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NOTE

From:	Presidency
To:	Working Party on Information Exchange and Data Protection (DAPIX)
Subject:	Proposal for a Practical Advisor for Law Enforcement Information Exchange

Delegations will find in annex a proposal for the Practical Advisor for Law Enforcement Information Exchange.

The Practical Advisor aims to provide the Member States' law enforcement officers with brief practical information. It is presented in a user-friendly and structured way to support everyday work and to be used for training purposes or for instant consultation.

With regard to this, the Presidency invites the Member States to discuss the document and to share their opinion about the appropriate place of the Practical Advisor – as an Annex to the Manual on Law Enforcement Information Exchange, as a standalone document, etc.

The international law enforcement cooperation is of significant importance for the effective fight and prevention of cross-border crime and terrorism. The management and smooth and timely exchange of international crime related information is crucial for strengthening the cooperation of Member States law enforcement authorities. The improvement of international law enforcement cooperation has been a subject to various discussions and documents.

The Manual on Law Enforcement Information Exchange already provides the Member States authorities working on international cooperation with detailed information about the available tools for cross-border information exchange and cooperation.

The purpose of this document is to increase the efficiency in the use of existing instruments for information exchange by providing the Member States' law enforcement officers with brief practical information presented in a user-friendly and structured way. The Practical Advisor is being developed to support everyday work and it can also be used for training purposes or for instant consultation.

The Practical Advisor provides a comparison of requirements for exchange of information via different channels (Interpol/ Europol/ SIRENE/ Liaison Officers/**PCCC**¹), as well as other practical information and advices related to instruments used within the international law enforcement cooperation which could be beneficial not only for the SPOC officers, but also for other national law enforcement authorities.

¹ Changes with regard to the previous version are set out in **bold**

1. MAIN EXISTING CHANNELS FOR INTERNATIONAL LAW ENFORCEMENT COOPERATION

	INTERPOL	EUROPOL	SISII/SIRENE	Liaison Officers' network	Police Customs Cooperation Centres
Competences	Art.2 of Interpol Constitution : “(1) To ensure and promote mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries ...”; (2) To establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law crimes.”	Art. 3 of Regulation 2016/794 “Europol shall support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy, as listed in Annex I”	Art. 1 and art. 2 of CD 2007/533/JHA “The purpose of SIS II shall be...to ensure a high level of security within the area of freedom, security and justice of the European Union ...” “entry and processing of alerts on persons and objects and exchange of supplementary information and additional data for the purpose of police and judicial cooperation in criminal matters”. ²	According to concluded bilateral or multilateral agreements Liaison officers from one Member State may also represent the interests of one or more other Member States Member States which do not have liaison officers in a third country or international organisation may make a request to another Member State which does have liaison officers in the third country or international organisation concerned, with a view to the exchange of relevant information. Council Decision 2006/560/JHA	Art. 39 (4) and (5) of the Convention Implementing the Schengen Agreement (CISA) “ <u>In border areas, cooperation may be covered by arrangements between the competent Ministers of the Contracting Parties</u> ” PCCCs are established on the basis of agreements between the contracting parties and their activities are related to and carried out in the border area.
	<ul style="list-style-type: none"> Information exchange under SFD (use of SFD form) Follow-up exchange under Prüm Decisions Info exchange with regard to Interpol Notices Sending MLA 	<ul style="list-style-type: none"> Information Exchange under SFD – SIENA Swedish initiative request/answer (use of SFD form) Follow-up exchange under Prüm Decisions Out-of-Europol-mandate information exchange according to national legislation Sending MLA 	Exchange of information on the SIS alerts . <u>Any other information exchange according to national legislation (e.g.: cross-border operations, hot pursuit)</u>		<ul style="list-style-type: none"> <u>Exchange of information - relates in particular to petty and moderately serious crime, illegal migration and public order; other crime areas can be determined in the agreement;</u> <u>Assisting border area operations - surveillance, hot pursuit, investigations, joint control, operations for maintaining or restoring public order;</u> <u>Readmission</u>

² Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)
Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matter
Regulation of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks
Regulation of the European Parliament and of the Council on the use of the Schengen Information System for the return of illegally staying third-country nationals

