

**12680/04**

**LIMITE**

**CRIMORG 81  
ENFOPOL 119**

**TRANSLATION PROVIDED BY PRESIDENCY**

**NOTE**

---

from :            Presidency

---

Subject :        Exchange of information

---

**Objective**

Law enforcement agencies in the Member States must not encounter obstacles to the exchange of information within the area of freedom, security and justice.

This means that the investigation and prosecution authorities and other law enforcement agencies in the Member States are entitled to the information held by other Member States, provided they require such information in order to perform their tasks and there is an obligation to make it available to them. Citizens retain the right to protection against abuses and incorrect information.

## **Measures**

1. With effect from 1 January 2008, exchange of information in the policy fields pertaining to the area of freedom, security and justice must be based on the principle of availability. The relevant legislation must also ensure that increased exchange of information remains in balance with the need to protect citizens against abuses and incorrect information.
2. At the same time, the quality of information gathering and processing by law enforcement agencies must be improved so that the information is more readily usable.

## **Propositions:**

1. Apart from actual unwillingness to share information, there are legal and technical obstacles to the exchange of information. Allowing the existing obstacles to remain is incompatible with the basic principles of the area of freedom, security and justice and is irresponsible with a view to the fight against terrorism.
2. What the principle of availability means in practice is that, throughout the Union, a law enforcement officer in one Member State who needs information in order to perform his duties can obtain this from another Member State without any problem, and that the law enforcement agency in the other Member State which holds this information is obliged to make it available for the stated purpose. It is essential that citizens be protected against abuses and incorrect information.
3. Information must be shared or exchanged in accordance with uniform criteria, while maintaining the integrity and confidentiality of the information.

4. The way in which information is shared or exchanged may vary according to the nature of the information. Priority must be given to granting mutual access to national databases, each request for information being placed on record. Before creating new centralised European databases, studies demonstrating the added value of such databases must be carried out.
  
5. Law enforcement agencies must learn more about each other's information, so that they know what is available in other Member States and hence can make specific requests and also make optimum use of the information obtained.

-----