the Swedish Initiative. In Scotland, the preferred option is to use the SFD Form, given the fact that there are adequate time restrictions in place. Only in certain cases where there may be an urgent requirement for an answer to a request, would less formal channels be used, such as the Camden Asset Recovery Inter-Agency Network (CARIN).

IC	
CH	Not relevant (see answer to question 5).
LI	See answer to question 5
NO	<p>Between the 5 Nordic countries, the Nordic police agreement provides for a simple and quick exchange of information. We use this agreement for requests for information between Sweden, Finland, Denmark and Iceland.</p> <p>Furthermore we have excellent experience regarding the use of Art. 39 in the Schengen Convention and the use of SISNET. As of today, we use these channels instead of the SFD.</p> <p>We will, however, once again consider the benefits of using the SFD.</p>

**7. Would you be able to respond within less than eight hours to urgent requests for information and intelligence even if judicial authorities are implied?**

AT	If the request and the answer is based on automated processes like in Prüm, yes
BE	YES, (if based on the list of available databases according to the SFD).
BG	Practical procedures are adopted in order to respond to urgent requests for information and intelligence in accordance with Article 4(1) of the Framework Decision. The cases when our law enforcement authorities are unable to reply to a request within the respective time limits refer to the requests for information to which they have no direct access or it is held by other public authorities or private entities (for example information for property status) or they have to ask the competent judicial authority for an agreement or authorization to access and exchange the information (for instance financial information and telecommunication data).
CY	Within 8 hours we would be able to respond with information available at the ENU or NCB from databases to which they have direct access. For information and intelligence for which further investigations and / or judicial involvement is needed, this would probably take longer. In case the requesting country will be informed of the delay.
CZ	In principle, we do not use the SFD for purposes of judicial cooperation. The SFD shall be used for exchange of such information, which has the relevant law enforcement authority already in its disposition. Generally, we are able to respond within the given deadlines.
DE	In general, German offices are able to respond to requests within eight hours if the request can be answered only with information falling under the data sovereignty of the national central unit. In addition, this also applies to a great number of requests which need to be answered with the involvement of state police authorities or judicial authorities.
DK	Yes. For instance by urgent requests for controlled deliveries we are able to respond within a few hours.
EE	Yes
EL	<b>Even though we haven't transposed SFD into our national legislation, we are able to answer urgent requests within time frames provided for in the SFD, if the requested data is kept in the Hellenic Police Databases. As regards the judicial authorities and due to the fact that by our Constitution they are totally independent, response within the time frames provided for in the SFD, cannot be guaranteed.</b>
ES	Yes, in the majority of the cases when the requests of information or intelligence of the Law Enforcement forces could be gathered in the data bases. But it can't be verified in cases where judicial authorities are involved.
FI	Yes
FR	We always try to provide an early reply to every urgent request and most of the time we do so in less than 8 hours. This only refers to police cooperation matters as judicial cooperation does not fall under SCOPOL's jurisdiction.

HU	We are able to answer within 8 hours, as long as the needed data can be gathered from a database to which the ILECC has direct access. The ILECC has no direct access to the fingerprint and DNA databases, but as the Institute for Forensic Sciences has a 24/7 duty service, these data can also be provided and obtained within reasonable time.
IE	Out of hours requests involve a call-out service but as a general rule, Yes.
IT	Even though we can't use the SFD for legal reasons, we are able to answer urgent requests within eight hours or less. Naturally, when the request involves the judicial authority, we are dependent on their priorities. In any case, art .4.1 of the SFD is about information immediately available from the national data base.
LT	In principle, the foreseen deadlines can be met in cases of reasonable urgency and if the request is received within working hours. However, the fact that judicial authorities are involved could have an influence on the timeframe of the answer.
LU	In urgent and important cases, we are able to provide an answer but in many routine cases 8 hours is too short.
LV	The provision of SFD for responses within 8 hours is related to situations when the requested information or intelligence is held in a database directly accessible by a law enforcement authority. As law enforcement agencies already have access to information in directly accessible databases, there is no need to apply to judicial authorities for authorization to access the information.
MT	Yes, especially when these are received outside normal office hours.
NL	In general yes.
PL	Poland is able to send back the answer in 8 hours to any reasonable request due to the fact that the International Police Cooperation Bureau (National Contact Point SPOC) has direct access to the most important databases of law enforcement authorities. If judicial authorities are implied, it is almost impossible to respond within the 8-hours time limit due to the fact that they have their own data bases to which the National Contact Point – SPOC does not have the direct access. Then, the initial answer is prepared on the ground of crosschecks made in the available databases with the information that other relevant data will be sent with a delay.
PT	We are able to respond within less than eight hours if the information depends only of Law Enforcement Authorities. When judicial authorities are implied we can't ensure that.
RO	We are able to reply in 8 hours to any reasonable request, the International Police Cooperation Centre having direct access to all relevant databases and electronic communications with all major actors in the law enforcement in Romania. In case of serious crimes, procedures were implemented to allow also the identification of telephone numbers subscribers within 8 hours.
SE	Yes, in most cases.
SI	In accordance with the SFD all information that is available to the Police is replied within 8 hours. In case judicial authorities is involved it depends on o the content of the request, but we pursue that the deadline is met.
SK	It depends on the content of certain requests. For instance, we are able to answer questions concerning screening the national databases to which ENU has direct access. Information exchange involving special units or judges or prosecutors takes more than eight hours.

