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COMIX 69**

NOTE

From : General Secretariat
To : Multidisciplinary Group on Organised Crime

No. prev. doc. : 15654/1/04 REV 1 CRIMORG 146 COMIX 752 + COR 1

Subject : Replies to questionnaire on Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the member States of the European Union, in particular as regards serious offences including terrorist acts

Delegations will find hereafter a comparative overview of the replies received to the questionnaire set out in doc. 15654/1/04 REV 1 CRIMORG 146. Up to date, 27 replies have been received. In so far as possible, the comments that were provided to the replies have also been reproduced, either in the table of general comments, or as footnotes to the answers to the questions. For the sake of conciseness, some comments have, however, not been reproduced. This is the case for comments that merely explain which authorities are competent under national law to access and/or provide information or comments that explain why a Member State has not filled out the questionnaire with regard to certain types of information. Regarding the latter, this may be because the question is too vague or the reply would vary according to the type of information sought. It may also be the case that the Member State concerned does not have the legal powers to access the information or that the information is classified and cannot be exchanged through police channels (and only through judicial channels). In some Member States the type of information concerned, may not exist (e.g. some Member States do not issue national identity cards) or the information is not recorded in a systematic way (e.g. lack of DNA register).

General comments

BE: The Belgian position hereafter referred to in the table is subject to the following requirements :

- the possibility to exchange information via police cooperation channel shall not prevent Member States to require prior authorisation by judicial authorities to transmit the information to the requesting authority via such channels when this information is under judicial control in the requested State
- the pre-investigation phase shall be defined in precise terms and shall not have a wider definition than the one contained in art. 2 (c) of the proposal. In particular, such a pre-investigation shall always concern a concrete criminal act.

Furthermore, the Belgian position is subject to the discussion which needs to be further developed regarding grounds for refusal to transmit information (art. 11 of the proposal).

CZ: In regard to the first table, the Czech Republic has put into whole line B) and C) as an answer NO. This is, however, not necessarily connected to the problems of distinction between police and judicial cooperation (concerning only the cases when the information is already in the files of the police), but rather to the problems relating to the character of information. For example, phone tapping can be done only with previous approval of judicial authority. However, once this information is already in criminal file it could, theoretically, be given to another states without another (second) approval from judicial authority. It will, however, not be exchanged due to the fact that such information is subject to regime of classified information. In the Czech Republic it is the problem of classified information and protection of personal data (sensitive data), rather than the problem of second approval of judicial authority, in cases when the information is already in the files of the police, which is at the origin of the difficulty to exchange information. Information that is not yet in files of police and has to be acquired with the approval of judicial authority, can be obtained only via mutual assistance.

DK: It should be noted that Denmark has a distinctive criminal legal system in which the head of the police district is not only chief of police but also chief prosecutor in the district court. Each Danish police district has a legal branch, which handles the prosecution of offenders in the district courts and overlooks the work carried out by the regular police force, including the handling and exchange of information. Accordingly, when Denmark in table 2 indicates that the police autonomously may access and exchange an extensive amount of information this does not imply that there is no judicial authority overseeing the handling of such information.

DE: Das deutsche Recht kennt den Begriff der Vorermittlungen im Sinne der Schwedischen Initiative nicht. Sobald der Verdacht einer verfolgbaren Straftat besteht (Anfangsverdacht), sind

sämtliche Maßnahmen zur Aufklärung der Tat Ermittlungen, die unter der Sachleitungsbefugnis der Staatsanwaltschaft stehen. Vor diesem Hintergrund bedarf es einer Differenzierung nach Vorermittlungen und Ermittlungen aus deutscher Sicht nicht. Bei Maßnahmen auf dem Gebiet der Gefahrenabwehr, einschließlich der vorbeugenden Bekämpfung von Straftaten, handelt es sich nicht um Maßnahmen auf dem Gebiet der Strafverfolgung; eine Übermittlung von Informationen und Erkenntnissen ist hier unter bestimmten Voraussetzungen möglich. Darauf wird in der nachfolgenden Beantwortung des Fragebogens aber nicht eingegangen.

Das deutsche System der Rechtshilfe basiert nicht auf der Art, sondern auf dem Verwendungszweck der Informationen für Zwecke der Strafverfolgung; die nachfolgende Differenzierung nach „types of information“ ist daher im Bereich der Rechtshilfe nicht weiterführend.

Grundsätzlich ist für die Frage des Informationsaustauschs zu unterscheiden zwischen strafrechtlichen Angelegenheiten im Sinne des Gesetzes über die Internationale Rechtshilfe in Strafsachen (IRG) und anderen Verfahren. Unter strafrechtlichen Angelegenheiten sind solche repressiver Natur (vom Ermittlungs- bis zum Vollstreckungsverfahren) zu verstehen, während präventiv-polizeiliche Angelegenheiten davon nicht umfasst sind.

Der Begriff der Polizei umfasst nach dem Trennungsgebot des deutschen Rechts auch nicht die Nachrichtendienste.