Member States	192 MS/Zones	EU MS, third party operational, CT Units, Eurojust and strategic partners	Schengen countries	Compendium on law enforcement officers [Update is foreseen]	
Secure communication tool/application	I 24/7	SIENA <u>Certified for exchange of EU classified information</u>	SIS II TestaNG – used for exchange of additional information for example for deleted alerts as well as information exchange under art.40	e-mail or other	<u>Agreed between contracting parties</u> <u>SIENA</u>
24/7 monitoring	Yes	Europol Operational centre – yes; 24/7 operational MS and Third party operational could be checked in SIENA/Info/SIENA 24/7 monitoring/ SIENA 24/7 SPOC contact details file	Yes	Bilaterally agreed	<u>Yes</u> <u>or other opening hours could be agreed</u>
Languages	English, French, Arabic, Spanish	English (always for communication with Europol) or a language familiar to both parties	English; in particular cases a language familiar to both parties can be used	Bilaterally agreed	<u>Determined in the agreement between contracting parties</u>
Exchange of classified information	No	Yes SIENA is accredited for exchange of classified information up to level EU CONFIDENTIAL. Main information exchange is up to level EU RESTRICTED. EU CONFIDENTIAL – depends of national accreditation Information exchange is according to Council Decision 2013/488/EU on the security rules for protecting EU classified information	No	Yes According to bilateral agreements for exchange of classified information	<u>No/Yes</u> <u>Determined in the agreement between contracting parties</u>
Proposed criteria for choice of channels: [ref to 6721/14]	<ul style="list-style-type: none"> Exchange of information with EU Member States and third countries Interpol notices (wanted/missing persons, arrest warrants, extraditions) Verification of person's identity / documents 24/7 availability and urgency <u>Exchange under Swedish Framework Decision, Prüm Decisions</u> 	<ul style="list-style-type: none"> EU reach and Europol mandate Contributions to AP, EMPACT, analysis, JITs Exchange of classified information (up to EU RESTRICTED) Exchange under Swedish Framework Decision (SIENA form/ UMF), Prüm Decisions, PNR Directive Urgency 	<ul style="list-style-type: none"> SIS alerts Cross border surveillance and/or <u>hot pursuit (depending national legislation)</u> 24/7 availability and urgency respect the principle of Schengen alerts taking precedence over Interpol alerts issued by Member States 	<ul style="list-style-type: none"> Exchange of classified information (depends of concluded bilateral agreements) Urgency, trust 	<ul style="list-style-type: none"> <u>Local reach and exchange of information about crimes committed in the border area</u>

2. INFORMATION EXCHANGE

2.1. Recommended DOs and DON'Ts:

1. Before sending a request, if possible, perform checks in available international databases in order to avoid “fishing” (for example – check SISII, Interpol Databases, Europol Information System, ECRIS; check DNA, FP and VRD/EUCARIS under the Prüm Decisions before sending a request and point in the subject “With exception of Prüm operational countries”; **when sending Interpol communication on person or object with alert in SIS, use “Except Schengen countries”**);
2. Sent a request through ONE channel only. If a request is, in exceptional cases, sent through different channels at the same time, this should be clearly indicated on the request **for all channels including explanation**;
3. The channel is NOT being changed during an on-going operation or during any phase unless it is absolutely necessary. Communicate the change of channel to all parties including the reason for the change and give reference to previous correspondence (channel and reference number);
4. Respect your partner’s choice of channel when replying to the requests;
5. Provide short and clear information about the crime/case – what, where, when, how and who; case reference, competent authority;
6. Specify who is who – suspect, accomplice, victim... **;specify identities (main, alias, misused identity)**;
7. **For persons or objects always indicate Interpol/Schengen ID number of the relevant alert if available**;
8. Be clear in your requests for information and if there are several addressee specify the requests to everyone if necessary;
9. Format of writing:
 - Names - if known write family name in CAPITAL letters;
 - Dates – **use** dd/mm/yyyy or use the agreed format of the system or specify the format;
 - Telephone numbers – **use** international code and then number without spaces;
 - **Licence plates** – specify country if known and write letters and numbers without spaces **(except German licence plates, where the space distinguish between different licence plates)**;
 - **Account numbers – use IBAN**
10. Specify the deadline (if there is any) and give justification (for example - ongoing custody, forthcoming arrests, the case has to go to court before a specific date and etc.)
11. Give a call to the recipient of an URGENT request or in case a message is sent before/after core hours to ensure the prompt handling of the message;
12. Specify when the requested check should be done without revealing the interest;
13. Respect the purposes of and restrictions on the processing of information defined by its provider.
14. Use the “Cc” functionality for recipients with real interest
15. Indicate the **title**, full name and telephone number of the person sending or person who has to receive the message if direct contact is needed (for SIENA – write this information in the “Personal communication” text box of the SIENA message);
16. Specify when no reply is needed and/or the provided information is “For information” and the recipient could take measures he/she deems appropriate;