UK	The UK is able to respond within less than 8 hours in urgent cases if there was a clear justification for doing so, particularly if the request is flagged as being urgent. The request would still have to meet minimum standards of legality, proportionality and justification.
IC	
CH	In such a case, it is possible to give concrete answers only in very exceptional cases and only during office hours. As soon as fedpol sees that a delay in the answer could occur, a message is sent to explain the reason of the impossibility to respect the deadline of 8 hours.
LI	Yes
NO	Yes



**8. Do you produce complete and comparable statistics regarding the “Swedish Framework Decision”, if any please specify what kind of statistics you are collecting?**

AT	No
BE	Not at this moment, but the possibility is taken into account for the development of the registration system NCP BE.
BG	To produce statistics regarding SFD we use: <ul style="list-style-type: none"> <li>the statistics tool of Europol's Secure Information Exchange Network Application (SIENA), which represents only the figures on the information exchanges via SFD and</li> <li>data from the Information Management System of International Operational Cooperation Directorate where all requests are registered irrespective of used channels for international law enforcement cooperation (only figures)</li> </ul>
CY	Yes. Statistics are held of all incoming and outgoing requests sent via Interpol or Europol within the SFD.
CZ	We have an overview about information exchanged explicitly on the basis of the SFD. We would like to point out, that almost all law enforcement information exchange could be declared as use of the SFD. On the other hand, we do not see any need for doing so. Effective information exchange is the most important thing and it does not matter which legal instrument is used for these purposes. As we mentioned above, the SFD is a supplementary tool according to our opinion.
DE	No
DK	No statistics are drawn up due to the infrequent use of the SFD request form. In the Danish NCI, no SFD requests were sent or received within the last year.
EE	Currently not
EL	<b>n. a.</b>
ES	Currently, we only have reliable statistics on requests sent through INTERPOL-EUROPOL-SIRENE. Not the ones sent by other means.
FI	Basic statistics regarding the number of requests, the sending and receiving country and reason for request.
FR	No, we don't.
HU	We do not have comparable statistics since the SFD forms are not used in practice by the ILECC and most of the MS. (= lack of empirical evidence)
IE	For reasons stated above, statistics are not collected.
IT	At the moment, we can collect statistics related to art.39, 40 and 46 requests. These statistics can show the requesting/requested Country, type of information requested, crime related to the request, date of the request .
LT	The statistical feature of SFD use is considered in case when MS is using foreseen form or refers directly to SFD in free text message.
LU	Currently not.
LV	No, there are no statistical data gathered on requests received/sent using SFD.

MT	Statistics are currently compiled manually. Complete and comparable statistics will be completed when the automated Case Management System is introduced, that is, shortly.
NL	Yes, if messages have been exchanged via SIENA in the SFD environment. If requests are received from other countries via other channels no complete and comparable statistics are maintained. We also like to refer to the answer on question 6. Also requesting parties hardly refer to the use of the SFD although especially the handling of “urgent requests” is legally based on the transposition of the principles of the SFD in the national legislation.
PL	Actually, Poland does not have statistics regarding the usage of the SFD. However, relevant statistics within the International Police Cooperation Bureau are prepared in relation to the requesting EU MS/ number of queries/ number of requests prepared by the Polish competent law enforcement authorities and sent by the SPOC to the requested MS. Also the Polish ARO is collecting internal statistics in relation to the number of requests/ subjects of requests/requesting EU MS.
PT	<b>No.</b>
RO	Since we do not use it, we do not produce any statistics regarding SFD. However, relevant statistics on international police cooperation are produced.
SE	<b>Our SPOC can produce relevant statistics on international information exchange in its case management system. The statistics however do not relate to which legal basis is used but with which counterpart and through which channel the information has been exchanged.</b>
SI	We have comparable information for outgoing requests.
SK	Reliable statistics exist on files dealt with by Europol, Interpol and Sirene Office, where requests or answers are occurred.
UK	The SOCA Asset Recovery Office (England & Wales), keeps annual statistics on the SFD. In 2011 these were 271 outbound requests made from Asset Recovery offices and 53 inbound requests using the SFD. The Scottish ARO also keeps a record of all inbound/outbound requests for Scotland made through the SFD and retains both request and reply information on a database.
IC	
CH	Fedpol mandated its “Information Management Unit” within the main Division “International Police Cooperation” to produce statistics. Data are organised monthly and the total number is given per month and for the corresponding year. The following data are collected: 1st request and following exchange of correspondence after this 1st request.
LI	No, because the Liechtenstein contact point did no receive any requests based on the Framework decision so far, neither from a competent Liechtenstein authority nor from another EU/Schengen country.
NO	No