Im Anwendungsbereich des IRG (also in strafrechtlichen Angelegenheiten) ist die Polizei nur in Ausnahmefällen bei Vorliegen einer ausdrücklichen Regelung zur Weitergabe von Informationen befugt. Die Befugnisse der Polizeien des Bundes und der Länder sind in Deutschland im Einzelfall umstritten. Sie folgen den einschlägigen Zusammenarbeitsverträgen, Artikel 39 SDÜ und den Nummern 123, 124 RiVSt. Werden Informationen aus einem laufenden strafrechtlichen Ermittlungsverfahren oder für deutsche Ermittlungsverfahren erbeten, ist die Sachleitungsbefugnis der Staatsanwaltschaft (§§ 161, 163 StPO; § 386 A0) zu beachten. Bei Zwangsmaßnahmen ist der Vorrang der justiziellen Rechtshilfe zu wahren.

Der Austausch von Informationen im Wege der Rechtshilfe nach Bewilligung durch die zuständige Behörde ist grundsätzlich nur in dem Umfang gegenüber anderen Mitgliedstaaten möglich, in dem er auch innerstaatlich zulässig ist. Für die Bewilligung der Rechtshilfe kommt es auf die jeweiligen Umstände im Einzelfall an. Zudem existieren in verschiedenen Bereichen Sonderregelungen (z. B. aufgrund bi- oder multilateraler Verträge).

Die einzelnen Punkte des Fragebogens lassen weiten Spielraum für Interpretationen. Den deutschen Antworten ist daher in vielen Fällen eine Erläuterung vorangestellt, wie die Frage verstanden bzw. auf die deutschen Gegebenheiten bezogen wird. Die Antworten beziehen sich jeweils nur auf diesen Rahmen.

Dabei ist erneut hervorzuheben, dass nur der Informationsaustausch im Bereich der strafrechtlichen Angelegenheiten eine Beantwortung erfährt.

Nicht berücksichtigt wird ferner der Umstand, dass Daten vom jeweiligen Inhaber freiwillig offenbart werden können. Schließlich beziehen sich die nachstehenden Antworten stets auf die Zugänglichkeit im nationalen Bereich. Die europaweite Zugänglichkeit wird einer besonderen Prüfung zu unterziehen sein.

Vor diesem Hintergrund erscheint es Deutschland für die weitere Diskussion in der MDG sinnvoll, an Artikel 39 SDÜ anzuknüpfen und die Informationen näher zu konkretisieren, die für einen Austausch auf europäischer Ebene grundsätzlich in Betracht kommen. Dabei können die in dem Beschluss des Schengener Exekutivausschusses vom 28. April 1999 zur Anwendung des Artikels 39 SDÜ aufgeführten Maßnahmen ohne Zwangscharakter, die auch in bilateralen Zusammenarbeitsverträgen mit Österreich, den Niederlanden und der Schweiz berücksichtigt worden sind, als Orientierungshilfe dienen. Zugleich wird zu prüfen sein, ob die in der Initiative enthaltene Regelung analog Artikel 39 Abs. 2 SDÜ (keine Verwertung übermittelter Informationen als Beweismittel im Strafverfahren ohne vorangegangene Zustimmung der Justizbehörden) beibehalten werden soll.

ES: In Spain, there is no distinction between :

- pre-investigation (foreign) without authorisation of a judicial authority
- investigation (foreign) with authorisation of a judicial authority

There is also no difference between : "access with authorisation of a judicial authority" and " with authorisation of a judicial authority to use a coercive measure"

FR: A titre préliminaire, il convient de rappeler qu'en France, l'activité judiciaire de la police est dirigée par l'autorité judiciaire, et que les investigations réalisées dans ce cadre le sont sous le contrôle du magistrat compétent, conformément aux dispositions des articles 12 et 13 du code de procédure pénale. Ces dispositions font écho à l'article 41 du code de procédure pénale qui dispose que « le procureur de la République procède ou fait procéder à tous les actes nécessaires à la recherche et à la poursuite des infractions pénales », et qu'à cette fin, « il dirige l'activité des officiers et agents de la police judiciaire dans le ressort de son tribunal. »

A cet égard, la proposition de décision-cadre initiée par la Suède est susceptible de se heurter en France à des difficultés majeures en ce qu'elle vise à organiser la communication directe entre services de police en dehors de tout contrôle judiciaire.

Le premier tableau cherche à distinguer les règles applicables à l'échange d'informations d'une part selon la possibilité d'accès à l'information par les services de police, d'autre part selon qu'une enquête judiciaire à caractère pénal est ou non en cours. Cette dichotomie est réductrice, et ne suffit

pas à rendre compte des spécificités de l'approche française et de la complexité des questions posées. En effet, au-delà de ce premier critère, il est nécessaire de considérer le type d'information concerné.

1) Situation si aucune enquête judiciaire n'est en cours dans l'Etat requérant

S'agissant de la France, une telle hypothèse est extrêmement marginale puisque l'article 75 du code de procédure pénale dispose que la police judiciaire procède à des enquêtes préliminaires « soit sur les instructions du procureur de la République, soit d'office. »

La notion de « pré-investigations » que met en avant le questionnaire est donc peu pertinente pour rendre compte de la situation que connaît la France s'agissant d'enquêtes judiciaires. Cette étape pré-judiciaire est sans doute plus proche, en ce qui concerne la France, des activités de renseignement, qui ne relèvent pas de l'autorité judiciaire.