17. For SIENA consider using the Universal Message Format (UMF) for object Person – this will speed up the checks in Europol databases
18. . Give reasons and specify when the answer could be expected if there will be a delay in replying– for example
19. Don't "reply to all" when the recipient does not have an interest in the content of the message
20. Name the attachments to reflect the content;
21. Provide the message with the same confidentiality level as the highest classification given to the attachment(s) or any part of the message

2.2. Information exchange Interpol/Europol/SIRENE/LO network/PCCC

	Interpol 24/7	Europol SIENA	<u>SISII/SIRENE</u>	LO network	<u>Police Customs Cooperation Centres</u>
Reference N	Our Ref: Your Ref:	SIENA case messages	Use of forms for the purpose of exchanging supplementary information on SIS alerts (G/L/E/M/H/I/K/J/Q/A/N/O/P forms)	Our Ref: Your Ref:	<u>Special forms for information exchange can be determined in the agreement between contracting parties</u>
					<u>SIENA – see the column for Europol/SIENA</u>
			<u>For free text messages:</u> <u>Our Ref:</u> <u>Your Ref:</u>		<u>For free text messages:</u> <u>Our Ref:</u> <u>Your Ref:</u>
Subject	Plain text	Plain text	<u>Plain text</u>	Plain text	<u>Plain text</u>
Information	Plain text	Personal communication Crime related content UMF	<u>Plain text</u>	Plain text	<u>Plain text</u>
Crime	Plain text	Choose from drop up list	<u>Plain text</u>	Plain text	<u>Plain text</u>
Handling of information	Handling of information could be specified in the text of the message or in the disclaimer.	Choose from drop up list Handling Codes • H0 : “This information may only be used for the purpose of preventing and combating crimes in line with the ER and any other applicable law.”- on default; • H1 : “Not to be disclosed in judicial proceedings without the permission of the provider.” • H2 : “Not to be disseminated without the permission of the provider.” H3 : “Other restrictions and comments”	<u>Handling of information could be specified in the text of the message or in the disclaimer.</u>	Handling of information could be specified in the text of the message or in the disclaimer.	<u>Handling of information could be specified in the text of the message or in the disclaimer.</u>








Evaluation	It is not mandatory	<p>Choose from drop up list</p> <p>1.The reliability of the source of information originating from a Member State shall be assessed as far as possible by the providing Member State using the following source evaluation codes: (A): where there is no doubt as to the authenticity, trustworthiness and competence of the source, or if the information is provided by a source which has proved to be reliable in all instances; (B): where the information is provided by a source which has in most instances proved to be reliable; (C): where the information is provided by a source which has in most instances proved to be unreliable; (X): where the reliability of the source cannot be assessed.</p> <p>2.The accuracy of information originating from a Member State shall be assessed as far as possible by the providing Member State using the following information evaluation codes: (1): information the accuracy of which is not in doubt; (2): information known personally to the source but not known personally to the official passing it on; (3): information not known personally to the source but corroborated by other information already recorded; (4): information not known personally to the source and which cannot be corroborated.³</p>	<u>It is not mandatory</u>	It is not mandatory	<u>It is not mandatory</u>
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³ According to Art.29 of Europol Regulation

Sharing relevant information	IPSG	According to: Art.7, par.6 (a) of Europol Regulation 2016/794 (Analytical Projects) art.6 par.2 of Council Framework Decision 2006/960/JHA art. 4, par.2 (b) and art. 9 and 10 of PNR Directive 2016/681	Restrictions - according art. 54 from Regulation 2007/533 and art. 39 of Regulation (EC) 1987/2006 data processed in SIS II shall not be transferred or made available to third countries or to international organizations.	With other MS in accordance with CD 2006/560/JHA	
Urgency	<u>According to NCBs Service Standards:</u> <ul style="list-style-type: none"> • <u>Urgent - cases where the reason for the urgent classification is clear - within 24 hours</u> • <u>Non-urgent - cases - as soon as possible and within 1 month.</u> <u>Specific deadline could be indicated</u>	Priority: Low, Normal, High “ Very urgent ” and “ Urgent ” could be written in the “Subject” or “Crime related content” fields. There is no common rule about time limits for the answer. Specific deadline could be indicated. There is a field for justification of deadline and it is mandatory when the answer is requested in less than or equal to 24 hours	The SIRENE Bureau shall answer all requests for information on alerts, match and hit procedures, made by the other Member States via their SIRENE Bureaux, as soon as possible . In any event a response shall be given within 12 hours	<ul style="list-style-type: none"> • Very urgent • Urgent There is no common rule about time limits for the answer. <u>Specific deadline could be indicated</u>	<ul style="list-style-type: none"> • <u>Very urgent</u> • <u>Urgent</u> • <u>Normal</u> <u>There is no common rule about time limits for the answer – they can be determined in the agreement.</u> <u>Specific deadline could be indicated</u>
Confidentiality levels	No	<ul style="list-style-type: none"> • Europol Public Information • Basic Protection Level - for use of LEA only; • EU RESTRICTED; • EU CONFIDENTIAL 	No	<ul style="list-style-type: none"> • Unclassified information • Restricted/Confidential/Secret/Top secret Table of equivalence according to bilateral agreement	<ul style="list-style-type: none"> • <u>Unclassified information</u> • <u>Restricted/ Confidential/ Secret/Top secret</u> <u>Table of equivalence according to the bilateral agreement for exchange of classified information and agreement for setting up a PCCC</u>