En outre, il convient de préciser que si une enquête judiciaire a eu lieu, mais est terminée, les règles de transmission des informations recueillies au cours de la procédure judiciaire sont strictes. En effet, l'article R.156 du code de procédure pénale dispose qu'aucune pièce de la procédure autre que les décisions juridictionnelles (arrêts, jugements, ordonnances) ne peut être délivrée à des tiers sans l'autorisation préalable, selon les cas, du Procureur de la République ou du Procureur Général. L'accès de la police à une telle information suppose toutefois l'existence d'une procédure judiciaire à caractère pénal. La transmission de telles informations, qui est susceptible de rentrer dans le champ de l'entraide judiciaire en matière pénale, requiert donc l'autorisation de l'autorité judiciaire compétente. Cette remarque vaut pour toutes les réponses où le sigle de la France est indiqué en italiques (*FR*).

La transmission de tels procès verbaux à l'étranger relève incontestablement de l'article 39-2 de la Convention Schengen, et requiert donc une autorisation de la part du magistrat compétent. La détention d'archives par les forces de police ne les autorise pas à les utiliser dans le cadre d'autres procédures, plus particulièrement avec l'étranger (Convention Schengen Art. 39 - 2.)

IE: It should be understood that in all cases where information is available to An Garda Síochána (the national police service of Ireland), that information may be used by An Garda Síochána (or by another police service with whom the information is shared) for intelligence or investigative purposes only. In several cases, as foot-marked below, if the information is to be used as evidence or in other judicial proceedings, formal channels (i.e. the obtaining of warrants or the invocation of certain legislative provisions) must be employed. In such cases, requesting States should use formal channels to request such information.

LT: According to the national legislation there are two types of investigations. First type of investigation is implemented according to the Law on Operational Activity. Another type of

investigation is carried out according to the Criminal Procedure Code. In the latter case, information exchange is executed through the Ministry of Justice or Prosecutors General Office on the basis of rogatory letters. This means that police have no rights to decide what information can be delivered and what cannot. In the first case, it is usually police (or other law enforcement institutions) that decide which data can be provided to the authorities of the requesting countries.

Information exchange always depends on the character of the request of the foreign state, the content of requested information and the legal regulation as well as the concrete situation connected with related investigations that are carried out in Lithuania.

LU: For Luxembourg, as long as the information exchange is requested through a police channel, the status of the investigation in the requesting country is not relevant as we assume that the request is legally possible in the requesting state. The important question for Luxembourg is whether the information request is of a general nature or if it is linked to an ongoing investigation in Luxembourg (requested state) and what is the status of this investigation. If there is an ongoing investigation in Luxembourg and if the information request addressed to the police through a police cooperation channel is linked to this investigation, or if the police owns the information only because of its involvement in an investigation, then the exchange through a police cooperation channel is not possible, or submitted to the prior authorisation of the judicial authorities.

A distinction has to be made with regard to the answers provided by Luxembourg. An unconditional “yes” can be given to information that in every situation is freely accessible to the police (for instance car registration, company register information...). However in a considerable number of situations, the police has “de facto” access to a piece of information as the police was involved in the collecting process (example: witness record...) but as the information was collected during a criminal investigation on request of a judicial authority, the police is not the owner of the information and cannot freely share it.

NL: The replies to question 1 are only partially possible as the distinctions made do not completely correspond to the Dutch procedural system. Regarding question 2, the relevant box has been ticked when the police has access to the information and can exchange it with other Member States. However, this does not mean that police would be able to do so within 12 hours.

SE: The answers are by necessity given as general statements. Please note therefore that the release of a few types of information may be released only if certain conditions are met, for instance that the investigation or pre-investigation at hand involves an offence on which a certain penalty can be imposed. The release of other types of information may also be preceded by an assessment if the information can be released. However, neither of these two factors will in practice pose any problem as to the transmission of information or intelligence to foreign law enforcement bodies.

CH: The Swiss position referred to in the table has been defined in the understanding that:

- the scope of the proposed Framework Decision shall be restricted to police cooperation;
- the possibility to exchange information through police cooperation shall be without prejudice to the competence of national judicial authorities and the legal instruments on mutual legal assistance;
- the proposed Framework Decision shall not relate to information which is only accessible or has been previously obtained by means of coercive measures;

NO: The Norwegian delegation would first like to point out that in Norway, the (lower) prosecuting authority is integrated into the police. This means that an investigation conducted by the police is always led by a police prosecutor. But since the prosecuting authority is integrated into the police, the police can act autonomously unless a decision of the court to use a coercive measure is necessary. The column/row “can access but only with authorisation of a judicial authority “is therefore irrelevant for the Norwegian answers. We understand column C and the third row to mean decision of the court to use a coercive measure.

Question 1: Do your national legislation and internal procedures allow to exchange the following information under the draft Framework decision?

INFORMATION WHICH THE POLICE IN THE REQUESTED STATE	PRE-INVESTIGATION IN THE REQUESTING STATE		INVESTIGATION IN THE REQUESTING STATE	
	The information has been obtained already in the requested state ¹	The information has not yet been obtained in the requested state	The information has been obtained already in the requested state ²	The information has not yet been obtained in the requested state
A) can access autonomously	BE ³ - CZ- DK- EE- ES- FR- IE ⁴ - CY- LV- LT- LU- HU- MT- AT- PL- SI- SK- FI - SE- UK- CH- NO-	BE- CZ- ES- FR- IE- LV- LT- LU- HU- MT ⁵ - AT- PL- SI- SK- FI - SE- UK- CH- NO-	BE- CZ- DK- EE- ES- IE- IT- CY- LV- LT- LU- HU- MT- PL- SI- SK- FI - SE- UK- CH- NO- IS-	BE- CZ- ES- IE- IT- LV- LT- LU- HU- MT ⁶ - PL- SI- SK- FI - SE- UK- CH- NO-
B) can access but only with authorisation of a judicial authority	BE- FR ⁷ - LV- LT- SI- SK- SE- CH- IS-	DK- FR ⁸ - LT- PL- SI- SE ⁹ - CH-	BE- LV- LT- MT- PL- SI- SK- FI - SE- CH-	DK- LT- MT- PL- SI- SE ¹⁰ - CH-
C) can not obtain without a decision of the judicial authority to use a coercive measure	BE- FR ¹¹ - LV- LT- FI- SE-	DK- LT- PL- SE ¹² - IS-	BE- LV- LT- MT- SE-	DK- LT- MT- PL- FI- SE ¹³ - IS-

¹ This means that the information is already in the files of the police.

² This means that the information is already in the files of the police.

³ BE: Some legal conditions are required (only for judicial police officers,...)

⁴ IE: The concept of ‘pre-investigation’ does not exist in Ireland. There is no judicial input into deciding whether or not to begin an investigation. An Garda Síochána has autonomy in starting an investigation in all cases.

⁵ MT: Enquiries may be effected in certain cases.

⁶ MT: Enquiries may be effected in certain cases.

⁷ FR: Cet accès dépend toutefois de la nature de l'information, et du cadre juridique dans lequel elle est collectée. En outre seule l'information peut être transmise, et non pas les pièces qui l'établissent.

⁸ FR: Selon les circonstances: Toutefois, cet accès ne sera pas possible si l'information relève de l'emploi de moyens dont la mise en œuvre obéit à une procédure réglementée par la loi (sonorisation d'un lieu ou écoutes téléphoniques), et qui peuvent parfois être réservées au cadre d'une procédure pénale judiciaire.

⁹ SE: When obtained subsequent to a decision by a judicial authority it can be exchanged through police channels.

¹⁰ SE: See previous footnote.

¹¹ FR: Si la coercition est nécessaire, l'information obtenue et conservée l'est alors dans un cadre judiciaire, il faudra donc l'autorisation de l'autorité judiciaire.

¹² SE: When obtained subsequent to a decision by a judicial authority it can be exchanged through police channels.

¹³ SE: See previous footnote.

Question 2: Where do you place every item of this list of doc. 15187/04 CRIMORG 142?

	The Police can access autonomously	The Police can access but only with authorisation of a judicial authority	The Police can not obtain without a decision of the judicial authority to use a coercive measure
Persons convicted of crime (criminal records)	BE- CZ- DK- DE- EE- IE- IT- CY- LV- LT- HU- MT- AT- PL- SI- SE- UK- CH- NO-	ES- NL- PL- PT- SK- FI - IS-	
Persons suspected of (concrete) crime	BE- CZ- DK- DE ¹ - EE- ES- FR- IE- IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	FR- LT-	
Persons suspected of criminal activities (criminal intelligence)	BE- CZ- DK- DE ² - EE- ES- FR- IE- IT- CY- LV- LT- LU- HU- MT- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	FR- NL-	
Decisions prohibiting entry to premises or restraining orders	BE ³ - CZ- DK- IE- IT- CY- LT- LU- HU- MT- AT- PL- PT- SI- FI - SE- UK- CH- NO- IS-	BE- ES- LT- NL-	
Wanted/missing persons	BE- CZ- DK- DE- EE- ES- FR ⁴ - IE- IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS		

¹ DE: aus deutscher Sicht ist darunter das Zentrale Staatsanwaltschaftliche Verfahrensregister (ZStV) zu verstehen. Ab 1.3.2005 rechtlich möglich; technische Umsetzung derzeit in Planung.

² DE: Aus deutscher Sicht fallen darunter keine nachrichtendienstlichen Erkenntnisse.

³ BE: Depends on the type of decision. E.g.: the police can autonomously access decisions forbidding entry to a sport stadium.

⁴ FR: Il convient de distinguer les personnes disparues, à l'égard desquelles il est possible qu'aucune procédure judiciaire ne soit en cours, des personnes recherchées, qui le sont en principe dans le cadre d'une procédure judiciaire

Photographs	BE- CZ- DK- DE ¹ - EE- ES- <i>FR</i> ² - IE ³ - IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	PL- CH ⁴ -	
Fingerprints	BE- CZ- DK- DE- EE- ES- <i>FR</i> - IE- IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI- SE- UK- CH- NO- IS		
DNA	CZ- DK- DE- EE- ES ⁵ - <i>FR</i> - IE- IT- CY- LV- LT- HU- AT- PL- SI- SK- FI - SE- UK- CH- NO- IS	MT- PT-	BE- ES- CH-
Identification (distinguishing marks or dental records)	BE- CZ- DK ⁶ - DE ⁷ - <i>FR</i> - IE ⁸ - IT- LV- LT- HU- NL- AT- PL- PT- SI- SK- FI - SE- UK ⁹ - CH- NO-	ES- CY- MT- PL-	BE ¹⁰ - DK- PT- IS- CH-
Modus operandi	BE- CZ- DK- DE- EE- ES- <i>FR</i> - IE- IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO-		IS-

¹ DE: Unter Fotos werden in diesem Zusammenhang Lichtbilder von Beschuldigten verstanden. Insoweit existieren zentrale erkennungsdienstliche Dateien, die Angaben zur Verfügbarkeit eines Fotos enthalten. Die Bilder selbst sind meist noch in dezentralen Dateien gespeichert. Eine Speicherung der Bilder in der zentralen Datei ist im Rahmen des Projekts „Inpol-Neu“ in Arbeit.