2.3. Wanted persons and objects - Interpol / SIS II

Respect the principle of Schengen alerts taking precedence over Interpol alerts issued by Member States.

	INTERPOL	SISII
Wanted persons	 Red Notice / diffusion/Nominals database	<u>Alerts for arrest for surrender or extradition purposes (art. 26 of the SIS II Decision)</u>
Discreet check and specific check (inquiry check)	 Blue Notice / diffusion/ Nominals database	<u>Alerts for discreet and specific checks (art. 36.2 of the SIS II Decision)</u>
Foreign travelling fighters/ Travelling terrorists	 Blue Notice / diffusion/ Nominals database	<u>Alerts for discreet and specific checks (art. 36.2 and 36.3 of the SIS II Decision)</u>
National security	 Blue Notice / diffusion/ Nominals database	<u>Alerts for discreet and specific checks (art. 36.3 of the SIS II Decision)</u>
Persons sought for a judicial procedure – establishment of whereabouts	 Blue Notice / diffusion/ Nominals database	<u>Alerts for persons sought for a judicial procedure (art. 34 of the SIS II Decision)</u>
Missing persons	 Yellow Notice /diffusion/ Nominals database	<u>Alerts on missing persons (art. 32 of the SIS II Decision)</u>
<u>Discreet and specific checks of travel means (vehicles, boats, airplanes and containers)</u>	No	<u>Alerts for discreet and specific checks (art. 36 of the SIS II Decision - travel means (vehicles, boats, airplanes and containers)</u>
<u>Refusal of entry or stay for third country nationals for administrative/criminal/national security</u>	No	<u>Alerts for refusal of entry or stay (art. 24 of the SIS II Regulation 1987/2006)</u>
<u>Prohibit leaving Schengen Area</u>	No	<u>Alerts on objects for seizure or use as evidence (art. 38 of the SIS II Decision – expressly invalidated documents with the purpose to avoid travel)</u>
Unidentified deceased persons	 Black Notice / diffusion	No
Stolen/lost documents	Stolen and Lost Travel Documents (SLTD) Stolen Administrative Documents (SAD)	<u>Alerts on objects for seizure or use as evidence (art. 38 of the SIS II Decision) – passports, ID cards, residence permits, visa, driving licences, vehicle registration documents</u>
Lost/stolen objects	Stolen Motor Vehicles database <u>Only for motor vehicles</u>	<u>Alerts on objects for seizure or use as evidence (art. 38 of the SIS II Decision): vehicles, trailers, licence plates, industrial equipment (e.g. agriculture or building machinery – tractors, forklifts, diggers), vehicle registration documents, banknotes, securities and means of payment (e.g. ATM and credit cards), boats and boat engines, airplanes (including helicopters etc.), containers</u>
Stolen works of arts	Works of Arts Database	No
Fire arms	iArms database/Firearms reference table/Ballistic information network	<u>Alerts on objects for seizure or use as evidence (art. 38 of the SIS II Decision)</u>

Other	 Green Notice: warnings and intelligence about persons who have committed criminal offences and are likely to repeat these crimes in other countries  Orange Notice: dangerous threats  Purple Notice: modus operandi Interpol - United Nations Security Council Special Notice: groups and individuals who are the targets of UN Security Council Sanctions Committees	No
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2.4. Information exchange under Council Decision 2008/615/JHA and Council Decision 2008/615/JHA (Prüm Decisions)

The Decisions regulate automated exchange of DNA data, fingerprints (FP) data and vehicle registration data (VRD).