² FR: L'accès de la police à une telle information suppose toutefois l'existence d'une procédure judiciaire à caractère pénal. La transmission de telles informations, qui est susceptible de rentrer dans le champ de l'entraide judiciaire en matière pénale, requiert donc l'autorisation de l'autorité judiciaire compétente. Cette remarque vaut pour toutes les réponses ou le sigle de la France est indiqué en italiques (*FR*).

³ IE: Photographs held on Garda databases may be accessed autonomously. Other information such as Driving licence or Passport photographs, if required as evidence, must be accessed either by warrant (judicial authority) or through formal requests as provided for in legislation such as the Wireless Telegraphy Act 1926 as amended or the Data Protection Act 1988 as amended.

⁴ CH: If obtained undercover.

⁵ ES: Depends on whether the information needs to be obtained without consent of the person

⁶ DK: Access to dental records held by private dentists may require a court order.

⁷ DE: Es existiert kein zentrales Register für Identifikationsmerkmale. Soweit diese im Einzelfall polizeilich erfasst sind, wie etwa bei vermissten Personen, kann die Polizei darauf zugreifen.

⁸ IE: See previous footnote on IE.

⁹ UK: Dental records may require judicial authority, but may be available to the police autonomously in certain circumstances

¹⁰ BE: Some marks have to be collected through the use of coercive measures, but not all.

Other registers that describe crimes committed or types of crime	BE- CZ- DK- EE- ES- IE- IT- FR- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS		
Stolen vehicles or stolen goods	BE- CZ- DK- DE- EE- ES- FR- IE- IT- CY- LV- LT- LU ¹ - MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	LU ² -	
Firearms tracing	BE- CZ- DK- DE- EE- ES- FR- IE- IT- CY- LV- LT- HU- MT- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO-	LU-	
Reports (complaints) on crimes committed	BE- CZ- DK- EE- ES- FR- IE- IT- CY- LV- LT- LU- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	PL-	
Driving licences	BE- CZ- DK- DE- EE- ES- FR- IE ³ - IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	LU- PL-	
Passports	BE- CZ- DK- DE- EE- ES- FR- IE ⁴ - IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	LU- PL-	
National identity cards	BE- CZ- DK- DE- EE- ES- FR- IT- CY- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- CH- IS	LU-	
Firearms	BE- CZ- DK- DE- EE- ES- IE- IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- IS	LU-	
Information (held by Prison Administration Services) concerning prison inmates.	BE- CZ- DK- DE- EE- ES- FR- IE- IT- LV- LT- HU- MT- NL ⁵ - PL- PT- SI- FI - SE- UK- CH- NO- IS-	LU- AT- SK-	

¹ LU: Goods.

² LU: Vehicles.

³ IE: See previous footnote on IE.

⁴ IE: See previous footnote on IE.

⁵ NL: information limited to whether someone has served a term in prison.

Decisions, permits, fingerprints etc concerning foreign nationals.	BE- CZ- DK- DE- EE- ES- FR- IE ¹ - IT- CY- LV ² - LT- HU- MT- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS-	LU- NL- LV ³	
Vehicle data and vehicle owner (cars)	BE- CZ- DK- DE- EE- ES- FR- IE- IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	LU-	
Data concerning aircraft and owner of aircraft	CZ- DK- DE- EE- ES- FR- IE ⁴ - IT- CY- LV- LT- HU- MT- NL- AT- PT- SI- FI - SE- UK- CH- NO- IS-	BE- SK-	BE ⁵ - LU-
Vessel data and owner of vessel or boat.	CZ- DK ⁶ - DE- EE- ES- FR- IE ⁷ - IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- FI - SE- UK- CH- NO- IS-	BE- SK-	BE ⁸ - LU-

¹ IE: Fingerprints obtained from asylum seekers entering Ireland for identification purposes may not currently be used for investigative purposes without the permission of the Refugee Applications Commissioner. Other information on third country nationals registered in Ireland such as photographs, but not including fingerprints, is autonomously available to An Garda Síochána.

² LV: The police has in its files the information on persons, groups, entities involved in terrorist offences and subject to refusal to entry the territory of Latvia (these lists are made and updated by the Security Police).

³ LV: The police have access to visa information system where the information on issued, refused, annulled and cancelled visas is available, also register of nationals and inhabitants, invitation data base and refusal to entry data base.

⁴ IE: Photographs held on Garda databases may be accessed autonomously. Other information such as Driving licence or Passport photographs, if required as evidence, must be accessed either by warrant (judicial authority) or through formal requests as provided for in legislation such as the Wireless Telegraphy Act 1926 as amended or the Data Protection Act 1988 as amended.

⁵ BE: Depends on the voluntary or not voluntary transmission of information by the person concerned.

⁶ DK: Only vessels are registered in Denmark.

⁷ IE: See previous footnote on IE.

⁸ BE: Depends on the voluntary or not voluntary transmission of information by the person concerned.

Customs authorities' information on import and export of goods	CZ- DK- (DE ¹ -) EE- FR- IE ² - IT- CY- LV- LT- HU- MT- AT- PT- SI- FI - SE- UK- CH- NO- IS-	BE- ES- SK-UK ³	LU-
Transport companies' passenger and freight lists.	CZ- EE- ES- FR- IE ⁴ - IT- CY- LV- LT- HU- MT- AT- PL- PT- SI- FI - SE- UK- CH - NO ⁵ - IS-	BE- NL- SK-	BE ⁶ - DK- DE ⁷ - LU- CH- NO ⁸ -
Administrative registers on persons (census)	BE- CZ- DK- EE- ES- FR- IT- CY- LV- LT- HU- MT- NL- AT- PL- SI- FI - SE- UK ⁹ - NO- IS-	LU- PT- SK-	
Address and accommodation	BE- CZ- DK- DE ¹⁰ - EE- ES- FR- IE- IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- SK- FI - SE- UK ¹¹ - CH- NO- IS	LU-	
Company board of directors, operations, share capital etc.	BE- CZ- DK- DE- EE- ES- FR- IE- IT- CY- LV- LT- HU- MT- NL- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS-	BE-	BE ¹² - LU- AT-

¹ DE: Es existiert eine zentrale Zolldatei, aus der jedoch Daten auch innerstaatlich nur unter den sehr engen Voraussetzungen des § 30 AO weitergegeben werden dürfen.

² IE: An Garda Síochána have access to information held by Customs Authorities at the discretion of Customs Authorities, and on the understanding that ownership of the information is retained by the Customs Authorities.

³ UK: H.M. Customs and Excise are party to a number of treaties which would facilitate exchange of this data with requesting states. In the absence of such a treaty the requesting territory may be required to provide an International Letter of Request.

⁴ IE: Photographs held on Garda databases may be accessed autonomously. Other information such as Driving licence or Passport photographs, if required as evidence, must be accessed either by warrant (judicial authority) or through formal requests as provided for in legislation such as the Wireless Telegraphy Act 1926 as amended or the Data Protection Act 1988 as amended.

⁵ NO: On international lines.

⁶ BE: Depends on the voluntary or not voluntary transmission of information by the person concerned.

⁷ DE: Es werden nur private Dateien der Transportunternehmen geführt.

⁸ NO: On domestic lines.

⁹ UK: Access to some census information.

¹⁰ DE: Soweit die private Wohnung gemeint ist, existieren dezentrale Melderegister. Soweit die Unterbringung in Hotels gemeint ist, existieren keine zentralen Dateien.

¹¹ UK: Via electoral register information.

¹² BE: The police can autonomously access company information for which official publication is compulsory under Belgian law. For other kind of information, Depends on the voluntary or not voluntary transmission of information by the person concerned.

Ownership of real property	BE- CZ- DK- DE- EE- ES- <i>FR</i> - IE- IT- CY- LV- LT- HU- MT- NL- AT- PL- PT- SI- FI - SE- UK- CH- NO- IS	SK-	LU-
Income and wealth information	DK- (DE ¹ -) EE- <i>FR</i> - IT- LV- LT- HU ² - PL- SI- FI - SE- NO- IS	BE- CZ- ES-CY- MT- PL- PT- SK-	LU- AT- PL- PT- UK- CH-
Registered debts such as taxes, maintenance, fines, debts to individual guarantors etc.	DK ³ - (DE ⁴ -) EE- <i>FR</i> - IE ⁵ - IT- LV- LT- PL- SI- FI - SE- UK ⁶ - CH- NO ⁷ - IS	BE- CZ- ES- CY- HU- MT- NL- SK- UK-	DK- LU- AT- NO ⁸ -
Observations or observation reports	DK- EE- ES- <i>FR</i> - IE- IT- LT- LV ⁹ - LU- MT- AT- PL- PT- SI ¹⁰ - FI - SK- SE- UK - NO-	CZ- LT- HU- NL- AT- PL- SK- UK-	BE- SI- IS-

¹ de/ Hier existieren Register bei den Finanzbehörden auf Landesebene. Zugriff haben die Fahndungsstellen der Finanzämter (Polizei im funktionalen Sinne). Im übrigen dürfen Daten auch innerstaatlich nur unter den sehr engen Voraussetzungen des § 30 AO weitergegeben werden.

² HU: Only taxes.

³ DK: Police may not have autonomously access to certain private debt registers.

⁴ DE: Öffentliche Register existieren nur auf Landesebene für Steuerschulden. Zugriff haben die Fahndungsstellen der Finanzämter (Polizei im funktionalen Sinne). Im übrigen dürfen Daten auch innerstaatlich nur unter den sehr engen Voraussetzungen des § 30 AO weitergegeben werden.

⁵ IE: An Garda Síochána have access to information on registered debts, etc, which are in the public domain.

⁶ UK: Some debt judgements available. Other information may depend on offence under investigation

⁷ NO: Fines.

⁸ NO: Taxes, maintenance, debts to individual guarantors.

⁹ LV: The police has in its files the information on observations or observation reports as far as investigatory operations are concerned, i.e., investigatory observation.

¹⁰ SI: Observations are carried out by the decision of judicial authorities. The police can access to observation reports autonomously.