Why we use Prüm with regards of DNA/FP:

- ▶ To identify persons through searches in the DNA or AFIS database of another MS
- ▶ To solve unsolved cases by identifying persons through searches in the DNA or AFIS database of another MS
- ▶ To possibly link crimes in different MS

The exchange of DNA/ FP is done through 2 steps:

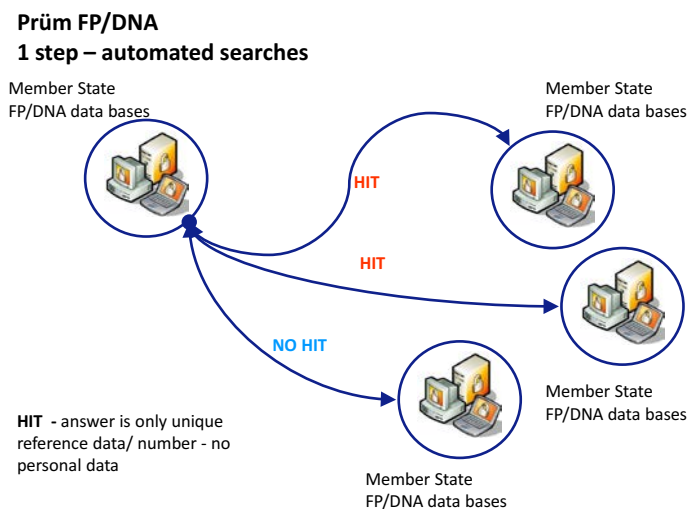
First step – automated exchange among databases of MS – the result is a hit/no hit and it contains only unique reference data/number without any information immediately identifying the person (data subject).

Second step – following a Prüm hit, personal data and other information relating to the reference data is requested via the available channels for international information exchange

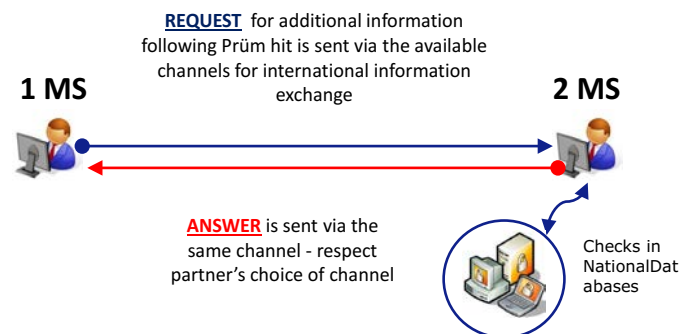
Request – provide the unique AFIS/DNA reference number, names of the person whose FP/DNA are recorded (if known), date of police registration and for what crime or where the FP/DNA were taken (if the person is unknown) and which information you request.

Processing of the request - on the base of the provided reference data, check the relevant data base (for DNA or FP) for retrieving personal data: names of the person whose FP/DNA are recorded under this reference number and then check other available databases in order to provide additional information such as date/place of birth, picture, address, valid ID documents, criminal and judicial records, wanted status and all other requested information.

Send the answer with all collected information via the same channel on which the request was received (The rule is to respect your partner's choice of channel). Send a copy of the answer to other concerned countries – when a HIT occurred amongst three or more countries. Respect the requirements of the used channel.



Prüm FP/DNA
2 step – following a Prüm hit, exchange of personal data and other information relating to the reference data



Exchange of VRD – EUCARIS Prüm application

Operational Member States have direct access to EUCARIS Prüm application and the duly authorised officers could perform checks in order to establish owner/holder of a vehicle ascertained in the framework of criminal case. The checks are made on licence plate number **(specifying MS)** or VIN **(in all MS)**.

[Reference to future CEPOL Prüm e-learning module]

2.5. 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 initiative/Swedish Framework Decision)**

Requirement for requesting information under CFD 2006/960/JHA - to have reasons for believing that information is in the requested MS

Time limits for replying

- **8 hours** - for **urgent cases** and if the requested information is held in a database directly accessible by a law enforcement authority. If there is going to be a delay, the requested MS shall immediately inform the requesting law enforcement authority of this postponement and shall provide the requested information or intelligence as soon as possible, but not later than within 3 days.
- **7 days** – for **non-urgent cases** and if the requested information is held in a database directly accessible by a law enforcement authority
- **14 days** - in all other cases

The **rule**, in all cases where the requested MS is unable to respond within the requested time limits, is to provide reasons.

Sharing information with Europol and Eurojust – art.6, para 2 – when the exchange of information refers to an offence or criminal activity within their mandate.

Spontaneous exchange of information – art.7

The competent law enforcement authorities shall, without any prior request being necessary, provide to the competent law enforcement authorities of other Member States information and intelligence in cases where there are factual reasons to believe that the information and intelligence could assist in the detection, prevention or investigation of offences. The modalities of such spontaneous exchange shall be regulated by the national law of the Member States providing the information.

Channel - exchange of information may take place via any existing channels for international law enforcement cooperation. The language used for the request and the exchange of information shall be the one applicable for the channel used and requirements of the used channel should be respected.