Photographs	BE- DK ¹ - EE- ES- <i>FR</i> - IE- IT- LV- LT- LU ² - MT- AT- PL- PT- SI ³ - FI - SK- SE- UK- CH- NO-	CZ- LV- LT- HU- NL- PL- SI- SK- UK- CH ⁴ -	BE ⁵ - DK- LU ⁶ - SI- IS-
Film or video recordings	BE- DK ⁷ - EE- <i>FR</i> - IE- IT- LV- LT- LU- MT- AT- PL- SI ⁸ - FI - SK- SE- UK- CH- NO-	CZ- ES- LV- LT- HU- NL- PL- SI- SK- UK- CH ⁹	BE ¹⁰ - DK- LU- SI- CH ¹¹ - IS-
Questioning or other records of conversations with persons who cooperate with crime-fighting authorities	CZ- DK- EE- ES- <i>FR</i> - IE- CY- LT ¹² - MT- AT- PL- SI- FI - SK- SE- UK- CH- NO-	BE- IT- LT- HU- NL- PL- UK-	IT- PT- IS-
Statements provided by under-cover agents	DK- EE- <i>FR</i> - CY- LV- LT- MT ¹³ - AT- PL- SI ¹⁴ - SK- FI - SE- UK- CH- NO-	BE- CZ- ES- LT- HU- NL- IS- UK-	IT- PT- SI-

¹ DK: Depending on who is the owner of the photograph, film or video recording a court order may be required.

² LU: Those where the Police is legally entitled to own.

³ SI: The police can access autonomously to photographs which have been obtained in the frame of observation only while executing this measure. After the execution of observation has been completed, the police can access to photographs obtained through observation only by the permission of judicial authorities. The police can access autonomously to photographed persons records on the grounds of suspicion that a criminal offence has been committed.

⁴ CH: If obtained undercover

⁵ BE: Depends on how the picture is collected (e.g. through the press, through a surveillance measure, ...).

⁶ LU: Photographs where the Police is not legally entitled to own

⁷ DK: Depending on who is the owner of the photograph, film or video recording a court order may be required.

⁸ SI: The police can access autonomously to video recordings obtained through observations only while executing this measure. After the execution of observation has been completed, the police can access to video recordings obtained in this way only by the permission of judicial authorities.

⁹ CH: If obtained undercover.

¹⁰ BE: Depends on how the picture is collected (e.g. through the press, through a surveillance measure, ...).

¹¹ CH: If obtained from private persons with coercive measures.

¹² LT: If the investigation is carried out according to the Law on Operational Activity, police can access relevant information autonomously. If the investigation is executed according to the Criminal Procedure Code, police can access data only with authorisation of judicial authorities (see general remark by LT).

¹³ MT: Unless held by other agencies, e.g. Customs, Army, Security Service etc.

¹⁴ SI: The measure of under-cover operation is permitted by judicial authorities. The police have autonomous access to statements provided by under-cover agents.

Other compilations that contain appraised or non-appraised information on crime or criminal activities.	CZ- DK- EE- ES- <i>FR</i> - IE- IT- CY- LV- LT- HU- MT ¹ - PL- PT- SI- FI - SE- UK- CH- NO-IS	LT-	
Operational analyses	CZ- DK- EE- ES- <i>FR</i> - IE- IT- LV- LT- HU- MT ² - AT- PL- PT- SI- SK- FI - SE- UK- CH- NO- IS	LT- NL-	
Documented questioning of suspects, witnesses, plaintiffs, experts etc.	CZ- DK- EE- ES- <i>FR</i> - IE- CY- LV- MT ³ - PL- SI- SK- FI - SE- UK- NO- IS	BE- IT- LT- HU- NL- AT- PL- PT- UK-	BE ⁴ - PT- CH-
Documentation of search of premises including search for communication data, seizures, forfeited property or frozen assets	DK- EE- ES- <i>FR</i> - IE- LV- MT ⁵ - SI ⁶ - SK- FI - SE- UK- NO-	IT- LT- HU- NL- PL- SI- UK-	BE- CZ- LU- AT- PT- CH- IS-
Documentation of telephone tapping (including so-called surplus information)	DK- EE- <i>FR</i> - IE- LT- PL- SI ⁷ - SK- FI - SE- NO-	CZ- ES- LT- HU- NL- PL- SI-	BE- IT- LU- AT- PL- PT- SI- CH- IS-
Documentation of room bugging	DK- EE- <i>FR</i> - LT- PL- SI ⁸ - SK- FI - UK-	CZ- ES- LT- HU- NL- PL- SI- UK-	BE- IT- LU- AT- PL- PT- SI- CH- IS-
Documentation of crime scene investigations	BE- CZ- DK- EE- ES- <i>FR</i> - IE- IT- CY- LV- LT- MT- NL- PL- SI- FI - SE- UK ⁹ - CH- NO-IS	LT- HU- MT ¹⁰ - AT- PL- PT- UK-	BE ¹¹ - PT-

¹ MT: Unless held by other agencies, e.g. Customs, Army, Security Service etc.

² MT: Unless held by other agencies, e.g. Customs, Army, Security Service etc.

³ MT: Unless held by other agencies, e.g. Customs, Army, Security Service etc.

⁴ BE: Depends on the voluntary or not voluntary presence of the person concerned.

⁵ MT: Unless held by other agencies, e.g. Customs, Army, Security Service etc.

⁶ SI: The police have autonomous access to documentation of search of premises including search for communication data and seizures, while the permission of judicial authorities is needed for documentation related to forfeited property or frozen assets.

⁷ SI: Measures like telephone tapping and room bugging are carried out only by the decision of judicial authorities. While executing these measures, the police can access to documentation (2, 3) autonomously. After the execution of measures has been completed, the permission of judicial authorities is needed for access to documentation.

⁸ SI: See footnote on telephone tapping.

⁹ UK: Locally held.

¹⁰ MT: If under Magisterial inquiry, then request to be through A.G.

¹¹ BE: Depends on the type (public or private) of information.

Documentation of medico-legal investigations	CZ- DK- EE- ES- <i>FR</i> - LV- MT- NO-	IT- LT- LU- HU- MT ¹ -AT- PL- PT- SI- UK ² -	BE- IT- PT- IS-
Holders, ex-directory and listed respectively, of telephone, cell-phone, fax or telex, e-mail or website subscriptions or addresses.	BE- DK ³ - DE- EE- IE ⁴ - IT- LV- LT- HU- MT- NL- PL- PT ⁵ - SI- SK- FI- SE- UK ⁶ - CH ⁷ - NO ⁸ -	BE ⁹ - CZ- ES- FR- IT- LT- PL- UK-	DK- LU- AT ¹⁰ - PL- CH- NO- IS-
Telecom monitoring	EE- IE ¹¹ - MT- PL- SK- SE- UK ¹² -	CZ- ES- FR- HU- LV ¹³ - UK-	BE- DK- DE- IT- LT- LU- AT- PL- PT- SI- FI - CH- NO- IS-
Storage and production of telecom traffic (communication data) generated by various information technology systems and handled by telecom operators and Internet Service Providers.	EE- IE ¹⁴ - LV- HU- MT- SE-	CZ- ES- FR- IT- NL- PT- SI- SK- UK-	BE- DK- DE- LT- LU- AT- PL- PT- FI - UK- CH- NO ¹⁵ - IS-

¹ MT: If under Magisterial inquiry, then request to be through A.G.

² UK: Unless person is subject to police investigation. Not limited to criminal investigation.

³ DK: Police have autonomous access to holders, ex-directory and listed, of telephone, cell-phone, fax and telex, but not e-mail or website subscriptions or addresses.

⁴ IE: Photographs held on Garda databases may be accessed autonomously. Other information such as Driving licence or Passport photographs, if required as evidence, must be accessed either by warrant (judicial authority) or through formal requests as provided for in legislation such as the Wireless Telegraphy Act 1926 as amended or the Data Protection Act 1988 as amended.

⁵ PT: If contained in public registers.

⁶ UK: Has enabling legislation allowing the police to require some organisations outside of law enforcement to supply information for law enforcement purposes. These powers are subject to data protection and human rights legislation. In order to exercise these powers the police must ensure that the requirement is lawful, justified, and proportional and that any collateral intrusion has been considered. The information may be obtained for a foreign authority on a police to police basis. However, sufficient details of the investigation, the source of any information and the use to which any results will be put must be provided.

⁷ CH: If public.

⁸ NO: Unrestricted.

⁹ BE: Depends on the type (public or private) of information.

¹⁰ AT: Concerning non-listed holders.

¹¹ IE: See previous footnote on IE.

¹² UK: See previous footnote on UK.

¹³ LV: In exceptional cases (e.g., where private telecommunication operators are involved) the police may carry out telecom monitoring but with authorisation of a judicial authority.

¹⁴ IE: See previous footnote on IE.

¹⁵ NO: restricted numbers or e-mail or website subscriptions or addresses.

Unusual or suspicious (money) transactions	DE- EE- ES- IE- IT- LT- HU- MT ¹ - NL ² -AT- PL- SK ³ - FI - SE- UK- NO-	BE- CZ- FR- IT- CY- LV NL ⁴ PL- PT- SI- UK-	DK-LU ⁵ - IS-
Information held by banks, financial institutions and insurance companies on balances, transactions, holding of credit cards or insurance policies.	EE- FR- IE ⁶ - LT- HU- MT ⁷ - - PL- SK ⁸ - FI - UK ⁹ -	BE- CZ- ES- FR- IT- CY- LV- NL- PT- SI- SE- UK-	BE ¹⁰ - DK- DE- LU- AT- PL- PT- UK- CH- NO- IS-

¹ MT: In certain circumstances information is retained at FIAU.

² NL: Suspicious transactions.

³ SK: Information kept by FIU, which can be exchanged only with other FIUs in accordance with bilateral agreements.

⁴ NL: Unusual transactions.

⁵ LU: This is a particular situation as the anti-money laundering unit of the criminal police is closely associated to the FIU. In this quality, as “members” of the FIU, the police officers of this unit have access to information. Free exchange with other police officers on national or international level is only possible if the information can be linked to a criminal investigation. If this is the case, then it has to be clarified what is the current status of this investigation. In most of the cases (ongoing investigation) exchange of information is then submitted to the prior authorisation of the judicial authorities.

⁶ IE: See previous footnote on IE.

⁷ MT: In certain circumstances information is retained at FIAU.

⁸ SK: Information kept by FIU, which can be exchanged only with other FIUs in accordance with bilateral agreements.

⁹ UK: Only limited details without judicial order.

¹⁰ BE: Depends on the voluntary or not voluntary transmission of information by the company concerned.